



Mr. Joël Lightbound, M.P.
Chair
Standing Committee on Industry and Technology
House of Commons
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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 the important feedback that we have received from stakeholders since the tabling of Bill C-27 last year, as well as from Opposition members during the Second Reading debate. I laid out a number of areas where the Government would contemplate amendments to both Part 1, the *Consumer Privacy Protection Act (CPPA)*, and Part 3, the *Artificial Intelligence and Data Act (AIDA)*. On September 28, 2023, the Committee adopted a motion to produce the drafts of amendments for these potential areas of amendment that I referenced during my appearance. On October 3, I provided the Committee with an overview of these amendments. At the hearing on October 17, 2023, the Committee requested the full text of proposed amendments for the CPPA but indicated that it was willing to wait for the proposed amendments to AIDA until the hearings focused on AIDA began.

Through this letter, I am now providing you with the full text of the previously mentioned amendments to AIDA [**Annex A**], as well as an accompanying rationale that demonstrates how the proposed amendments align with the objective of the Bill to ensure safe and responsible artificial intelligence (AI)

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development and deployment, and how the amendments respond to stakeholder feedback [**Annex B**]. The attached amendments correspond to the areas of interest identified in my first letter to this Committee:

1. High-impact systems;
2. International alignment;
3. Clarifying obligations across the AI value chain;
4. Obligations for general-purpose systems; and
5. Clarifying and strengthening the role of the AI and Data Commissioner.

As the proposed amendments are substantial and interlinked, it is important to review them as a whole to understand how they would function together to drive responsible AI practices. I trust that the accompanying Annex B will be helpful in this regard. I would also like to reiterate my willingness to have ISED officials appear before the Committee again to explain the technical aspects of these amendments, should the Committee find that helpful.

I want to acknowledge the extensive constructive feedback on AIDA received by my officials and my office since tabling C-27 in June 2022. The most consistent piece of feedback that we received from both stakeholders and parliamentarians was a request for more clarity in the Bill. By demonstrating our commitment to meaningfully incorporate the feedback we received, I hope that you can continue your consideration and pass this important legislation.

It is pivotal that we pass AIDA now. We are at a turning point in the history of AI, both in Canada and globally, and the costs of delay to Canadians would be significant. Failing to act now would mean that AI systems, which are being used across many industries and sectors, remain unregulated in Canada for many more years. Once AI technology already permeates our society, it will be difficult to change expectations. This would have direct impacts on Canadians—they will have difficulty trusting that AI systems developed or used in Canada have been appropriately managed to ensure accountability and fairness. Once AI technology already permeates our society, it will be difficult to change expectations or retrospectively address harms that have already occurred. Further delay will have direct impacts on Canadians, as they would not benefit from the many protections Bill C-27 provides, including ensuring transparency when AI systems are used to mitigating biases and actively monitoring and mitigating risks of harm. In addition, the uncertain regulatory environment brought by our failure to act would have important economic impacts: Canada would not be an attractive location for investors, and Canadians would not reap the full benefits that AI can bring to our innovation, productivity, and competitiveness agenda.

We have an opportunity to put in place critical guardrails around AI that will protect Canadians for generations to come. Let us work together to pass a bill that meets the expectations of Canadians and continues to position Canada as a world leader in responsible AI.

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

ANNEX B: Guide to Proposed Amendments to AIDA

The amendments proposed here would build on the core framework of AIDA, as laid out in the Companion Document, while bringing substantially greater clarity to the application, requirements, and administration. These are intended to respond to ongoing feedback and engagement and build trust in AIDA's ability to provide an effective, adaptable regulatory framework for AI.

High-Impact Systems

We have heard many calls from stakeholders, as well as parliamentarians, for greater clarity about which systems are “high-impact” under AIDA, as well as calls for more clarity about how the Government would determine which systems are high-impact. We heard a variety of views on how to do this, including the importance of considering potential broad impacts on society and human rights, in addition to risks of harm and biased output. Many stakeholders also emphasized the importance of keeping AIDA's framework adaptable in order to be able to keep up as the technology and its uses continue to evolve. This is important to provide assurance to all stakeholders that systems with the greatest impacts on Canadians are in scope, and also to provide clarity to businesses, so that they can plan for obligations under the Act.

Proposed Amendments

First, the proposed amendments would update the definition of high-impact systems to be based on whether the intended use of the system falls within one of the classes listed in a newly created schedule; see motions **900-101-00a_EN**, **900-101-00a_FR** and **039-087-34a_EN**, **039-087-09a_FR** clause (b).

Using a schedule allows this initial list of high-impact classes to be modifiable by regulation, providing the flexibility to update which systems are high-impact as the technology evolves. This approach is consistent with that used in other consumer protection legislation, such as the *Transportation of Dangerous Goods Act* or the *Hazardous Products Act*. The new s. 36.1 (1), see motions **039-098-12a_EN**, **039-098-16a_FR**, and **039-098-23a_EN**, **039-098-25a_FR**, would grant the Governor Council (GIC) the power to add, modify, or delete classes.

The power to modify the schedule would be exercised according to specific criteria; see s. 36.1(2) in motions **039-098-12a_EN** and **039-098-16a_FR**. These criteria reflect feedback we received on the importance of considering impacts on human rights as well as broader cumulative and societal impacts of AI systems. Under the law, modifying the schedule by listing or removing a class now requires the consideration of the both the severity and extent of potential adverse impacts, including impacts on human rights and social harms, as well as who may experience these impacts.

While these considerations are important, we also heard concerns that AIDA could result in unhelpful and burdensome regulatory overlap. The initial proposed

list of classes, as well as any future classes that are added to this list, would be developed in consideration of the scope of and expectations of existing laws. This is recognized in the new s. 36.1(2)(d), which requires that the Government assess whether a class of systems is already adequately regulated when modifying the classes. This provision is comparable to s. 93(4) of the *Canadian Environmental Protection Act*, which has the same intent. The new s. 37.1 would allow the implementation of distinct regulatory requirements for different categories of systems, including classes or subclasses of high-impact systems, as well as distinct types of general-purpose systems.

The proposed amendments would also populate the schedule with a list of classes of high-impact systems (see motions **039-085-15a_EN**, **039-085-17a_FR** and **900-101-00a_EN**, **900-101-00a_FR**). This list provides clarity regarding which kinds of systems would be considered high-impact under the legislation based on the current state of AI. The seven proposed high-impact classes, listed and discussed below, each present distinct risk profiles and consequently will require distinct risk management strategies. For example, we expect that regulations for systems used in law enforcement and healthcare will be different. Risks within classes are expected to be similar, but the level of risk presented by various tools or applications within a class may vary. Obligations for high-impact systems, discussed in the AI Value Chain section of this annex, are intended to scale in proportion to the risks they present. A low-risk use within a class would require correspondingly minimal mitigation effort.

