



## Privacy, Policy and Public Opinion in Canada

### Background Report in Draft Form

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## **Privacy, Policy and Public Opinion in Canada- Draft Paper**

### **Internet Usage**

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- Approximately 7.9 million (64%) of the 12.3 million Canadian households had at least one member who used the internet regularly in 2003, either from home, work, school, a public library or another location.
- Internet use is the highest at home. Nearly 6.7 million household had at least one member who regularly used the internet from home. Households accounted for nearly 55% of the total, up from 51% in 2002.
- Out of 6.7 million households with a regular user from home in 2003, nearly 4.4 million (65%) had a high-speed link to the internet through either a cable or telephone connection.
- Single-family households with unmarried children under the age of 18 had the highest rate of internet use from home last year at 73%.
- Higher educated households are more likely to have an internet connection. Approximately 77% of households with someone with a university degree were connected from home.
- Across the country, internet usage rates were highest in British Columbia, Ontario and Alberta where nearly 6 out of 10 households were connected to the internet at home. All other provinces had home use rates below the 55% national average.

*Source: Statistics Canada. (2004/07/08). Household Internet Use Survey, 2003. The Daily [www.statscan.ca](http://www.statscan.ca)*

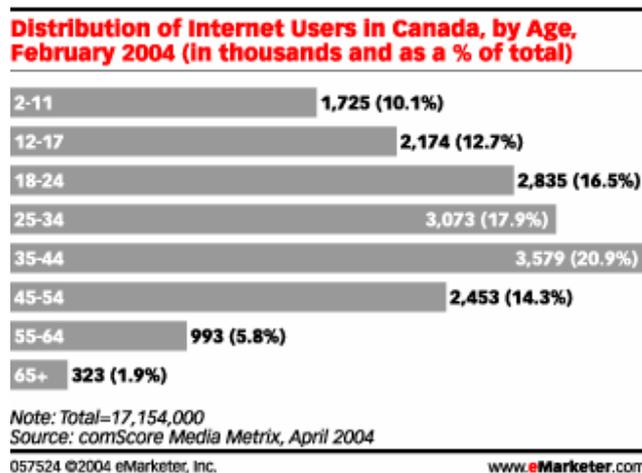
- In 2003, Canadians spent approximately \$3.0 billion online.

- Nearly 3.2 million Canadian households participated in e-commerce in 2003, compared to 2.8 million in 2002.
- 7 out of 10 e-commerce households have a high speed connection.

Source: Statistics Canada. (2004/09/23) *E-Commerce: Household Shopping on the Internet, 2003*. *The Daily* [www.statscan.ca](http://www.statscan.ca)

- Younger Canadians make up a greater portion of internet users but the number of middle-age users account for a growing portion. As the graph indicates below, more than one-third of internet users in Canada are between the ages of 35 and 54.

Source: comScore Media Metrix. (2004) [www.eMarketer.com](http://www.eMarketer.com)



## Policy and Laws

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Canada's Constitution and Charter of Rights and Freedoms do not explicitly state the right to privacy. However, the Charter does protect against unreasonable search or seizure and the Canadian legal system has recognized this as the right to a reasonable

expectation of privacy.<sup>1</sup> In Canada, privacy is protected at both the federal and provincial level. The Privacy Act of 1982 and the Personal Information and Electronic Documents Act (PIPEDA) passed in 2001 are two federal-level privacy acts.

The Privacy Act applies to personal information held by federal public agencies. It limits the collection, use and disclosure of personal information and allows individuals the right to access personal information held by federal agencies. PIPEDA was implemented in three stages. It applied first to all federal activities and all international and inter-provincial trade in personal information. In the second stage, it expanded to include all personal information collected by the health sector. In the final stage, PIPEDA came into full force and included all organizations, “including foreign companies, that collect, use and disclose personal information during the course of their commercial undertakings...”<sup>2</sup> PIPEDA applies to all areas unless the province adopts legislation that is deemed to be substantially similar. To date, Quebec, Alberta and British Columbia are the only ones to have done so.

PIPEDA includes several privacy principles: accountability, purpose, openness, consent, limiting use and collection, disclosure, retention, individual access, safeguards, accuracy, and challenging compliance.<sup>3</sup> It should be noted that the Act does not apply to information collected for personal, journalistic, artistic, literary, or non-commercial purposes. The Privacy Act and PIPEDA are overseen by the Privacy Commissioner of Canada who is an independent officer of Parliament.

There are several pieces of legislation that protect personal data and privacy. The Telecommunications Act, Bank Act, Insurance Companies Act and Trust and Loan

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<sup>1</sup> Laurant, (2003).

<sup>2</sup> Cockfield, (2004), pp. 6.

<sup>3</sup> Laurant, (2003).

