



November 23, 2023

Standing Committee on Industry and Technology,
House of Commons, Parliament of Canada

cc: The Honourable François-Philippe Champagne, P.C., M.P.
Minister of Innovation, Science and Industry

Dear Members of the Standing Committee on Industry and Technology,

The Canadian Chamber of Commerce welcomes the opportunity to comment on the correspondence from Minister Champagne regarding the amendments the government intends to propose to the Consumer Privacy Protection Act (CPPA) and the Artificial Intelligence and Data Act (AIDA) in Bill C-27. The Canadian Chamber of Commerce and its members view the proposed amendments as a step forward towards ensuring the success of Bill C-27 and would like to reiterate the importance of consistent dialogue between the Government of Canada and industry members at a critical period in this legislative process.

The deliberation surrounding Bill C-27 contributes in a timely way to the global endeavour of regulating AI and provides an opportunity for industry to illustrate further the innovation and productivity potential of AI on the Canadian economy. Major innovation hubs have emerged in cities such as Toronto, Montreal, Vancouver, Calgary and Edmonton and are key contributors of high-quality jobs. Canada's AI sector has also attracted substantial investment from both domestic and international sources, with companies opening AI research labs, collaborating, and growing the local ecosystem, attesting to its global competitiveness.

Canada boasts a vibrant, globally competitive, and diverse AI ecosystem that attracts more AI talent and brings more women into AI-related roles than all our G7 peers. The high concentration of AI talent in Canada contributes to a rising volume of AI patents filed nationally across Canada – second among G7 nations in 2022-23 – and AI publications per capita in 2022 that outnumber any other G7 nation¹.

The boundless potential of generative AI could bolster Canada's economy by \$210 billion – or an equivalent of 8% of Gross Value Added – and greatly boost Canadian workers' productivity by saving over 100 hours a year on average². Canada's AI ecosystem has helped Canada gain third place in the G7 in per capita venture capital investments and fifth globally for commercial AI-focused ventures³. External research and R&D funding has funneled \$2.57 billion into Canadian AI R&D in 2022-23.

As Canada embarks on more digital transformation initiatives to foster a digital economy, it is critical for Bill C-27 not to narrow the window of opportunities that could be harnessed with AI technologies to grow and innovate in Canada. However, as AI is increasingly used to automate decisions that could significantly impact people's lives, health, and safety, we recognize that government has an important role to play in promoting innovation and safeguarding the public. Like Canada's approach on privacy reform, we urge parliamentarians to consider a legislative approach to AI that strikes an appropriate balance

¹ [Impact and Opportunities | Deloitte Canada](#)

² [Canada's next frontier: seizing the AI opportunity \(blog.google\)](#)

³ [Canadas_AI_Ecosystem-_Government_Investment_Propels_Private_Sector_Growth.pdf \(utoronto.ca\); The Global AI Index - Tortoise \(tortoisemedia.com\)](#)



between safeguarding the public and fostering innovation and growth for the economic and social benefit of Canadians.

The Canadian Chamber of Commerce's Future of AI Council grounds its position in four primary tenants:

- Interoperability
- Standardization
- Legal and regulatory harmonization
- Open dialogue

Regarding the government's proposals, the Canadian Chamber of Commerce respectfully requests that the Government of Canada table specific amendment language proposed so both industry and the committee can appropriately respond. While we see some proposed changes as a positive step forward, more work must be done. Notably, it is recognized that many of the proposed changes seem to be aligned with what the Canadian Chamber has been recommending, however, the lack of actual amendment language to review makes it challenging for businesses to properly assess impacts and to provide comments. It will also cause further delay in the committee – as evidenced by exchanges between INDU members during its October 17th meeting.

The members of the Canadian Chamber of Commerce respectfully submit the attached comments on proposed amendments to the legislation in Annex A, to the Government of Canada and INDU Committee members. AIDA must be strengthened with explicit references to, and alignment with, international standards and industry best practices.

In addition to providing more clarity around the requirements and what is expected regarding compliance, alignment with international standards ensures global interoperability of AI systems and crucially, preserves Canada's early mover innovation advantage. It minimizes regulatory fragmentation and barriers to trade in the highly interconnected global AI ecosystem. Conversely, an uneven regulatory playing field could put the Canadian innovation ecosystem at a competitive disadvantage. Canada can lead in the development of smart regulation using a practical, principles and risk-based analysis of AI that aligns with international efforts with the understanding that AI is a tool providing significant benefit to Canadians.