Proposed Classes

The cornerstone of AIDA is the idea that Canadians have a right to equality and freedom from discrimination. This is also the foundation of the *Canadian Human Rights Act* (CHRA) and is reflected in the definition of biased output. The first two classes are intended to ensure that the protections that Canadians benefit from in the CHRA are operationalized in the AI context. Without proactive risk management and transparency measures, AI systems could result in pervasive but hidden effects on historically marginalized groups in Canadian society.

Class 1: 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.

There is a long history of discrimination within employment contexts. Research has amply demonstrated that AI systems can incorporate existing biases and make biased predictions and recommendations based on historical data. This can include determinations of who to advertise jobs to, how to rank applicants, and who gets access to opportunities within an organization.

Class 2: The use of an artificial intelligence system in matters relating to:

- a. the determination of whether to provide services to an individual;
- b. the determination of the type or cost of services to be provided to an individual; or
- c. the prioritization of the services to be provided to individuals.

As with employment, determinations regarding access to services have historically been subject to both implicit and explicit discriminatory policies. Implicit discrimination has included “red-lining” (where access to certain services is withheld from citizens based on the neighborhood in which they reside) or using other indicators that unfairly discriminate against certain groups. AI systems that feed into determinations of whether, how, and in what priority, to provide services to individuals have the potential to discriminate against individuals if they are not monitored and appropriately safeguarded. In addition to potentially significant adverse impacts on a given individual, these systems can also have broader effects on society when deployed at scale.

Class 3: The use of an artificial intelligence system to process biometric information in matters relating to:

- a. the identification of an individual, other than in cases in which the biometric information is processed with the individual’s consent to authenticate their identity; or
- b. the assessment of an individual’s behaviour or state of mind.

Biometric information can reveal sensitive personal information about us that, in most cases, cannot be changed. AI systems can enable the processing of biometric information at scale, allowing individuals’ or groups’ behaviour to be predicted, as well as to infer characteristics about individuals, including states of mind. While these uses come with significant privacy risks, they also carry significant risks of inadvertent bias and psychological harm if appropriate risk management frameworks are not in place. For example, biometric systems have been shown to develop biases based on race and gender if not properly assessed and mitigated. Biometric information can also indirectly carry information about disabilities, which can result in further discrimination. Finally, the use of biometric information to infer information about behaviour or states of mind, particularly if their functioning has not been well-validated, can result in psychological harm to individuals or impacts on their enjoyment of human rights.

Class 4 was listed based on the broad and cumulative societal roles that AI systems within it have on society.

Class 4: The use of an artificial intelligence system in matters relating to:

- a. the moderation of content that is found on an online communications platform, including a search engine or social media service; or

- b. the prioritization of the presentation of such content.

Content moderation and prioritization systems used by large online communications platforms have significant influence on the information individuals encounter online. These systems have important potential impacts on Canadians' ability to express themselves, as well as pervasive effects at societal scale. Biases in these systems, while not necessarily having immediate impacts on an individual's health, well-being, or livelihood, can nevertheless have broad impacts on fairness and autonomy. For example, if not properly managed, it is possible for AI systems that process language to demonstrate biases with regard to members of historically marginalized minorities, particularly groups with characteristic linguistic variations. Similarly, AI systems operating without sufficient oversight generally have difficulty distinguishing the context of content, which can result in groups speaking about their experience of violence being treated the same way as those perpetuating violence. Algorithms underpinning social media products entail risks due to the tendency to develop feedback loops through reinforcement learning, which can have adverse psychological impacts, particularly on those most vulnerable, such as children. Regulations under AIDA would ensure that appropriate measures are put in place to assess for the risk of bias, and that rigorous testing, mitigation, and monitoring measures are also implemented to ensure that potential adverse impacts are quickly identified and addressed.

Stakeholders also emphasized the need to consider the impacts that AI systems may have on individuals' health and safety. Class 5 focuses on systems with the greatest potential impact on health, including mental health.

Class 5: The use of an artificial intelligence system in matters relating to health care or emergency services, excluding a use referred to in any of paragraphs (a) to (e) of the definition *device* in section 2 of the *Food and Drugs Act* that is in relation to humans.

Healthcare and emergency services by definition implicate matters of health and safety, but also carry the potential for discrimination. Systems of interest would include those that triage individuals at an emergency ward, or systems that provide health advice directly to Canadians over the Internet. Medical devices incorporating AI are already captured by the Medical Device Regulations under the Food and Drugs Act and Health Canada operates a rigorous pre-market assessment system for medical devices, as well as post-market surveillance; as a result, AI systems that are medical devices would be excluded from the initial set of classes.

While AIDA does not regulate the use of AI systems by governments, it is important to recognize that many systems used in sensitive government contexts are commercially developed and managed by private sector organizations. As a result, the Government proposes to list classes of systems that are intended for

sensitive public sector use, in order to ensure that such systems have undergone appropriate risk management prior to being placed on the market, or while being managed by private sector organizations, and that public sector users have the information needed to ensure that systems are being used appropriately. Additionally, AI systems being used by Government of Canada institutions are subject to the Directive on Automated Decision-Making, a policy maintained and regularly updated by Treasury Board Secretariat.

Class 6: The use of an artificial intelligence system by a court or administrative body in making a determination in respect of an individual who is a party to proceedings before the court or administrative body.

Courts and administrative decision makers are granted coercive authority with potentially severe consequences for individuals' freedoms, rights, and social and economic circumstances. Beyond the impacts on individuals, the use of such systems, if risks are not appropriately managed, could have important effects on the rule of law and access to justice. For example, AI systems that provide assessments of risk of recidivism based on historical data have been demonstrated to unintentionally perpetuate biases.

Class 7: The use of an artificial intelligence system to assist a *peace officer*, as defined in section 2 of the *Criminal Code*, in the exercise and performance of their law enforcement powers, duties and functions.

Policing can deeply impact the lives of individuals and communities. Given the significant power that peace officers are entrusted with, the AI systems that they use as tools carry the potential for significant impacts on the human rights of Canadians, and need to be safe, effective, and non-discriminatory. This means that they need to have been appropriately assessed for biases, the potential impacts of their use must be rigorously analyzed, and users must be provided with detailed information on appropriate use.

While the activities in these classes are covered to some degree by other regulatory frameworks, such as the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and the CHRA, care has been taken to ensure that AIDA will not duplicate requirements. For example, medical devices are excluded from the class 5 due to the robust regulatory requirements they are already subject to under the *Food and Drugs Act*. Applying AIDA to these activities is intended to fill gaps in existing frameworks and ensure that organizations operating high-impact systems have risk management frameworks that are robust enough to address the risks that arise in the AI context. These governance requirements are designed to complement and support compliance with existing regulatory requirements throughout the AI system lifecycle. The Government's proposal to enhance the Artificial Intelligence and Data

Commissioner (AIDC)'s information-sharing powers (see motions **039-092-05a_EN** and **039-092-05a_FR**) will also help to ensure that regulations are developed and implemented in a manner that streamlines requirements while ensuring robust risk management.