Companies Act all included sections to protect personal privacy. However, these sections have become irrelevant since the introduction of PIPEDA. For some groups, certain steps have been taken to extend protection beyond what is offered by PIPEDA. For example, the Young Offenders Act limits the information that can be disclosed on offenders under the age of eighteen. The Corrections and Conditional Release Act limits the amount of information that can be disclosed to victims and their families.<sup>4</sup>

The Anti-Terrorism Act (Bill C-36), introduced following the events of September 11, 2001, was met with great criticism from privacy advocates. The bill was introduced to “institute the necessary procedures and mechanisms to deter terrorism at home and cooperate with other states abroad.”<sup>5</sup> Critics cited many problems with the bill including the ambiguous definition of “terrorist group” and “terrorist activity”, the increase in police electronic surveillance tools, the power to detain individuals “preventively”, and the enhanced interception and investigative powers of security services.

Due to strong protest, the bill was amended. Certain powers afforded by the bill would sunset after five years unless the government extended them, reports were to be issued to Parliament regarding the use of preventative arrest and investigative hearings, and some of the measures would be reviewed after three years. It was also clarified that, “any political, religious or ideological beliefs would not be considered a terrorist activity unless they specifically met the definition of “terrorist activity.”<sup>6</sup> The bill became law in December 2001.

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<sup>4</sup> Laurant, (2003).

<sup>5</sup> Laurant, (2003).

<sup>6</sup> Laurant, (2003).

Shortly after Bill-36 was introduced, the government proposed another bill to protect Canadian citizens. The Public Safety Act (Bill C-42) was met with heavy opposition from within the government and from the public. It allowed for easier interception of private communication by the government, the screening of all airline and travel agents passenger information, and for temporary military security zones to be created. Bill C-42 increased government surveillance while sacrificing civil liberties.

Protest caused the government to abandon Bill C-42, but not for long. The Public Safety Act 2002 (Bill C-55) was proposed in place of Bill C-42. Critics argued that the original concerns still applied because the changes between the two bills were minimal. The Public Safety Act was replaced yet again due to public pressure. The next version, Bill C-17, limited the use of passenger information and the use of military security zones but still raised serious concerns. The Privacy Commissioner argued in 2003 that the bill would set a dangerous precedent and that the amendments had done little to address the fundamental problems of Bill C-55.<sup>7</sup> The final version of the Public Safety Act gained royal assent on May 6, 2004 as Bill C-7.

## **Culture and Values**

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Hofstede's data from *Culture's Consequences* (1980) provides a valuable starting point in the analysis of Canadian culture and values. It should be noted however that the data used in his research is now more than twenty years old and may not accurately reflect Canada's current culture. Furthermore, the data that was obtained focused on the

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<sup>7</sup> Laurant, (2003).

workplace and not society at large. That being said, Hofstede's four cultural dimensions can be easily extended from the organizational setting to society in general.

Canada ranks low on Hofstede's Power Distance Index (PDI). Low PDI countries have a strong will to be independent, believe the use of power should be legitimate, and that equal rights should apply to all.<sup>8</sup> Respondents may be less willing to allow invasions of privacy in their workplace and private lives. They may be more questioning of the surveillance practices of government and business. Canada also holds a low rank on the Uncertainty Avoidance Index. Low UAI countries are more risk-taking, prefer broad guidelines, are less conservative, and believe that the authorities serve the citizens, not vice versa. According to this dimension, we can expect Canadians to be less concerned about privacy issues and more trusting.

Canada produced a strong score on the Individualism Index (IDV), ranking fourth out of thirty-nine countries.<sup>9</sup> High IDV countries tend to be self-oriented and seek autonomy, variety, pleasure and individual financial security. Respondents from these countries are more likely to be critical of privacy invasions and surveillance measures.<sup>10</sup>

### **Current Atmosphere**

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Canadians may have been unconcerned about their privacy when Hofstede collected his data during the 1970s, but it is clear that privacy is very much a concern today. In 1992, 92% of Canadians surveyed were at least moderately concerned about

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<sup>8</sup> Hofstede, (1980), pp. 119.

<sup>9</sup> Hofstede, (1980), pp. 222.

<sup>10</sup> Hofstede, (1980), pp. 230.

information privacy.<sup>11</sup> A survey conducted in 2000 found that 80% of Canadians who had access to the internet either at home or at their workplace were concerned about the release of their personal information to other organizations when making purchases online.<sup>12</sup>

There is some evidence to support the idea that Canadians are less risk-averse. A recent study compared the likeliness of respondents to bid on eBay items depending on their culture, interpersonal trust and seller ratings. The author found that cultures with high levels of interpersonal trust tend to bid regardless of the seller's feedback. But, cultures with low levels of interpersonal trust rely more heavily on seller feedback ratings in making their decision to bid or not.<sup>13</sup>

Vishwanath compared three countries, France, Germany and Canada, using Inglehart's interpersonal trust scores. France is the least trusting with a score of 23, Canada is the most trusting (52) and Germany takes the middle ground (38).<sup>14</sup> Vishwanath found that in France, higher seller ratings produced an average of 244% higher participation in bidders. In Germany, increased seller ratings showed an average of 130% increase in the number of bidders attracted to the auction. In Canada, higher seller ratings resulted in a modest 23% increase in the number of bidders.<sup>15</sup> The author concluded that Canadian bidders tend to trust sources more and are more willing to participate in an online auction than participants from less-trusting countries.

