

Digital ID and the Charter

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Outline

- What is Digital ID
- Concerns with Digital ID
- How do *Charter* rights work?
- Right to Privacy
- Right to Liberty



The Horse's Mouth

What is MyAlberta Digital ID?

It's a free account that lets you prove who you are online without paper documents or face-to-face visits. MyAlberta Digital ID gives you seamless access to a growing range of government sites and services, while protecting your information and privacy.



What digital ID is and is not

Digital ID is an electronic version of trusted government identification that provides better safety, more security and stronger privacy than physical identification cards or documents.

It can be securely stored in a digital wallet app for smartphones and other digital devices (like tablets or computers), and will let people and businesses prove who they are both online and in person.

Digital ID is the foundation that will enable easier access to online services and make Ontario one of the world's most digitally advanced jurisdictions, with a value for Ontarians, businesses and the government that is estimated at \$20 billion^[1].

Digital ID is:

- ✗ **NOT stored in a central database** — your digital ID is stored only on your personal mobile device (for example, your phone or tablet) or computer and can be turned off remotely if your device or computer is lost or stolen
- ✗ **NOT a tracking device** — the government will not know where you have been or where you used your digital ID
- ✗ **NOT usable without your permission** — you must always consent (agree) before sharing any information

Digital ID Across Canada



- Adopted ■
 - British Columbia
 - Alberta
- In development ■
 - Ontario
 - Quebec
- Various stages of contemplation ■
 - Everywhere else



Known Traveller
Digital Identity

Pilot
Partners

WORLD
ECONOMIC
FORUM

Canada



Government of the Netherlands

YUL Aéroport
International
Montréal-Trudeau

Schiphol

Toronto Pearson

KLM Royal Dutch Airlines

 **AIR CANADA**

accenture

 **vision-box**

 **IDEMIA**

Digital Identification and Authentication Council of Canada

Board of Directors

accenture



Deloitte.

Desjardins



Manulife



New Brunswick
Nouveau Brunswick

Ontario

Québec

SECURE KEY



TELUS

Use Cases: Digital identity is critical to Canadian inclusion and economic prosperity

HEALTH CARE

What are the real benefits?



Patients



Practitioners and Organizations
(clinics, hospitals, paramedical,
medical research groups)



Policy-makers (Government)



Use Cases: Digital identity is critical to Canadian inclusion and economic prosperity

GOVERNMENT SERVICES

What are the real benefits?



Businesses:



Overcome cumbersome manual processes (such as business registration, licensing, permitting and inspections) for more efficient interactions with local, provincial and federal government departments

Citizens:



Access services they need quicker and more efficiently by providing consent to share their data across departments. This can decrease in-person appointments and paper application processes and increase accessibility for those living in rural and remote communities by mitigating needs for commutes



Navigate the government administrative processes with more confidence and ease. With a unique digital ID, citizens can "log into" government services, similar to how they log into a bank account and access their services all in one place

Use Cases: Digital identity is critical to Canadian inclusion and economic prosperity

FINANCE

What are the real benefits?



Financial Institutions (FIs):

