

**For immediate release**

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## **Canadian privacy regulators' joint investigation into ChatGPT leads to improvements in users' privacy**

*Despite improvements, OpenAI not fully compliant with BC's privacy legislation*

**VICTORIA** –A joint investigation by BC Privacy Commissioner Michael Harvey, the federal commissioner, and provincial counterparts in Quebec and Alberta, into OpenAI has identified how the initial development of ChatGPT was not compliant with provincial and federal privacy laws. In British Columbia, private sector organizations are subject to the *Personal Information Protection Act* (PIPA). The report highlights the steps the company has taken to improve users' privacy in response to the investigation and recommendations.

The joint investigation examined OpenAI's collection, use, and disclosure of personal information for the purpose of developing its AI-powered chatbot, ChatGPT.

The regulators identified several areas where the initial training and deployment of ChatGPT were not compliant with privacy laws, including:

- overcollection of personal information;
- lack of consent and transparency;
- factual inaccuracies involving personal information;
- issues related to individuals' ability to access, correct, and delete their personal information; and
- a general lack of accountability.

Throughout the course of the investigation and in response to findings and recommendations made by the regulators, OpenAI implemented measures to improve privacy protections in the ongoing development and operation of ChatGPT. Most importantly, in response to the findings OpenAI has significantly limited the personal information and sensitive information that is used to train its new ChatGPT models.

Each of the four regulators investigated compliance with the specific legislation that they oversee. As a result, the conclusions reached by each Office varied due to the differences in the laws that they enforce.

In BC, the OIPC found that OpenAI's practice of scraping information, including personal information, from the internet without individuals' knowledge or consent continues to fall short of meeting the foundational requirement for consent in PIPA. Despite this finding, the OIPC is encouraged by the new measures taken by OpenAI to improve its compliance, and will join in monitoring OpenAI's further developments.

“This report highlights the fundamental disconnect between how one of the world’s most widely used AI applications works and what BC’s *Personal Information Protection Act* demands. The findings of this report show that we’re at an impasse at a critical juncture in the Information Age – between AI applications that could potentially have tremendous benefits for the economy and society but have been developed without adequate attention to privacy; and privacy laws that were written for a different era. Both have to change. I am encouraged that OpenAI has made improvements and will be continuing to monitor further developments. I have also written to the Minister of Citizens’ Services to urge the government to act without delay to modernize PIPA and put obligations on organizations to earn people’s trust by respecting people’s privacy rights, not exploiting their personal information,” said Commissioner Harvey.

The four regulators will be monitoring the actions of the company to ensure that it continues to limit the impact that its AI tools have on individuals’ privacy.

### Links

Full Report: <https://www.oipc.bc.ca/reports/investigation-and-audit-reports/>

Report overview: <https://www.oipc.bc.ca/reports/investigation-and-audit-reports/>

Overview: Joint investigation into OpenAI (infographic): <https://www.oipc.bc.ca/resources/infographics/>

Letter to Minister Gibson Re: Joint Investigation of OpenAI Report Findings:

<https://www.oipc.bc.ca/news-events/newsroom/>

Video Statement: <https://youtu.be/nL99yxuchmo>

Infographic: Protect your privacy when using AI tools: <https://www.oipc.bc.ca/resources/infographics/>

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## Backgrounder: Summary of joint investigation into OpenAI's ChatGPT

The Office of the Information and Privacy Commissioner for BC (OIPC-BC), along with the Office of the Privacy Commissioner of Canada (OPC), Commission d'accès à l'information du Québec (CAI), and the Office of the Information and Privacy Commissioner of Alberta (OIPC-AB), conducted a joint investigation into OpenAI's ChatGPT to assess whether the company's collection, use, and disclosure of Canadians' personal information complied with federal and provincial privacy laws.

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### Overview and key findings

The investigation focused on ChatGPT's early models, examining how OpenAI sourced its training data – including publicly scraped content, licensed datasets, and user interactions – and whether it adhered to the key privacy principles such as consent, transparency, and data accuracy.

The regulators' findings identify how OpenAI was not compliant with federal and provincial privacy laws when it came to the scale and sensitivity of data collected, and the adequacy of user consent, among other issues. Specifically, the regulators found:

- **Overcollection of personal information:** OpenAI gathered vast amounts of personal information without adequate safeguards to prevent use of that information to train its models. This could include sensitive details such as individuals' health conditions and political views, as well as information about children.
- **Lack of valid consent and transparency:** OpenAI did not obtain consent for the collection of personal information, as required by the Acts. Many users were unaware that their data was collected and used to train ChatGPT. OpenAI did not clearly explain that personal information collected from publicly accessible sources could include data from social media, discussion forums, and other similar websites.
- **Factual inaccuracies and fabricated "hallucinations":** OpenAI provided insufficient notifications about potential inaccuracies in ChatGPT responses. Until recently, it had not conducted an

assessment to validate the accuracy of any personal information included in ChatGPT responses to user prompts.

- **Access, correction and deletion:** OpenAI did not provide individuals with an easily accessible and effective mechanism to access, correct, and delete their personal information.
- **Lack of accountability:** OpenAI released ChatGPT without having fully addressed known privacy risks, and without establishing data-deletion rules. This exposed individuals to risks of harm, including breaches, inaccuracy of information, and discrimination on the basis of accurate and inaccurate information about them.

