

To: ATIPPA Review Committee

CBC News Supplemental Information
September 3, 2014

At the review committee hearings of Aug. 18, CBC News provided an undertaking to provide supplemental information about the number of ATIPPA requests filed, and how that has changed since the introduction of amendments in Bill 29.

We have looked at the total requests filed by CBC over the last few years, and are not able to come up with a comparison that we feel would be useful to the Commission. In some instances, several specific access requests were filed in succession, and in other instances a larger request was filed for a wider range of records. As a result, merely counting the raw number of requests filed in any given year is not helpful in evaluating the impact of Bill 29, as it does not illustrate the nature of requests that are no longer being filed, or the type of record no longer being sought.

As we stated at the hearing, it is very difficult for us to prove a negative (i.e. what we are no longer doing). However, we have confirmed with staff at CBC that there presently very few active ATIPPA requests outstanding. As we indicated at the hearing, we are being told anecdotally that journalists have chosen to file fewer requests for government records as they know they will be refused outright under the new exclusions introduced as a result of Bill 29.

In broader terms, exact overall statistics on the post-Bill 29 era are not yet available. The most recent annual report on Access to Information and Protection of Privacy published by the government is for the 2012-2013 fiscal year. This is the same fiscal year that saw the Bill 29 amendments implemented into law. The 2013-14 annual report, which would have statistics for the post-Bill 29 era, is not yet published, even though the fiscal year ended more than five months ago.

To illustrate the point about merely counting raw numbers being somewhat unhelpful, it is worth noting that there were 108 media requests filed under the act in 2012-13, or roughly 21 per cent of all ATIPPA requests. In the prior four-year period, the lowest number of media ATIPPA requests was 85, while the highest was 133. Given that there has always been a wide gap in the

number of requests filed even before the Bill 29 amendments, a year over year analysis pre- and post-Bill 29 does not in itself reveal much about its effect on the number of requests filed.

But in addition to the raw number of requests, it is important to note the post-Bill 29 changes in what material is available under the new regime. As noted during our submission in the public hearing process, even factual information in briefing materials is now off-limits, which is a significant alteration.

And the frequency and amount of redactions even for those requests that are fulfilled would appear to be greater post-Bill 29.

An example of this can be found in the completed request FIN/7/2014. LINK: http://www.atipp.gov.nl.ca/info/completed/2014/pdf/fin_7_2014.pdf

The new simple one-part Section 27 exemption was applied to this response, leaving very little information not redacted. Under the pre-Bill 29 Section 27, with the tougher three-part test, it is likely more information would have been released.

These changes have resulted in less and less information released under discretionary and mandatory exemptions of the law.