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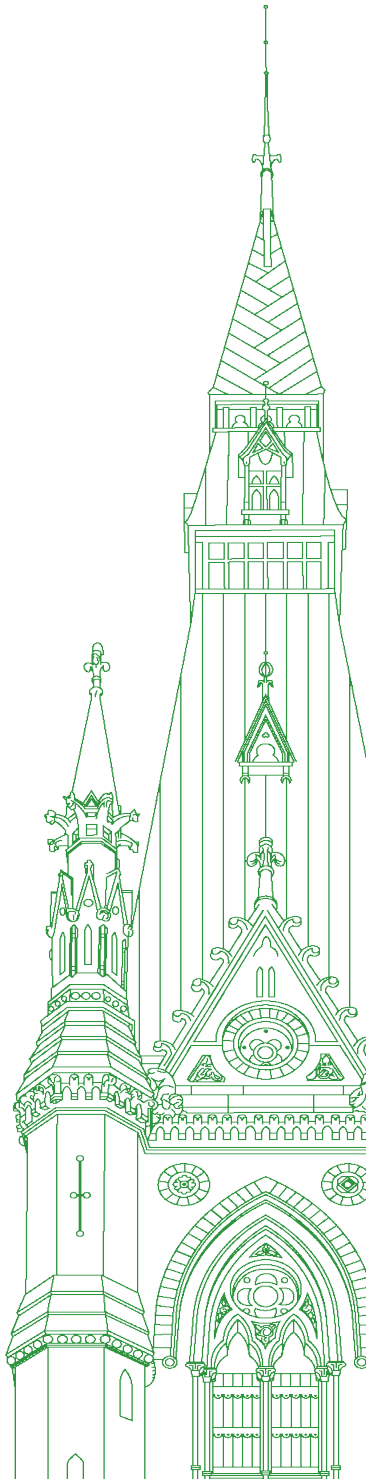

Chair: Mr. Joël Lightbound

Standing Committee on Industry and Technology

Wednesday, January 31, 2024

● (1750)

[*Translation*]

The Chair (Mr. Joël Lightbound (Louis-Hébert, Lib.)): Colleagues and friends, I call this meeting to order.

Welcome to meeting number 107 of the House of Commons Standing Committee on Industry and Technology.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders.

Before I introduce our witnesses, we have one quick piece of business, the election of the second vice-chair. Pursuant to Standing Order 106(2), the second vice-chair must be a member of an opposition party other than the official opposition.

I am now prepared to receive motions for the second vice-chair. Can someone submit Mr. Garon's name?

[*English*]

Colleagues, I need someone to....

It's Mr. Bittle.

[*Translation*]

It has been moved by Mr. Bittle that Jean-Denis Garon be elected as second vice-chair of the committee.

Since there are no other motions, do I have the unanimous consent of the committee to elect Mr. Garon as second vice-chair?

Some hon. members: Agreed.

(Motion agreed to)

The Chair: Mr. Garon, congratulations on your election as second vice-chair. Welcome. You have great responsibilities to take on, because Mr. Lemire has been very helpful in his years on the committee. He was a very good parliamentarian, but I'm sure you'll be up to the task. It's a pleasure to have you with us.

Before moving on to Bill C-27, I must also submit to the committee a proposal for supplementary estimates for our study of Bill C-27. It indicates that an amount of $6,000 is requested, and that amount is broken down.

Do I have the unanimous consent of the committee to adopt this budget proposal?

Some hon. members: Agreed.

(Motion agreed to)

The Chair: That's wonderful.

Pursuant to the order of reference of Monday, April 24, 2023, the committee is resuming consideration of 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.

I would now like to welcome the witnesses. We have Vass Bednar, executive director of the master of public policy in digital society program at McMaster University, who is joining us by videoconference. Also, from the University of Toronto, we have Andrew Clement, professor emeritus, Faculty of Information, who is also joining us by videoconference, as well as Nicolas Papernot, assistant professor and CIFAR AI chair.

Thank you to all three of you for being here.

[*English*]

I want to apologize for our being late to the committee. We had about 10 votes in the House of Commons. Because of the delay, we have until about 7 p.m. for the testimonies and the questions.

Without further ado, we will start with you, Madam Bednar, for five minutes.

