

working for children's safety online

**KINSA**

January 14, 2008

Mr. Richard Simpson  
Director General, Industry Canada  
Electronic Commerce Branch  
300 Slater Street  
Ottawa, Ontario  
K1A 0C8

Re. **PIPEDA Consultation**

Dear Mr. Simpson:

In response to the request for submissions regarding legislative amendments to the *Personal Information Protection and Electronics Documents Act*, KINSA provides the following submission. As KINSA's mandate is the elimination of online sexual exploitation of children and youth, KINSA's recommendations focus on the area of Disclosure without knowledge or consent (Section 7(3)) and the definition of "lawful authority".

The Kids' Internet Safety Alliance (KINSA) was established as an aggressive and proactive response to the negative aspects of the Internet that harm young people. While addressing this grave social problem, KINSA also acknowledges and celebrates the positive, creative and inspiring ways children and youth are using the Internet.

KINSA spearheads and takes part in numerous programs that promote Internet safety on many levels, from research, industry and government through to what families can do in their own homes. On the awareness front, KINSA board members frequently provide commentary in the media, and participate in speaking engagements and other activities with a variety of organizations who share our concerns for the safety of children online.

KINSA believes that industry and the corporate sector can play significant roles and contribute to programs to promote Internet safety in all areas of society. KINSA also believes that Internet Service Providers (ISPs) can play a significant role in fostering a safe online environment for the general public, especially families. In addition to the educational role that ISPs have in promoting a safe online environment, timely cooperation during child sexual abuse / child pornography investigations is critical. KINSA emphasizes that time is of the utmost importance in such situations and any delay in providing customer name and address information to law enforcement personnel can have a negative impact on achieving our collective goal of protecting children.

In this regard, we support the goal as defined in the *Government Response to the Fourth Report of the Standing Committee on Access to Information Privacy and Ethics* to “improve clarity and certainty with respect to key definitions and provisions in the Act”.

Specifically, KINSA supports the Standing Committee on Access to Information, Privacy and Ethics’ Recommendation (Recommendation 12) to change the wording in the opening paragraph of section 7 (3) to read as follows: “For the purpose of clause 4.3 of Schedule 1, and despite the note that accompanies that clause, an organization shall disclose personal information without the knowledge or consent of the individual but only if the disclosure is...”

Further, with regards to the definition of “lawful authority” within Section 7(3)(c.1), KINSA supports the following definition: “a peace officer in the course of his/her duties”.

KINSA submits that the use of the word "shall", and this description of "lawful authority" provide a clear definition which would remove any ambiguity, restrict such requests to sworn peace officers, and balance the privacy and child safety risks at issue.

Should the requested amendment regarding the wording of “shall” not be made, KINSA further requests that a section in PIPEDA clearly define, as noted in the *Government Response to the Fourth Report of the Standing Committee on Access to Information Privacy and Ethics*, that Peace Officers in the course of their duties are not a group that PIPEDA was intended to hinder. Specifically, the Government Response states: “The government wishes to confirm that the purpose of s. 7(3)(c.1) is to allow organizations to collaborate with law enforcement and national security agencies without a subpoena, warrant or court order”. KINSA submits that this would be clarified with the use of the word “shall” in this Section, and that, in the absence of such an amendment, a section that specifically clarifies this intention is necessary.

KINSA would be pleased to provide witnesses, additional information, or any further assistance that would be helpful during this consultation.

Thank you for your consideration of this submission.

Sincerely,

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Chairman

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