The Canadian Chamber of Commerce has provided an annex of recommendations to aid in the amendment process to ensure harmonization with international and domestic legislation of Bill C-27. We also gladly make ourselves available at your convenience to meet and discuss the amendments and Bill C-27 further.

Kind regards,

Ulrike Bahr-Gedalia

Senior Director, Digital Economy, Technology & Innovation
Canadian Chamber of Commerce

C: 613.410.6629 E: ubahr-gedalia@chamber.ca



Annex

Artificial Intelligence and Data Act (AIDA)

- **Definition of “High-Impact” Systems**

It is important that the Bill itself include a definition of “high-impact” systems to provide businesses with certainty regarding their obligations and entrench the core of the regulatory scheme in the law. While we appreciate that the Government has acknowledged this and provided a set of classes with criteria for defining “high-impact systems,” our members have several concerns with the proposed framework. At a high level, we believe AI regulation should be risk-based and proportionate, focusing on the most sensitive types of AI applications and sectors. Several of the criteria proposed miss this mark and instead rely on overly broad language and concepts that would capture many low-risk AI systems. An example of an overly broad definition can be found in employment-related determinations; a determination of this nature should be limited to AI systems that make decisions that are not subject to human review (versus making a recommendation or prediction that is accepted or rejected by a human) and to decisions that have a “material legal or other similarly significant effect”. Ultimately, we are concerned that the framework envisioned will create a disproportionate regulatory approach that severely burdens innovation in Canada. A principle-based framework should limit the scope to high risks arising in the B2C context impacting consumers directly.

In particular, we would like to note the following issues with the proposed classes:

- **Use of AI in the Provision of Services**

Recommendation: Clarify that the proposed class of “high-impact” AI systems related to the provision of services to an individual, including whether to provide services, determining the type and cost of services, and the prioritization of services to be provided, is in reference to government services.

Reasoning: Use of the term “services” to describe this proposed class of AI systems is incredibly broad and in need of clarification. This could potentially cover everyday consumer interactions, such as home maintenance or entertainment, or it could concern more sensitive areas, such as legal or employment services. Such a range of scenarios presents varying levels of risk, and the Bill’s “high-impact” framework should be tailored accordingly to ensure proportionate regulation that does not burden the ability of the technology to deliver consumer benefits.

- **Use of AI Systems to Process Biometric Information**

Recommendation: Limit language referring to “matters relating to . . . an individual’s behaviour or state of mind” to the use of an AI system that processes data about the body for the purpose of identifying an individual’s emotional state.

Reasoning: Expanding this obligation to the processing of biometric information in matters related to an “individual’s behaviour or state of mind” is an incredibly vague standard. Nearly any information about an individual could be thought of as relating to their behaviour or state of mind. For example, there are popular extended reality, gaming, and wearable products that rely on data about the body to facilitate basic product functionality. For example, hand tracking technology could be implicated even if data about the position of an individual’s hands is used only to enable them to interact with an AR/VR interface or operate a smartwatch, as how they move their hands could be considered a behaviour. Similarly, an in-device camera may analyze an individual’s mouth movements to render and animate their avatar—not to learn any information about their emotional state—yet such movements might be considered to relate to their state of mind. If 3(b) were limited to AI systems actually used to identify emotional states, it would be appropriately



targeted to the potentially risky and sensitive uses of data about the body, without also capturing low-risk uses that often provide essential device functionalities expected by consumers.

- **Use of AI Systems for Content Moderation or Prioritization**

Recommendation: Remove the use of AI systems for content moderation or prioritization from the list of classes included in the proposed amendment and instead maintain criteria related to systems that make decisions regarding matters of consequence to an individual's life or access to basic necessities.

Reasoning: Automated systems used for content moderation, or the prioritization of content have not been categorized as “high-impact” AI in any other jurisdiction. The inclusion of content moderation and social media recommender systems among the list of high impact AI systems is not coherent with the other AI systems included in the list of high-impact systems. The high-impact list includes AI systems in areas such as employment, identification of an individual, health care services, administrative decisions about an individual and assistance of peace officers. Automated systems used for “content moderation” or “prioritization of content” are not comparable to those other high-impact automated decisions. High-impact decisions are made with much less frequency and create a direct impact on an individual's life. We would also note that general data protection laws already regulate organic content prioritization or personalization. We therefore would encourage a careful assessment of the needs to regulate specific aspects of automated systems used for the delivery of personalized content to avoid duplicative and burdensome regulations that lead to confusion and often a poor experience for consumers.

