



January 24, 2006

Privacy Commissioner of Canada
112 Kent Street
Ottawa, Ontario
K1A 1H3

Dear Commissioner Stoddart:

Re: s.11 PIPEDA Complaint against Winners Merchants International L.P.

This is a complaint, filed under s.11 of the *Personal Information Protection and Electronic Documents Act* ("PIPEDA"), against Winners Merchants International L.P., based on a widely-reported security breach that allegedly exposed the personal information of Winners/HomeSense customers to unauthorized access. Attached to this letter are copies of some news reports exposing this breach, as well as a print-out of the "Customer Alert" currently posted on Winners' and HomeSense's websites.

It is our understanding, based on Winners/HomeSense' Customer Alert and various news reports, that there was an unauthorized intrusion into the computer systems that process and store customer transaction information, and that over 250 Winners and HomeSense stores across Canada were affected. According to reports, information related to customer transactions during 2003 and 2006 was exposed to unauthorized access as a result of this breach.

On behalf of the thousands of Canadians who shop at Winners or HomeSense using credit or debit cards, and whose sensitive personal information appears to have been exposed as a result of this breach, we are lodging a formal complaint under PIPEDA in order to ensure that you investigate this matter and find answers to the many questions that it raises. We are concerned that, by collecting, retaining, using and sharing customer information for secondary purposes (i.e., purposes other than the single transaction), Winners/HomeSense has violated the following provisions of PIPEDA:

subs.5(3): Collection, retention and/or use of personal data for purposes that a reasonable person would consider are inappropriate in the circumstances

Principle 4.4: Limiting collection to that which is necessary for the purposes identified.

Principle 4.5: Limiting use and disclosure to the purposes identified. Retaining customer information for no longer than necessary to fulfil the identified purposes.

Principle 4.3: Obtaining the informed consent of customers to all collection, use, retention and disclosure of personal information.

Principle 4.7: Protecting personal information by security safeguards appropriate to the sensitivity of the information.

In particular, we are concerned that Winners/HomeSense has been:

- collecting more information than necessary from its customers;
- collecting, retaining, using, and/or sharing customer information for purposes that a reasonable person would consider inappropriate in the circumstances;
- collecting, retaining, using, and/or sharing customer information for purposes that individuals customers are not aware of and/or have not consented to;
- retaining customer information for much longer than necessary for the purposes that customers can reasonably be said to have consented to;
- engaging in information practices (such as sharing with affiliates in the United States and consolidating customer data into a single database) that unnecessarily and unreasonably expose Canadian customers' data to security breaches such as that in question; and
- failing to protect the customer information in its control and custody with appropriate security safeguards.

We urge you to investigate not only the incident in question but also the general data practices of Winners/HomeSense that led up to the incident and that contributed to the enormous information leak in question. Specific questions we would like to have answered via your investigation include:

- What specific information does Winners/HomeSense collect from its customers?
- By what means does Winners/HomeSense collect this information?
- Are third parties, such as financial institutions, in any way implicated in this collection of information? If so, what are their responsibilities under PIPEDA?
- How does Winners/HomeSense obtain customer consent to its collection, retention, use and disclosure of customer information? Is such consent valid? What choices are consumers given with respect to the collection, use, retention and sharing of their information?
- Does Winners/HomeSense adequately distinguish between *necessary* information collection, use and disclosure (to which customer consent may be implied), and *unnecessary* (i.e., secondary) collection, use and disclosure (to which customer consent cannot be implied without a valid notice and opt-out scheme)?
- For how long does Winners/HomeSense retain customer transaction information and why? How does it dispose of this information?
- With whom does Winners/HomeSense share this information, for what purposes, and under what conditions, if any?
- What kind of security measures does Winners/HomeSense apply to its database of customer information in order to prevent security breaches such as this?

We look forward to the results of your investigation of this widely-publicized leak of sensitive personal information.

Sincerely,

Philippa Lawson
Director and General Counsel, CIPPIC

encl.

cc: Winners Merchants International L.P.
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