

ICDPPC Global Privacy and Data Protection Awards

2019

Entry Form

Deadline 29 July 2019

To submit an entry to the ICDPPC Global Privacy and Data Protection Awards please complete and email this form to ExCoSecretariat@icdppc.org no later than 29 July 2019.

Note: ICDPPC member authorities can submit as many entries as they wish, but a separate form should be used for each different entry, submitted by the deadline of 29 July. Languages: the conference documentation rule 6.2¹ applies:

1. Contact details for this entry:

- a. Name and email address of person completing this form: [REDACTED]
- b. Name of Data Protection or Privacy Authority: **Office of the Privacy Commissioner of Canada**

2. Eligibility: By submitting this entry I confirm that:

- a. The Authority is a member of the International Conference of Data Protection and Privacy Commissioners.
- b. The initiative described in this entry was undertaken since the last edition.
- c. I am aware that the information in the entry (other than the contact details in 1(a) above) will be publicised by the ICDPPC Secretariat.

3. Please indicate which **category you wish to enter (delete those that do not apply; you can enter multiple categories but please use separate forms for each entry):**

- c. Dispute resolution and enforcement**

4. Description of the initiative

- a. Please provide a brief summary of the initiative (no more than 75 words):

On September 7, 2017 Equifax Inc. announced² that an attacker had accessed the personal information of over 143 million individuals, including 19,000 Canadians.

The OPC carried out a complex investigation into the breach, which involved site visits in both Canada and the United States. The investigation concluded as well-founded and conditionally/partially resolved, significantly raising safeguard standards for this key industry player. These commitments were backstopped by the successful negotiation of a compliance agreement.

¹ 6.2 Conference documents

Without prejudice to section 4.2, conference documents, including accreditation and observer applications may be submitted in English or in another language. In the latter case, the documents shall be accompanied by an English version. Members with the ability and the resources to do so are encouraged to translate proposed resolutions and other conference documents such as the Conference Rules and Procedures.

² <https://investor.equifax.com/news-and-events/news/2017/09-07-2017-213000628>

- b. Please provide a full description of the initiative (no more than 350 words):

On April 9, 2019, the OPC announced the results of the Canadian component of an investigation into the global data breach involving three countries (Canada, US, and the UK). The investigation found that both Equifax Canada and its US-based parent company, Equifax Inc., fell far short of their privacy obligations to Canadians.

Privacy concerns included poor security safeguards; retaining information for too long; inadequate consent procedures; a lack of accountability for Canadians' information and limited protection measures offered to affected individuals after the breach.

The investigation, which benefited from collaboration with both the US FTC and the UK ICO, proved to be complex given the extraterritorial challenges of having the parent company based in the US, controlling the activities of its Canadian subsidiary and processing the personal information thereof. Further, other challenges arose regarding the interpretation as to who was responsible for the processing of personal information, resulting in inadequate accountability and other safeguards.

Notwithstanding these challenges, the OPC was able to secure commitments from both companies – Equifax Canada and Equifax, Inc. – to honour their obligations under Canadian law and clarify their privacy obligations vis-à-vis Canadians. Our investigation concluded that both Equifax Inc. and Equifax Canada contravened the *Personal Information Protection and Electronic Documents Act* with respect to all of the issues identified in our Report of Findings.

As a result of the investigation, the OPC provided recommendations and successfully negotiated the implementation of a Compliance Agreement with Equifax Canada and Equifax, Inc. This Agreement, which is enforceable by the Federal Court of Canada, makes both companies subject to six years of compliance monitoring by our Office's Compliance Monitoring Unit. It further included a commitment to provide extended credit monitoring to affected individuals for at least 4 years.

Given the fact that as of yet, the OPC does not have order making powers nor the ability to impose fines, the negotiated Compliance Agreement provides a unique, legally binding tool to have Equifax bring itself back into compliance with Canadian law.

- c. Please explain why you think the initiative deserves to be recognised by an award (no more than 200 words)

1. Impact on market best practices

Equifax, as a key global player in the concentrated credit-monitoring industry, occupies a critical role in the collection, use and disclosure of highly sensitive personal and financial information. The OPC's Equifax investigation led to safeguard improvements and commitments that are already elevating best practices and shaping behaviours in the financial sector. For instance, our Office took the stance that organizations such as Equifax should offer lasting protections to mitigate against enduring privacy risks. As a result, the standards for the protection of those affected by data breaches have increased.

An illustration of the aforementioned is reflected in a large scale data breach announced by a leading Canadian financial institution who, subsequent to our findings, offered five years of credit monitoring to affected individuals (as opposed to one or two years), and is currently contemplating offering life-time monitoring.

2. Transborder implications

The investigation highlighted the complexity of dealing with extraterritorial organizations. This included asserting our Office's jurisdiction over the personal information of Canadians while dealing with the Equifax Inc. in the US. It also reinforced the benefits of leveraging strong, collaborative relationships with international partners in the ever evolving and globalization of privacy risks.

- d. Include a photograph or image if you wish (note this will be published with your entry on the ICDPPC website; the image can be pasted into the entry or send as an attachment or a link may be provided):
- e. Please provide the most relevant link on the authority’s website to the initiative (if applicable) (The website content does not need to be in English):
- i. Report of Findings
 - ii. Compliance Agreement between the OPC and Equifax Canada Co.
 - iii. News Release - Privacy Commissioner finds Equifax safeguards “unacceptable” and will monitor company for six years following major data breach
- f. Please provide any other relevant links that you wish that help explain the initiative or its impact or success (e.g. links to news reports or articles):

Title	Date Published	Outlet	Link
Equifax fell short of privacy obligations to Canadians, says privacy commissioner	April 9, 2019	CBC News	https://www.cbc.ca/news/business/equifax-privacy-data-1.5091037
Equifax made breach worse by falling short of privacy obligations to Canadians, commission finds	April 9, 2019	Financial Post	https://business.financialpost.com/news/fp-street/equifax-fell-short-of-privacy-obligations-to-canadians-says-privacy-commissioner
Equifax Violated Canada's Privacy Laws In 2017 Data Breach: Commissioner Daniel Therrien	April 9, 2019	Huffingtonpost	https://www.huffingtonpost.ca/2019/04/09/equifax-violated-canadas-privacy-laws-in-2017-data-breach-commissioner-daniel-therrien_a_23709012/
The many lessons of the Equifax data breach	April 15, 2019	Canadian Lawyer	https://www.canadianlawyermag.com/author/lisa-r-lifshitz/the-many-lessons-of-the-equifax-data-breach-17112/
Cyber Breach Planning: Lessons From The Equifax Breach	April 15, 2019	Forbes	https://www.forbes.com/sites/cognitiveworld/2019/04/15/cyber-breach-planning-lessons-from-the-equifax-breach/#2a38b298eb8b