



**PERSONAL INFORMATION PROTECTION ACT**  
**Breach Notification Decision**

<b>Organization providing notice under section 34.1 of PIPA</b>	Society of Composers, Authors and Music Publishers of Canada (SOCAN) (Organization)
<b>Decision number (file number)</b>	P2021-ND-087 (File #010928)
<b>Date notice received by OIPC</b>	January 24, 2019
<b>Date Organization last provided information</b>	January 24, 2019
<b>Date of decision</b>	March 16, 2021
<b>Summary of decision</b>	There is a real risk of significant harm to the individuals affected by this incident. The Organization is required to notify the individual whose personal information was collected in Alberta, pursuant to section 37.1 of the <i>Personal Information Protection Act</i> (PIPA).
<b>JURISDICTION</b>	
<b>Section 1(1)(i) of PIPA “organization”</b>	<p>The Organization’s report of this incident said:</p> <p style="text-align: center;"><i>As a preliminary comment, it is SOCAN’s position that the Office of the Information and Privacy Commissioner of Alberta does not have jurisdiction over SOCAN with respect to the incident because: (a) SOCAN is not an organization resident in Alberta; and (b) if SOCAN would be considered to have obligations under the Alberta PIPA, SOCAN is in any event a non-profit organization, and the incident is associated with its core function of rights management.</i></p> <p>With respect to the Organization’s first point, I note that section 4(1) of PIPA says that PIPA applies to every “organization” (as defined by section 1(1)(i)) and in respect of all “personal information” (as defined by section 1(1)(k)).</p> <p>PIPA does not contain any territorial or constitutional limitation. I take the position that if an organization collects, uses and discloses personal information within Alberta, PIPA applies to that organization.</p> <p>With respect to the Organization’s second point, I note that section 56(2) of PIPA states that it “does not apply to a non-profit organization or any personal information that is in the custody of or under the control of a non-profit organization”, except in the</p>

	<p>case of personal information that is collected, used or disclosed in connection with any commercial activity.</p> <p>“Non-profit organization” is defined in section 56(1) to mean an organization “that is incorporated under the <i>Societies Act</i> or the <i>Agricultural Societies Act</i> or that is registered under Part 9 of the <i>Companies Act</i>.”</p> <p>The Organization reported:</p> <p style="padding-left: 40px;"><i>SOCAN is a member-based, not-for-profit organization that represents performing and reproduction rights in Canada of Canadian and international music creators and publishers. SOCAN's operations include collecting licence fees from music users and distributing royalties to its members and to foreign copyright organizations with which SOCAN is affiliated for distribution to their members.</i></p> <p>I understand that the Organization operates on a not for profit basis; however, the Organization is incorporated as an Extra-Provincial Non-Profit Corporation and does not qualify as a “non-profit organization” as defined in section 56(1)(b) of PIPA, such that its activities would be excluded from the application of PIPA.</p> <p>PIPA applies in this case because the Organization is an “organization” as defined in Section 1(1)(i) of PIPA.</p>
<p><b>Section 1(1)(k) of PIPA “personal information”</b></p>	<p>The incident involved the following information:</p> <ul style="list-style-type: none"> <li>• name of member,</li> <li>• member’s Interested Party Name Number (IPNN), if any,</li> <li>• amount of royalty earned,</li> <li>• time period(s) in which the royalty was earned,</li> <li>• source(s) of the earnings (i.e., the music users),</li> <li>• the musical work(s) to which the earnings pertain, and</li> <li>• the member's royalty share allocation for the musical work(s), in percentage.</li> </ul> <p>The Organization also reported “If a member is both a rights owner and an authorized representative of other rights owners, that member's statement contained the above information for both the member and the represented rights owners who earned royalties during the time period(s) noted in the statement. The represented rights owners include both individuals and entities, and may or may not be ...members.”</p>