### Jurisdictional differences and investigative outcomes

While privacy legislation in British Columbia, Alberta, and Québec is considered substantially similar to the federal private-sector privacy law, each jurisdiction investigated compliance with the specific laws that they oversee. The conclusions reached by each office varied due to the differences in the laws that they enforce.

Privacy authority	Applicable law	Investigative finding	Notes
Office of the Privacy Commissioner of Canada	<a href="#">Personal Information Protection and Electronic Documents Act (PIPEDA)</a>	Complaint is well-founded and conditionally resolved	The OPC considers that the measures implemented, or that will be implemented by OpenAI, will significantly reduce the residual risk of harm to individuals associated with the collection, use, and disclosure of their personal information in the development and deployment of ChatGPT models.
Office of the Information and Privacy Commissioner for BC (OIPC-BC)	<a href="#">Personal Information Protection Act - BC</a>	Complaint is well-founded and unresolved	The OIPC-BC determined that OpenAI's models, based on scraped data, are in contravention of PIPA-BC's consent requirements, which set different criteria than PIPEDA. However, OIPC-BC acknowledged OpenAI's efforts to improve compliance.

Office of the Information and Privacy Commissioner of Alberta (OIPC-AB)	<a href="#"><u>Personal Information Protection Act - AB</u></a>	Complaint is well-founded and unresolved	The OIPC-AB determined that OpenAI's models, based on scraped data, are in contravention of PIPA-AB's consent requirements, which set different criteria than PIPEDA. However, OIPC-AB acknowledged OpenAI's efforts to improve compliance.
Commission d'accès à l'information du Québec (CAI)	<a href="#"><u>Act respecting the protection of personal information in the private sector</u></a>	<p>Complaint is well-founded and conditionally resolved on the following issues: appropriate purposes, individual rights and accountability.</p> <p>Complaint is well-founded and unresolved on the issue of consent.</p> <p>No findings were issued on complaint related to openness and accuracy given the specificities of Quebec's law.</p>	The CAI has made specific recommendations with respect to consent and retention to bring OpenAI in compliance with Quebec's private-sector privacy act. The CAI intends to monitor OpenAI's implementation of the joint recommendations, as well as its own specific recommendations.

### OpenAI's response and future commitments

OpenAI has put in place measures that address some of the concerns raised in the report of findings, most importantly by significantly limiting the personal information and sensitive information that is used to train new ChatGPT models. OpenAI has also retired its earlier ChatGPT models that were trained in a manner that contravened Canadian privacy laws.

Current models powering ChatGPT were developed and deployed using the new safeguards, which has helped to improve their privacy practices by:

- Limiting use of personal information:** OpenAI has implemented a filtering tool to detect and mask personal information (such as names or phone numbers) in publicly accessible internet data and licensed datasets used to train its models. The tool significantly reduces the amount of private and sensitive information used in training. However, in BC, OpenAI is still not compliant with PIPA as it did not get consent from individuals for the personal information it scraped from the internet to train its models.

- **Improving accuracy:** OpenAI has introduced a new web search feature which, when activated, conducts real-time web searches and references specific web sources for the content output by ChatGPT, allowing users to verify information independently.
- **Improving access:** OpenAI has improved the auto-response email that users receive when they submit an access request, better explaining how different types of personal information can be accessed.
- **Facilitating corrections:** OpenAI leverages the web search feature to process correction requests, allowing the models to retrieve up-to-date publicly accessible information about an individual and use that information in its response.
- **Enhancing correction and deletion:** OpenAI has developed a technical solution to block specific personal details about a public figure from appearing in model outputs, ensuring that ChatGPT continues to provide access to relevant public information while respecting privacy rights.
- **Implementing retention policies:** OpenAI has implemented formal retention policies and schedules to govern the retention and deletion of personal information processed in connection with ChatGPT.

### Future improvements

OpenAI has also committed to implementing additional measures within specific timeframes to improve openness, access, retention, and children's privacy:

- [Concurrently with the publication of the Report of Findings] OpenAI will publish more information explaining its privacy practices, including information about the sources of content used to train its models.
- [Within three months of the issuance of the Report of Findings] OpenAI will provide notice that chats may be reviewed and used to train models, and advise users not to share sensitive information, before the individual inputs their first user prompt in the signed-out ChatGPT web version.
- [Within six months of the issuance of the Report of Findings] OpenAI will make it easier to understand and use the data exports that it provides to users who request their personal information. They will also better explain the avenues available to users who want to challenge the completeness, accuracy, or nature of the information provided.
- [Within six months of the issuance of the Report of Findings] OpenAI will confirm to the offices that it has implemented strong protection for future datasets which are retired and used only as

historical references so they are not used for active model development. The company will also regularly review whether these datasets should still be kept.

- [Within six months of the issuance of the report of findings] OpenAI will test protective measures for the minor family members of public figures, who are themselves not public figures, to ensure that the models refuse requests for their name or date of birth.

OpenAI will provide quarterly reports to the OPC and its provincial partners.

## Key takeaways for organizations

Organizations have a responsibility to ensure that products and services that are using AI comply with existing domestic – both federal and provincial - and international privacy legislation and regulation.

The [Principles for responsible, trustworthy and privacy-protective generative AI technologies](#) can help support organizations in developing, providing or using generative AI in Canada.

## Further resources for organizations:

- [Joint statement on AI-generated imagery and the protection of privacy](#)
- [AI, privacy, and your business](#)