

March 14, 2018

Maureen Littlejohn Speaks to the *National Post* About FCA Ruling Affirming Common Interest Privilege

In an [article](#) published on Tuesday in the *National Post*, Davies partner [Maureen Littlejohn](#) spoke about the Federal Court of Appeal's (FCA's) ruling last week in *IGGillis Holdings Inc. v. The Minister of National Revenue*, 2018 FCA 51. The decision confirmed the existence of "transactional common interest privilege" in Canada, giving dealmakers the go-ahead to share privileged communications with other parties to a transaction without fear of exposing the information to the Canada Revenue Agency (CRA) and other third parties.

In the dealmaking context, transactional common interest privilege has been recognized by most of the country's provincial courts, including those in Alberta and British Columbia, where the transaction in the FCA decision took place. "There are no provincial courts who have ruled that transactional common interest privilege doesn't exist," Maureen said. "So Canadian lawyers and their clients have operated for years on the premise that they could share privileged information in furtherance of their common interests."

Although the CRA may seek leave to appeal from the Supreme Court of Canada, Maureen believes that the unanimity in Canadian provincial courts could dissuade the high court from granting leave. "There are no outlying provinces that say common interest privilege doesn't exist, and that could provide an incentive for the SCC to turn down the appeal," she said.