	This information is about identifiable individuals and is “personal information” as defined in section 1(1)(k) of PIPA. To the extent the information was collected in Alberta, PIPA applies.
<b>DESCRIPTION OF INCIDENT</b>	
<input type="checkbox"/> loss <input type="checkbox"/> unauthorized access <input checked="" type="checkbox"/> unauthorized disclosure	
<b>Description of incident</b>	<ul style="list-style-type: none"> <li>On December 17, 2018, an employee of the Organization posted files containing royalty statements to certain members' online accounts.</li> <li>The breach was discovered on December 19 when a member downloaded statements from his account that included statements relating to other members.</li> </ul>
<b>Affected individuals</b>	The incident affected 714 individuals and entities. Of these, 409 are Organization members and one of them has an address of correspondence in Alberta.
<b>Steps taken to reduce risk of harm to individuals</b>	<ul style="list-style-type: none"> <li>Removed all files from online accounts to contain the incident.</li> <li>Asked the member who discovered the breach to delete all statements to which he was not intended to have access and was assured by the member that he had done so.</li> <li>Confirmed that, other than the file downloaded by the member who discovered the breach, no other files were downloaded.</li> </ul>
<b>Steps taken to notify individuals of the incident</b>	The Organization reported that it would be notifying affected individuals “...starting January 23, 2019, by mail or email”.
<b>REAL RISK OF SIGNIFICANT HARM ANALYSIS</b>	
<b>Harm</b> Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be “significant.” It must be important, meaningful, and with non-trivial consequences or effects.	The Organization reported:  <i>[The Organization’s] position is that the incident would not create or pose any real risk of significant harm to the affected parties. The information disclosed, alone or in combination, would not enable anyone to access ... accounts of the affected members or their authorized representatives, or obtain their personal information from [the Organization] via telephone or [the Organization’s] web portal or other means.</i>  I accept the Organization’s assessment that the information at issue cannot be used to access accounts. However, a reasonable person would consider that “earnings information” could be used to cause the harms of hurt, humiliation or embarrassment,

	<p>particularly if personal or professional reputations are involved. These are significant harms.</p>
<p><b>Real Risk</b> The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.</p>	<p>The Organization reported:</p> <p><i>In light of the nature of the disclosed information, the circumstances of the incident, and the steps [the Organization] took to contain and mitigate the incident, it is [the Organization's] position that the incident is not one that requires [the Organization] to notify affected parties under any Canadian privacy legislation that may apply to the incident. ...</i></p> <p><i>Also, the incident was promptly contained, the Affected Statements have been deleted by the Member, and [the Organization] has no reason to suspect that the Member did not delete the statements or would use or disclose the information therein for any harmful purpose or other reason. Finally, while earnings information may be considered to be personal information, notification is unlikely to provide affected parties with a means to mitigate harm (if any) from the incident.</i></p> <p>I agree with the Organization's assessment that a reasonable person would consider the risk of harm resulting from this incident is decreased as it did not result from malicious intent, and the member who accessed the information confirmed it was deleted and agreed not to use or disclose the information. Despite this, there is a possibility of personal/professional relationships between the affected individuals and the member who accessed the information, particularly as the Organization confirmed that 409 of the affected individuals and entities are members.</p>
<b>DECISION UNDER SECTION 37.1(1) OF PIPA</b>	
<p>Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individuals.</p> <p>A reasonable person would consider that "earnings information" could be used to cause the harms of hurt, humiliation or embarrassment, particularly if personal or professional reputations are involved. These are significant harms.</p> <p>The risk of harm resulting is decreased as it did not result from malicious intent, and the member who accessed the information confirmed it was deleted and agreed not to use or disclose the information. Despite this, there is a possibility of personal/professional relationships between the affected individuals and the member who accessed the information, particularly as the Organization confirmed that 409 of the affected individuals and entities are members.</p>	

The Organization is required to notify the affected individual whose personal information was collected in Alberta, pursuant to section 37.1 of PIPA.

I understand that affected individuals were notified by mail or email starting January 23, 2019. The Organization is not required to notify the affected individual again.

Jill Clayton  
Information and Privacy Commissioner