We have heard calls to regulate the Government's use of AI systems. While the Government recognizes the need to ensure responsible use of AI systems by government institutions, their operating and legislative contexts are distinct from the private sector, for example being bound by more stringent obligations to protect human rights under the *Canadian Charter of Rights and Freedoms*. Currently, AI governance within the federal government is directed by the Treasury Board of Canada through instruments such as the *Directive on Automated Decision-Making*. While AIDA does not regulate government institutions themselves, AIDA would still place requirements on systems and services marketed by the private sector and utilized in the public sector, in order to ensure that these systems meet the highest standards. If a high-impact system is made available in the course of international and interprovincial trade for use by police, courts, or healthcare authorities, then AIDA will apply.

Aligning AIDA with EU AIA and OECD Definitions

Stakeholders collectively emphasized the need to clarify how AIDA will align with international frameworks. Alignment is crucial for ensuring interoperability with major trading partners and compatibility with international standards. Businesses in particular underscored the risks posed by uncertainty in aligning key definitions and standards across different jurisdictions, highlighting the challenges and costs of navigating disparate regulatory landscapes.

When AIDA was tabled, an international consensus had not yet formed on key concepts pertaining to AI regulation. Since that time, the Canadian government has played a leading role in international discussions, both bilaterally and in major international fora such as the OECD, G7, GPAI, and the AI Safety Summit. These collaborations have fostered a shared understanding of AI's potential and challenges and brought closer agreement on a number of key definitions and concepts. For example, Canada was a leading player in discussions on a new definition of "AI system" at the OECD and in discussions at the G7 on a code of conduct for advanced AI systems. The amendments below are intended to update AIDA to encompass these shared concepts.

Proposed Amendments

Motions **039-086-02a_EN** and **039-086-09a_FR** would modify the definition of "AI system" to more closely align with the new OECD definition. In particular, this definition would be agnostic to specific techniques or data used in the development of the system, and instead introduce the concept of "inference" to distinguish AI systems from computational systems that are not considered to be AI.

Motions **039-087-34a** and **039-087-09a** in clause (e) propose to modify key definitions regarding AIDA’s application, and would clarify its interoperability internationally. The term “regulated activities” that defined the application of AIDA would be replaced by the new s. 5.1, which clarifies that obligations would apply only once systems (or machine learning models) are placed on the market or put into use in the course of international or interprovincial trade. This would clarify that, while key activities should be undertaken throughout the lifecycle, compliance would not need to be demonstrated prior to putting a system on the market, such as during research and development. It would also align AIDA with the application of EU’s AI Act.

Amendments in ss. 8.1 and 10.2 would also align AIDA with the EU’s AI Act by clarifying how obligations would apply to AI systems that have been substantially modified. AI is an evolving field and AI systems are commonly modified by organizations who did not create the original system. AI systems are also built to be dynamic. These provisions are intended to apply where changes to systems are so substantial that they alter the ways in which these systems would meet their obligations under AIDA. Amendments would place responsibility for remaining in compliance on the party in control of those changes.

Clause (e) of motions **039-087-34a_EN** and **039-087-09a_FR** would amend s. 12 to explicitly require robust accountability frameworks. These frameworks would ensure that organizations involved in developing and deploying AI systems are accountable for their risk management practices, including upholding data governance standards and demonstrating transparency. This responds to stakeholder feedback requesting clarity regarding the responsibilities of organizations who may have many staff members, and also brings AIDA into greater alignment with the EU’s AI Act, which requires a comparable quality management system. Importantly, s. 12(6) would recognize that such frameworks must be proportionate to the nature and size of an organization, as well as the risks associated with its activities.

Establishing Clearer Obligations Along the AI Value Chain

Stakeholders requested additional clarity regarding regulatory requirements, specifically in relation to their roles and functions within the AI system lifecycle. Notably, organizations engaged in the development of AI systems expressed concerns about being held accountable for post-deployment responsibilities. Their primary concern is the potential imposition of obligations that extend beyond their operational scope or capabilities.

Proposed Amendments

The proposed amendments would establish clear responsibilities across the AI value chain to ensure that each regulated party can understand and adhere to their respective responsibilities. Clause (e) of motions **039-087-34a_EN** and **039-087-09a_FR** replace the concept of “persons responsible” with distinct obligations based on each organization’s role with regard to the system.

Certain foundational requirements span the value chain, tailored to the role of each actor. These include ss. 9(1)(b), 10(1)(b),(c), and 11(1)(b),(c) which require establishing measures to identify, assess and mitigate risks of harm and biased output. Record-keeping requirements are created by ss. 9(2), s.10(2), and s. 11(1)(i)). While actors across the value chain share these requirements, regulations would specify in greater detail how these apply at each stage.

Requirements across the value chain, such as those above, are also intended to work together. Other examples include requirements to enable and implement human oversight, as found in ss. 10(1)(d) and 11(1)(d). S. 9(1)(c) requires developing a model card for machine learning models, which high-impact system developers would use to meet their requirements under s. 10.

Amendments also create specific requirements tailored to the distinct challenges and objectives found at each point in the value chain. For example, s. 9(1)(a) creates requirements regarding data used while developing machine learning models. Organizations making high-impact systems available would need to assess the impacts of both intended and reasonably foreseeable uses, per s. 10(1)(a), as well as ensure that systems perform reliably and as intended, even in adverse circumstances.

For system operators, s. 11(1)(e) would require creating a means by which users can provide feedback on the system's performance. S. 11(1)(g)) would create incident response and reporting requirements. AIDA would require that organizations assess instances where there are reasonable grounds to suspect that use of the system resulted in serious harm, or that existing mitigation measures would not be effective in mitigating the risk of serious harm. Where serious harm (such as death or bodily harm) occurred, or mitigation measures preventing such harms would not be effective, then AIDA would require that organizations cease operations until the systems could be appropriately modified. This includes "near misses", where serious harm could have occurred, but was avoided due to luck or outside intervention. In such cases, the organization would need to create an incident report and provide it to the AI and Data Commissioner, as well as notify the Commissioner when resuming operations.

Amendments would also ensure that obligations at each stage of the value chain are met, even in cases where previous points in the value chain were not subject to AIDA. For example, where a high-impact system incorporates a machine learning model, s. 10(1)(f) would require that the machine learning model meet AIDA's standards, regardless of whether that model was separately placed on the market. S. 11(1)(a) would similarly require that high-impact system operators ensure that requirements for high-impact systems were met. This will ensure that AI systems placed on the market or used in the course of international or interprovincial activities meet minimum standards.

While these proposed amendments would clarify requirements and protections, they also leave room for flexibility and greater specificity via regulations. Measures to be taken at each stage would depend on assessments of the level of risk posed by the system. This would enable a flexible and adaptive regulatory approach, capable of responding in a timely way to new developments and challenges as AI technology and corresponding risk management practices evolve.

