

NEWS RELEASE
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Supreme Court decision a defeat for access to information users

This morning's decision widens 'black hole' for government information

VANCOUVER, B.C.—The Supreme Court of Canada has made it easier for governments in this country to deny freedom of information requests.

In a decision released this morning, *John Doe v. Minister of Finance* the high court upheld an Ontario Court of Appeal ruling which prevented the release of requested records on the basis that the information was 'advice or recommendation' to the minister.

<http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13633/index.do>

"This is a defeat not just for information requesters, but for society as a whole," said FIPA Executive Director Vincent Gogolek. "It will increase the most egregious use of the 'policy advice' exemption to keep information secret."

Today's decision means that the very restrictive approach used in British Columbia will now likely spread across the country. BC's interpretation of the 'policy advice' exemption has been the most restrictive in the country since 2002. It has led to such absurdities as the BC government claiming that responses to a government consultation were 'advice to the Minister', and that a pamphlet on the HST which was to be sent to every household in the province was also 'advice to the Minister'.

"The only way to roll back this decision is if the governments themselves amend their freedom of Information laws to prevent this overly broad approach," Gogolek said, "and we are not optimistic that those who fought for greater secrecy will give it up anytime soon."

FIPA was an intervenor in this case. Our factum can be found here.

http://fipa.bc.ca/library/Legal_Submissions/Factum%20of%20BC%20FIPA%20SCC%2034828%20FINAL.pdf

We thank our excellent counsel Brent Olthuis and Andrea Glen of Hunter Litigation Chambers in Vancouver, who represented FIPA pro bono in this case.

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