



**Writers Guild
of Canada**

DGC and WGC submission to the House of Commons Standing Committee on Industry and Technology (INDU)

Bill C-27, 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

Proposed amendments to AIDA – Bill C-27

March 1st, 2024

A. Introduction

1. The Directors Guild of Canada (DGC) and the Writers Guild of Canada (WGC) wish to thank the members of the Standing Committee on Industry and Technology for the opportunity to file amendments to the Artificial Intelligence and Data Act (AIDA), as part of Bill C-27. We believe this is a vital piece of legislation as artificial intelligence (AI) technologies already affect different aspects of Canadian society. Now is the time for a responsible AI framework in Canada.
2. The DGC is a national labour organization that represents key creative and logistical personnel in the film, television and digital media industries. It was created in 1962 as an association of Canada's film and television directors. Today, it has over 7,000 members drawn from 47 different craft and occupational categories covering all areas of direction, production, editing and design of screen-based programming in Canada.
3. The WGC is the national association representing approximately 2,500 professional screenwriters working in English-language film, television, radio, and digital media production in Canada.
4. The DGC and WGC, along with other organizations in the creative sector, are deeply concerned about the unbridled use of generative AI and its impact on Canadian authors and creative workers of the screen industries. Generative AI technologies pose serious risks to creativity, as well as a number of legal and ethical considerations. Without transparency mechanisms applied to generative AI systems, the audiovisual industry risks seeing jobs displacement and elimination.
5. DGC and WGC members represent the creative fabric of Canada's audiovisual industry. Directors and writers are the co-authors and first copyright holders of an audiovisual work. Their work and livelihood are directly affected by both the input and output of generative AI tools. Failure to directly address these issues could weaken the economic and social foundations upon which Canadian culture relies.
6. A thriving Canadian creative ecosystem is based on the principles of the *Copyright Act*. Without rapid intervention, directors, writers and other key creative, rightsholders might not benefit from the existing protections and licensing mechanisms in place to ensure fair compensation, and which allow them to continue telling Canadian stories and sharing values that benefit us all.
7. Generative AI outputs cannot, and should not, be copyrightable, and any unauthorized copying of copyrightable works to train generative AI models is an infringement of copyright.

8. Moreover, it is nearly impossible for rightsholders to know when their works have been used without their consent in training AI models. Transparency in AI systems is the first step in defending authors' rights. This is a fundamental condition to secure a future where human creativity can flourish. Canada's creative sector and authors should be able to control whether their works are copied and used for AI training purposes, including through text and data mining.
9. In its current version, Bill C-27 lacks some important elements to establish safeguards for the creative community, authors and creatives. In the absence of clear and robust standards for general purpose AI-systems, which includes without limitation machine learning, large language models, and generative AI tools, the use of these technologies have the potential to create long-term collective damage to the structures in place for the creative industries.

B. Key recommendations to the Committee

10. At a minimum, the Committee should adopt amendments to ensure that Canadian authors are protected from any unauthorized and unpaid exploitation of their works. This can be summarized by ensuring the association of three concepts: consent, control and compensation. The latter should naturally arise from the first two.
11. The following amendments propose to edit or add provisions that address the legal uncertainty authors are currently in. We understand that our proposed amendments to the definition of "harm" and to section 7(1)(f) are also aligned with the modifications proposed by the Coalition for the Diversity of Cultural Expressions (CDCE). The proposed amendments are general enough to be adaptable to a variety of situations and contexts. They are based on the latest amended version of AIDA from November 2023.

C. Amendment – AIDA's definition of harm

12. The DGC and WGC believe that the concept of harm in AIDA, as it currently exists, is too narrow. The definition should be expanded to protect the collective economic and moral rights of authors, including directors and writers.

PART 1

Regulation of Artificial Intelligence Systems in the Private Sector

Interpretation

Definitions

harm means

- (a) Physical, psychological or reputational harm to an individual or to any other aspect of Canadian society;
- (b) damage to an individual's property; or
- (c) economic loss to an individual. (*préjudice*)

D. Amendments – Seeking authors' consent and complying with Canada's Copyright Act

13. As explained above, the use of a copyrighted protected work by an AI system should require the express consent of its author or copyright holder. Furthermore, no new copyright exception should be granted for text-and-data mining.
14. In addition to seeking the author's consent when training an AI system, the representative of the AI company should also be required to comply with Canada's Copyright framework. Without a clear mention of copyright principles, proper protection cannot be achieved. This approach is consistent with the European Artificial Intelligence Act, which requires that the EU copyright law applies outside the union to providers and deployers of AI-related activities.
15. The DGC and WGC propose the following changes to requirements applicable to General-purpose AI systems in AIDA:

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 including that
 - (i) any use of copyright protected works or other subject matter requires the consent of the copyright owner or other person authorized to provide consent; and

- (ii) the person must respect the *Copyright Act*, regardless of the jurisdiction in which the copyright-relevant acts underpinning the development of the general-purpose system takes place;

E. Amendment – Copyright transparency obligations

16. The draft European Artificial Intelligence Act presents effective mechanisms for enhancing the transparency of AI systems¹. It mandates that an AI system must furnish a detailed summary of the copyrighted content utilized for its training. This provision enables copyright holders to access a database, allowing them to assert and uphold their rights, and ultimately decide whether or not to license their content.

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

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

...

- (iii) a sufficiently detailed identification of the content used for training the system including how the data was obtained and selected, to facilitate copyright holders exercising and enforcing their rights under the *Copyright Act*, in accordance with the regulations; and any other information prescribed by regulation;

Respectfully submitted.

Directors Guild of Canada



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¹ [EU Artificial Intelligence Act, Recital 60k.](#)