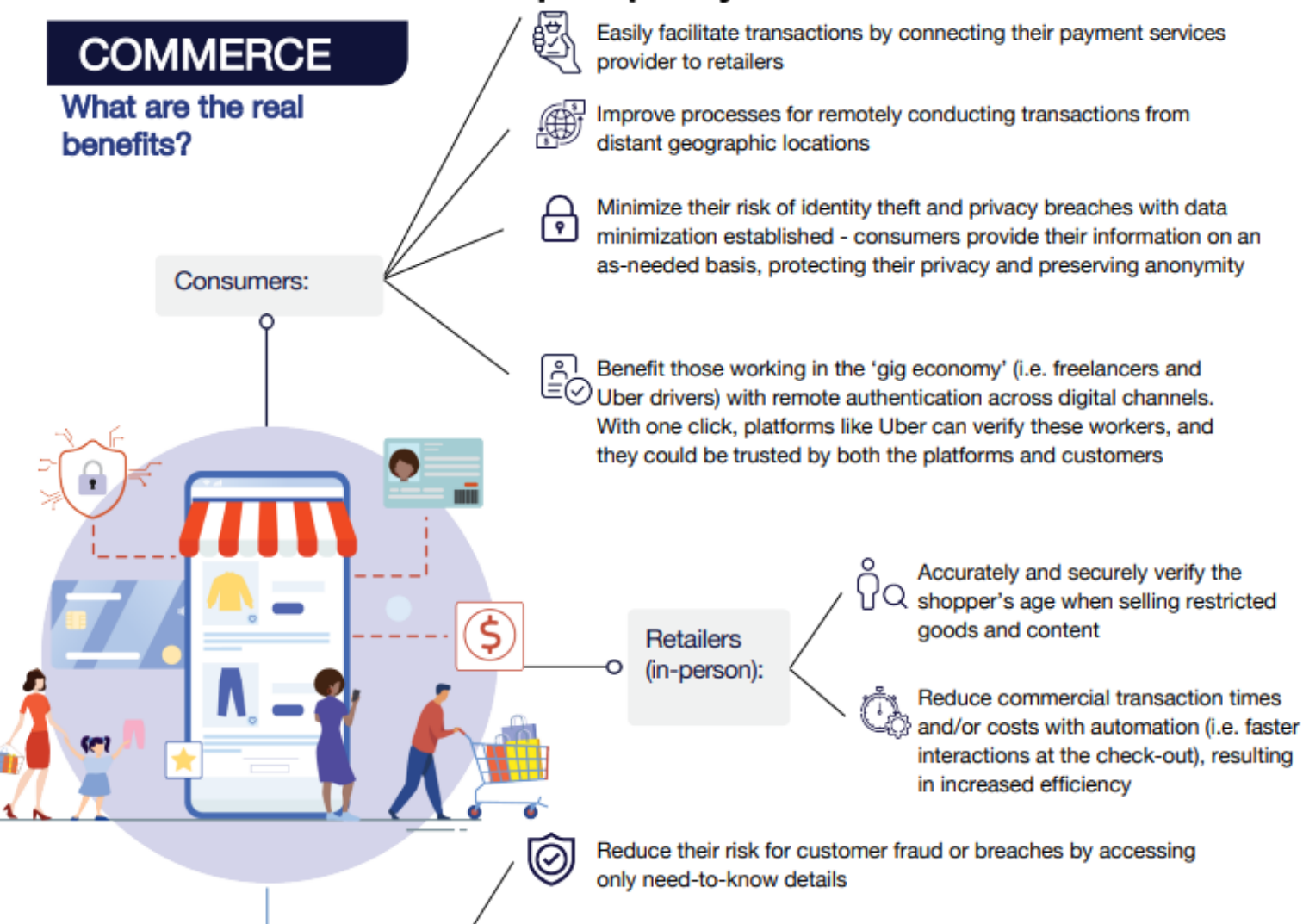


Clients and Consumers:

Use Cases: Digital identity is critical to Canadian inclusion and economic prosperity

COMMERCE

What are the real benefits?



Use Cases: Digital identity is critical to Canadian inclusion and economic prosperity

CIVIC ENGAGEMENT

What are the real benefits?



- **Vote online**, increasing accessibility for those living in rural and remote areas that face difficulty travelling to vote in-person, and minimizing many pain points that have discouraged people to vote.

A look at COVID-19 proof-of-vaccination programs across Canada

Liberty

Potential
Issues

Privacy

Centralization
of Information

Location

Most bank accounts frozen under the Emergencies Act are being released, committee hears

More than 200 bank accounts holding almost \$8 million were frozen in effort to end convoy occupation

control

Report says 'ArriveCAN' app permissions may have used location data

Social Credit in China

- **1.02 billion** individuals
- **28.34 million** companies and organizations
- **200 million** surveillance cameras
- **90,000** prevented from flying and **300,000** barred from rail travel in 2019



How does the Charter work?

- Step 1
 - Has any right been breached?
 - Burden of proof is on the citizen
- Step 2
 - Is the breach justified?
 - Burden of proof is on the government
 - "Demonstrably justified in a free and democratic society"

that recognize the

raises the rights and
the limits prescribed by
democratic society.

freedoms: (a) freedom of
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their media of
and (d) freedom of

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CANADIAN CHARTER OF RIGHTS AND FREEDOMS



imprisonment for five years or a more severe punishment; (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations; (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment. 12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment. 13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence. 14. A party to a witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Official Languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada. (2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick. (3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French. 17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament. (2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick. 18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative. (2) The statutes, records and journals of the

legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative. 19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament. (2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick. 20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communications with and services from that office in such language; or (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French. (2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French. 21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada. 22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

Minority Language Educational Rights

23. (1) Citizens of Canada (b) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province. (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language. (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.