Ms. Vass Bednar (Executive Director, Master of Public Policy in Digital Society Program, McMaster University, As an Individual): Thank you, and good evening.

My name is Vass Bednar. You heard that I run the master of public policy program in digital society at McMaster University, where I'm an adjunct professor of political science. I engage with Canada's policy community broadly as a senior fellow at CIGI, a fellow with the Public Policy Forum, and through my newsletter “Regs to Riches”. I'm also a member of the provincial privacy commissioner's strategic ad hoc advisory committee.

Thank you for the opportunity to appear. I appreciate the work of this committee. I do agree there is an urgent need to modernize Canada's legislative framework so that it's suited in the digital age. I also want to note I've been on a sabbatical of sorts for the past year, and I have not followed every detailed element of debate on this bill in deep detail. That made me a little bit anxious about appearing, but then I remembered that I am not on the committee; I am appearing before the committee, so I decided to be as constructive as I could be today.

As we consider this framework for privacy, consumer protection and artificial intelligence, I really think we're fundamentally negotiating trust in our digital economy, what that looks like for citizens and actually articulating what responsible innovation is supposed to look like. That's what gets me excited about the direction that we're going.

Very briefly, on the privacy side, it's well known, or it has been well said, that this is not the most consumer-centric privacy legislation we see from other jurisdictions. It does provide clarity for businesses, both large and small, which is good, and especially small businesses. I don't think the requirements for smaller businesses are overly onerous.

The elements on consent have been well debated. Zooming in on that language beyond what is necessary, I think, is such a major hinge of debate. Who gets to decide what is necessary and when? I think the precedent of consent, of course, is critical. I think about a future where, as people who are experiencing our online world, or exchanging information with businesses, there's just way more autonomy for consumers.

For example, there's being able to search without self-preferencing algorithms that dictate the order of what you see; seeing prices that aren't tailored to you, or even knowing there is a personalized dynamic pricing situation; accessing discounts through loyalty programs, without trading your privacy to use them; or simple things like returning to an online store that you've shopped at before without seeing these so-called special offers based on your browsing or purchase history.

That tension, I think, is probably going to be core to our continued conversation around that need for organizations to collect.

On algorithmic collusion, recent reporting from The New Statesman elaborated on how the prices of most goods now are set not by humans, but by automatic processes that are set to maximize their owners' gains. There's this big academic conversation about the line between what's exploitative and what's efficient. Our evolving competition law may soon begin to consider algorithmic collusion, which may also garner more attention through advancements on Bill C-27 as it prompts the consideration of the effects of algorithmic conduct in the public interest.

Again, very briefly on the AI side, I agree with others that the AI commissioner should be more empowered, perhaps as an officer of Parliament. That office needs to be properly funded in order to do this work. Note that the provinces may want to create their own AI frameworks as a way to solve for some of the ambiguities or intersections. We should embrace and celebrate that in a Canadian federalist context.

In the spirit of being constructive and forward-looking, I wonder if we should be taking some more inspiration from very familiar policy areas of labelling and manufacturing just to achieve more disclosure. For the layer of transparency that's proposed for those who manage a general purpose AI system, we should ensure that individuals can identify AI-generated content. This is also critical for the result of any algorithmically generated system.

We probably need either a nutrition facts label approach to privacy or a registration requirement. I would hope we can avoid onerous audits, or kind of spurring strange secondary economies, that sprout and maybe aren't as necessary as they seem. Having to register novel AI systems with ISED, so the government can keep tabs on potential harms and justifications for them entering into the Canadian market, would be helpful.

I will wrap up in just a moment.

Of course, we, you, should all be thinking about how this legislation will work with other policy levers, especially in light of the recently struck Digital Regulators Forum.

● (1755)

Much of my work is rooted in competition issues, such as market fairness and freedom. I note that in the U.S., the FTC held a technology summit on artificial intelligence just last week. There it was noted, “we see a tech ecosystem that has concentrated...power in the hands of a small number of firms, while entrenching a business model built on constant surveillance of consumers.” Canadian policy people need to be more honest about connecting these dots. We should be doing more to question that core business model and ensure we're not enshrining it, going forward.

I have a final, very quick worry about productivity, which I know everyone is thinking about.

