

**Professional Institute
of the Public Service of Canada
(PIPSC)**



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***Brief to the House of Commons
Standing Committee on STANDING
COMMITTEE ON INDUSTRY AND
TECHNOLOGY (INDU) On Bill C-27***

August 2023

PIPSC Brief to the INDU Committee on the Artificial Intelligence and Data part of Bill C-27

PIPSC is very concerned with the Artificial Intelligence and Data section of Bill C-27 for a number of reasons.

The vast majority of PIPSC's 72000 members work in the federal government or its agencies. They have been or will be affected by AI use. Some of their work may have been or will be made easier and better and certain tasks eliminated or modified as they are now done by AI. Some of our members are also helping to develop AI use. In the future, whole jobs may be radically changed or eliminated by AI. And now AI use by the federal government is being expanded beyond policy to use as it regards government employees in terms of evaluation and hiring and other areas.

We believe that AI use can have many extremely positive effects for Canadian society and economy. We want its use to be properly regulated so we can maximize positive use and work to eliminate any potential negative effects.

So, we are concerned with the need to regulate AI and how it is regulated. We think major changes are needed to the Act as it now stands. Our overall watchwords are consultation and transparency with AI use.

First, we want to expand to whom the Act applies. Right now, it is limited to the private federally regulated sector as we show here:

“Product, service or activity

(2) This Act does not apply with respect to a product, service or activity that is under the direction or control of

- (a) the Minister of National Defence;
- (b) the Director of the Canadian Security Intelligence Service;
- (c) the Chief of the Communications Security Establishment; or
- (d) any other person who is responsible for a federal or provincial department or agency and who is prescribed by regulation.”

We think the Act should explicitly be expanded to apply to all federal departments and agencies and crown corporations including national security institutions.

Second, the purposes of the Act need to be clarified and expanded.

From C-27

“Purposes

4 The purposes of this Act are

- (a) to regulate international and interprovincial trade and commerce in artificial intelligence systems by establishing common requirements, applicable across Canada, for the design, development and use of those systems; and
- (b) to prohibit certain conduct in relation to artificial intelligence systems that may result in serious harm to individuals or harm to their interests.”

To (a) needs to be added the sections highlighted:

(a) to regulate international and interprovincial trade and commerce and federal government departments and its agencies and crown corporations (added) in artificial intelligence systems by establishing common requirements, applicable across Canada, for the design, development and use of those systems;

and in (b) needs to be changed with the section highlighted (b) to prohibit certain conduct in relation to artificial intelligence systems that may result in harm to individuals and collective bodies or groups or harm to their interests.

In (b) we are proposing to drop “serious” and leave “harm” to broaden the scope and to include harm to collective bodies or groups such as NGOs, clubs, unions, associations etc. not just individuals.

Third, as AI is a growing in use and importance, we need a specific federal government agency under the Minister and the Commissioner to deal with AI issues and be able to conduct research and monitoring of use of AI and regulation of AI.

The existing proposals for an AI commissioner and an advisory committee, while a step forward, are not sufficient.

From C-27:

“Artificial Intelligence and Data Commissioner

- 33 (1) The Minister may designate a senior official of the department over which the Minister presides to be called the Artificial Intelligence and Data Commissioner, whose role is to assist the Minister in the administration and enforcement of this Part.

Advisory committee

35 (1) The Minister may establish a committee to provide the Minister with advice on any matters related to this Part.”

Fourth, while we are in favour of a permanent AI advisory committee, it must be different from the present one. The present one has only AI academic researchers and business representatives. While these two groups should be there, we also need representatives from the community and from unions as these two groups are directly affected by AI use.

Fifth, we think that the Act, because it is a federal government Act, should change the provision to whom AI decisions apply and on how AI decisions are applied as regards to the federal government and its institutions. As mandated by the Treasury Board’s 2019 Directive on Automated Decision-making (which covers Artificial Intelligence use inside federal government departments), federal AI regulation now excludes certain parts of the federal government. (See below)

We believe AI regulation in the Act should apply to all federal government institutions and agencies now excluded in the Directive.

From the Directive:

“Agents of Parliament are excluded from this directive, including the:

- Office of the Auditor General of Canada,
- Office of the Chief Electoral Officer,
- Office of the Commissioner of Lobbying of Canada,
- Office of the Commissioner of Official Languages,
- Office of the Information Commissioner of Canada,
- Office of the Privacy Commissioner of Canada, and
- Office of the Public Sector Integrity Commissioner of Canada.

- 9.2

Agencies, Crown Corporations, or Agents of Parliament may enter into Specific Agreements with the Treasury Board of Canada Secretariat to adopt the requirements of this directive and apply them to their organization, as required.”

As well certain kinds of AI decisions can be made without any human review required. Right now, the Directive says there are four kinds of decisions and 2 of the 4 do not require human oversight. While we believe that AI has tremendous potential for use in improving research and policy, we believe that all decisions made using AI should be subject to human review and the Act should mandate this.

Sixth, AI is now being used by the Treasury Board across the federal government departments to allow AI to be used not just on policy but with government employees in these categories:

- Recruitment and staffing
- Performance management
- Security screening
- Visitor access

Two uses which are very concerning to us, because we have no information on how AI is going to be applied in these uses, are in “performance management” which means employee evaluation and in “recruitment and staffing”.

Employee evaluation with AI can imply some form of worker surveillance. We are asking for complete transparency on how AI is being used as regards to evaluation, monitoring, surveillance and hiring of federal government and agency employees. Hiring with AI implies possible use of photo evaluation and other discredited techniques which have been shown with Clearview AI to have racist results and its use by the Privacy Commissioner and now rejected by the RCMP.

Seventh, we believe the Bill should mandate consultation and transparency with all employees affected by employer AI use. AI use should be mandated as part of the collective bargaining process in the federal labour sector as it effects employees. Employers and unions should be able to bargain how AI is being used as regards to employees’ work life.

With employers who have no unions in a workplace, the Act should still mandate employers to inform and consult on AI with employees.

Eighth, we were informed in discussions with the Treasury Board that there would be layoffs as a result of AI. We know that AI use in many sectors such as intercity truck transportation and delivery services will result in many layoffs. We are not necessarily opposed to certain of job changes due to AI. But we demand the Act mandate at least one-year advance warning of job layoffs due to AI and that anyone affected by layoffs be guaranteed by the Act for new jobs with their employer or retraining programs including new skills, college and university education and, if no jobs or retraining are possible, then they must be guaranteed additional long term unemployment insurance and help to reach pensionable age.

Ninth, we want the right to control of personal data generated by AI in business, education, health and government must be strengthened in the bill. We believe that personal data is ultimately owned by the person associated with it. We are particularly concerned with personal AI data generated by the federal government and its agencies on employees and citizens. The results of AI use must first be shared with the employee and the citizen, and, ultimately control of any personal information such as health results, from devices such as through mandated Apple watch use which for example measures blood pressure, must be owned by the employee.

Finally, the Act 1) must ensure employer and government transparency on AI use and that employers and government are obligated to communicate with employees on AI and inform them of all use of AI in their workplace as it affects employees.

2) must ensure that all policy decisions by employers and the federal government developed by AI which affect the public must be made transparent and the general principles used in the policy explained.

**Please contact John Anderson, Senior Researcher, janderson@pipsc.ca
613-290-0016 for further information**

