



Mr. Joël Lightbound, M.P.
Chair
Standing Committee on Industry and Technology
House of Commons
Ottawa, Ontario K1A 0A6

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Dear Colleague:

I am writing to you following the appearance of Innovation, Science and Economic Development Canada (ISED) officials at the Standing Committee on Industry and Technology on October 17, 2023, for your study of Bill C-27, the *Digital Charter Implementation Act, 2022*.

As you know, during my appearance at the Committee on September 26, 2023, I highlighted a number of areas where we are intending to introduce amendments in response to feedback received during stakeholder engagements since the tabling of Bill C-27 last year, as well as feedback from Opposition members during the Second Reading debate. On October 3, I also provided the Committee with a letter that detailed these potential areas for amendment while noting that potential amendments to be considered by the Committee—amendments that would give effect to these areas of consideration—were still being drafted by ISED along with the Department of Justice.

Further to that letter, at the most recent hearing with ISED officials, the Committee adopted a motion to produce the drafts of amendments for these potential areas of amendment that I referenced during my appearance, specifically with regard to Part 1 of Bill C-27, the *Consumer Privacy Protection Act*. In response, you will find attached the requested drafts of motions in both official languages for the following areas mentioned during my appearance:

- i) Recognition of the fundamental right to privacy:
 - o a motion to amend the preamble to the Bill to qualify the right to privacy as a fundamental right; and
 - o a motion to amend the purpose clause (section 5) to qualify the right to privacy as a fundamental right.

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- ii) Recognition and reinforcement of the protection afforded to children:
 - a motion to amend the preamble to recognize that the personal information of minors actively engaged with the digital and data-driven economy is worthy of stronger protection given their varying levels of capacity to understand how it is used by organizations and the potential long-term implications of such use; and
 - a motion to amend section 12 to require consideration of the special interests of minors when determining whether personal information is being collected, used, or disclosed for an appropriate purpose.

- iii) Increased flexibility for the Privacy Commissioner to reach “compliance agreements”:
 - a motion to amend section 87 to confirm that the Commissioner may enter into a compliance agreement at any time after an investigation has been started—i.e., also during the inquiry stage—and that the terms of a compliance agreement may include a payment by the organization;
 - a motion to amend section 93 to give effect to the above by ensuring that the time limit for completing an inquiry is suspended when the Commissioner initiates negotiations to enter into a compliance agreement; and
 - a motion to amend section 107 to ensure that this does not impact the private right to action and that grounds for a cause of action be available to individuals for loss or injury that the individual has suffered as a result of a contravention of the Act.

I would like to emphasize that these are draft documents and that they have not undergone full legal and linguistic review by the Department of Justice; therefore, it is possible that minor changes to these amendments to ensure linguistic consistency may be identified and presented for the Committee’s consideration at the clause-by-clause stage. Further, the Government will continue to monitor the deliberations of the Committee closely, including witness testimony, and will remain open to receiving and having government members provide responsive adjustments to these proposed amendments, and to considering additional amendments that may be identified through the course of your ongoing study.

I continue to strongly believe that Bill C-27 will serve Canada well to protect privacy, ensure transparency and accountability, and foster responsible

innovation toward a prosperous future for Canadians. I trust that receipt of this letter and the attached draft amendments will enable the Committee to continue this important study without further delay.

Please accept my best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Champagne', with a stylized flourish at the end.

The Honourable François-Philippe Champagne, P.C., M.P.

Attachments

Moved by

Bill C-27
Preamble
Page 1

That Bill C-27, in the preamble, be amended by adding after line 8 on page 1 the following:

|Whereas the right to privacy of individuals is a fundamental right in Canada;

Moved by

Bill C-27
Preamble
Page 1

That Bill C-27, in the preamble, be amended by adding after line 23 on page 1 the following:

Whereas minors are actively engaged with the digital and data-driven economy and their personal information is worthy of stronger protection given their varying levels of capacity to understand how it is used by organizations and the potential long-term implications of such use;

Moved by

Bill C-27
Clause 2
Page 6

That Bill C-27, in Clause 2, be amended by replacing line 30 on page 6 with the following:
fundamental right of privacy of individuals with respect to their per-

Moved by

Bill C-27
Clause 2
Page 10

That Bill C-27, in Clause 2, be amended by

(a) replacing line 9 on page 10 with the following:

(2) All relevant factors must be taken into account in

(b) replacing line 11 on page 10 with the following:

to in subsection (1) are appropriate, including:

(c) replacing line 12 on page 10 with the following:

(a) the sensitivity of the personal information, including by reason of being in relation to a minor;

Moved by

Bill C-27
Clause 2
Page 42

That Bill C-27, in Clause 2, be amended by

(a) replacing line 19 on page 42 with the following:

Entering into compliance agreement

87 (1) If the Commis-

(b) replacing line 28 to 32 on page 42 with the following:

ance with this Act, including a requirement that the organization pay a specified amount.

For greater certainty

(3) For greater certainty, a compliance agreement does

(c) adding after line 33 on page 42 the following:

Effect of compliance agreement

87.1 (1) If, in the course of conducting an inquiry under section 89, the Commissioner initiates negotiations to enter into a compliance agreement with the organization that is the subject of the inquiry, the inquiry is suspended and the Commissioner must inform the complainant without delay.

Termination of inquiry

(2) If a compliance agreement is entered into with the organization, the Commissioner must terminate the inquiry and inform the complainant and the organization without delay.

Resumption of inquiry

(3) If the Commissioner and the organization fail to enter into a compliance agreement, the Commissioner must resume the inquiry and inform the complainant and the organization without delay.

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Bill C-27
Clause 2
Page 45

That Bill C-27, in Clause 2, be amended by adding after line 7 on page 45 the following:

Compliance agreement — time limit suspended

(5) If, in the course of conducting an inquiry under section 89, the Commissioner initiates negotiations to enter into a compliance agreement with the organization that is the subject of the inquiry, the period set out in subsection (4) is suspended for the duration of the negotiations.

Moved by

Bill C-27
Clause 2
Page 51

That Bill C-27, in Clause 2, be amended by adding after line 15 on page 51 the following:

(c) the Commissioner has entered into a compliance agreement with the organization in the course of conducting an inquiry under section 89 and the agreement does not provide for the payment of damages for that loss or injury.