Motions **039-098-01a_EN**, **039-098-04a_FR** and **039-098-14a_EN**, **039-098-18a_FR** include amendments that reconcile existing provisions with other amendments discussed in this annex.

Obligations for General Purpose AI Systems

Stakeholders emphasized that general-purpose systems pose distinct and broad risks, especially when they are public-facing. These include societal-scale risks, due to the scale at which they operate. For example, it is now well-documented that the ability to generate undetectable synthetic content can have important consequences in terms of the spread of disinformation and the functioning of societal and democratic institutions.

Proposed Amendments

Proposed requirements for general-purpose systems are tailored to their unique risk profile. The amended s. 7 in motions **039-087-34a_EN** and **039-087-09a_FR** clause (e) would set out obligations that general-purpose systems must meet before being brought to market. These requirements follow the same principles as those found in ss. 9 and 10, while also taking into account how general-purpose systems are expected to have a broader range of uses. Requirements include assessing potential adverse impacts, taking measures to assess and mitigate risks, enabling human oversight, reporting serious incidents, and keeping relevant records.

One concern that is specific to general-purpose generative systems is their ability to produce undetectable synthetic media. Generative capabilities can create text, audio, images, and video that appear to either depict, or have been created by, real humans. The full implications of high-quality synthetic media produced at negligible cost are currently unclear, however s. 7(1)(g) serves as a starting point. It would require organizations building general-purpose systems with generative abilities to make best efforts to ensure that the output of these systems can be detected by people, either unaided or with the assistance of free software. We propose a “best efforts” standard to require that organizations building these systems take meaningful steps to meet this objective (such as by watermarking content) while also recognizing that the technical feasibility of watermarking synthetic media is currently a work in progress. These requirements will be further refined through regulations, including regular updates

to ensure that the regulatory requirements are aligned with the state of the art to ensure that the principle of full transparency is realized.

Provisions in s.7 dovetail with the requirements for organizations managing the operations of general-purpose systems found in ss. 8 and 8.2. The logic behind monitoring obligations is that while general-purpose systems will be built with safeguards against anticipated adverse impacts, the versatility of these systems means that users are not only expected, but encouraged to use these systems in creative, unanticipated ways. Human oversight is required to evaluate and mitigate risks in tandem with the evolution of how the system is actually used. Accordingly, s. 8.2 creates ongoing obligations to assess, mitigate, and report serious incidents.

Proposed amendments also consider the risk of humans mistaking an AI system for another human. As capabilities in synthetic media improve, we expect that interactions with AI systems in certain contexts will become increasingly difficult to distinguish from those with real humans. The amended s.6 requires that, in circumstances where it is reasonably foreseeable that a human interacting with an AI system might confuse the system for another human, the system must promptly advise the human that they are communicating with an AI system. Notably, this requirement applies to all AI systems, including those that are neither high-impact nor general-purpose as defined within AIDA.

S. 8(1) requires that operators publish a plain-language description of the system, including its capabilities and limitations, risks of harms or biased output, and any other information prescribed by future regulations, on a public website. These requirements would help ensure that Canadians are provided with the information they need to effectively and appropriately use these new tools.

The proposed amendments also clarify that a given system can simultaneously be high-impact and general-purpose. In many cases, we anticipate that organizations providing general-purpose systems would put measures in place to prevent them from being used for high-impact purposes. However, if, for example, a general-purpose system is intended to be used for a high-impact purpose, then organizations would have to demonstrate that they have addressed the distinct risks and corresponding obligations designed to mitigate those risks found in ss. 9-11.

Strengthening and Clarifying the Role of the AIDC

Many stakeholders voiced concerns that the AIDA provisions on administration and enforcement grant too many powers to the Minister and do not create a clear role for the AIDC. Further, some expressed concerns that the vesting of the powers in the Minister would create a conflict of interest between enforcement activities and economic development priorities of the Department of Innovation, Science and Economic Development (ISED).

Proposed Amendments

The AIDA Companion Document laid out plans for implementation of the AIDC to address some of these concerns, including creating a centre of expertise on AI that is structurally separated from other activities at ISED, and has a strong mandate for tracking emerging risks and coordinating and supporting other regulators working on AI, in addition to administration and enforcement of AIDA requirements. The amendments proposed in motions **039-090-12a_EN**, **039-090-12a_FR** and **039-087-20a_EN**, **039-087-18a_FR** would entrench this clarified role in statute by better defining the AIDC's functions, responsibilities, and powers.

First, the amendments would grant the AIDC the powers to conduct investigatory activities, previously allocated to the Minister under ss. 13-15 of AIDA. The amendments would also enhance these powers to ensure that the AIDC is able to effectively investigate potential contraventions.

Amendments to s. 13 would allow the AIDC to compel the production of an organization's accountability framework. These powers would give the AIDC the ability to inspect how organizations are complying with AIDA and to provide guidance or recommendations on corrective measures as appropriate. Amendments to s. 14 would provide the AIDC with the powers needed to determine whether a system or model falls within the scope of AIDA.

Where there is a need for further investigation, the AIDC would be granted explicit powers to conduct or order the conduct of audits. The amended s. 15 would enable the AIDC to investigate where they have reasonable grounds to believe that an organization has contravened or is likely to contravene their obligations. The AIDC would have the authority to enter premises, access systems, copy data, and conduct testing of AI systems. Organizations being audited would have to provide information required by the AIDC and provide all reasonable assistance.

Motions **039-091-08a_EN** and **039-091-07a_FR** would update s. 16-21 to reflect the changes to the role of the Commissioner, the audit powers, and the addition of general-purpose systems. Motions **039-092-05a_EN** and **039-092-05a_FR** would update s. 22-25 to reflect the role of the Commissioner and provide the Commissioner with enhanced information-sharing powers. These are intended to enable the AIDC to serve as a central hub on AI regulation. In addition to providing the Commissioner with information-sharing powers, the amendments to s. 26 would enable information-sharing with the following organizations:

- the Office of the Superintendent of Financial Institutions;
- the Financial Consumer Agency of Canada;
- the Financial Transactions and Reports Analysis Centre of Canada;
- the Minister of Health;

- the Minister of Transport; and
- any provincial government agency or body that regulates or supervises financial institutions.

The same motions would also create a new s.26.1, which would allow other regulators to share information with the AIDC:

- the Privacy Commissioner;
- the Canadian Human Rights Commission;
- the Commissioner of Competition;
- the Canadian Radio-television and Telecommunications Commission;
- the Office of the Superintendent of Financial Institutions;
- the Financial Consumer Agency of Canada;
- the Minister of Health; and
- the Minister of Transport.

In order to enable the AIDC to support existing regulators, motions **039-097-11a-EN** and **039-097-10a_FR** would create a new s. 33.1, allowing the AIDC to enter into arrangements with the same regulators noted in s. 26.1. Motions **039-097-30a_EN** and **039-097-30a_FR** would create a new s. 35.1 mandating the publication by the AIDC of an annual report on the administration and enforcement of AIDA, to ensure transparency around their work.

