

## Check against delivery

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C.D. Howe Panel

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## How Do we Ensure AI Innovation while Maintaining Privacy and Public Trust?

### Introduction

- Good morning. It's a pleasure to be here today and I'd like to thank the C.D. Howe Institute and the University of Waterloo for organizing the event, and the opportunity to be here.
- Today, I'll be focusing my remarks on the ways in which government, regulators, and public institutions can help foster the responsible adoption of AI in the public sector to drive innovation while, simultaneously, balancing and safeguarding privacy, accountability, transparency and ethical considerations.
- Many of us know about the benefits of AI and the possible risks and consequences of these technologies. Some risks include:
  - ensuring individuals have consented to their data being used to train AI systems;
  - the possibility of inaccurate results from AI systems; and
  - how these systems can make inferences or decisions that perpetuate discrimination against historically marginalized groups.
- When we extrapolate such risks to the present and future potential uses of AI in the public sector, for example to speed the delivery of government services, it greatly underscores the need for good governance.
- Part of good governance involves having clear and enforceable AI principles to protect our fundamental human rights.
- The IPC recognizes that innovation and modernization offer opportunities for more efficient, effective and responsive government that can help to improve public services.
- Such innovation and modernization is already happening in the public sector.
- For example:
  - The [City of Toronto](#) is piloting a project to fight traffic congestion by integrating AI with cameras and sensors to adjust traffic lights and

optimize traffic flows.

- And the [City of Edmonton](#), uses AI systems to identify and track the movement of wildlife in the city, to learn more about where humans and wildlife are likely to interact, and help reduce negative impacts.
- However, innovation thrives when there is regulatory certainty. How can we move forward towards this goal, while also ensuring that privacy rights are protected?

### **AI principles, no-go zones, and risk-based approach**

- Over the past few years, our office has strongly advocated to the provincial government that there is a need establish clear, coherent, and effective AI guardrails.
- Last year, the IPC issued a [joint statement](#) with the Ontario Human Rights Commission. In it, we urged the provincial government to develop and implement effective guardrails for the use of AI technology in the public sector, addressing safety, privacy, accountability, transparency, and human rights.
- Such rules are necessary for Ontario to fully derive the benefits of AI technologies in a way that is ethically responsible, accountable, sustainable, and supported by public trust.
- Earlier this year the Ontario government tabled Bill 194 that, amongst other things, would create conditions to regulate the use of AI by public sector entities.
- This bill would apply to provincial and municipal public institutions, as well as institutions that deal with children's data, school boards, and children's aid societies.
- Bill 194 would set out, *through regulation I would note*, requirements with respect to transparency, accountability, risk management, technical standards and oversight, as well as certain prohibited uses.
- While this represents an important step, the IPC filed a [submission](#) with the Legislative Assembly on how the bill could be improved. You can find the submission on our website.
- Our office recommends that the law enshrine clear statutory guardrails around the use of AI technologies, and not leave such fundamental matters to regulation, among other things.
- For example, we recommend that the development and deployment of AI must be valid and reliable; safe; privacy protective; transparent; accountable; and

human rights affirming.

- We've also recommended that certain prohibited practices, or no-go zones, be codified in the law. We believe there comes a clear threshold of risk, or certain harms, beyond which we should not venture as a society.
- Another key recommendation is the push for a risk-based regulatory approach to be adopted. Per a risk-based approach, rules and obligations on organizations developing or deploying AI systems impose higher requirements and stronger oversight and enforcement measures, commensurate with higher levels of risk or potential harm.
- Adopting this approach would provide the level of flexibility needed to adopt and deploy AI systems, while providing the commensurate level of protection to individuals and groups in terms of safety and rights.
- This approach is in line with several other statutes worldwide, including, the EU AI Act, Colorado's Consumer Protections for Artificial Intelligence, and Canada's Artificial Intelligence and Data Act (AIDA) in Bill C-27.
- Further to that, we've recommended there be a system of independent oversight to ensure accountability and help garner public trust in government's use of AI to serve and benefit *all* Ontarians.
- Having a strong regulatory framework in place can help to remove some of the ambiguity around how these tools can more safely and ethically be used.
- In turn, this can lead to greater clarity and certainty about the responsible use of AI and contribute to a growing driving force for businesses, governments, and the public sector to collaborate and spearhead innovation.

