October 30, 2023

The Honourable François-Philippe Champagne, P.C., M.P.
Minister of Innovation, Science and Industry
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5

Sent by email to: ministerofisi-ministredeisi@ised-isde.gc.ca

Re: Bill C-27, *the Digital Charter Implementation Act, 2022*

Dear Minister:

Chartered Professional Accountants of Canada (CPA Canada) is pleased that Bill C-27, the *Digital Charter Implementation Act, 2022*, is currently before the House of Commons Standing Committee on Industry and Technology and hopes that the bill continues to progress through Parliament expeditiously.

Representing more than 220,000 members, CPA Canada is one of the largest national accounting bodies worldwide. Domestically, CPA Canada works cooperatively with the provincial, territorial, and Bermudian CPA bodies who are charged with regulating the profession. Globally, it works together with the International Federation of Accountants and the Global Accounting Alliance to build a stronger accounting profession worldwide. This collaboration allows the Canadian profession to champion best practices that benefit business and society, as well as prepare its members for an ever-evolving operating environment featuring unprecedented change. CPA Canada also supports the independent structure of accounting, audit and assurance, and sustainability standard setting in Canada.

Data and artificial intelligence (AI) governance are key areas of focus for the Canadian accounting profession. The CPA profession has a long history of developing standards and frameworks that support meaningful, independent assurance that can improve trust and confidence in information and systems used for decision making. CPA Canada is actively involved with the Standards Council of Canada AI and Data Governance

Standardization Collaborative[1], and we have published extensive research and guidance on emerging technologies and digital trust[2] which is relevant to this legislation.

Consumer Privacy Protection Act

We are supportive of the proposed *Consumer Privacy Protection Act (CPPA).* This is vital legislation that is needed to protect Canadians' personal information and to enable Canadian businesses to compete in the digital economy. CPA Canada also contributed to the National Digital and Data Consultation and public consultations on the modernization of the *Personal Information and Protection of Electronic Documents Act (PIPEDA).*[3] In our submission to the PIPEDA consultations, we discussed issues related to accountability and transparency through informed consent, data mobility, data trusts, and the value of standards and codes of practice. We are pleased to see much of that advice reflected in Bill C-27.

Artificial Intelligence and Data Act

The introduction of Canada's first artificial intelligence (AI) legislation, the *Artificial Intelligence and Data Act (AIDA)* represents a significant change to the legislation since it was first introduced in the 43rd Parliament. We are supportive of policies that enhance trust in AI systems and establish requirements over their design, development, and use. There is a need for a coordinated and comprehensive federal government approach to AI-related risks and opportunities. We are pleased to see your openness to reviewing various aspects of the legislation and note the recently proposed key amendments to the Bill in response to feedback received.

Given the significance of this proposed legislation and its widespread implications, we recommend that you consider separating the AIDA from Bill C-27 and undertaking further consultation. We are concerned that further debate on the AIDA may result in unnecessary delay to the passage of the Consumer Privacy Protection Act which has already benefited from extensive consultation.

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[1] Standards Council of Canada, *AI and data governance*, https://www.scc.ca/en/flagships/data-governance.

[2] CPA Canada, *Technology resources for CPAs*, https://www.cpacanada.ca/en/business-and-accounting-resources/other-general-business-topics/information-management-and-technology/publications/tech-resources-for-cpas.

[3] CPA Canada, *Submission in response to Strengthening Privacy for the Digital Age*, January 2020, https://www.cpacanada.ca/en/public-interest/public-policy-government-relations/policy-advocacy/data-governance.

Our review of the AIDA and the accompanying discussion documents issued by ISED[4] prompted many questions around the consistency of the legislation with proposed or pending international AI regulations. We recommend that further consideration be given to the following to maximize effectiveness of the AIDA:

Definitions in the AIDA

The AIDA should have definitions that are broad enough and generally accepted so that they can be used for different purposes to avoid the same terms being defined differently in different legislation. Definitions should be expanded to address a broader set of risks related to AI systems beyond those related to data including, but not limited to, algorithmic accuracy, robustness, safety, fairness, and explainability. Consistency of definitions with those in other global regulatory schemes, such as the definitions of "harm" and "high-impact" vs. "high-risk" AI systems, should also be considered.

Scope and effectiveness of the AIDA

Considering the design of the current iteration of the AIDA, we question whether the AIDA would benefit from including further detail. While we recognize the benefits of adopting a principles-based approach in the AIDA with much of the substance to be included in future regulations, it is important to consider whether the right balance has been achieved to enable effective regulatory compliance and enforcement.

We note the AIDA currently excludes the public sector and question whether this is the right approach to instilling universal trust in the use and management of AI systems in Canada. By excluding the public sector from the AIDA, a separate piece of legislation will be needed to create a parallel framework for use of AI by government. It should be considered whether this is appropriate for effectively managing the risks associated with AI systems used by the public sector, or whether this can be managed by having exemption clauses for use cases related to the safety, protection, and defence of citizens. We believe there is value in a single regulatory framework for all AI use cases, whether private or public.

The role of independent third-party assurance/audit in the legislation

Independent third-party assurance can help to build trust in the design and deployment of AI systems.

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[4] Innovation, Science and Economic Development Canada, *The Artificial Intelligence and Data Act (AIDA) – Companion document*, downloaded from https://ised-isde.canada.ca/site/innovation-better-canada/en/artificial-intelligence-and-data-act-aida-companion-document.

Proposed regulatory frameworks should recognize and consider how assurance should be applied to the AI supply chain, including adequate consideration around the issues of accountability, transparency, and explainability of AI systems, as well as the intersection with privacy and cybersecurity.

The role of independent third-party assurance is a critical governance and control mechanism that should be considered for all high-risk AI systems, and not just those with regulatory infractions as described in s. 15 of the Act. When conducting an audit of an AI system, there are many variations on the nature, scope, and outcome of the audit. When specifying audit obligations, the AIDA should also specify whether the audit is of the management system over the AI lifecycle, the conceptual soundness of the algorithmic model and its output, the privacy and protection of the data use by and/or produced by the AI system, among other considerations.

It is also important to consider who would be permitted to conduct these assurance/audit engagements and what qualifications would be needed.

T*i*meliness of legislation

Although our recommendation considers further study of the AIDA, we do emphasize that time is of the essence in getting this legislation right and in place in a timely manner to minimize the risk of the unintended harms presented by AI to the public.

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Thank you for consideration of our comments. We would be pleased to contribute our knowledge and expertise as you advance this important work. If the committee has any questions regarding the areas addressed in this submission, please contact James Richardson, Principal, Government Relations at jrichardson@cpacanada.ca.

Sincerely,

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rmcguire@cpacanada.ca

cc: Mr. Joël Lightbound, M.P.,
        Chair, House of Commons Standing Committee on Industry and Technology

        Ms. Miriam Burke,
        Clerk, House of Commons Standing Committee on Industry and Technology