While the AIDC would still sit within ISED, these changes reflect the Government's intention for the AIDC to be able carry out key statutory functions independently, while the Minister would retain the powers to issue orders requiring organizations to take remedial action.

Moved by

Bill C-27
Clause 39
Page 85

That Bill C-27, in Clause 39, be amended by replacing lines 15 and 16 on page 85 with the following:

Enactment of Act

39 The *Artificial Intelligence and Data Act*, whose text is as follows and whose schedule is set out in Schedule 2 to this Act, is enacted:

Moved by

Bill C-27
Clause 39
Page 86

That Bill C-27, in Clause 39, be amended by replacing lines 2 to 6 on page 86 with the following:

system that, using a model, makes inferences in order to generate output, including predictions, recommendations or decisions. (sys-

Moved by

Bill C-27
Clause 39
Page 87

That Bill C-27, in Clause 39, be amended by adding after line 20 on page 87 the following:

Commissioner means the Artificial Intelligence and Data Commissioner referred to in subsection 33(1). (*commis-
saire*)

Moved by

Bill C-27
 Clause 39
 Pages 87 to 90

That Bill C-27, in Clause 39, be amended by

(a) adding after line 33 on page 87 the following:

general-purpose system means an artificial intelligence system that is designed for use, or that is designed to be adapted for use, in many fields and for many purposes and activities, including fields, purposes and activities not contemplated during the system's development. (*système à usage général*)

(b) replacing lines 5 and 6 on page 88 with the following:

system of which at least one of the intended uses may reasonably be concluded to fall within a class of uses set out in the schedule. (*système à inci-*

(c) adding after line 7 on page 88 the following:

machine learning model means a digital representation of patterns identified in data through the automated processing of the data using an algorithm designed to enable the recognition or replication of those patterns. (*modèle d'apprentissage automatique*)

(d) deleting lines 11 to 19 on page 88.

(e) replacing line 20 on page 88 to line 11 on page 90 with the following:

For greater certainty

(2) For greater certainty, an artificial intelligence system may be a general-purpose system and a high-impact system at the same time.

Application

International or interprovincial trade and commerce

5.1 This Part applies only in respect of

- (a) artificial intelligence systems made available in the course of international or interprovincial trade and commerce;
- (b) the management of the operations of artificial intelligence systems that are used in the course of international or interprovincial trade and commerce; and
- (c) machine learning models made available in the course of international or interprovincial trade and commerce.

Requirements

Informing individuals of artificial intelligence system

6 (1) If it is reasonably foreseeable that, in the circumstances, an individual communicating with an artificial intelligence system could believe that they are communicating with another individual, the person who manages the system's operations must ensure that the system, without delay, clearly advises the individual that they are communicating with an artificial intelligence system.

Exception — physical product

(2) The person need not comply with subsection (1) if

- (a) the system is a *consumer product*, as defined in section 2 of the *Canada Consumer Product Safety Act*;
- (b) every individual using the system needs to use a physical product to communicate with it; and

(c) a written statement is placed prominently on each such physical product or its packaging stating that, in using the product, the individual is communicating with an artificial intelligence system.

General-purpose system — first time

7 (1) Before a general-purpose system is made available in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

(a) measures respecting the data used in developing the system have been established in accordance with the regulations;

(b) an assessment of the adverse impacts that could result from any use of the system that is reasonably foreseeable has been carried out in accordance with the regulations;

(c) measures to assess and mitigate any risks of harm or biased output that could result from any use referred to in paragraph (b) have been established in accordance with the regulations;

(d) tests of the effectiveness of the mitigation measures established under paragraph (c) have been carried out;

(e) the features prescribed by regulation that permit human oversight of its operations have been included in the system;

(f) a plain-language description has been prepared of

(i) the system's capabilities and limitations,

(ii) the risks of harm or biased output referred to in paragraph (c), and

(iii) any other information prescribed by regulation;

(g) if the system generates digital output consisting of text, images or audio or video content,

(i) best efforts have been made so that members of the public, unaided or with the assistance of software that is publicly available and free of charge, are able to identify the output as having been generated by an artificial intelligence system, and

(ii) all measures prescribed by regulation have been taken so that members of the public are able to identify the output as having been generated by an artificial intelligence system;

(h) all measures prescribed by regulation have been taken; and

(i) an assessment of the person's compliance with paragraphs (a) to (h) has been carried out in accordance with the regulations by a third party who meets the qualifications that are prescribed by regulation.

Records

(2) The person must keep

(a) records demonstrating that the requirements set out in paragraphs (1)(a) to (e), (g) and (h) have been met;

(b) records relating to the data and processes used in developing the general-purpose system and in assessing the system's capabilities and limitations; and

(c) any other records prescribed by regulation.

Existing system

(3) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

General-purpose system — making available

8 (1) A person who makes a general-purpose system available must

- (a) make the plain-language description referred to in paragraph 7(1)(f) available to users of the system or, if the system is made available to the public, publish that description, in the time and manner that may be prescribed by regulation, on a publicly available website; and
- (b) take any measures prescribed by regulation.

Existing system

(2) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Changes — general-purpose system

8.1 (1) If a change referred to in subsection (2) is made to a general-purpose system and the changed system remains a general-purpose system, the changed system is considered to be a distinct general-purpose system for the purposes of this Part.

Change

(2) A change for the purposes of subsection (1) is one such that

- (a) the use of the system could result in risks of harm or biased output that are different than any such risks that could have resulted before the change;
- (b) the mitigation measures established under paragraph 7(1)(c) could be less effective than they were before the change;
- (c) the plain-language description prepared under paragraph 7(1)(f) is no longer accurate after the change;
- (d) the measures taken under subparagraph 7(1)(g)(ii) could no longer be effective after the change; or
- (e) the measures taken under paragraph 7(1)(h) could no longer be required after the change.

Managing operations — general-purpose system

8.2 (1) A person who manages the operations of a general-purpose system must

- (a) ensure that the requirements set out in paragraphs 7(1)(a) to (i) are met and keep the records referred to in paragraphs 7(2)(a) to (c), if there are reasonable grounds to believe that any of the acts described in paragraphs 7(1)(a) to (i) have not been accomplished in respect of the system;
- (b) establish measures to identify, assess and mitigate the risks of harm or biased output that could result from the use of the system, in accordance with the regulations;
- (c) carry out tests of the effectiveness of the mitigation measures that are established under paragraph (b), in accordance with the regulations;
- (d) ensure that humans are, in accordance with the regulations, overseeing the system's operations;
- (e) if there are reasonable grounds to suspect that the use of the system has resulted, directly or indirectly, in serious harm or that the mitigation measures are not effective in mitigating risks of serious harm that could result from the use of the system, assess whether the use of the system did actually result in serious harm or the measures are actually not effective in mitigating those risks and, if so,

- (i) cease the system's operations until additional or modified measures are put in place that will mitigate the risks of serious harm,
- (ii) prepare a report and provide it to Commissioner, in accordance with the regulations, and
- (iii) notify the Commissioner when the system resumes operations;
- (f) take all measures prescribed by regulation; and
- (g) keep records demonstrating compliance with paragraphs (a) to (f) and any other records prescribed by regulation.

