



Thursday, March 11, 2020

Mr. Daniel Therrien (by email daniel.therrien@priv.gc.ca)

Privacy Commissioner of Canada

30 Victoria Street

Gatineau, Quebec

K2A 1H3

Re: Interactive Advertising Bureau of Canada – Submission on the Office of the Privacy Commissioner’s Proposals for Ensuring Appropriate Regulation on Artificial Intelligence

Dear Commissioner:

The Interactive Advertising Bureau (IAB) Canada on behalf of its members, would like to thank you for providing us with the opportunity to respond to the Office of the Privacy Commissioner of Canada’s (OPC) Consultation on “Proposals for Ensuring Appropriate Regulation of Artificial Intelligence.” As representatives of the Canadian digital advertising industry, we hope that our feedback and participation will be useful. We look forward to participating in further productive discussions as we collectively work toward modernizing our digital capabilities to bring Canada to the forefront of global digital innovation and economic growth while simultaneously protecting the rights and privacy of Canadian citizens.

Members of IAB Canada and the digital advertising industry at large have implemented AI, and have come to rely on it, in a wide array of use cases such as custom content, chatbots for customer service, and targeted marketing geared toward consumer preference. The Canadian online advertising industry is more prepared than ever to help navigate the

issues surrounding artificial intelligence (AI) that were tabled within the OPC's consultation document.

As data and its various uses are the cornerstone of the estimated \$8.5 billion Canadian digital advertising sector that employs more than 40,000 Canadians, it is imperative that the digital advertising industry is actively involved in practical discussions around any regulation involving privacy and AI. This will help to maintain a balanced approach to privacy and innovation that Canada is historically well-known for. At IAB Canada we have extremely active AI and Privacy committees, comprised of representatives from our member companies who would welcome the opportunity to come to Ottawa to discuss any future regulation.

About IAB Canada:

Established in 1997, IAB Canada is a not-for-profit association exclusively dedicated to the development and promotion of the rapidly growing digital marketing and advertising sector in Canada.

IAB Canada represents over 250 of Canada's most well-known and respected stakeholders in the digital advertising and marketing sector, including advertisers, advertising agencies, media companies, digital media publishers and platforms, social media platforms, adtech providers and platforms, data companies, mobile and video game marketers and developers, measurement companies, service providers, educational institutions, and government associations operating within the space. Our members include numerous small and medium-sized enterprises.

Companies in the digital advertising and marketing sector offer a wide range of highly innovative products and services, including valuable service offerings to individual Canadians. This sector is intensely competitive, and the long-term success of our members is fundamentally predicated on their ability to continually design, develop, offer and

improve valuable digital products and services through the use of AI.

IAB Canada has a long history of creating programs that are designed to promote the responsible growth of the online advertising industry in Canada. Notably, IAB Canada was the founding member of the self-regulatory Ad Choices Program developed to enable industry compliance within the PIPEDA framework and is currently leading modernization efforts of the program with the Digital Advertising Alliance of Canada (DAAC).

IAB Canada is the only organization fully dedicated to the responsible growth of digital/interactive advertising in Canada by delivering:

- Globally accepted digital ad standards;
- Advocacy for the Canadian digital advertising industry to the Canadian government;
- Trained human capital, through globally standardized courses, certification and custom workshops;
- Original Canadian digital marketing research; and
- Information to the industry and enhanced communication between members.

IAB Canada has been involved in many detailed discussions and consultations with both the OPC and the Innovation, Science and Economic Development (ISED) around privacy in general as well as impending amendments to PIPEDA. On behalf of the digital advertising industry, we recently [responded](#) to ISED's discussion document, "Strengthening Privacy for the Digital Age". It was our position that privacy laws should be enhanced to further protect both the privacy of Canadians and the growth of our digital economy. We continue to believe that our laws should be drafted in such a way to promote the rights of individuals and the responsible use of personal data by entities, while also advancing and sustaining innovation necessary to deliver products and services that consumers and businesses demand.

The purpose of this submission is to address the most recent proposals set out by the OPC that outline how PIPEDA should be reformed in order to bolster privacy protection and achieve responsible innovation in a digital era that includes AI systems. We believe that the government should take a balanced approach in reforming PIPEDA. Privacy concerns related to AI should be addressed to bolster citizens' trust in the digital economy, however, government should refrain from adopting prescriptive PIPEDA provisions in an effort to avoid inhibiting innovation in a growing digital Canadian economy.

Overview of IAB's Position

In regard to the numerous questions posed in the OPC's request for consultation, it is IAB's position that:

1. PIPEDA should remain technology-neutral
2. The application of AI should be governed by standards and codes of conduct
3. Adoption and innovation in AI should be supported to encourage economic growth

(1) Allowing PIPEDA to remain technology-neutral

PIPEDA remains particularly effective because it was drafted in a technologically neutral and sectoral-agnostic fashion. It is well-suited to address the seemingly novel privacy considerations that are raised by the emergence of new technological developments.

