

result in longer, more complicated privacy notices and consent forms, which the OPC has criticized in the past. The benefits of this approach over the OPC's earlier policy position (which already required transparency, accountability and appropriate safeguards) are unclear.

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• PRIVACY COMMISSIONER OF CANADA REVERSES POSITION ON TRANSFERS OF PERSONAL INFORMATION FOR PROCESSING, INITIATES CONSULTATION ON CROSS-BORDER TRANSFERS •

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In early April, the Office of the Privacy Commissioner of Canada (the "OPC") issued a notice initiating a consultation on transborder data flows (the "Notice of Consultation" and the "Consultation") in conjunction with PIPEDA Report of Findings #2019-001 (the "Report"). The OPC has also recently issued a supplementary discussion document with additional information on the Consultation.

In its Report and in its Notice of Consultation, the OPC made a surprising reversal of its long-standing position on the transfer of personal information

("PI") under the *Personal Information Protection and Electronic Documents Act* ("PIPEDA"). In the past, the OPC viewed a transfer of PI for processing as a "use" of the PI by the transferor rather than a "disclosure" to the processor, such that an additional consent was not required, as long as the PI was being processed for the purpose for which it was originally collected.

The OPC now states that it views the transfer of PI for processing as a disclosure requiring consent. The new OPC position applies to any transfer of PI from

be permitted to opt-out of an existing contract if a processor or subprocessor changes?

- There will also be significant transitional issues. New consents will be difficult to obtain from existing customers. Will existing consents be grandfathered? Existing contracts with processors may not comply with the new OPC expectations, and processors may not agree to amend them.

We will continue to monitor developments related to the OPC's Consultation and next steps.

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