Existing system

(2) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Developing machine learning model

9 (1) Before a machine learning model is made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

- (a) measures respecting the data used in developing the model have been established in accordance with the regulations;
- (b) measures to identify, assess and mitigate the risks of biased output that could result from the use of the model by a high-impact system in which the model is intended to be incorporated have been established in accordance with the regulations;
- (c) a model card containing the information prescribed by regulation has been prepared; and
- (d) all measures prescribed by regulation have been taken.

Records

(2) The person must keep

- (a) records demonstrating that the requirements set out in paragraphs (1)(a) to (d) have been met;
- (b) records relating to the data and processes used in developing the machine learning model; and
- (c) any other records prescribed by regulation.

Existing machine learning model

(3) If the machine learning model was made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Model card

9.1 (1) A person who makes a machine learning model available for incorporation into a high-impact system must make the model card referred to in paragraph 9(1)(c) available to any person to whom they make the model available.

Existing machine learning model

(2) If the machine learning model is made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Making high-impact system available

10 (1) Before a high-impact system is made available in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

- (a) an assessment of the adverse impacts that could result from the intended use or from any other use of the system that is reasonably foreseeable has been carried out in accordance with the regulations;
- (b) measures to assess and mitigate any risks of harm or biased output that could result from any use referred to in paragraph (a) have been established in accordance with the regulations;
- (c) tests of the effectiveness of the mitigation measures established under paragraph (b) have been carried out;
- (d) the features prescribed by regulation that permit human oversight of its operation have been included in the system;
- (e) the system is performing reliably and as intended and is robust (namely, it will continue to perform reliably and as intended, even in adverse or unusual circumstances), in accordance with the regulations;
- (f) if a machine learning model is incorporated into the system,
 - (i) the measures referred to in paragraphs 9(1)(a) and (b) have been established in respect of the model,
 - (ii) the model card referred to in paragraph 9(1)(c) has been prepared in respect of the model, and
 - (iii) the measures referred to in paragraph 9(1)(d) have been taken in respect of the model;
- (g) all measures prescribed by regulation have been taken; and
- (h) a manual on the system's operations has been prepared in accordance with the regulations.

Records

(2) The person must keep

- (a) records demonstrating that the requirements set out in paragraphs (1)(a) to (g) have been met;
- (b) records relating to the data and processes used in developing the high-impact system; and
- (c) any other records prescribed by regulation.

Existing system

(3) If the high-impact system was made available in the course of international or interprovincial trade or commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Manual and prescribed measures

10.1 (1) A person who makes a high-impact system available must

- (a) make the manual referred to in paragraph 10(1)(h) available to any person who manages the system's operations; and
- (b) take any measures prescribed by regulation.

Existing system

(2) If the high-impact system is made available in the course of international or interprovincial trade or commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Changes — high-impact system

10.2 (1) If a change referred to in subsection (2) is made to a high-impact system and the changed system remains a high-impact system, the changed system is considered to be a distinct high-impact system for the purposes of this Part.

Change

(2) A change for the purposes of subsection (1) is one such that

- (a)** the intended use of the system could fall within a class or subclass of uses set out in the schedule that is different than the class or subclass within which it fell before the change;
- (b)** the intended use of the system could result in risks of harm or biased output that are different than any such risks that could have resulted before the change; or
- (c)** the mitigation measures established under paragraph 10(1)(b) could be less effective than they were before the change.

Managing operations — high-impact system

11 (1) A person who manages the operations of a high-impact system must

- (a)** ensure that the requirements set out in paragraphs 10(1)(a) to (h) are met and keep the records referred to in paragraphs 10(2)(a) to (c), if there are reasonable grounds to believe that any of the acts described in paragraphs 10(1)(a) to (h) have not been accomplished in respect of the system;
- (b)** establish measures to identify, assess and mitigate the risks of harm or biased output that could result from the use of the system, in accordance with the regulations;
- (c)** carry out tests of the effectiveness of the mitigation measures that are established under paragraph (b), in accordance with the regulations;
- (d)** ensure that humans are, in accordance with the regulations, overseeing the system's operations;
- (e)** establish measures allowing users to provide feedback on the system's performance, in accordance with the regulations;
- (f)** in the time and manner prescribed by regulation, publish on a publicly available website a plain-language description of the system that includes the following information:
 - (i)** how the system is being used,
 - (ii)** the types of output that it generates,
 - (iii)** the mitigation measures established under paragraph (b) in respect of it, and
 - (iv)** any other information that may be prescribed by regulation;
- (g)** if there are reasonable grounds to suspect that the use of the system has resulted, directly or indirectly, in serious harm or that the mitigation measures are not effective in mitigating risks of serious harm that could result from the use of the system, assess whether the use of the system did actually result in serious harm or the measures are actually not effective in mitigating those risks and, if so,
 - (i)** cease the system's operations until additional or modified measures are put in place that will mitigate risks of serious harm,
 - (ii)** prepare a report and provide it to the Commissioner, in accordance with the regulations, and
 - (iii)** notify the Commissioner when the system resumes operation;

- (h) take all measures prescribed by regulation; and
- (i) keep records demonstrating compliance with paragraphs (a) to (h) and any other records prescribed by regulation.

Existing system

(2) If the high-impact system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Accountability framework – general-purpose system

12 (1) A person who makes a general-purpose system available or who manages the operations of one must establish and maintain a written accountability framework.

Existing general-purpose system

(2) If the general-purpose system is made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Accountability framework – high-impact system

(3) A person who makes a high-impact system available or who manages its operations must establish and maintain a written accountability framework.

Existing high-impact system

(4) If the high-impact system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (3) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

Elements

(5) The accountability framework must, in accordance with the regulations, include

- (a) a description of the roles and responsibilities and reporting structure for all personnel who contribute to making the artificial intelligence system available or who contribute to the management of its operations;
- (b) policies and procedures respecting the management of risks relating to the system;
- (c) policies and procedures respecting the data used by the system;
- (d) a description of the training that the personnel referred to in paragraph (a) must receive in relation to the system and the training materials they are to be provided with;
- (e) if the person establishing and maintaining the framework manages the operations of the system, policies and procedures on how the personnel referred to in paragraph (a) are to advise the person of any use of the system that results, directly or indirectly, in serious harm or of any mitigation measures that are not effective in mitigating risks of serious harm; and
- (f) anything that is prescribed by regulation.