In reviewing and considering amendments to PIPEDA, it is critically important that the statute remains drafted in a technologically neutral manner. Any statutory amendments focused on certain data elements, technologies, processes, and/or ecosystems risk being obsolete or out-of-date soon after it comes into force. It is for this reason that IAB Canada does not support the inclusion of a definition of AI or AI controls in the law itself. We believe that the privacy principles embedded in PIPEDA and stipulated in Schedule 1 of the CSA Model Code for the Protection of Personal Information should stand the test of time. An individual and contextual approach to operationalize privacy into systems, processes and, technology, such as AI, is the most effective way to ensure compliance with PIPEDA

coupled with the establishment of a co-regulatory model and the development of Standards and Codes of Conduct.

(2) Including rules governing AI in the establishment of Standards and Codes of Conduct

IAB Canada supports the development and use of AI in business processes while also protecting individuals of their legal and human rights. The application of AI is context-driven and so too are the privacy and ethical concerns associated with its outcomes. As such, it is necessary to examine the use of AI within the sector or environment it plays a role in. Developing guidelines in the form of Standards or Codes of Conduct that is sectoral or technology-specific will be an effective tool in evaluating privacy and ethical concerns.

In our submission on privacy reform to ISED, IAB Canada expressed support for the development of a co-regulatory model where government regulation and industry self-regulation work in tandem. This dual, collaborative model, formally recognized in law, would be an efficient mechanism for balancing consumer protections and business needs while also complementing the heavy compliance responsibilities of regulators.

IAB Canada believes that industry Standards and Codes of Conduct should be recognized as tools that can help entities ensure compliance with PIPEDA and demonstrate accountability. Government should provide incentives to adhere to such Standards and Codes and the OPC should play a more active and public role in supporting, enabling and recognizing such codes. Entities should be encouraged to operationalize Standards and Codes of Conduct as a best practice.

Moreover, the development of Standards and Codes of Conduct in areas such as AI should involve a collective effort by industry stakeholders and be facilitated by the Standards Council of Canada. Obtaining a formal certification, recognized by the OPC, and accredited

by a third-party accreditation body, will represent a competitive differentiator for entities, who will gain consumer trust. Furthermore, certifications can also act as a risk management tool for entities as well as a method of demonstrating due diligence and proof of compliance with PIPEDA, Codes of Conduct and/or Standards (e.g. ethical AI).

(3) Supporting Canadian economic growth through adoption and innovation in AI

With leading tech hubs in Montreal, Edmonton, Waterloo, and Toronto, Canada has put itself on the global map with its work in AI. In 2018, upon announcing a significant investment in AI in Canada, Prime Minister Trudeau declared that “Artificial intelligence has the potential to unlock unprecedented social and economic benefits and keep our workers and our industries competitive in a rapidly changing economy. As a global leader in innovation, Canada is harnessing new technologies like artificial intelligence to shape a better future for all our citizens.” In conjunction with increased Canadian presence and investment by companies such as Uber, Google, Microsoft and Amazon, the Canadian economy and job market are seeing notable growth.

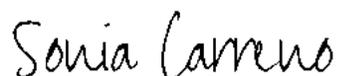
With significant government and corporate investment and support, many of our members including large scale marketers and Canadian publishers alike, have invested heavily in AI to intelligently and responsibly identify and segment audiences, build advertising creative, test variations, improve performance, and optimize spend—automatically, in real-time, and at scale. In today’s competitive market which is both dominated by global platforms and limited by 3rd party data restrictions, AI is virtually the only way for Canadian businesses to survive. The use of AI has provided a transformative and profound impact on our members’ competitive advantage in the Canadian digital advertising sector. AI tools allow advertisers to increase revenue, reduce costs, and develop an important competitive advantage. Custom content, chatbots for customer service and targeted marketing geared toward consumer preference are just a few of the ways in which AI works to serve Canadian consumers today within the digital advertising industry.

As we move toward a future reality where 3rd party data will become less available, marketers will need to develop and leverage any 1st party data they have rightful access to. Marketers will require the freedom and ability to be more creative and innovative with 1st party data and will need to find new ways to use AI to connect and serve their customers all within a privacy-first strategy. This new world will take time to navigate and adapt to and the freedom to explore and test new approaches and models should not be undermined. Being restricted to 1st party data will undoubtedly increase the cost of reaching consumers for most organizations, which will certainly impact their bottom line. A privacy regulation with prescriptive obligations around AI will not only magnify the current downside in our industry but will also further diminish the ability for businesses to deliver the products and services their customers have come to expect.

As AI becomes increasingly important to the future of Canada's digital economy, IAB Canada and its members look forward to engaging in an insightful and consultative process between both government officials and industry representatives to ensure individual rights are protected while also enabling the ethical application and evolution of AI use cases.

On behalf of IAB Canada, and all of its members, we thank you for the opportunity to communicate our position on the proposals being explored by the Office of the Privacy Commissioner. We look forward to a future collaborative approach to privacy and AI, through ongoing discussions with our sector. If you have any questions or require any further information, please do not hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads "Sonia Carreno". The signature is written in a cursive, flowing style.

Sonia Carreno
President, IAB Canada