



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

NEWS RELEASE

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Ontario's Privacy Commissioner investigates another complaint regarding returned goods and the collection of customer information

TORONTO – Ontario's Information and Privacy Commissioner, Dr. Ann Cavoukian, is issuing a report today in response to a complaint regarding the return policies of the Liquor Control Board of Ontario (LCBO) of collecting personal information from customers returning merchandise. Entitled, *Privacy Investigation Report: Reviewing the Return Policies of the Liquor Control Board of Ontario*, this report examines a customer's complaint that the LCBO had improperly collected his personal information, including his name and address, when he attempted to return some merchandise. He felt as if he had no choice but to surrender his information to obtain a refund. In contrast, the LCBO advanced the view that verifying the identity of customers returning merchandise plays a critical role in detecting fraud related to returned products.

After careful study, Commissioner Cavoukian found that the practice of seeking a customer's name, address and telephone number is acceptable in order to address the issue of fraudulent returns. "I sympathize with the complainant feeling that the collection of his personal information by the LCBO was intrusive and a breach of his privacy," says the Commissioner, "however, there is significant evidence in support of the collection of minimal pieces of personal information as a necessary measure in the prevention of fraud. It is estimated that eight to 10 per cent of all returns are fraudulent in nature, which represents a legitimate concern for businesses required to process returned goods."

While the Commissioner did not find the LCBO to be in breach of the *Freedom of Information and Protection of Privacy Act (FIPPA)*, she did find the LCBO's privacy policy to be inaccurate and somewhat inaccessible to consumers. While the privacy policy states that personal information is only collected when the customer voluntarily provides it, the fact remains that in order to receive a refund, the customer must provide his or her name, address and telephone number. In the words of the Commissioner, "There is nothing voluntary about this requirement." Further, the Commissioner said that, "The LCBO needs to provide customers with greater access to information regarding their privacy and return policies. The inability of customers to obtain a clear explanation of the policies regarding their privacy and the return of merchandise is, in my view, a contributing factor in their resistance to providing that information."

What makes this particular report significant is that it also contains a comprehensive review of the literature in this area as an Addendum: *A Review of the Literature Relating to Fraudulent Returns: Practices Used by Retailers to Combat Fraud*, which is designed to assist both public and private sector organizations in dealing with the proper collection of personal information from consumers. While generally considered to be a private sector issue, the Commissioner states, "There are numerous public sector organizations that sell goods and services, making their functions somewhat akin to private sector retailers, in this regard. The question of what type of personal information is acceptable to collect when a customer returns a product is key for all retailers, whether they be in the public or private sector. Consequently, I am adding an Addendum to this report that reviews the practices in this area."



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Commissioner Cavoukian's core message in both the Investigative Report and the Addendum is that return strategies to combat fraud should not come at the expense of privacy or courteous customer service. "The provision of proper, timely and comprehensible notice will, in my view, result in an informed consumer and will reduce concerns regarding the collection of their personal information," says Commissioner Cavoukian.

Among the Commissioner's recommendations to the LCBO:

- Staff members who process returns should be trained to advise customers of the reasons why the collection of their personal information is required and to provide an opportunity for customers to give their information in a privacy protective manner;
- The LCBO should provide a clear indication of their authority to collect personal information, including what personal information is collected, why it is collected and for what purpose – this should include a clear short notice that advises customers of their privacy and return policies;
- The contact information for the LCBO's chief privacy officer should be made available to any customer who questions the need to provide his or her personal information to process a return.

In addition, the Commissioner also urges all retailers to:

- Treat their customers with courtesy and respect, not with suspicion, upon having an item returned;
- Assure customers that their personal information will be retained in a secure manner and will not be used for any other purpose other than processing their return.

Having reviewed the matter extensively, Commissioner Cavoukian appreciates the problems that retailers face with high levels of fraudulent returns. However, she ends with the observation that, "There is no reason to expect most customers to be aware of this fact. Nor is it acceptable to treat the roughly 90 per cent of honest customers with suspicion. Leading with a polite explanation of the reasons why a customer's name and address, and any other information are required, would go a long way to obtaining the necessary information and having a satisfied customer. Fraudulent returns are the retailer's problem, not the innocent customer's problem. Providing proper notice and courteous service satisfies the retailer's need to obtain the necessary information, and yet allows the customer to leave with his or her dignity intact – a win/win, positive-sum solution for both retailers and consumers alike."

The IPC's Investigative Report and Addendum can be downloaded, free of charge, at www.ipc.on.ca.

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