Factors

(6) In establishing and maintaining the accountability framework, the person must take into account the nature and size of their business and the risks of harm or biased output that could result from the use of the artificial intelligence system.

Moved by

That Bill C-27, in Clause 39, be amended by

(a) replacing the heading before line 12 and lines 12 to 30 on page 90 with the following:

Powers

Provision of accountability framework

13 (1) The Commissioner may, by order, require that a person referred to in subsection 12(1) or (3) provide the Commissioner with all or any part of their accountability framework.

Guidance and corrective measures

(2) The Commissioner may provide guidance to the person, or recommend to the person that corrective measures be taken, in relation to the accountability framework.

Required assessment

14 (1) For the purpose of determining whether an artificial intelligence system is a high-impact system or general-purpose system or whether a model is a machine learning model that is intended to be incorporated into a high impact system, the Commissioner may, by order, require that a person who makes available or manages the system, or who makes the model available for incorporation, provide the Commissioner with

- (a) the person's assessment of whether the system is a high-impact system and, if so, of the class or subclass within which its intended use falls;
- (b) the person's assessment of whether the system is a general-purpose system;
- (c) the person's assessment of whether the model is a machine learning model that is intended to be incorporated into a high-impact system; and
- (d) any information that is relevant to the making of an assessment referred to in any of paragraphs (a) to (c).

Notification

(2) The Commissioner must notify the person in writing of whether the Commissioner agrees with an assessment provided under any of paragraphs (1)(a) to (c) and provide reasons in support of their agreement or disagreement.

Audit

15 (1) If the Commissioner has reasonable grounds to believe that a person has contravened or is likely to contravene any of sections 6 to 12, a provision of the regulations or an order made under section 13, 14, 16 or 18, the Commissioner may

- (a) conduct an audit with respect to the possible contravention;
- (b) require, by order, that the person conduct the audit; or
- (c) require, by order, that the person engage the services of an independent auditor to conduct the audit.

Qualifications

(2) An audit conducted under paragraph (1)(b) or (c) must be conducted by a person who meets

(b) replacing line 32 on page 90 to line 6 on page 91 with the following:

Powers of Commissioner

(2.1) For the purpose of conducting an audit, the Commissioner may

- (a)** enter any place other than a dwelling-house and
 - (i)** examine anything found in the place,
 - (ii)** use or cause to be used any computer system at the place, including for the purpose of gaining access to any electronic data,
 - (iii)** use or cause to be used any copying equipment in the place or copy any electronic data found in or accessed from the place, and
 - (iv)** remove anything from the place for examination or copying;
- (b)** conduct or cause to be conducted any testing of an artificial intelligence system or machine learning model; and
- (c)** by order, require that the person being audited provide the Commissioner with any specified information.

Remote access

(2.2) For the purposes of paragraph (2.1)(a), the Commissioner is considered to have entered a place when they access it remotely by a means of telecommunication.

Limitation on remote access

(2.3) The Commissioner may access a place that is not accessible to the public remotely by a means of telecommunication only if they do so with the knowledge of the owner or person in charge of the place. The Commissioner must be remotely in the place for no longer than the period necessary for the purpose of conducting the audit.

Assistance

(3) The person who is audited must give all assistance that is reasonably required to enable an audit to be conducted.

Copy to person

(3.1) If the Commissioner conducts an audit, the Commissioner must provide the person who is audited with a copy of the audit report.

Copy to Commissioner

(4) The person who is audited must provide the Commissioner with the audit report, in the case of an audit conducted under paragraph (1)(b) or (c).

Cost

(5) The cost of an audit conducted under paragraph (1)(b) or (c) is payable by the person who is audited.

Delegation

(6) The Commissioner may delegate the conduct of an audit under paragraph (1)(a) and any of the powers set out in subsection (2.1) to an employee in the department over which the Minister presides.

Minister may request audit

15.1 The Minister may request that the Commissioner conduct an audit under paragraph 15(1)(a), in which case the Commissioner must

- (a)** conduct the audit, if the Commissioner has the reasonable grounds referred to in subsection 15(1); or
- (b)** if there are no such reasonable grounds, refuse the Minister's request and provide the Minister with written reasons for the refusal.

For greater certainty

15.2 For greater certainty, the Commissioner's power to require the provision of documents or other information under subsection 13(1) or 14(1) or paragraph 15(2.1)(c) includes the power to require the provision of personal information or confidential business information.

Moved by

Bill C-27
Clause 39
Pages 91 and 92

That Bill C-27, in Clause 39, be amended by

(a) replacing lines 8 to 10 on page 91 with the following:

(a) implement any measure specified in the order to bring the person into compliance with, or to remedy any contravention of, this Act; or

(b) cease making an artificial intelligence system available or cease its operations, if the Minister is satisfied that it is not possible in the circumstances to bring the person into compliance with this Act or to remedy the contravention.

(b) replacing lines 12 to 15 on page 91 with the following:

son who makes a high-impact system or general-purpose system available, or who manages the operations of such a system, cease making it available or cease its operations if the Minister has reasonable grounds to believe that the use of the system gives rise to a risk of imminent and serious harm.

(c) replacing lines 27 to 29 on page 91 with the following:

Minister or Commissioner under this Part must comply with the order.

Filing – Federal Court

20 The Minister or Commissioner may file a certified copy of an order made under any of sections 13 to 15 and 16 to 18 in the Federal Court

(d) replacing line 1 on page 92 with the following:

Statutory Instruments Act

21 An order made under any of sections 13 to 15, 16 and 18

Moved by

That Bill C-27, in Clause 39, be amended by

(a) replacing line 5 on page 92 with the following:

tion that is obtained by the Commissioner under this Part does

(b) replacing lines 7 to 9 on page 92 with the following:

so obtained or that it has been disclosed by the Commissioner under section 25 or 26.

Obligation — confidentiality

23 Subject to sections 24 to 26, the Minister and the Commissioner must take

(c) replacing line 11 on page 92 with the following:

tial business information that they obtain under

(d) replacing line 13 on page 92 with the following:

Disclosure of confidential business information — subpoena, warrant, etc.

24 The Minister and the Commissioner may disclose confidential business in-

(e) replacing line 19 on page 92 with the following:

Disclosure of information — analyst

25 (1) The Commissioner may disclose any information that is

(f) replacing lines 22 to 24 on page 92 with the following:

Conditions — confidentiality

(2) The Commissioner may impose any condition on the analyst in order to protect the confidentiality of information that the Commissioner discloses.

