

**Monteith, Anne-Marie: SPS**

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**From:** Anderson, Heather: SPS (NCR-RCN)  
**Sent:** Friday, July 20, 2012 17:46  
**To:** Halucha, Paul: SPS  
**Cc:** Monteith, Anne-Marie: SPS; DuPelle, Robert: SPS  
**Subject:** Prep for ISP meeting Monday  
**Attachments:** Questions for ISPs on Notice and Notice.pdf

Paul,

We have prepared a list of questions on Notice and Notice to cover for our meeting with ISPs on Monday (see attached). Anne-Marie and Rob will be here to walk you through them before the meeting (I'm on training next week).

Heather Anderson  
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**The need for regulations:**

- What would be the impact of bringing the notice & notice obligations into force without regulations?

- Would it be possible for the industry to develop guidelines or best practices (via agreements with rightsholder groups) in order to address any problems that arise in the absence of regulations?

**Form of notices:**

- Are you looking for technical regulations to establish a standard interface that ISPs will use in offering notice & notice services? If yes, can you describe in detail the specific form that your preferred standard interface would take?

- Do you want regulations to prescribe a template that must be used by rights holders in order for their notices to be valid under the regime? If yes, can you describe in detail the specific form that your preferred template would take?

**Operation of notice & notice:**

- Can you describe how you expect the notice & notice regime will operate?:

+ How will the obligations by ISPs be met? Will the systems be automated?

+ To what extent do Canadian ISPs provide subscribers with static vs. non-static IP addresses? What challenges exist in terms of identifying individual subscribers who are using (or have used) non-static IP addresses, and how will ISPs address these challenges in order to comply with their notice forwarding and record keeping obligations?

+ How will the requirement to inform claimants of the forwarding of notices (or, if applicable, of the reason why it was not possible to forward them) be achieved?

+ How much will these processes cost (both start-up and on-going costs)?

+ How would these processes/costs be supported/reduced by regulations that further prescribe the form and content of notices?

+ What costs will be borne by rightsholders, by ISPs, and by subscribers?

+ How will these costs compare to the current costs under the voluntary notice & notice regime?

**Consumer education:**

- Do the current requirements in the *Copyright Modernization Act* in relation to the content of notices ensure that the ISP subscribers will understand:

+ (i) why they are receiving notices,

+ (ii) the grounds upon which the claim of infringement was made (including evidence of infringement such as time stamps, watermarks, and file 'hashes'),

+ (iii) what consequences may follow receipt of a notice,

- + (iv) what recourse subscribers may have, and
- + (v) where to go for more information?
- Should the regulation making power be used to require that specific additional information be included to better inform subscribers? If so, should the precise content of additional information be set out in regulations, or should general principles be established?
- What role will ISPs play in educating/informing consumers? What parts or fields of a notice should be completed by rights holders vs. ISPs?
- Will ISPs require that subscribers confirm the receipt of notices?