Enforcement
14. (1) Anyone
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legislative authority
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of this Charter. (3) A
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re-enact a declaration
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Citation
14. This Part m

"We must say this
greater as Canadians
values which make o
incomparable joy."



Section 8 - Everyone has the right to be secure against unreasonable search or seizure.



Privacy



Section 8 – Right to Privacy

- Step 1 – Was there a search or seizure?
- Step 2 – Is the search authorized by law?
- Step 3 – Is the law reasonable?
- Step 4 – Was the search conducted reasonably?

Was there a search?

- Reasonable expectation of privacy
- Informational privacy
 - Does it go to your “biographical core”
- **Probably not**
 - Birth date
 - Address
- **Probably**
 - Medical information
 - Banking records
 - Location data

Is the law reasonable?

- Purpose of the law
 - How important is it?
- Nature of the law
 - Administrative ↔ Criminal Spectrum
- Mechanism used by the law
 - How intrusive is it?
- Judicial supervision

A wooden gavel and a pair of metal handcuffs are resting on a wooden surface. The gavel has a dark wooden handle and a light-colored head. The handcuffs are made of metal and are open. The background is a wooden surface with a visible grain.


Information Sharing

What if data from the digital ID app is used as evidence against you?



Information Sharing


- Nature of the information
- Relationship with the party releasing the information
- Place where information is obtained
- Manner in which it is obtained
- Seriousness of the crime investigated



Section 7 - Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice



Liberty



Section 7 - Everyone has the right to
life, liberty and security of the person
and the right not to be deprived thereof
except in accordance with the
principles of fundamental justice



Liberty

Section 7 – Right to Liberty

Step 1

Is your right to liberty limited



Step 2

Does the limit violate the “principles of fundamental justice”?

Principles of Fundamental Justice

- Laws must not be:
 - Vague = Law is not clear
 - Arbitrary = The law is not connected to its goal
 - Overbroad = The law applies to too many
 - Grossly disproportionate = The law infringes rights too much compared to its purpose



So your rights have
been infringed. Now
what?



Section 1

Section 1 - Justification

- The government can try to justify the law
- 4 Step test
 - Pressing and substantial objective
 - Rational Connection between means and ends
 - Minimal impairment
 - Proportional

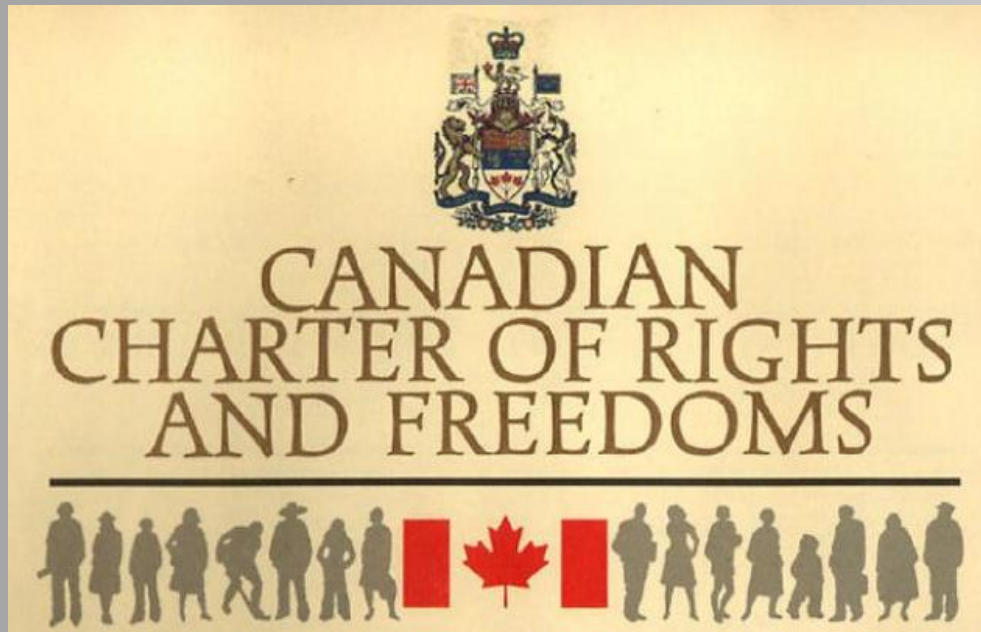


The Danger of public- private partnerships



Justice Centre

for Constitutional Freedoms



Thank you



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