

**Liberal Response to the  
Canadian Internet Policy and Public Interest Clinic  
December 2005 Questionnaire  
(Received January 3<sup>rd</sup>, 2006)**

**1. Copyright Law and Technical Protection Measures: Do you agree that we need legislation to protect Canadian firms from harmful technologies like the Sony-BMG rootkit DRM?**

The Liberal Party of Canada supports technology that protects digital artistic content and we will continue to work hard to facilitate consensus amongst stakeholders in copyright matters. We introduced a wide ranging piece of copyright legislation in the last Parliamentary session that encourages creativity and protects the rights of creators, while ensuring diffusion of knowledge and access to cultural products.

**2. Copyright Revision and Innovation: Do you support Canadian innovators' rights to reverse engineer or otherwise deal with a work for the purposes of security or interoperability research?**

The Liberal Party of Canada supports an effective, open and growth oriented approach to technology protection measures.

**3. Spyware: Do you agree that we need stronger laws and enforcement mechanisms to protect Canadians from unwanted behaviours associated with spyware?**

The Liberal Party of Canada agrees that spyware poses a serious threat and we are committed to working with parents and content providers to keep the internet safe.

**4. Spam: What would your government, if elected, do to stop the flood of spam that continues to plague internet users?**

On May 17, 2005, the Minister of Industry, received the final report of the Task Force entitled Stopping Spam: Creating a Stronger, Safer Internet. The report includes a range of recommendations including more rigorous law enforcement, public education, policy development and legislation. We intend to proceed with legislation to implement recommendations of the Task Force and establish a new statute to regulate spam and amend existing legislation. We are also committed to working internationally on this global problem; shutting down servers in Canada would not by itself halt the problem but shift it to other jurisdictions.

- 5. Lawful Access: Do you agree with civil liberties groups that:**
- i. There should be no increase in state surveillance without full justification, including clear evidence of the need for such new capacities and powers and of their likely effectiveness?**
  - ii. Searches and surveillance should require judicial authorization on a “reasonable and probable cause to believe” standard; and that exceptions to this rule must be narrowly limited, subject to strict conditions and safeguards, and should not be expanded to include subscriber data?**
  - iii. All state search and surveillance activity should be subject to rigorous oversight by an independent body to guard against police abuse of these intrusive powers?**

The public safety of Canadian citizens is a responsibility that the Liberal Government takes very seriously. We are well aware that technological advances pose a significant challenge to the law enforcement community and national security agencies. The Liberal Government will pay close attention to ensuring the security of people in this country. In doing so, however, the privacy of Canadians must be respected. Our laws and the *Charter of Rights and Freedoms* require a balance between security and privacy that must be maintained.

The Liberal Government is committed to working with provinces, territories and key stakeholders to ensure that this balance is kept. To this end, the Department of Justice recently conducted roundtable discussions in three cities with representatives from the privacy and civil liberties communities. These consultations ensure that the Liberal Government fully understands civil society’s concerns with respect to lawful access initiatives and with their legislative proposals. The Liberal Government is committed to producing legislation that will unequivocally safeguard the rights and freedoms of all Canadians.

- 6. How would your reform Canadian privacy laws in order to provide meaningful privacy protection in the Internet era?  
Do you support amendments to PIPEDA that would allow for class actions and penalties, so that companies are held accountable for privacy breaches affecting large numbers of Canadians?**

The Liberal Government has established a strong constitutional, legislative, and administrative framework to assure the privacy rights of Canadians. This framework covers the federal public and private spheres and includes the *Charter of Rights and Freedoms*; the *Privacy Act*; PIPEDA; and various government policies to ensure privacy rights. In addition, Canadians have a federal Privacy Commissioner to carry out an oversight function, as well as the judicial system for redress.

The Liberal Government is committed to doing everything it can to protect the privacy of Canadians and will work closely with the Office of the Privacy Commissioner, provincial governments and the private sector to continue to protect their privacy interests. As part of this commitment, the Liberal Government will continue its ongoing review and assessment of its privacy laws and policies, including of course the *Privacy Act*.

**7. Do you support a Canadian law requiring companies to notify individuals of security breaches that expose the individuals to identity theft?**

Canadian organizations are subject to privacy laws that require them to protect the personal information of individuals in their custody. Under the PIPEDA, the Privacy Commissioner of Canada has the sole mandate to receive and investigate complaints about the information handling practices of organizations and to issue recommendations.

Although there is currently no specific offence under the *Criminal Code* for obtaining confidential information without authorization, hacking or mischief offences, and even fraud, could be committed, depending on the circumstances of the case, including how the information is obtained and the damage suffered. The issue of obtaining confidential information without authorization is currently being considered under the Lawful Access initiative. The Federal-Provincial-Territorial Working Group on Cyber-crime will carefully assess how to deter unlawful information dissemination.

The Liberal Government is committed to protecting the personal information of Canadians and their reasonable expectation of privacy. Any *Criminal Code* amendments will reflect an appropriate balance of the needs of law enforcement to protect public safety, and the necessity to safeguard privacy and the rights and freedoms of all people in Canada. Canadians cherish these principles and nothing in any of the Liberal Government's proposals will undermine this.

**8. Telecommunications**

**i. Do you support continued government and regulatory intervention in telecommunications so as to ensure that Canadians of all income levels and in all regions of the country, including those with disabilities, have access to good quality, reliable and functional telecommunications services at affordable and reasonable prices?**

**ii. Do you agree that the following policy objectives currently set out in the Telecommunications Act are fundamentally important and should remain the guiding principles of Canadian telecommunications policy's.7(a) "to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions";s.7(b) "to render reliable and affordable telecommunications**

**services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada”?**

- iii. Do you agree that any reforms to the Telecommunications Act should be subject to a full public review five years after they have been enacted?**

The Government appointed a panel of eminent Canadians on November 14<sup>th</sup>, 2005. The Panel has been tasked with reviewing Canada's telecommunications policy and regulatory framework and the government eagerly awaits its recommendations. It would be wrong to pre-empt the outcome of the year's worth of study, hearings and deliberations of the expert panel. The government is committed to considering and acting on the panel's recommendations, expected in January, in a timely fashion.

That said, the Government remains committed to a telecommunications system that is accessible to all. This is more than just a rhetorical commitment - in our recent November 2005 Economic and Fiscal Update we allocated an additional \$100 million to extend broadband service to more communities in remote and rural Canada.

Legislation would normally be subject to review after five years and there is no reason to treat the Telecommunications Act differently.