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Bill C-27 including the *Artificial Intelligence and Data Act* studied by the Standing Committee on Industry (INDU)



**BRIEF** submitted jointly by **Access Copyright (AC)**, **Association nationale des éditeurs de livres (ANEL)**, **Association of Canadian Publishers (ACP)**, **Canadian Authors Association (CAA)**, **Copibec**, **Literary Press Group of Canada (LPG)**, **Regroupement des éditeurs franco-canadiens (REFC)** and **Union des écrivaines et des écrivains québécois (UNEQ)**



Members of the Standing Committee on Industry and Technology,



Literary Press Group  
of Canada

Further to the February 12, 2024, appearance of Me Stéphanie Hénault, Director of Legal Affairs of the Association nationale des éditeurs de livres (ANEL), at [Meeting 110](#) of the study of the first Canadian legislation that would regulate artificial intelligence (AI) systems specifically, our associations, which represent Canada's English and French publishing sectors,<sup>1</sup> are joining forces to propose essential amendments to Part 3 of Bill C-27, the *Artificial Intelligence and Data Act (AIDA)*.



The global publishing industry relies on copyright, particularly when it comes to the exclusive rights to authorize or prohibit the use of works and grant licenses in return for payment. These rights apply and must be respected when copyrighted works are used and reproduced in AI systems.



For copyright owners, the ability to grant or withhold permission in respect of such uses is as important as the compensation that should result, especially when the AI system's output would compete with the owner's work, substitute it, or infringe on the owner's moral rights, to name but a few resulting issues.

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<sup>1</sup> Descriptions of our associations are available in **APPENDIX 1**.

In North American markets, the U.K., Europe and elsewhere, rights holders are increasingly entering into commercial licensing agreements with AI developers to ensure that text and data mining (TDM) of their content is covered. This is in response to the growing number of copyright infringement cases against AI models.

In Canada, the licensing market for TDM is in its infancy. To encourage this nascent and important market, Part 3 of Bill C-27 should be amended to clearly state the need for responsible development and deployment of AI systems. This development and deployment must go through the correct procedures to ensure that AI complies with copyright law. Moreover, rigorous transparency requirements must be implemented, which should include publishing and providing information on content embedded in systems, similar to what has been proposed by [Europe's legislation that is specific to AI](#).

In the event that a developer, supplier, or user of AI infringes the [Copyright Act](#),<sup>1</sup> the current legislation is sufficient to allow owners to make infringement claims, as long as binding transparency obligations are put in place, as described above. However, Canadian legislation specifically governing AI must mirror that of Europe and, at a bare minimum, state the need to respect the *Copyright Act* and intellectual property rights in general, in order to prevent AI systems from being developed and deployed in an unclear, unfair and imbalanced manner.

**APPENDIX 2** sets out our proposed amendments to Bill C-27, in addition to those tabled in the fall of 2023 by the Honourable François-Philippe Champagne.

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<sup>2</sup> Our associations also took part in various consultations concerning the *Copyright Act*, including the [Consultation on Copyright in the Age of Generative Artificial Intelligence](#). Here are some of the briefs we submitted: [ANEL](#) (French only), [ACP](#) and [CDEC](#).

## APPENDIX 1

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### About the Signatory Associations

**Access Copyright** – Access Copyright is a collective voice of creators and publishers in Canada. A non-profit, national organization, we represent tens of thousands of Canadian writers, visual artists and publishers, and their works. Through agreements with sister organizations around the world, we also represent the works of hundreds of thousands of foreign creators and publishers. This rich repertoire of content is highly valued, by educators, students, researchers, corporate employees, and others who need to copy and share content. We license the copying of this repertoire to educational institutions, businesses, governments, and others. The proceeds gathered when content is copied, remixed, and shared are passed along to the copyright-holders. These investments help to ensure the continued creation of new and innovative works.

**Association nationale des éditeurs de livres (ANEL)** – The Association nationale des éditeurs de livres (ANEL) brings together the vast majority of French-language publishers in Quebec and Canada. Its mission is to support the growth of the publishing industry and ensure the visibility of Quebec and Franco-Canadian books nationally and internationally, particularly by advocating for copyright to be respected. Member publishers of our Association publish various types of works, from novels to textbooks, including essays and children’s books.

**Association of Canadian Publishers (ACP)** – The Association of Canadian Publishers contributes to the development and maintenance of vibrant, competitive book publishing companies, professionally managed, and owned and controlled in Canada, in order to support and strengthen the contribution that Canadian books make to Canada’s cultural, economic, and educational landscape. ACP represents approximately 115 Canadian-owned and controlled book publishers from across the country. The membership is diverse and includes publishers from a variety of genres. Over 80% of Canadian-authored titles are published by the Canadian-owned sector. This means a strong Canadian-owned sector is vital to the development of new Canadian authors and writers.

