

Source name

Saltwire - Atlantic Canada
(web site)

Sunday, March 5, 2023

Source type

Press • Online Press

Saltwire - Atlantic Canada
(web site) • 774 words

Periodicity

Continuously

Geographical coverage

Provincial

Origin

Canada

Privacy bill to move forward in House of Commons next week as TikTok concerns grow

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The Liberal government will move ahead with its bill updating Canada's privacy laws when the House of Commons resumes Monday, amidst ongoing worries over data collection by Chinese-owned app TikTok.

Bill C-27 would update and introduce a new regime for Canada's privacy laws governing the private sector. A previous attempt to introduce legislation died on the order paper when the 2021 election was called. The Liberals then introduced Bill C-27 last June, but have not prioritized it in the House of Commons, with the legislation only making it to second reading over a period of nearly nine months.

The government will schedule the bill for debate at second reading once the House returns from a two-week break Monday. Following second reading, legislation moves to a House committee study for the next step of the parliamentary process.

"It's high time the government moved Bill C-27 forward," said Brenda McPhail, director of the privacy, technology and surveillance program at the

Canadian Civil Liberties Association.

Bill C-27 doesn't directly make changes to the type of information companies are allowed to collect on Canadian adults. But Laurie Bouchard, spokesperson for Innovation Minister François-Philippe Champagne, said the bill includes requirements for obtaining consent. The bill stipulates that organizations will need to use plain language to notify individuals about "the type of personal information they collect, use and disclose, and the purposes, manner, and consequences of such collection, use and disclosure."

The bill would also strengthen the powers of the privacy commissioner, and allow Canadians "to withdraw their consent from companies to collect their data, and the right to have their data erased," Bouchard said.

Bouchard noted companies can only use personal information "in a manner and for purposes that a reasonable person would consider appropriate in the circumstances," and identify any third parties they disclose that information to.

McPhail pointed out the current law has the same rules around only using per-

sonal information in a way a reasonable person would deem appropriate. She said in an email "a program or app could be deemed to be using information for improper purposes and be unlawful."

TikTok's data-collection has been under increasing scrutiny in recent weeks, as governments in Canada and across the world have banned the app from government devices.

"Would a reasonable person expect an app that serves up creator-made video clips to track their location in real time? Is that functionality actually necessary for the primary purposes of the app?" McPhail asked.

McPhail noted Bill C-27 "also contains provisions that forbid requiring people to agree to have information about them collected beyond what is necessary to provide a product, which might apply to the TikTok case."

She said the government should amend the bill by eliminating exceptions that allow information to be collected without knowledge or consent in some cases, which if enacted would weaken protections that are currently in law.

On Monday, the Liberal government announced it would prohibit TikTok use on government-owned devices.

"Following a review of TikTok, the Chief Information Officer of Canada determined that it presents an unacceptable level of risk to privacy and security," Treasury Board president Mona Fortier said in a statement.

"The decision to remove and block TikTok from government mobile devices is being taken as a precaution, particularly given concerns about the legal regime that governs the information collected from mobile devices, and is in line with the approach of our international partners. On a mobile device, TikTok's data collection methods provide considerable access to the contents of the phone."

Michael Geist, Canada research chair in internet and e-commerce law at the University of Ottawa, said he found the statement "pretty stunning," given that "part of what they were attributing the TikTok ban to was essentially Canada's weak privacy laws."

He said there are criticisms of and problems with Bill C-27, "but at a minimum we need to get on with it." Geist has been criticizing the government for being slow on privacy reform for years. When it comes to Bill C-27, the government "sat on it. It barely moves in the House."

The privacy concerns around TikTok are also true for a lot of other apps, Geist noted.

Bill C-27 makes changes to the "entire governance structure around privacy enforcement" and there is still uncertainty about what the final outcome will look like, he said.

"At this stage, it's spent months without even being sent to committee, where there is the opportunity to hear from witnesses and better understand how this would in real terms...better safeguard people's privacy."

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