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## **RE: Strengthening privacy protections in Ontario (20-MGCS015)**

### **Overview**

Data is quickly becoming one of the most valuable resources of the 21<sup>st</sup> century, and the COVID-19 pandemic has only accelerated that transformation. To succeed in the digital era, Ontario needs to preserve a strong foundation of trust between individuals and the organizations that collect and use their personal information. Privacy and cybersecurity are of the utmost importance in this new economy.

To that end, the private sector needs clear and effective legal frameworks within which it can innovate and operate efficiently. In Canada, this means commercial privacy laws should remain national in scope.

We would like to thank the Government of Ontario for the opportunity to provide feedback on its consultation to strengthen privacy protection laws. Our submission focuses on three areas:

1. Avoiding fragmentation
2. Health care
3. Data trusts

### **1. Avoiding Fragmentation**

Currently, businesses and other entities engaged in commercial activity within Ontario are governed by a federal privacy framework called the Personal Information Protection and Electronic Documents Act (PIPEDA). The Government of Canada has indicated its intention to modernize PIPEDA, though this process has been delayed by the pandemic.

**The Government of Ontario should urge the federal government to prioritize PIPEDA reforms this fall.** Modernization is critical to ensure the law reflects contemporary use cases of data and meets the adequacy criteria of the European Union (standards that reflect emerging global norms and ensure our firms are able to continue doing business abroad). Through this review, it is important that Canada maintain a principles-based approach while recognizing legitimate exceptions to those principles. Specifically, for example, insurance companies should be allowed to collect, use, and disclose personal information without consent for fraud detection purposes.

**Meanwhile, the Government of Ontario must avoid creating new laws pertaining to the collection, use, and disclosure of personal information by private sector organizations.** Maintaining a national approach to commercial privacy protection is critical, as fragmentation across Canada would:

- Add uncertainty and costs for businesses (acting as an interprovincial trade barrier);
- Deter innovation and investment in Ontario;
- Create significant compliance challenges; and
- Restrict consumers' access to online services, which have become even more important during the pandemic.

As we navigate the COVID-19 crisis, these impacts would be detrimental to our economic recovery and future prosperity. We must remember that Canada is a relatively small economy, and regulatory fragmentation only serves to limit our global competitiveness.

The Ontario government's jurisdiction extends to health care, post-secondary institutions, provincial departments and agencies, and municipalities. Any efforts by the Province to strengthen privacy protections in Ontario should focus on those areas.

## 2. Health Care

The COVID-19 pandemic has underscored the value of sharing health information efficiently while protecting the privacy and security of individuals. Data sharing enables better coordination and improved outcomes for patients, while allowing researchers to generate new insights.

**Ontario should continue transitioning to a more digital, integrated health care system.** As part of this process, government should work with stakeholders to:

- Harmonize data standards (especially around consent and de-identification); and
- Roll out interoperable technology across more infrastructure, including identity verification for patients accessing digital health services.

Continuous input from stakeholders and transparency from government will be critical to getting this right.

### 3. Data Trusts

Finally, the consultation document proposes a legislative framework for data trusts. Data trusts can act as mechanisms for governments, businesses, and non-profit organizations to access and share data more easily under robust privacy and security protections.

**The Government of Ontario should experiment with data trusts to make better use of its own data while taking its open data system to the next level.** Eventually, data trusts could underpin a variety of digital government services and enable cross-jurisdictional data sharing. However, participating in data trusts should be voluntary for businesses.

**Meanwhile, Ontario should work with its federal, provincial, and territorial partners to develop clear policy parameters to support the development of data trusts by stakeholders.** Again, a coordinated approach across Canada is important.

### Conclusion

Privacy and trust are fundamental to the success of Ontario's future economy. A smart approach to commercial privacy legislation is one that is national in scope, principles-based, and technology-neutral. **For more information about the recommendations in this submission, please see our recent report – [In Data We Trust: Unlocking the Value of Data in Ontario](#) –** which discusses how Ontario can develop stronger governance frameworks and stewardship from the organizations that collect, process, use, and share data.