The low PDI score and highly individualist nature of Canadian culture is reflected in an unwillingness to accept privacy intrusions. Only 15% of Canadians were willing to

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<sup>11</sup> Campbell, (1997), pp.46.

<sup>12</sup> Davis, (2000), pp. 14.

<sup>13</sup> Vishwanath, (2004), pp. 219.

<sup>14</sup> Vishwanath, (2004), pp. 227.

<sup>15</sup> Vishwanath, (2004), pp. 229-230.

allow an organization to use information they had provided to market its products to them (which is much less than Americans).<sup>16</sup> In another survey, 61% of respondents indicated a preference to stop receiving all telemarketing calls even if it meant missing out on deals.<sup>17</sup>

Canadians are not eager to sacrifice privacy for security: 59% stated they were not willing to give up some of their personal privacy to ensure Canada's national security (29% were).<sup>18</sup> The same survey found that the majority of Canadians (86%) believe the government should not be able to monitor email or internet use without a warrant.<sup>19</sup> It should be noted that a different report found conflicting results. It found that more Canadians agree than disagree that police and intelligence agencies should have more powers to ensure security even if personal privacy safeguards must be compromised (47% agree, 39% disagree).<sup>20</sup> The reason for this discrepancy is unclear.

Another example of Canadian individualism is their desire to be in control of their privacy and personal information. A 1999 survey conducted by Angus Reid found that 91% of Canadians want to be informed every time someone looks at their health records.<sup>21</sup> An earlier survey found that 95% want to know about the uses to which their personal information may be put and 94% want their permission to be obtained before their information is passed on to another organization.<sup>22</sup>

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<sup>16</sup> EDS & Ipsos-Reid, (2005), pp. 12.

<sup>17</sup> Ekos Research Associates, (2001), pp. 13.

<sup>18</sup> Lawford & Roberts, (2004), pp. 33.

<sup>19</sup> Lawford & Roberts, (2004), pp. 29.

<sup>20</sup> Government of Canada, (2004).

<sup>21</sup> Canadian Press NewsWire, (1999).

<sup>22</sup> Public Interest Advocacy Centre & Federation Nationale des Associations de Consommateurs du Quebec, (1995).

Ekos Research Associates found that 60% of Canadians view the Opt-out approach as “not acceptable at all”.<sup>23</sup> Opting-in is cited as the preferred method because it allows consumers to have more control over the use of their personal information. When asked to choose a regulatory approach to deal with privacy protection, 69% chose one that involved the public and did not entirely rely on either government or private business.<sup>24</sup> Only 7% opted for industry self-regulation over government regulation or public involvement.

Despite the high levels of concern, it seems that Canadians are relatively uneducated about the privacy threats and protections that exist today. 67% of Canadians participate in some sort of loyalty program but many are unaware of the information practices of these programs.<sup>25</sup> A large portion of those participating in loyalty programs (54%) were unaware that such programs collect, use and disclose information for marketing purposes (16% were vaguely aware, 31% reported being familiar with these practices).<sup>26</sup> While the majority of Canadians feel that privacy protection should be a priority for the government, 73% were unaware of any law or government program protecting personal information. A dismal 17% could actually cite an example.<sup>27</sup>

Canada, like many others, is a very diverse country. It may be difficult to discern a single, unified culture or preference because the people and experiences vary widely between provinces. As mentioned, 80% of Canadians with access to the internet are concerned about the release of their personal information when making purchases online.

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<sup>23</sup> Ekos Research Associates, (2001), pp. 15.

<sup>24</sup> Public Internet Advocacy Centre & Federation Nationale des Associations de Consommateurs du Quebec, (1995).

<sup>25</sup> Ekos Research Associates, (2001), pp. 29.

<sup>26</sup> Ekos Research Associates, (2001), pp. 34.

<sup>27</sup> Public Interest Advocacy Centre & Federation Nationale des Associations de Consommateurs du Quebec, (1995).

However, residents from Quebec were the least likely to be concerned about the release of their personal information. Only 51% said they were worried.<sup>28</sup> Davis suggests that this is because private sector legislation has been in place in Quebec since 1994. A study conducted a year later found that Quebec respondents (65%) were far more likely to object to the tracking of their purchases by companies than respondents from Atlantic Canada (22%), the Prairies (30%) and Ontario (35%).<sup>29</sup> It seems that opinions change both within and between the provinces of Canada.

The research discussed here paints a picture of a culture whose members are protective of their privacy and unwilling to sacrifice for security, service or savings. Despite their stated concern, Canadians may be more trusting and less risk-adverse than other countries. They believe that privacy should be a priority for the government and therefore, they may be more willing to accept legislation and regulation. However, they will not accept government action that is deemed to be intrusive or unfair.

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<sup>28</sup> Davis, (2000), pp. 14.

<sup>29</sup> Ekos Research Associates, (2001), pp. 9.

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