

PIPA CASE SUMMARY P2006-CS-003***Finance company alleged to have collected a credit report without consent.*****Summary**

The Complainant alleged that she received a telephone call from a representative at Household Financial Corporation Ltd. (“HFC” now “HSBC” Finance Corporation Canada) who offered to consolidate balances on her other credit cards. The representative stated that the Complainant had done business with HFC in the past through an account with a retail partner and he was making a courtesy call after viewing her credit history. The Complainant was concerned that HSBC obtained her credit report without her consent.

HSBC acknowledged making the call to the Complainant and obtaining a credit inquiry, but stated that it did so with her express consent. The retail application for financing which she originally signed authorized HSBC and its corporate affiliates to continue to use her personal information for a period of two years after her last payment. The stated purpose on the application for remaining in contact with the Complainant was to determine eligibility for other products and services, to keep an up-to-date business relationship with her, and advertise and offer additional products and services. The form also stated that HSBC would maintain up-to-date information related to applicants by making “credit inquiries”.

Jurisdiction

PIPA applies to provincially-regulated private sector organizations operating in Alberta, including some of HSBC’s operations (HSBC’s banking operations are federally regulated, whereas its financial operations are not). The Information and Privacy Commissioner has jurisdiction in this case because HSBC Finance Corporation Canada is “an organization”, as defined in section 1(i) of the Act. Section 36 of the Act empowers the Commissioner to conduct investigations to ensure compliance with any provision of PIPA and make recommendations to organizations regarding their obligations.

Analysis & Findings

Section 7(1) of PIPA requires that organizations collect, use and disclose personal information only with the consent of the individual, unless the Act allows otherwise. In the event that an organization chooses to use personal information for a new, unstated purpose, a new consent must be obtained. One method of obtaining consent under section 8(3) of PIPA is to provide the individual with a notice that the organization intends to use the information for another purpose and then give the individual a reasonable opportunity to decline or object.

The application signed by the Complainant explicitly stated how the Complainant’s personal information would be used by HSBC and provided a telephone number in the event that the Complainant preferred to opt-out of this relationship.

HSBC had consent to conduct credit inquiries on the Complainant and therefore did not contravene the Act. The Complainant was concerned that HSBC made a credit inquiry on her record thereby affecting her credit score. HSBC confirmed that the inquiry made on the Complainant’s profile was a “masked inquiry” or a “soft pull”. These are invisible inquiries that organizations can make on existing customers for account management purposes. It does not affect an individual’s credit score nor is it visible to other creditors.

Recommendation

The investigator found that the Organization did not contravene section 7(1) of PIPA.

As a result of this complaint, HSBC made arrangements to ensure that its representatives do not give customers the impression that “soft pull” inquiries affect their credit history. In addition, HSBC placed the Complainant on its “do not solicit list”.

In general, it is preferable for organizations to give individuals the opportunity to opt-out at the precise time of collecting personal information. For example, organizations should use a conspicuous check box on an application as opposed to placing the responsibility on individuals to contact the organization at a later time by telephone.