
Government Relations: Overview (Spring 2017)

Key issues

- CRTC Update on Robocalls and Caller ID Spoofing
- StatCan Update on Modernization of the Statistics Canada Act (Bill C-36)
- Government of Canada and Public Opinion Research
- PIPEDA – Parliamentary Review
- PIPEDA – New Federal Court Ruling
- Various

CRTC – Robocalls and Caller ID Spoofing

Issue: The CRTC is taking a number of steps to address complaints about robocalls and caller ID spoofing

Background:

- CRTC concluded that Canadians do not have sufficient technical solutions to protect themselves from nuisance calls (illegitimate robocalls, spoofing). Therefore, it instructed the CRTC Interconnection Steering Committee ('CISC'), made up mostly of telecommunications service providers (TSPs), to come back with options to universally block the most blatant illegitimate calls at the network level. It also directed TSPs to come up with new opt-in filtering services for subscribers.
- MRIA wrote the CRTC and was added to CISC. Our intent is to ensure that proposed solutions don't impact research calls.

New Development:

- The CISC has produced a report which concludes that there's not much TSPs can do at the network level without major impacts or inadvertently blocking legitimate calls.

- The committee provided two new recommendations that were outside of the scope of their review. Notably, that the CRTC:
 1. Establish a working group mandated to look at ways of effectively identifying problematic traffic, and;
 2. Create a Do-Not-Originate list (similar to the DNCL, but in reverse). Companies or individuals most likely to be impersonated would be able to add themselves to this list.

Action:

- We will continue to work with the CRTC to ensure any proposed solution doesn't negatively impact legitimate calls.

Bill C-36: Act to Amend the Statistics Act

Issue: New Bill introduced to protect the integrity and independence of Statistics Canada

Issue:

- On Dec. 7, Federal Innovation Minister tabled Bill C-36, an Act to amend the Statistics Canada Act.
- By convention, StatCan has always been at arm's-length of government. Bill would formalize this independence.
- Bill would remove the threat of imprisonment for those who refuse to respond to mandatory surveys.
- Bill also proposes the creation of the Canadian Statistics Advisory Council to replace the existing National Statistics Council, which currently reports to the Chief Statistician. The new Council would report to the Minister, and provide advice to both the Minister and Chief Statistician on the overall quality of the national statistical system (with annual public reports).

New Development:

- Bill C-36 went to 2nd Reading on February 7, and was referred to the House of Commons Standing Committee on Industry (INDU) for review
- Opposition Party reactions:
 - CPC concern:

- Proposal to replace existing advisory council won't allow for cross-Canada representation
 - Bill gives too much independence to the Chief Statistician with no oversight by the Minister
- NDP concern: Past Liberal decision to outsource census data collection to Lockheed Martin

Action:

- MRIA is in favour of a strong and independent StatCan, and therefore supports Bill C-36
- We will monitor the progress of this Bill and provide input to the committee, as appropriate.

Government of Canada & Public Opinion Research

Issue: New Government's positive outlook on public opinion research (POR)

GoC Communications Policy:

- The Federal Treasury Board Secretariat recently amended the Government policy that deals with POR. The most significant change is that Ministerial approval is no longer required for POR studies. Project plans can now be signed off by department heads (e.g. DMs).
- This, combined with the GoC's emphasis on evidence-based decision making, has resulted in greater volumes of POR. For FY 2016-17, GoC contracted an estimated 127 projects worth \$11.6 M (final numbers still coming in). This is 4x more than the previous year.
- PORD's Annual Report will be released in the first week of September.

Syndicated Research:

- Freeze in 2008 as part of an expenditure review.
- GoC/PORD has since started a pilot project to work internally with departments to explore lifting the freeze (as recommended in MRIA's value study).

- Posted Request for Information (RFI) and consulted with community of practice. Exploring the possibility of a GoC licence, with closer central coordination by PORD.
- Working on long-term procurement strategy for next year, provided freeze is lifted. MRIA will be consulted.

PIPEDA – New Development

Background:

- Parliament initiated its 5-year review of PIPEDA. The review is led by the House of Commons Standing Committee on Access to Information, Privacy and Ethics ('ETHI').
- The Committee has started to meet with academics and privacy experts, including current and former privacy commissioners. It will continue to meet until the House rises in June. They will soon be calling upon government agencies and third-parties / stakeholders to appear, as Committee members see fit.
- A key issue that is emerging relates to new EU Data Protection regulations which come into force on May 25, 2018. Canada is currently the only North American state to have the "status of suitability" with Europe, which means that because of our privacy framework, Canadian companies can receive European data without any other form of authorization. It's a big competitive advantage for Canada. Many experts have testified, however, that they don't believe PIPEDA will stand up to the 'suitability' requirements once the new regulations come into play and that we'll need to modernize PIPEDA or risk losing this competitive advantage.
- Other key issues being discussed include:
 1. Valid consent in the digital and social media era (including behavioural advertising), with a focus on children and youth
 2. Moving away from an ombudsman model and giving the federal Privacy Commissioner order-making powers and the power to fine – in line with other countries
 3. Introducing the right to 'forget' or 'erase' – protection of reputation online

Action:

- MRIA supports a strong and robust privacy framework in Canada.
- We will monitor the progress of this review and look for opportunities to provide input before the Committee, as appropriate.

PIPEDA – New Development

Issue: New Federal Court Decision gives extra-territorial powers to Canadian courts

For Information:

- On January 20, Federal Court released a landmark decision involving Globe24h.com, a Romanian website that republishes Canadian legal decisions with a view to charging individuals for their removal. Although it was recognized that these decisions were published in specialized legal databases, the argument was that Globe24h.com's republishing of the decisions meant that these would appear as a result of casual internet searches.
- Court held that Globe24h.com was in violation of PIPEDA and ordered them to remove the personal info of Canadians.
- This decision was significant because it was established that PIPEDA applies to activities carried out abroad that have an impact on persons residing in Canada; i.e. that Canadian courts can assume jurisdiction to make extra-territorial orders against foreign entities *“where there is a ‘real and substantial link’ to Canada”*.

Government Relations: Various

CASL and SPAM:

- On July 1, 2017, CASL's private right of action (PRA) comes into force. This will allow individuals or organizations who are affected by a contravention to litigate offenders and enforce their private rights. While CASL does not expressly provide for class actions, it is broadly expected that such actions will be launched to permit large numbers of applicants (for example, the recipients of alleged spam) to pursue compensation as a group—as is currently the case in the U.S.
- CRTC recently signed an agreement with the New Zealand Department of Internal Affairs to fight spam. The agreement commits the agencies to share intelligence, and to work in close cooperation to enforce both countries' spam laws.
- CASL does not apply to legitimate market and survey research where there is no attempt to solicit. Notwithstanding, monitoring CASL-related developments is important because the Act helps to ensure better conditions for online research.

CRTC:

- Federal government is officially looking for a new CRTC Chair. Current chairman's (Jean-Pierre Blais) 5-year term expires in June. Note that Blais is not barred from applying. CRTC is also looking for new commissioners. Currently, only 7 of 13 positions are filled.

U.S. Federal Communications Commission (FCC):

- In the U.S., Trump recently appointed Ajit Pai, a former lawyer for Verizon, as chair of the FCC. According to the NY Times, "Ajit Pai has [already] aggressively moved to roll back consumer protection regulations created during the Obama presidency." This includes: blocking companies from providing affordable high-speed internet to low-income families; withdrawing FCC's support from an effort to curb the high cost of phone calls from prison; backtracking on a 2015 decision to regulate the internet like a public utility.