## **Harmonization**

- As we contemplate possible amendments associated with Bill 194, or subsequent regulations, we need to be mindful of taking a harmonized approach with other national and international regulatory regimes.
- Such an approach can help to avoid a patchwork between regions, countries, or even provinces.
- A harmonized approach contributes to collaboration and economic growth while, also, reducing uncertainty, mitigating potential risks and helping to promote public trust in the protection of our fundamental rights.
- The IPC, along with its provincial, federal, and territorial counterparts, recognized the need for a harmonized approach. To this end, we collectively published

## *Principles for Responsible, Trustworthy, and Privacy-Protective Generative AI Technologies.*

- These principles identify how every privacy regulator in Canada is thinking about these issues and outline the key tenets that organizations should consider when developing or using these technologies.
- This document lays out key principles when developing, providing, or using generative AI models, tools, products and services and provides examples of best practices, including building privacy into how AI tools are developed.
- Among the key privacy principles for using generative AI are actions that organizations should undertake, such as using anonymized, synthetic, or de-identified data.
- The topic of synthetic data came up in one of the IPC's Info Matters podcast episodes, where Commissioner Kosseim spoke with Dr. Khaled El Emam, Canada Research Chair in Medical Artificial Intelligence at the University of Ottawa. They discussed how synthetic datasets are made from real patient data and how such datasets can be used to advance important health research while minimizing privacy risks.
- With de-identification, the privacy of individuals is protected because de-identified data is not considered to contain personal information. Our office produced guidance on the [De-Identification of Structured Data](#) that provides a step-by-step process that institutions can follow when removing personal information from data sets.

### **Building public trust**

- In the absence of statutory AI principles from government both the public sector and businesses are left with some ambiguity. This may increase their hesitation about integrating or implementing AI tools.
- Public sector institutions may also not understand how to engage with private industry to build these tools into their programs and service delivery.
- These concerns can stagnate innovation.
- Clear AI principles can help to remove some of that ambiguity and help to foster a culture of innovation that builds public trust.

### **Conclusion**

- As you can see, our efforts to advocate for clear and effective guardrails for AI are important for innovation. They can help public and private sector

organizations adopt AI responsibly and safely, with more confidence, and faster.

- To conclude, I'd like to point out that the IPC is here as a resource. We're here to help.
- If your public institution is exploring the novel use of AI technologies, I encourage you to reach out to our Office.
- You can learn more about our [policy consultation](#) process on our website under Guidance for Organizations.
- We also have several resources available on our website.
- Our guidance document, [Privacy and Access in Public Sector Contracting with Third Party Service Providers](#) provides practical advice to identify access and privacy considerations when contracting with third-party service providers.
- Organizations considering the use of new technologies are also encouraged to complete privacy impact assessments, for which guidance is available on our website. It's an important step to assess the potential legal, ethical and social impacts of an AI tool, and amend your plan as needed to mitigate the risks involved.
- We have also addressed AI issues in our privacy investigations.
- Last March, the IPC [investigated](#) the use of AI-enabled proctoring software at McMaster University. We analyzed the university's compliance with existing law and recommended stronger measures to protect students' personal information. This included adopting an approach that balanced academic integrity and student privacy rights.
- We also made additional recommendations to address the broader privacy and ethical risks of the university's use of AI. You can find a copy of the report on our website too.
- In closing, AI gives us tremendous hope and opportunity for an exciting and innovative future. But we need to ensure that we use it responsibly and understand the long-term impact.