

the CBC's position entirely in this regard, it agrees that the wholesale application of the Acts to the CBC might impair its newsgathering function. It notes that the Australian *Freedom of Information Act* does not apply to the Australian Broadcasting Corporation in relation to program material. In other respects, however, this Crown corporation is subject to the Australian legislation. Such a compromise would appear appropriate in the Canadian setting as well.

Recommendations:

- 2.6 The Committee recommends that the *Access to Information Act* and the *Privacy Act* be extended to cover those Crown corporations and wholly-owned subsidiaries as are listed in the Treasury Board's *Annual Report to Parliament on Crown Corporations and Other Corporate Interests of Canada*. For this purpose, the Committee recommends that the *Access to Information Act* and the *Privacy Act* be amended to include such a definition of "Crown corporation".
- 2.7 The Committee further recommends that if the Government of Canada controls a public institution by means of a power of appointment over the majority of the members of the agency's governing body or committee, then both the *Access to Information Act* and the *Privacy Act* should apply to such an institution.
- 2.8 The Committee recommends that, with respect to the Canadian Broadcasting Corporation (CBC), the *Access to Information Act* not apply in relation to program material; otherwise, the Corporation should be fully subject to both the *Access to Information Act* and the *Privacy Act*.

The Status of Applicants

Who should be able to use the *Access to Information Act* and the *Privacy Act*? Presently the right of access under both Acts is available only to individuals who are either Canadian citizens or permanent residents within the meaning of the *Immigration Act, 1976*. Both Acts contemplate a possible extension by the Governor in Council to include other persons. No such extension has been granted to date under the *Access to Information Act*. In 1983, the right of access to personal information under the *Privacy Act* was extended to all inmates incarcerated in Canadian prisons.

It seems unnecessary and undesirable to limit the Access and Privacy legislation in this fashion. Organizations outside Canada can easily obtain the services of a qualified individual in Canada to apply on their behalf. The Committee notes that under the U.S. *Freedom of Information Act* the right of access to government records is available to any person without restriction. We are of the view that creating reciprocal rights of access in Canada would be appropriate at this time, particularly in light of the major bilateral initiatives currently underway between the Governments of Canada and the United States.

In addition, corporations, trade unions and other organizations are not allowed to use the *Access to Information Act* as it is presently drafted. As a result, individuals are now required to apply on behalf of these legal entities. It seems unnecessary for this rather technical limitation to continue. There appears to be no good reason, for example, why a corporation or trade union seeking government records should have to call upon an agent in order to invoke the statutory right of access under the Access legislation.

Most data protection laws do not restrict the right of access solely to citizens or residents of the country in question. Such legislation simply grants the right of access to "persons", "individuals", or "data subjects" without any further restriction. This is true for Quebec's 1982 Act, Ontario's Bill 34, the German *Federal Data Protection Act* of 1977, the United Kingdom's *Data Protection Act* of 1984, the French *Data Protection Law* of 1978, and the Swedish *Data Act* of 1982.¹⁴