**Canadian Authors Association (CAA)** – The Canadian Authors Association provides writers with a wide variety of programs, services and resources to help them develop their skills in both the craft and the business of writing, enhance their ability to earn a living as a writer, and have access to a Canada-wide network of writers and publishing industry professionals. We are a membership-based organization for writers in all areas of the profession—aspiring, emerging and professional—in every genre and across all writing-related professions. As a not-for-profit national arts service organization with charitable status, much of what we do benefits all writers, whether they are members or are affiliated with us as partners or through other writing groups.

**Copibec** – Copibec is a Quebec collective management organization, a non-profit social enterprise specializing in copyright management. It represents over 30,000 authors and 1,300 publishers. Copibec provides users of copyright-protected material with simple and tailored solutions to meet their needs. At the international level, Copibec has entered into agreements with over 33 foreign copyright collectives, allowing the books, newspapers and magazines from other countries to be added to the catalogue. Its members include UNEQ, ANEL, RAAV, AJIQ, FPQJ, SODEP, Quotidiens du Québec, and Hebdomadaires du Québec.

**Literary Press Group of Canada (LPG)** – Founded in 1975, the LPG is a not-for-profit association that represents Canadian-owned and -operated literary book publishers from coast to coast. Our members produce books by some of Canada’s most innovative and creative writers, giving readers access to diverse voices that have not been well represented in mainstream publishing. In addition to their cultural contributions, LPG members are small businesses that support local economies through the full range of their business activities, from editorial, design, and production to marketing, sales, and distribution.

**Regroupement des éditeurs franco-canadiens (REFC)** – The Regroupement des éditeurs franco-canadiens was created to enable French-language publishers to conduct joint promotion, outreach and market development activities. It also promotes a partnership-oriented approach by encouraging cooperation among members and key stakeholders in the book industry, thereby ensuring that organizations committed to the cultural development of French-speaking communities in Canada engage in consultation, dialogue and collaboration.

**Union des écrivaines et des écrivains québécois (UNEQ)** – Founded in 1977, the Union des écrivaines et des écrivains québécois is a professional union dedicated to defending the socio-economic rights of literary artists and promoting Quebec literature. Recognized in 1990 as the most representative association of literary artists under the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters* (as well as the 2022 amended version) and accredited in 1996 by the Canada Industrial Relations Board for exclusive negotiation with federally regulated producers, UNEQ currently brings together nearly 1,800 members from all literary genres.

## APPENDIX 2

We are proposing the following four amendments to Bill C-27, see underlined text, adding them to those tabled in the fall of 2023 by the Honourable François-Philippe Champagne (reproduced in red):

### PART 3

#### Artificial Intelligence and Data Act

...

*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*)

...

#### **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 the respect of the *Copyright Act*, regardless of the jurisdiction in which the copyright-relevant acts underpinning the development of the general-purpose system takes place;
- (b) an assessment of the adverse impacts that could result from any use of the system that is reasonably foreseeable has been carried out in accordance with the regulations;
- (c) measures to assess and mitigate any risks of harm or biased output that could result from any use referred to in paragraph (b) have been established in accordance with the regulations;
- (d) tests of the effectiveness of the mitigation measures established under paragraph (c) have been carried out;
- (e) the features prescribed by regulation that permit human oversight of its operations have been included in the system;
- (f) a plain-language description has been prepared of
  - (i) the system's capabilities and limitations,
  - (ii) the risks of harm or biased output referred to in paragraph (c), and
  - (iii) a sufficiently detailed identification of the content used for training the system including how the data was obtained and selected, to facilitate a copyright holder's ability to exercise and enforce their rights under the *Copyright*

Act, in accordance with the regulations and any other information prescribed by regulation;

- (g) if the system generates digital output consisting of text, images or audio or video content,
  - (i) best efforts have been made so that members of the public, unaided or with the assistance of software that is publicly available and free of charge, are able to identify the output as having been generated by an artificial intelligence system, and
  - (ii) all measures prescribed by regulation have been taken so that members of the public are able to identify the output as having been generated by an artificial intelligence system;
- (h) all measures prescribed by regulation have been taken; and
- (i) an assessment of the person's compliance with paragraphs (a) to (h) has been carried out in accordance with the regulations by a third party who meets the qualifications that are prescribed by regulation.

## **Records**

(2) The person must keep

- (a) records demonstrating that the requirements set out in paragraphs (1)(a) to ~~(e), (g) and~~ (h) have been met;
- (b) records relating to the data and processes used in developing the general-purpose system and in assessing the system's capabilities and limitations; and
- (c) any other records prescribed by regulation.

If you have any questions regarding these suggestions, please do not hesitate to contact:

**Me Stéphanie Hénault**

*Director of Legal Affairs*

Associations nationales des éditeurs de livres

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Sincerely,

## **Access Copyright**

**Association nationale des éditeurs de livres**

**Association of Canadian Publishers**

**Canadian Authors Association**

**Copibec**

**Literary Press Group of Canada**

**Regroupement des éditeurs franco-canadiens**

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