

FILE NO. - 93/004

**REPORT WITH RESPECT TO AN APPLICATION
FOR REVIEW WITH RESPECT TO PERSONAL INFORMATION
REQUESTED FROM SASKTEL**

The Applicant applied to SaskTel for all information pertaining to her in their records. There is no doubt she was entitled to apply for this information pursuant to Section 31(1) of *The Freedom of Information and Protection of Privacy Act* which provides:

"Subject to Part III and subsection (2), an individual whose personal information is contained in a record in the possession of or under the control of a government institution has a right to, and:

- (a) on an application made in accordance with Part II; and
- (b) on giving sufficient proof of his or her identity;

shall be given access to the record."

As a result of her application, the Applicant received a reply by letter dated December 21, 1992 from SaskTel which states in part:

"Your application for access has been processed, however in accordance with Sections 17 and 31 of *The Freedom of Information and Protection of Privacy Act*, access to a one page record contained in the file has been denied because the record consists of consultations involving employees of SaskTel and also because that record contains evaluative or opinion material provided in confidence.

These exemptions are provided for in Sections 17(1)(b) and 31(2) which provide:

'S.17(1)(b) Subject to subsection 2, a Head may refuse to give access to a record that could reasonably be expected to disclose:

(a) . . .

(b) Consultations or deliberations involving:

i) officers or employees of a government institution;

S.31(2) A Head may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits, where the information is provided exclusively or implicitly in confidence.' "

The Applicant then requested a review with respect to the document which SaskTel had refused to disclose. On review, it appears that the document in question is a memorandum prepared by a physician who acts as a consultant to SaskTel, with respect to conversations or consultations which he had with the Applicant's supervisor and separately with one other employee of SaskTel.

I asked for, and obtained, a copy of the document which is in the handwriting of the physician. It should surprise no one to learn that I found it to be indecipherable and consequently asked for, and was provided with, a typewritten transcript which was forwarded to me directly by the physician without a copy being provided to SaskTel.

I have serious doubts whether the reasons given for withholding this document are well founded. It is doubtful whether the physician is an "officer or employee of a government

so as to justify refusal under Section 7(1)(b) of Act. Furthermore, I question whether Section 31(2) relates to suitability for ongoing employment or whether it was intended to deal with material obtained with a view to determining suitability, eligibility or qualifications for employment in the first instance.

In the result, it is not necessary for me to express a definitive opinion on these points as this matter has been resolved in a satisfactory way.

In discussions with the Applicant, it appeared that her chief concern was to have the document in question removed from her file. Consequently, I discussed this possibility with SaskTel and as a result, the physician and SaskTel agreed that the document in question would be removed from the Applicant's file and placed in the file maintained in the office in which the physician carries on his private practice, where it will be held by him as a confidential document. I have now received confirmation in writing from the physician that this has been done.

In addition, I have received satisfactory assurances in writing from SaskTel that they have not made or retained a copy of the document.

This resolution of the matter has been accepted by the Applicant, and accordingly no formal recommendation is required.

Dated at Regina, Saskatchewan this day of April, 1993.

Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan