

**Canada's Artificial Intelligence and Data Act:
A missed opportunity for shared prosperity**

Submission to the Standing Committee on Industry and Technology Study of Bill C-27,
The Digital Charter Implementation Act, 2022

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Summary

An act is desperately needed to ensure that all Canadians benefit and share prosperity from artificial intelligence (AI). Shared prosperity is an economic concept where the benefits of innovation are distributed equitably among all segments of society, rather than disproportionately favoring specific groups,³ in this case, the AI industry.

Historical and contemporary examples demonstrate how government actions shape technological advancement and wealth distribution. Therefore, how government chooses to regulate AI is critical. In this brief, we discuss four problems with Bill C-27, The Digital Charter Implementation Act, 2022, specifically with the Artificial Intelligence and Data Act (AIDA) drafted by Innovation Science and Economic Development Canada (ISED): (1) the AIDA implies but does not ensure shared prosperity; (2) the combination of technology promotion and regulation by ISED will not ensure widespread prosperity; (3) public consultation is absent in the creation and refinement of the AIDA; and (4) the AIDA does not include workers' rights.

Without strong checks and balances built into the AIDA or any AI act, innovation will fail to deliver shared prosperity. We propose three recommendations so that everyone shares in the prosperity promised by AI led by inclusive public institutions. We recommend that government: (1) ensure accountability from public and private sectors; (2) build in robust workers' rights; and (3) ensure meaningful public participation, all of which are essential to foster innovation and economic growth. Otherwise, wealth is concentrated in the hands of industry, which stifles progress and widespread prosperity.

³ Our framing of shared prosperity was inspired by Johnson and Acemoglu: Johnson, S., & Acemoglu, D. (2023). *Power and Progress: Our Thousand-Year Struggle Over Technology and Prosperity*. Hachette UK.

Problems with the AIDA

What follows is a detailed discussion of four problems within the AIDA and in ISED.

Problem 1: The AIDA implies but does not ensure shared prosperity

A statement resembling shared prosperity occurs in the Preamble of the Digital Charter Implementation Act: “Whereas trust in the digital and data-driven economy is key to ensuring its growth and fostering a more inclusive and prosperous Canada.”⁴ However, there is no guarantee that data growth equals shared prosperity. Indeed, data growth can just as easily equal mass data surveillance, which adds opportunities to monetize data. Data growth-as-surveillance “socially sorts people”,⁵ which is valuable for advertising and data brokers^{6 7} but hardly generates income to the individuals who are classified.

Neither does trust in AI, we argue, foster *shared* prosperity. Trust (as in trustworthy AI) is all too easily conflated with social acceptance.⁸ Social acceptance is translated as “let’s convince the public that AI is invariably good”, while ignoring segments of our society who have legitimate reasons to distrust government.^{9 10} Repeating the phrase that AI is beneficial will not convince marginalized people who are subject to false arrests afforded by AI, which was extensively covered by a Canadian parliament study on facial recognition technology (FRT) and the growing power of AI.¹¹ There is considerable research into public distrust and fear around being tracked, such as the use of computer vision by companies and governments to collect “online personal data traces and biometric and body data.”¹² Advocates of FRT and AI argue that we need not worry; computational debiasing will fix problems and increase trust. However, bias in the data continues to be uncovered.¹³ Moreover, computational debiasing ignores the massive requirement for human moderation used to debias content.¹⁴ The assumption is that AI will

⁴ Parliament of Canada. (2022, June 16). [Bill C-27 \(First Reading\)](#). An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts.

⁵ Surveillance Study Centre. [Beyond Big Data Surveillance - Freedom and Fairness: A Report for all Canadian Citizens](#). Queen’s University.

⁶ Zuboff, S. (2023). The age of surveillance capitalism. In *Social Theory Re-Wired* (pp. 203-213). Routledge.

⁷ Lamdan, S. (2022). *Data Cartels: The Companies That Control And Monopolize Our Information*. Stanford University Press.

⁸ Kaur, D., Uslu, S., Rittichier, K. J., & Durresi, A. (2022). Trustworthy artificial intelligence: a review. *ACM Computing Surveys (CSUR)*, 55(2): 1-38.

⁹ Angwin, J., Larson, J., Mattu, S., & Kirchner, L. (2016, May 23). [Machine Bias](#). *ProPublica*.

¹⁰ Mathewson, T. G. (2023, September 23). [Dropout Risk System Under Scrutiny After The Markup Report](#). *The Markup*.

¹¹ House of Commons Canada. (2022, October). [Facial Recognition and the Growing Power of Artificial Intelligence: Report of the Standing Committee on Access to Information, Privacy and Ethics](#). 44th Parliament, 1st Session.

¹² Kalluri, P. R., Agnew, W., Cheng, M., Owens, K., Soldaini, L., & Birhane, A. (2023). [The Surveillance AI Pipeline](#).

¹³ Thong, W., Joniak, P., Xiang, A. (2023). [Beyond Skin Tone: A Multidimensional Measure of Apparent Skin Color](#). *International Conference on Computer Vision (ICCV)*.

¹⁴ Parks, L. (2019). Dirty Data: Content Moderation, Regulatory Outsourcing, and The Cleaners. *Film Quarterly* 73, 1, 11–18.

make people's lives better. Those who distrust AI are likely to be subject to the negatives of AI: job losses due to automation, enhanced surveillance, amplified discrimination, and increased digital divides. To share in the prosperity promised by AI, it is essential to create an act that addresses these concerns and regulates AI systems to be ethical, inclusive, and accessible to a wide range of individuals and communities.

Problem 2: The combination of technology promotion and regulation by ISED will not ensure widespread prosperity

We cannot trust ISED, an agency placed in the position of both promoting and regulating AI, to ensure shared prosperity. Agencies placed in these dual roles and responsibilities are often incompatible and inevitably favour promotion over accountability of AI development. Nuclear regulatory agencies serve as the key case study of the failure of agencies with these dual roles. These dual roles have resulted in conflicts of interest, a lack of independent oversight and regulatory capture by the regulated nuclear power industry. The disastrous outcomes of nuclear regulatory agencies demonstrated, for example, in Japan, “how the cozy relationship between the government, regulators and nuclear operators, the combined role[s] as an industry promoter and regulator, and the revolving door between bureaucrats and industries had long undermined the capacity of NISA [Nuclear and Industrial Safety Agency] as a watchdog for nuclear safety.”¹⁵ Experts and advocacy groups have called for the separation of roles for any agencies with these dual roles and responsibilities.

ISED is attempting to balance promotion and regulation of AI, with the former outweighing the latter. ISED's invite-only consultations on AI-related policy-making have been dominated by industry players¹⁶ and sparsely populated by those representing the public interest. More importantly, ISED's mandate is to “make Canadian industry more productive and competitive in the global economy”,¹⁷ which places it squarely in the role of promotion. The problem is further underlined in the AI regulatory responsibilities drafted by ISED, which it defines as the domain of a new Commissioner. However, the envisioned Artificial Intelligence and Data Commissioner will be appointed by the Minister of ISED, undermining independent oversight. The Commissioner's role will be to support the Minister in overseeing the functions of the AIDA. Furthermore, the Commissioner may, at the discretion of the Minister, be granted the authority, responsibility, and functions required to enforce the AIDA. In essence, the Commissioner's capacity to enforce the AIDA independently is contingent upon the Minister's discretion,

¹⁵ Wang, Q., Chen, X., & Yi-Chong, X. (2013). Accident like the Fukushima unlikely in a country with effective nuclear regulation: Literature review and proposed guidelines. *Renewable and Sustainable Energy Reviews*, 17, 126-146.

¹⁶ Hemmadi, M. (2023, August 12). [Ottawa developing voluntary guardrails for safety, transparency in generative AI. The Logic.](#)

¹⁷ ISED. (2019). [Policy on Providing Guidance on Regulatory Requirements.](#)

meaning that they do not possess autonomous enforcement powers under the AIDA.^{18 19} Succinctly put, "This centralizes an extraordinary amount of power in one department [ISED] to address the potential systemic discrimination these systems will unleash."²⁰

Lastly, who defines measures sets the terms of reference for regulation. The AIDA identifies measures as those at risk of (significant) harm and AI systems as high-impact. We heard this further in proposed refinements to the definitions during the September 26, 2023 Standing Committee on INDU Meeting 86.²¹ Whomever defines a measurement, for example what constitutes high-impact or high-risk (e.g., AI systems that set "determinations in respect of employment"²²), will establish the 'what', 'how', and 'when' of regulation. This, of course, also defines what is not considered impactful or risky, whether that coincides with public sentiment. When ISED defines measures that only support industry instead of society as a whole, then the economic gains will not be experienced by all.

Problem 3: Public consultation is absent in the creation and refinement of the AIDA

To date there has been no demonstrable public consultation on the AIDA.^{23 24 25 26} ISED's consultation process thus far has been selective and exclusionary, causing significant concern. Voices from civil society and labour organizations were largely excluded from consultation on drafting of the AIDA. There are even questions on whether ISED consulted their own expert advisory panel on AI.²⁷

Let us examine the origins of this bill. The Digital Charter was seen as a "A plan for Canadians by Canadians" and suggests that the Minister will engage with members of the civil society and the general public. This charter served as the foundation of the AIDA and more broadly, Bill C-27,

¹⁸ Tessono, C., Stevens, Y., Malik, M. M., Solomun, S., Dwivedi, S., & Andrey, S. (2022, November). [AI Oversight, Accountability and Protecting Human Rights: Comments on Canada's Proposed Artificial Intelligence and Data Act](#). *Submission to the Standing Committee on Industry and Technology on Bill C-27*.

¹⁹ Witzel, M. (2022, August 11). [A Few Questions about Canada's Artificial Intelligence and Data Act](#). *Centre for International Governance Innovation*.

²⁰ Ifill, E. (2022, July 4). [The problems with the federal data-privacy bill will disproportionately hurt marginalized Canadians](#). *The Globe and Mail*.

²¹ House of Commons Canada. (2023, September 26). [Standing Committee on Industry and Technology Meeting 86 - Bill C-27, Digital Charter Implementation Act, 2022, Committee Business](#).

²² ISED. (2023, October 3). [Letter to Standing Committee on Industry and Technology](#).

²³ Tessono, C., & Solomun, S. (2022, December 6). [How To Fix Canada's Proposed Artificial Intelligence Act](#). *Tech Policy Press*.

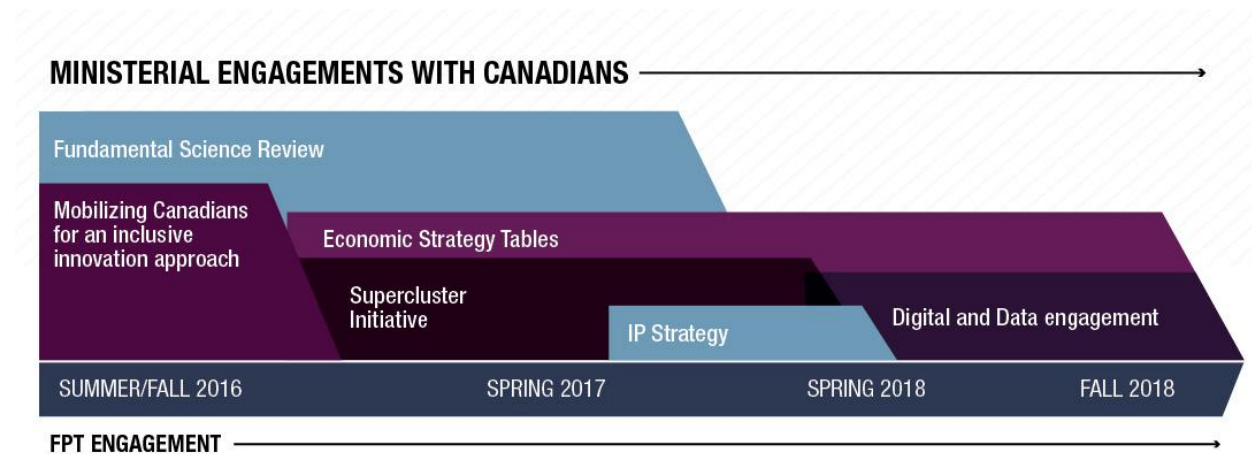
²⁴ Tessono, C., Stevens, Y., Malik, M. M., Solomun, S., Dwivedi, S., & Andrey, S. (2022, November). [AI Oversight, Accountability and Protecting Human Rights: Comments on Canada's Proposed Artificial Intelligence and Data Act](#). *Submission to the Standing Committee on Industry and Technology on Bill C-27*.

²⁵ Open Media. (2023, May 3). [Submission to the Standing Committee on Industry and Technology](#).

²⁶ Attard-Frost, B. (2023, June 5). [Generative AI Systems: Impacts on Artists & Creators and Related Gaps in the Artificial Intelligence and Data Act](#). *Submission to the Standing Committee on Industry and Technology on Bill C-27*.

²⁷ Open Media. (2023, May 3). [Submission to the Standing Committee on Industry and Technology on Bill C-27](#).

also known as the Digital Charter Implementation Act (illustrated in the figure below)²⁸ It is misleading to contend that the actual preparation of the AIDA involved any meaningful public consultation. A lack of public consultation was seen in the affiliated Generative AI Code of Conduct, also drafted by ISED.²⁹ For example, ISED established invite-only roundtables,³⁰ with industry prominently represented, while civil society was marginally represented, if at all. If nothing else, a lack of transparency denies the public the ability to scrutinize the ‘who’ and ‘how’ of the bill’s construction.



Who was considered best suited to revise the Digital Charter to include innovations that exert wide-ranging positive and negative impacts on the public has been the same agency that limits the public’s voices on those impacts. Consequently, ISED fails to deliver on a bill that is in the public interest because it concentrates power in the hands of industry. Ironically, we could include other government agencies in our notion of ‘public’ engagement. ISED also has failed to engage the Office of the Privacy Commissioner in meaningful ways on AI policy initiatives.³¹

Problem 4: The AIDA does not include workers’ rights

The promotion of AI focuses on the goals of employers and not the employees, which means it does not meaningfully consider workers’ rights. We see this continued in ISED’s letter of amendments to the Digital Charter Implementation Act: “We also heard from stakeholders that they are concerned about the burden on small and medium-sized enterprises (SMEs)”.³² The lack of inclusion of workers around AI systems is detrimental to shared prosperity because innumerable reported cases detail workers being adversely affected by AI systems and other

²⁸ ISED. (2019). [Canada’s Digital Charter in Action: A Plan by Canadians, for Canadians.](#)

²⁹ Hemmadi, M. (2023, September 27). [Cohere, Coveo, Ada sign on to Ottawa’s voluntary code for generative AI.](#) *The Logic.*

³⁰ Ibid.

³¹ Wylie, B. (2023, August 26). [On AIDA, Part 6: ISED Fails to Engage Office of the Privacy Commissioner of Canada on Generative AI Code of Practice.](#)

³² ISED. (2023, October 3). [Letter to Standing Committee on Industry and Technology.](#)

digital technologies, here and abroad.³³ Absent inclusion of workers' rights, we cannot rely on employers to protect their workers. Indeed, AI has already contributed to dehumanizing workers, creating horrific working conditions. Instead of sharing in the prosperity promised by AI systems, the workers who operate at the frontlines of building, retraining and providing quality assurance for AI systems can be harmed or even killed.

Most AI systems rely on massive amounts of data to initially train the model before the systems are ready to be used. If developers do not wish the models to learn from toxic images, audio and text, content needs to be cleaned--"moderated"--of toxicity. Just one example of the sheer brutality to which content moderators are exposed is a video of a father killing his 11-month-old daughter live on Facebook.³⁴ Researchers have extensively documented the human cost of AI systems on data workers, for instance the huge toll on their mental health.³⁵ Data workers include content moderators, data annotators, data entry, and other data preparation and processing specialists. Meta (Facebook), OpenAI and TikTok's content moderation work has been found to traumatize workers,^{36 37} in one case leading to a content moderator committing suicide after being refused a transfer.³⁸ Other workers are affected in the deployment of algorithms. Amazon's use of automated tracking and efficiency algorithms has contributed to its drivers' deaths. A major contributing factor are the automated tracking systems tracking employees in the workplace. Filings with the US National Labor Relations Board found "how Amazon tracks and records every minute of "time off task" [and, for example,] how a manager might ask their employees to account for how long they used the bathroom at a certain time of day."³⁹ That includes time to cross the warehouse to get to the bathroom. Workers in Canada and globally cannot share in prosperity when their working conditions are increasingly dehumanized due to the use of AI systems.^{40 41} The AI risk is enabling companies to hide injuries and suicides,⁴² where AI systems are used against the very workers generating the value. With AI systems proliferating so rapidly and broadly, we risk normalizing these conditions.⁴³

³³ Williams, A., Miceli, M., & Gebru, T. (2022, October 13). [The Exploited Labor Behind Artificial Intelligence](#). *Noema Magazine*.

³⁴ Solon, O. (2017). [Facebook is hiring moderators. But is the job too gruesome to handle?](#) *The Guardian*.

³⁵ Arsht, A., & Etcovitch, D. (2018). [The Human Cost of Online Content Moderation](#). *Harvard Journal of Law and Technology*.

³⁶ Perrigo, B. (2023, January 18). [OpenAI Used Kenyan Workers on Less Than \\$2 Per Hour to Make ChatGPT Less Toxic](#). *TIME*.

³⁷ The Bureau of Investigative Journalism. (2022, October 20). [Behind TikTok's boom: A legion of traumatised, \\$10-a-day content moderators](#).

³⁸ Parks, L. (2019). Dirty Data: Content Moderation, Regulatory Outsourcing, and The Cleaners. *Film Quarterly* 73, 1.

³⁹ Gurley, L. K. (2022, June 2). [Internal Documents Show Amazon's Dystopian System for Tracking Workers Every Minute of Their Shifts](#). *VICE*.

⁴⁰ Callahan, P. (2019, September 5). [The Deadly Race: How Amazon Hooked America on Fast Delivery While Avoiding Responsibility for Crashes](#). *ProPublica*.

⁴¹ Sainato, M. (2023). ['Lack of respect': outcry over Amazon employee's death on warehouse floor](#). *The Guardian*.

⁴² Steiger, M., Bharucha, T. J., Venkatagiri, S., Riedl, M. J., & Lease, M. (2021, May). The psychological well-being of content moderators: the emotional labor of commercial moderation and avenues for improving support. In *Proceedings of the 2021 CHI conference on human factors in computing systems* (pp. 1-14).

⁴³ Wylie, B. (2023, July 20). [We're in an AI hype cycle—can Canada make it a responsible one?](#) *The Monitor*. *Canadian Centre for Policy Alternatives*.

Consideration of workers' rights are not remedied by ISED's amendment (Part 3-AIDA), which designates as high impact: "The use of an artificial intelligence system in matters relating to determinations in respect of employment, including recruitment, referral, hiring, remuneration, promotion, training, apprenticeship, transfer or termination."⁴⁴ Note the amendment does not say harm to workers, as opposed to impacts to employers (i.e., their use of algorithms for the aforementioned activities). More importantly, it leaves protection off the table, delegated to an undefined future agency to regulate the AI systems. The amendment is important but it remains insufficient, given the enormity of AI's impact on labour. In the US, entertainment producers fought hard to retain their ability to use AI in writing, which was a major demand in the Writers' Guild of America (WGA) strike action. "During the nearly five-month walkout, no issue resonated more than the use of AI in script writing. What was once a seemingly lesser demand of the [WGA] became an existential rallying cry....Many experts see [AI in] the screenwriters' deal as a forerunner for labor battles to come."⁴⁵

Automation via AI systems will be used to extract every last bit of productivity out of workers, not allowing them to share in the benefits, and then automating them out of a job. For example, Uber has used technology to disrupt traditional taxi services and their drivers, with a goal of transitioning to autonomous vehicles and replacing drivers.⁴⁶

Another aspect of a lack of workers' rights is the employers' ability to enact what amounts to algorithmic wage discrimination. Algorithmic wage discrimination allows firms to personalize and differentiate wages for workers in ways unknown to them, paying them to behave in ways that the firm desires, perhaps as little as the system determines that they may be willing to accept, [Wages are] calculated with ever-changing formulas using granular data on location, individual behavior, demand, supply, and other factors—for broadly similar work [for gig, platform workers, like Uber].⁴⁷

ISED's amendment will not help against this AI-supported wage theft. What exacerbates the problem is that these workers usually are not employees but independent contractors, who may not be captured by regulations.

Innovations in generative AI have increased precarity instead of prosperity in gig work and off-/near-shored work. "These include workers hired per commission or on a contractual basis, such as freelance copywriters, artists, and software developers, as well as more formal offshore workforces like customer service agents. As generative AI tools present a new model for cost cutting, pressure is quickly mounting for these outsourced workers to adapt or risk losing

⁴⁴ ISED. (2023, October 3). [Letter to Standing Committee on Industry and Technology](#).

⁴⁵ Coyle, J. (2023, September 27). [In Hollywood writers' battle against AI, humans win \(for now\)](#). *Associated Press*.

⁴⁶ Uber. (n.d.). [Shaping the future of transportation and delivery](#).

⁴⁷ Dubal, V. (forthcoming). [On Algorithmic Wage Discrimination](#). *UC San Francisco Research Paper*. pp-5-6.

work.”⁴⁸ Dangers of job loss due to AI systems have been reported extensively.⁴⁹ Whole industries disappear with automation, breaking down shared prosperity around the world. Canadian creative workers (e.g., actors, writers) are often go-to’s for Hollywood because they are excellent and less expensive alternatives. It is frequently the less expensive offshore workers who are the most affected: the poorest paid are getting replaced first.⁵⁰ Currently, the international and interprovincial trade portions in the AIDA do not protect these replacements. Nor does the AIDA protect Canadians’ intellectual property.⁵¹ Not only will workers lose out on jobs but their creative works will be harvested to train generative AI systems without pushback. We are heartened to hear ISED has opened the conversation on copyright but that is only part of workers’ rights that need attention.⁵²

Recommendations for an AI act

To address these problems and hindrances to shared prosperity, the following recommendations aim to ensure accountability in public institutions with consequences for private corporations; that workers’ rights are protected; and that meaningful participation should be more than publics reduced to consumers.

Recommendation 1: Ensure accountability from public and private sectors

ISED is not the appropriate body to direct Digital Charter Implementation Act, including the AIDA or any other AI act. The AIDA needs a redraft that is outside of ISED, which meaningfully involves other federal departments and agencies that already have invested considerable time in assessing the impacts of AI systems. To start, oversight of an AI act requires a different government body from the one that regulates. The supervisory authority body must be independent and at arm’s length, free of undue influence by the public and private sectors. The supervisory authority body also must have mechanisms to specifically address conflicts of interest amongst those who sit on the body and experts who come before the body. As we have learned from the nuclear regulatory bodies,⁵³ the supervisory authority body cannot be both involved in the commercial and regulatory aspects of AI systems. That is, a supervisory authority

⁴⁸ Deck, A. (2023, July 11). [The workers at the frontlines of the AI revolution](#). *Rest of World*.

⁴⁹ Also see Hennessy, A. (2023, September 27). [Learn AI now or risk losing your job, experts warn. Employees across many sectors urged to take artificial intelligence seriously](#). *CBC*.

⁵⁰ Deck, A. (2023, July 11). [The workers at the frontlines of the AI revolution](#). *Rest of World*.

⁵¹ Attard-Frost, B. (2023, June 5). [Generative AI Systems: Impacts on Artists & Creators and Related Gaps in the Artificial Intelligence and Data Act](#). *Submission to the Standing Committee on Industry and Technology on Bill C-27*.

⁵² ISED. (2023, October 12). Government of Canada launches consultation on the implications of generative artificial intelligence for copyright.

<https://www.canada.ca/en/innovation-science-economic-development/news/2023/10/government-of-canada-launches-consultation-on-the-implications-of-generative-artificial-intelligence-for-copyright.html>

⁵³ Johansson, P. R., & Thomas, J. C. (1981). [A Dilemma of Nuclear Regulation in Canada: Political Control and Public Confidence](#). *Canadian Public Policy / Analyse de Politiques* 7, 3 (Summer, 1981).

body should not simultaneously create policies that promote AI/deliver services related to AI and develop/enforce regulations of AI.⁵⁴

We need to start over, slow down and reverse ISED's professed agile approach to regulation.⁵⁵ Canadian society must be safeguarded against a "move fast and break things" regulatory mindset that fast-tracks the type of economic growth that concentrates wealth.⁵⁶ That mindset creates regulation that improves industry wins (i.e., profit) and not public accountability; trade secrets and competitive advantage are chosen over transparency; and public institutions are exempt from accountability in the AIDA. Even though forms of AI like generative models are changing rapidly, we argue for slow regulation since models will exert fundamental societal impact to which the broadest conversation possible is needed.

In addition to slowing down, the AIDA needs to address monopolistic power. The producers of generative models are becoming de facto monopolies. This concentration of AI power may demand regulatory approaches that recognize the economic power of the models. Generative AI is a powerful tool that rapidly creates text or images or audio but it also will serve as the foundation to thousands, if not millions of applications that will depend on it. These foundation models are not open; they are owned by private sector firms⁵⁷ where a company can quickly constrict access and therefore disable those millions of apps. One regulatory approach that recognizes the power would be to transform the companies and their models into public utilities.⁵⁸ Here the costs would be heavily controlled with equal access and transparency guaranteed.

Accountability can take several forms. We recommend third-party audits of AI systems.⁵⁹ A third-party audit is an independent assessment or evaluation of an AI system conducted by an external arms-length entity not directly involved with the firm or system being audited. Technically, AI audits differ from those conducted by accounting firms. The auditor is given access to the internals of the AI system so they can stress-test the system with alternate data (e.g., generative adversarial networks). The goal is an impartial and objective evaluation of

⁵⁴ "In 2014, the Organisation for Economic Co-operation and Development (OECD) published a guide, *The Governance of Regulators*, which stresses the importance of independent regulatory decision making, conducted at arm's length from the political process in instances where perception of impartiality drives public confidence and where the decisions of the regulator could have a significant impact on particular interests": Witzel, M. (2022, August 11). [A Few Questions about Canada's Artificial Intelligence and Data Act](#). *Centre for International Governance Innovation*.

⁵⁵ Scassa, T. (2023). *Regulating AI In Canada: A Critical Look At The Proposed Artificial Intelligence And Data Act*. *The Canadian Bar Review*, 101(1).

⁵⁶ Wylie, B. (2023, September 22). [ISED's Bill C-27 + AIDA. Part 8: Canada's AI Regulation is Moving Fast and Breaking \(Legislative Process\) Things](#). *Medium*.

⁵⁷ Widder, D. G., West, S., & Whittaker, M. (2023). *Open (For Business): Big Tech, Concentrated Power, and the Political Economy of Open AI*. *Concentrated Power, and the Political Economy of Open AI (August 17, 2023)*.

⁵⁸ Vipra, J., & Korinek, A. (2023, September 7). [Market concentration implications of foundation models: The Invisible Hand of ChatGPT](#). *Brookings Institution*.

⁵⁹ Costanza-Chock, S., Raji, I. D., & Buolamwini, J. (2022, June). *Who Audits the Auditors? Recommendations from a field scan of the algorithmic auditing ecosystem*. In *Proceedings of the 2022 ACM Conference on Fairness, Accountability, and Transparency*, pp 1571-1583.

compliance, performance, quality, or adherence to specific standards, regulations, or requirements. These audits can reveal harms and meaningful accountability (and regulations) for government and protection of human rights.^{60 61}

To further ensure arms-length assessments of AI, we need to improve regulations for corporate lobbying practices. This will address any conflict of interest between government and companies. “With the amount spent on lobbying in the Western world reaching astronomical levels, the public has a right to know about deals reached by lobbyists, politicians, and firms, and these connections need to be regulated [including] tools [that] can track links and flows of money and favors between companies and politicians and bureaucrats.”⁶² Tech Inquiry is an example of a tool that examines public contracts in multiple countries, including “lobbying records, tax filings, reporting, and manually tagged associations to map out relationships between corporations, governments, and nonprofits.”⁶³ Transparency efforts can help us get closer to ensuring shared prosperity, for example tracking how politicians make decisions with taxpayers’ money. Transparency could be satisfied by Canada’s lobbying registry system but a registry would need to be strengthened. Consultants play an outsized role in AI services and many consultant activities like “polling, monitoring and attending committees, offering strategic advice, and hosting events” fall outside the registry.⁶⁴

Wealth redistribution is another path to shared prosperity. Instead of increasing government subsidies, financial redress mechanisms like tax reform are needed. Government can impose taxes on AI and tech companies, especially BigTech. We can learn from the demise of shared prosperity in the US that was exacerbated by automation and partnerships between “digital technologies and big business”⁶⁵ producing more billionaires than ever before. In Canada, “61 Canadian billionaires alone now control \$324 billion in wealth... which rolled in even as inflation rose rapidly and Canadians struggled with an escalating cost of living.”⁶⁶ Beyond introducing a wealth tax for billionaires, we propose a tax on AI to set up a trust. Here the government establishes an AI trust that serves two purposes where companies are required to: (1) pay into the trust to finance AI audits; and (2) finance bonds that guarantee the company can compensate for harms, similar to environmental bonds that ensure remediation of tailings from mining.⁶⁷

⁶⁰ Tessono, C., Stevens, Y., Malik, M. M., Solomun, S., Dwivedi, S., Andrey, S. (2022, November). [AI Oversight, Accountability and Protecting Human Rights: Comments on Canada’s Proposed Artificial Intelligence and Data Act](#). *Submission to the Standing Committee on Industry and Technology on Bill C-27*.

⁶¹ Tessono, C., & Solomun, S. (2022, December 6). [How To Fix Canada’s Proposed Artificial Intelligence Act](#). *Tech Policy Press*.

⁶² Johnson, S., & Acemoglu, D. (2023). *Power and Progress*, p. 402.

⁶³ See [Tech Inquiry](#).

⁶⁴ Beretta, M. (June 7, 2020). [Influencing the Internet: Lobbyists and Interest Groups’ Impact on Digital Rights in Canada](#). in Dubois, E. and Martin-Bariteau, F. (eds.), *Citizenship in a Connected Canada: A Research and Policy Agenda*, Ottawa, ON: University of Ottawa Press.

⁶⁵ Johnson, S., & Acemoglu, D. (2023). *Power and Progress*, p. 337.

⁶⁶ Hemingway, A. (2023, May 9). [Why Canada still needs a wealth tax—and what it could fund](#). *Policy Note*.

⁶⁷ Aghakazemjourabaf, S., and Insley, M. (2021). Leaving your tailings behind: Environmental bonds, bankruptcy and waste cleanup. *Resource and Energy Economics*, 65, 101246.

Importantly, accountability requires the government retain the ability to ban AI companies or decommission specific AI systems like FRT. Government entities large and small have called for a ban on the use of FRT across the US and the EU. Organizations in the public and private sectors have already declared moratoria on FRT, which is a core component of numerous AI systems. The Canadian parliament has recognized the issues with FRT at length as well as with the growing power of AI.⁶⁸ We recommend that an AI act explicitly states that the government reserves the authority to ban or decommission an AI system.

Recommendation 2: Build in robust workers' rights

The best way to ensure shared prosperity is through rights for data workers and all workers. Regulations that protect workers are good for companies. The authors of “All-in on AI: How Smart Companies Win Big with Artificial Intelligence” emphasize the importance of creating a supportive and inclusive environment for employees to ensure the successful adoption of AI and to maximize AI's benefits.⁶⁹ Consequently, shared prosperity and a sustainable AI economy demands that workers' rights be integrated. These rely on bolstering the voice of workers in the development and the use of AI systems. Canada can set an example world-wide to prevent the dehumanizing conditions offered to content moderators elsewhere, especially in low and middle income countries. The workers on the front lines of developing and using AI systems can teach us the most.

Kenyan data workers are unionizing for substantial worker protections like better pay and working conditions, including mental health support.⁷⁰ They also are suing Meta, the parent company of Facebook.⁷¹ This lawsuit is seminal because it is one of the first against Meta outside the West.⁷² Data workers of Big Tech companies including Meta, OpenAI, and TikTok also have created the first of its kind class action lawsuit.⁷³ Government should recognize the negative externalities amassed to the global South and prevent AI and data analytics companies from operating in Canada if they partake in human rights abuses worldwide.⁷⁴ Strong AI worker protections can include requiring companies to provide robust mental health benefits. Additionally, an AI act needs to bolster the ability of workers to engage in class actions.

⁶⁸ House of Commons Canada. (2022, October). [Facial Recognition and the Growing Power of Artificial Intelligence: Report of the Standing Committee on Access to Information, Privacy and Ethics](#). 44th Parliament, 1st Session.

⁶⁹ Davenport, T. H., & Mittal, N. (2023). *All-in On AI: How Smart Companies Win Big with Artificial Intelligence*. Harvard Business Press.

⁷⁰ Perrigo, B. (2023, January 18). [OpenAI Used Kenyan Workers on Less Than \\$2 Per Hour to Make ChatGPT Less Toxic](#). *TIME*.

⁷¹ Perrigo, B. (2022, February 14). [Inside Facebook's African Sweatshop](#). *TIME*.

⁷² Sambuli, N. (2022, August 12). [Facebook lawsuit in Kenya could affect Big Tech accountability across Africa](#). *OpenDemocracy*.

⁷³ Perrigo, B. (2023, May 1). [150 African Workers for ChatGPT, TikTok and Facebook Vote to Unionize at Landmark Nairobi Meeting](#). *TIME*.

⁷⁴ Brandusescu, A. (2021, March). [Artificial Intelligence Policy and Funding in Canada: Public Investments, Private Interests](#). *Centre for Interdisciplinary Research on Montreal, McGill University*.

Increasingly, workers in the global North are telling us that government and industry needs to control the impacts of AI on their jobs. American workers from the WGA and the actors' union's (SAG-AFTRA) strike demands focused heavily on the negative impacts of AI. The WGA recently was able to prevent production companies from deciding when they could use and when they could not use AI.⁷⁵ To truly share in prosperity, an AI act also needs to include this bottom-up approach to regulation.

Society, which is made up of the people who contribute data that make these systems work, can leverage the concept of a union to better control and reap any benefits of their data. They can create a new type of union called a data union. Within the data union, data stewards would simultaneously protect the rights of workers and citizens.

Data unions can negotiate prices and terms for all users or subgroups, thus circumventing “divide-and-conquer” strategies by platforms, which could otherwise obtain data from one subgroup and then use the data for getting better terms from others...they can also prevent tech giants from using the data that they have collected in one part of their business in order to create an entry barrier in other activities--such as Uber using data from its ride-sharing app to gain an advantage in food delivery (a data-sharing practice that regulators in Vancouver recently tried to prevent.)⁷⁶

As this quote illustrates, in addition to being problematic for workers and citizens, amassing data for AI prevents shared prosperity for SMEs in Canada. Workers' Councils on AI offer yet another promising avenue towards worker control over how AI is used.⁷⁷ An AI act can encourage data unions and workers' councils as options and reduce any barriers to their formation.

Numerous cases have demonstrated that whistleblower protection is essential to robust AI workers' rights and to more responsible AI.⁷⁸ When things go wrong, workers need safe and confidential channels to report harms in both public and private sectors. ISED's AIDA Companion Document names several laws that “apply to the use of AI.”⁷⁹ An equitable and sustainable AI act must connect to other acts such as the Public Servants Disclosure Protection Act, which supports whistleblower protection.⁸⁰ For the private sector, in the US, Trillium Asset Management requested Google's board of directors for a third-party review to adopt better whistleblower protections.⁸¹ The Silenced No More Act⁸² was passed by the State of California in

⁷⁵ Foroohar, R. (2023, October 2). [Workers could be the ones to regulate AI](#). *Financial Times*.

⁷⁶ Johnson, S., & Acemoglu, D. (2023). *Power and Progress*, pp. 411-412.

⁷⁷ McQuillan, D. (2022). *Resisting AI: An Anti-Fascist Approach to Artificial Intelligence*. Policy Press.

⁷⁸ Brown, S. (2021, October 6). [Ex-Google researcher: AI workers need whistleblower protection](#). *MIT Management Sloan School*.

⁷⁹ ISED. (2023, March 13). [The Artificial Intelligence and Data Act \(AIDA\) – Companion document](#).

⁸⁰ House of Commons Canada. (2017, June). [Report 9: Strengthening the Protection of the Public Interest within the Public Servants Disclosure Protection Act](#). *Standing Committee on Government Operations and Estimates, Report and Government Response*.

⁸¹ Schiffer, Z. (2021, April 6). [Alphabet shareholder pushes Google for better whistleblower protections](#). *The Verge*.

⁸² Paul, K. (2021, May 10). [She broke her NDA to speak out against Pinterest. Now she's helping others come forward](#). *The Guardian*.

May 2021 to ensure that workers who experienced workplace discrimination or harassment get heard and supported. Canada can institute similar protections.

Recommendation 3: Ensure meaningful public participation

To ensure shared prosperity now and not just in an indeterminate future, an AI act must include a right to public participation in the choices to develop and use AI systems. Shared prosperity is not the same as improved customer experiences. Indeed, no amount of consumer convenience will adequately substitute for the loss of a job, false arrests, or other harms caused by AI. Moreover, government should not reduce the public to consumers responsive to a market economy. Government has a responsibility to protect its people and ensure prosperity. It can do so by applying policy protections within an AI act that go well beyond an individual's privacy or consumer protections.

Numerous types of meaningful participation have been “field-tested”, among them citizens’ juries, permanent mini-publics, and citizens’ assemblies.^{83 84 85} An AI act has many public participation models to choose from. The right to meaningfully participate in AI needs to accommodate durable issues in participation, such as who is able to participate and how? Who exactly is included in the term public (e.g., refugees)? For us, the public represents impacted individuals and groups as well as the general public. Therefore, we extend participation beyond those who are directly impacted by an AI system like FRT but to society writ-large. A right to participation should occur as early as possible in the development stage of AI systems (e.g., participatory design).⁸⁶

In Canada, AI governance and policy spaces reduce meaningful participation to consultations like multistakeholder forums, which are insufficient. The agendas of multistakeholder forums are often shaped by money; meaningful participation is resource-intensive, excluding those with limited funds and time.⁸⁷ Government must equalize the significant resource differences among stakeholders (e.g., industry lobbyists and grassroots groups), for instance compensating members of citizens’ assemblies. Some will argue that meaningful participation in AI is impractical in the face of rapid AI system deployment. Despite the slowing down implied by broad participation, it provides the richest, most nuanced solutions that articulate current

⁸³ Ada Lovelace Institute. (2021). [Participatory Data Stewardship](#). *Ada Lovelace Institute*.

⁸⁴ Balaram, B., Greenham, T., & Leonard J. (2018). [Artificial intelligence: Real public engagement](#). *Royal Society of Arts*.

⁸⁵ Data Justice Lab. (2021). [Advancing civic participation in algorithmic decision-making: A guidebook for the public sector](#).

⁸⁶ Lee, M. K., Kusbit, D., Kahng, A., Kim, J.T., Yuan, X., Chan, A., See, D., Noothigattu, R., Lee, S., Psomas, A., & Procaccia, A. D. (2019). [WeBuildAI: Participatory Framework for Algorithmic Governance](#). *Proceedings of ACM Human-Computer Interaction* 3, (November 2019), 1–35.

⁸⁷ Sambuli, N. (2021, September 15). [Five Challenges with Multistakeholder Initiatives on AI](#). *Carnegie Council for Ethics in International Affairs*.

harms and anticipate new ones. “Engagement now is likely far more effective than efforts to assess consequences later on.”⁸⁸

A pre-requisite to participation should not necessitate education or technical literacy. Participating publics need not be technical experts; they bring their own lived experience and expertise. Nor does the public need to be sold on the promised benefits of AI to Canadian society prior to meaningful engagement. Achieving shared progress requires a diverse set of voices, especially those beyond those considered to be the correct experts: the tech investor or venture capitalist, the tech entrepreneur, the frontier model engineer or the tech billionaire.⁸⁹

Finally, inclusion of the public in meaningful participation must be nurtured and the nurturing needs to include dissent. The ability for disagreement is crucial to what democracy promises: “the encouraging of diverse perspectives to engage with and counterbalance each other.”⁹⁰ Meaningful participation requires the ability of participants to exert significant influence on policies and products, including public influence on decisions regarding the banning, sunseting, and decommissioning of AI systems (e.g., autonomous weapons, FRT).

We end the brief with a quote from Frederic Douglass, noted abolitionist and social reformer of the 19th Century that offers a powerful response to the 21st Century on the need for political participation in AI, even if it includes dissent:

Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both.⁹¹

Meaningful participation counters the perception that government is indifferent to the legitimate public concerns about AI and the sentiment that the public will simply accept government proclamations that AI will create economic benefits for all. Shared prosperity will not materialize unless government plays a far more active role with respect to AI than evinced in the AIDA.

⁸⁸ European Artificial Intelligence & Society Fund. (2023, October 4). [Report: Making the AI Act work: How civil society can ensure Europe’s new regulation serves people & society.](#)

⁸⁹ Raji, I. D. (2023). [AI’s Present Matters More Than Its Imagined Future.](#) *The Atlantic.*

⁹⁰ Johnson, S., & Acemoglu, D. (2023). *Power and Progress*, p. 94.

⁹¹ Douglass, F. (1857, August 3). [“West India Emancipation” speech at Canandaigua, New York. “If there is no struggle, there is no progress.”](#) *BlackPast.*