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Via email: Jane.Hamilton@ic.gc.ca; Priv-Intl@ic.gc.ca

Jane Hamilton
Senior Policy Advisor
Electronic Commerce Branch
Industry Canada
300 Slater Street
Ottawa, ON K1A 0C8

Dear Ms. Hamilton:

Re: OECD Privacy Guidelines Anniversary Consultation

The National Privacy and Access to Information Law Section of the Canadian Bar Association (CBA Section) appreciates the opportunity to respond to Industry Canada's consultation on the 30th Anniversary of the OECD Privacy Guidelines.

The CBA is a national association representing 37,000 jurists, including lawyers, notaries, academics and law students across Canada. The CBA's mandate includes improvement in the law and in the administration of justice. The CBA Section comprises lawyers with in-depth knowledge in the areas of privacy and access to information. The CBA Section is active in commenting on developments in privacy and access to information law and policy. For example, the CBA Section has participated in numerous submissions to government on the various iterations and reviews of PIPEDA, involving many issues also relevant to the OECD Guidelines.

We believe that the OECD Privacy Guidelines have withstood the test of time. They continue to be relevant and effective in informing and enhancing both public and industry understanding of privacy principles and practices. In fact, privacy legislation around the world, including Canada, is modelled on the OECD Guidelines.

You indicate that there may be further study to explore key issues in greater depth. In our view, the cross-border flow of information is one such issue. Technologies like "cloud computing" (a marketing term for computing services that use the internet) are increasingly being adopted by consumers, business and government. The internet allows for new forms of collaboration, innovative services, improved security and greener computing. It can also result in gains in productivity. However, at a practical level, such services are likely to rely on facilities outside Canada to transfer, store and/or process data. The CBA Section believes that the territorial

approach to data processing used in the European Union and in some public sector data privacy legislation in Canada may not necessarily be consistent with Canadian business realities and with good public policy. We suggest that the OECD Privacy Guidelines must address cross-border data disclosures as an area of further inquiry and study.

Finally, if Industry Canada convenes a meeting to discuss the OECD Privacy Guidelines in more detail, the CBA Section would be pleased to participate.

Thank you for considering the CBA Section's views.

Yours truly,

(Original signed by Gaylene Schellenberg for Jean Nelson)

Jean Nelson
Chair, National Privacy and Access to Information Law Section