PROTECTING CANADIAN PERFORMERS

ASSESSING THE IMPACT OF CANADA'S PROPOSED BILL C-27, *AIDA*

EXECUTIVE SUMMARY

The Alliance of Canadian Cinema Television and Radio Artists ("ACTRA"), on behalf of the Canadian performers it represents, presents this executive summary to analyze the risk that artificial intelligence technologies including, without limitation, machine learning, neural networks, large language models, and related generative and creative tools (collectively, "AI") pose to the livelihood of Canadian performers and, consequently, Canadian culture.

KEY RECOMMENDATION

ACTRA urges the Committee to remove Part 3 of Bill C-27 regarding The Artificial Intelligence and Data Act and for it to be reintroduced as a standalone bill, given the complexity involved and time and resources required to properly evaluate and amend the act to address the risks the new technology poses.

The new bill should ensure that Canadian performers will not be disadvantaged by the evolving AI technology, by giving proper attention to the three core principles noted below:

CONSENT

*performers should have the right to **consent** to, and be credited for, the use of their **Name, Image, Likeness Rights** (collectively, **NIL Rights**) in new works in the training of AI models.*

COMPENSATION

*performers should be **compensated** for all AI uses of their **NIL Rights**.*

CONTROL

*performers should be able to **control** the use of their **NIL Rights**.*

The future iteration of AIDA should ensure that Canadian performers' right to consent, control and obtain compensation for uses of their NIL Rights to mitigate against the risks of created by rapidly developing AI-technologies.

Should the Key Recommendation not be adopted, ACTRA makes four alternative recommendations:

DEFINITION OF "HARM"

"Harm" is currently defined in AIDA as (a) physical or psychological harm to an individual, (b) damage to an individual's property, or (c) economic loss to an individual. The harms noted above, however, are more systemic in nature and are unlikely to be captured in the definition's current form. The Commission should take care to ensure this definition, and the use of it throughout the statute, is "future proofed" in a way that addresses core, enduring human values, rather than a narrow view of individual harm.

HIGH-IMPACT SYSTEMS:

The text of AIDA was drafted before the release of ChatGPT and related proliferation of generative AI and related applications. The potential impacts of this technology, some of which are becoming increasingly clear as noted above, were accordingly not taken into consideration when AIDA was drafted. Given the potential long-term risks and the difficulty in addressing those risks through the concept of "harm" as noted above, ACTRA believes that all generative AI models should be specifically included as "High-Impact Systems" as defined in s. 5(1) of AIDA.

STATUTORY MINIMUMS

AIDA and related legislation should be amended to introduce (i) statutory minimums regarding the licensing of a performer's likeness that cannot be contracted out of, and (ii) the concept of "informed consent". With respect to the former, limitations to consider include per-use compensation for the use of the performer's likeness and maximum license terms, so that, for example, a single engagement does not result in indefinite and unlimited use of a performer's likeness. With respect to the latter, the viability of consent to the use of an individual's personal characteristics and biometric data in the training and deployment of AI systems should be contingent on such consent being informed on the intended and potential uses of such data and the model, as trained on such data.

SECURITY

AIDA should be amended to provide that data collected and used to generate a performer's voice and likeness will be subject to rigorous data privacy and security standards, with appropriate penalties for the mishandling of such data, to ensure that performers' (and others') comprehensive likenesses are not easily susceptible to theft.

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