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Bill C-27 and the Proposed Artificial Intelligence and Data Act: Oversight of AI in Canada is Coming

On June 16, 2022, Canada's Minister of Innovation, Science and Industry introduced Bill C-27, titled "*An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts*" (short title, the *Digital Charter Implementation Act, 2022*), in the House of Commons.

While Parts 1 and 2 of Bill C-27 (relating to the *Consumer Privacy Protection Act* and the *Personal Information and Data Protection Tribunal Act*) are of great interest in the privacy law sector, this blog focuses on Part 3 of Bill C-27 and the proposed regulation of artificial intelligence ("AI") in Canada for the first time.

As described in the summary of Bill C-27, Part 3 would enact the *Artificial Intelligence and Data Act* (the "*AI Act*"), with a stated purpose:

...to regulate international and interprovincial trade and commerce in artificial intelligence systems by requiring that certain persons adopt measures to mitigate risks of harm and biased output related to high-impact artificial intelligence systems. That Act provides for public reporting and authorizes the Minister to order the production of records related to artificial intelligence systems. That Act also establishes prohibitions related to the possession or use of illegally obtained personal information for the purpose of designing, developing, using or making available for use an artificial intelligence system and to the making available for use of an artificial intelligence system if its use causes serious harm to individuals.

An "artificial intelligence system" is defined in the *Act* as "a technological system that, autonomously or partly autonomously, processes data related to human activities through the use of a genetic algorithm, a neural network, machine learning or another technique in order to generate

content or make decisions, recommendations or predictions”.

The *AI Act* includes requirements for AI developers relating to anonymizing data (section 6); assessing whether an AI system is a “high-impact system” (to be defined in regulations) (section 7); identifying, assessing and mitigating the risks of harm or biased output that could result from the use of a high-impact system (section 8); monitoring mitigation measures for a high-impact system (section 9); record keeping (section 10); publishing a plain-language description of the high-impact system (section 11); and notifying the Minister if the use of the high-impact system results or is likely to result in material harm (section 12).

The *AI Act* allows for the designation of an Artificial Intelligence and Data Commissioner, as well as the establishment of an advisory committee.

In addition to the general offences relating to AI systems described in the summary of Bill C-27, administrative monetary penalties, said to promote compliance and not to punish, are proposed, along with indictable and summary offences for those who contravene the requirements set out in sections 6 to 12 of the *AI Act*.

Bill C-27 is currently at second reading in the House of Commons, but with summer break about to begin, it is unlikely to move forward until Fall 2022. We will continue to keep you updated as it progresses, and as the oversight of AI in Canada continues to take shape.