(g) replacing line 29 on page 92 to line 3 on page 93 with the following:

Disclosure of information — others

26 (1) The Commissioner may disclose any information obtained under this Part to any of the following recipients if the Commissioner has reasonable grounds to believe that the information may be relevant to the administration or enforcement by the recipient of another Act of Parliament or an Act of a provincial legislature:

(h) adding after line 8 on page 93 the following:

- | (d.1) the Office of the Superintendent of Financial Institutions;
- | (d.2) the Financial Consumer Agency of Canada;
- | (d.3) the Financial Transactions and Reports Analysis Centre of Canada;
- | (d.4) the Minister of Health;
- | (d.5) the Minister of Transport;

(i) adding after line 13 on page 93 the following:

| (e.1) any provincial government agency or body that regulates or supervises financial institutions;

(j) replacing lines 16 to 24 on page 93 with the following:

Restriction

(2) The Commissioner may disclose personal information or confidential business information under subsection (1) only if they are satisfied that the recipient will maintain the confidentiality of the information except as necessary for the purpose of enabling the recipient to administer or enforce the Act in question.

(k) adding after line 27 on page 93 the following:

Disclosure to Commissioner

26.1 Despite any other Act of Parliament, the following persons and entities may disclose any information in their possession to the Commissioner for the purposes of the administration and enforcement of this Part if they have reasonable grounds to believe that the information is relevant to those purposes:

- | **(a)** the Privacy Commissioner;
- | **(b)** the Canadian Human Rights Commission;
- | **(c)** the Commissioner of Competition;
- | **(d)** the Canadian Radio-television and Telecommunications Commission;
- | **(e)** the Office of the Superintendent of Financial Institutions;
- | **(f)** the Financial Consumer Agency of Canada;
- | **(g)** the Minister of Health;
- | **(h)** the Minister of Transport.

Moved by

Bill C-27
Clause 39
Page 97

That Bill C-27, in Clause 39, be amended by

- (a) deleting lines 11 and 12 on page 97;
- (b) adding after line 16 on page 97 the following:

Administration and enforcement

(3) The Commissioner must administer and enforce this Part in a manner that takes into account the variety of persons who are subject to any of the requirements set out in sections 6 to 12, including the nature and size of their businesses.

Absence, incapacity or no designation

(4) If the Commissioner is absent or incapacitated or if no Commissioner is designated, the Minister is to exercise the powers and perform the duties and functions of the Commissioner.

Arrangements

33.1 The Commissioner may enter into arrangements with any of the following persons and entities in respect of artificial intelligence systems for the purpose of assisting any of the persons and entities in the exercise of their powers or the performance of their functions and duties:

- (a) the Privacy Commissioner;
- (b) the Canadian Human Rights Commission;
- (c) the Commissioner of Competition;
- (d) the Canadian Radio-television and Telecommunications Commission;
- (e) the Office of the Superintendent of Financial Institutions;
- (f) the Financial Consumer Agency of Canada;
- (g) the Financial Transactions and Reports Analysis Centre of Canada;
- (h) the Minister of Health;
- (i) the Minister of Transport.

Moved by

Bill C-27
Clause 39
Page 97

That Bill C-27, in Clause 39, be amended by adding after line 30 on page 97 the following:

Annual report

35.1 Before July 1 of each calendar year, the Commissioner must prepare a report on the administration and enforcement of this Part during the previous calendar year and must cause the report to be published on a publicly available website.

Moved by

Bill C-27
Clause 39
Page 98

That Bill C-27, in Clause 39, be amended by replacing lines 1 to 8 on page 98 with the following:

- (b)** for the purposes of sections 7, 8, 8.2 to 10.1, 11 and 12, subject to section 37;
- (c)** respecting the data used in the development of, or the making of changes to, an artificial intelligence system;
- (d)** respecting measures to be taken before making an artificial intelligence system available;
- (e)** respecting the making available of artificial intelligence systems and the operations of artificial intelligence systems;
- (e.1)** respecting the advertising or labelling of artificial intelligence systems;

Moved by

Bill C-27
Clause 39
Page 98

That Bill C-27, in Clause 39, be amended by adding after line 12 on page 98 the following:

Amending schedule — Governor in Council

36.1 (1) The Governor in Council may, by regulation, amend the schedule by adding, varying or deleting a class or subclass of uses.

Factors to take into account

(2) In making a regulation under subsection (1), the Governor in Council must take into account

- (a)** the risk of adverse impacts that the class or subclass of uses of artificial intelligence systems that is to be added, varied or deleted may have on the economy or any other aspect of Canadian society and on individuals, including on individuals' health and safety and on their rights recognized in international human rights treaties to which Canada is a party;
- (b)** the severity and extent of those adverse impacts;
- (c)** the social and economic circumstances of any individuals who may experience those adverse impacts; and
- (d)** whether the uses in the class or subclass that is to be added, varied or deleted are adequately regulated under another Act of Parliament or an Act of a provincial legislature.

Moved by

Bill C-27
Clause 39
Page 98

That Bill C-27, in Clause 39, be amended by replacing lines 14 to 21 on page 98 with the following:

- (a)** prescribing information for the purposes of subparagraph 7(1)(f)(iii), paragraph 9(1)(c) and subparagraph 11(1)(f)(iv);
- (b)** prescribing the records to be kept under paragraphs 7(2)(c), 8.2(1)(g), 9(2)(c), 10(2)(c) and 11(1)(i);
- (c)** prescribing, for the purposes of paragraphs 8(1)(a) and 11(1)(f), the time and the manner in which descriptions are to be published; and

Moved by

Bill C-27
Clause 39
Page 98

That Bill C-27, in Clause 39, be amended by adding after line 23 on page 98 the following:

Different treatment

37.1 Regulations made under sections 36 and 37 may distinguish among different categories of artificial intelligence systems.

Moved by

That Bill C-27 be amended by adding the following after page 101:

SCHEDULE 2

(Section 39)

SCHEDULE

(Subsection 5(1), paragraph 10.2(2)(a) and section 36.1)

High-Impact Systems — Uses

1	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.
2	The use of an artificial intelligence system in matters relating to <ul style="list-style-type: none"> (a) the determination of whether to provide services to an individual; (b) the determination of the type or cost of services to be provided to an individual; or (c) the prioritization of the services to be provided to individuals.
3	The use of an artificial intelligence system to process biometric information in matters relating to <ul style="list-style-type: none"> (a) the identification of an individual, other than in cases in which the biometric information is processed with the individual's consent to authenticate their identity; or (b) the assessment of an individual's behaviour or state of mind.
4	The use of an artificial intelligence system in matters relating to <ul style="list-style-type: none"> (a) the moderation of content that is found on an online communications platform, including a search engine or social media service; or (b) the prioritization of the presentation of such content.
5	The use of an artificial intelligence system in matters relating to health care or emergency services, excluding a use referred to in any of paragraphs (a) to (e) of the definition <i>device</i> in section 2 of the <i>Food and Drugs Act</i> that is in relation to humans.
6	The use of an artificial intelligence system by a court or administrative body in making a determination in respect of an individual who is a party to proceedings before the court or administrative body.
7	The use of an artificial intelligence system to assist a <i>peace officer</i> , as defined in section 2 of the <i>Criminal Code</i> , in the exercise and performance of their law enforcement powers, duties and functions.