- **Distinct Obligations for General Purpose AI Systems**

The risks associated with General Purpose AI systems are dependent on the context in which are developed and deployed. It is unnecessary, therefore, to introduce distinct requirements for providers of General Purpose AI systems independent of any context specific use considerations. Deployers of such systems (i.e., downstream users) are best positioned to comply with the obligations that arise from their use in high-risk scenarios. The government should ensure AIDA does not apply impractical and unworkable obligations on upstream providers but provide distinct obligations based on their role in the supply chain. For example, a business might integrate use of a large language model (LLM)-based chatbot in its customer service interactions or leverage it for marketing to prospective customers. In this case, absent any contractual arrangement, the developer of the LLM would not have insight into how it was being used in these specific business contexts and any risks related to that use, and therefore, would not be able to meet its regulatory obligations under the Act.

- **Scope of General Purpose AI Obligations**

Recommendation: Narrow any distinct obligations imposed on General Purpose AI Systems to the most high-risk types of uses, such as use of the technology to produce a reasonably foreseeable legal or similarly significant effect on an individual. Alternatively, the provision could look to the framework implemented in the U.S. by the White House AI Commitments and narrow the obligations to high-power “Frontier Models,” as defined in the Commitments.

Reasoning: AI systems which can complete multiple, distinct tasks are relatively nascent, even in the field of AI, which is itself an emerging technology. We have seen such systems described variably as general-purpose AI and foundation models. There remains a lack of consensus about how to name and define these kinds of systems. In other words, it is still early, so it is important to approach regulation in a way that recognizes that we don't have the full picture of AI and its applications yet. Rather than a rush to create comprehensive regulation based on ambiguous concepts, it would be preferable to allow time for more concrete definitions to evolve that reflect consensus among key stakeholders. If regulatory



obligations are still pursued despite the nascency of these issues, they should be consistent with a risk-based approach to ensure they provide certainty and are tailored to address discrete harms.

- **Alignment with International Norms and Global Leadership in Areas of Canadian Comparative Advantage**

We support efforts to ensure any federal AI framework is consistent with international norms to avoid a patchwork approach that adopts some aspects of certain frameworks. Definitions and scope of responsibilities should be consistent to prioritize interoperability. For example, the use of a definition of “person responsible” does not align with global norms associated with the EU AI Act, where the term is comparable to “provider”. In Canada’s proposal, the definition of “person responsible” is broader than the definition of “provider”, meaning requirements would apply even when global standards (in this case, the AI Act) do not. Given work happening on AI at a global level, we encourage Canada to avoid rushing ahead with any legislation or regulation which could put us out of step with major trading partners, discourage future investment and innovation, or unintentionally harm the early advances of our globally renowned AI ecosystem.

Canada can play a leadership role internationally where it has a comparative advantage. For example, Canada can lead in developing ways to effectively assess and address potential risks related to the safe and secure use of AI in critical infrastructure sectors, including preventing ways in which deploying AI could make critical infrastructure systems more vulnerable to cyber attacks, and consider ways to mitigate these vulnerabilities. To that end, we encourage the government to support research and development efforts and investment in Canada specifically to help prevent the malicious use of AI systems to enable offensive cyber operations through, for instance, automated vulnerability discovery and exploitation. Canada’s goal should be to position itself as a global leader in preventing the malicious use of powerful AI systems to perpetrate cyber attacks or other malicious activity that could cause widespread disruption and destruction.

- **Criminal Liability and Intentional Harm**

Absent among the proposed amendments is much needed clarification on the scope of criminal liability in C-27. Canada is the only country that has sought to include criminal liability in its legislation and is a significant departure from international AI governance norms. To clarify its use for intentional and egregious use of AI systems for physical harm or serious fraud will minimize perceived risk and allow Canada to lead on addressing the use of AI systems for intentional harm. Without such clarifications, the increased risk to operate in Canada may discourage investment in Canada’s global-leading AI.