I have a concern that our productivity crisis in Canada will fundamentally act, whether implicitly or explicitly, to discourage regulation of any kind over the phantom or zombie risk of impeding this elusive thing we call innovation. I want to remind all of you that smart regulation clarifies markets and levels the playing field.

Thanks for having me.

[*Translation*]

The Chair: Thank you very much, Ms. Bednar.

I'll now give the floor to Professor Clement.

[*English*]

Professor Andrew Clement (Professor Emeritus, Faculty of Information, University of Toronto, As an Individual): Thank you, Mr. Chair and committee members.

I am Andrew Clement, professor emeritus in the faculty of information at the University of Toronto. As a computer scientist who started in the field of artificial intelligence, I have been researching the computerization of society and its social implications since the 1970s.

I'm one of three pro bono contributors to the Centre for Digital Rights' report on C-27 that Jim Balsillie spoke to you about here.

I will address the artificial intelligence and data act, AIDA, exclusively in my remarks.

AI, better interpreted as algorithmic intensification, has a long history. For all of its benefits, from well before the current acceleration around deep neural networks, AI misapplication has already hurt many people.

Unfortunately, the loudest voices driving public fear are coming from the tech giant leaders, who are well known for their anti-government and anti-regulation attitudes. These “move fast and break things” figures are now demanding urgent government intervention while jockeying for industry dominance. This is distracting and demands our skepticism.

Judicious AI regulation focused on actual risks is long overdue and self-regulation won't work.

Minister Champagne wants to make Canada a world leader in AI governance. That's a fine goal, but it's as if we are in an international Grand Prix. Apparently, to allay the fears of Canadians, he abruptly entered a made-in-Canada contender. Beyond the proud maple leaf and his smiling at the wheel, his AIDA vehicle barely had a chassis and an engine. He insisted he was simply being “agile”, promising that if you just help to propel him over the finish line, all would be fixed through the regulations.

As Professor Scassa has pointed out, there's no prize for first place. Good governance isn't even a race but an ongoing, mutual learning project. With so much uncertainty about the promise and perils of AI, public consultation informed by expertise is a vital precondition for establishing a sound legal foundation. Canada also needs to carefully study developments in the EU, U.S. and elsewhere before settling on its own approach.

As many witnesses have pointed out, AIDA has been deeply flawed in substance and process from the get-go. Jamming it on to the overdue modernization of PIPEDA made it much harder to give that and the AI legislation the thorough review they each merit.

The minister initially gave himself sweeping regulatory powers, putting him in a conflict of interest with his mandate to advance Canada's AI industry. His recent amendments don't go anywhere near far enough to achieve the necessary regulatory independence.

Minister Champagne claimed to you that AIDA offers a long-lasting framework based on principles. It does not.

The most serious flaw is the absence of any public consultation, either with experts or Canadians more generally, before or since introducing AIDA. It means that it has not benefited from a suitably broad range of perspectives. Most fundamentally, it lacks democratic legitimacy, which can't be repaired by the current parliamentary process.

The minister appears to be sensitive to this issue. As a witness here, he bragged that ISED held “more than 300 meetings with academics, businesses and members of civil society regarding this bill.” In his subsequent letter providing you with a list of those meetings, he claimed that, “We made a particular effort to reach out to stakeholders with a diversity of perspectives....”

My analysis of this list of meetings, sent to you on December 6, shows that this is misleading. Overwhelmingly, ISED held meetings with business organizations. There were 223 meetings in all, of which 36 were with U.S. tech giants. Only nine meetings were with Canadian civil society organizations.

Most striking by their complete absence are any organizations representing those that AIDA is claimed to protect most, i.e., organizations whose members are likely to be directly affected by AI applications. These are citizens, indigenous peoples, consumers, immigrants, parents, children, marginalized communities, and workers or professionals in health care, finance, education, manufacturing, agriculture, the arts, media, communication, transportation—all of the areas where AI is claimed to have benefits.

● (1800)

AIDA breaks democratic norms in ways that can't be fixed through amendments alone. It should therefore be sent back for proper redrafting. My written brief offers suggestions for how this could be accomplished in an agile manner, within the timetable originally projected for AIDA.

However, I realize that the shared political will for pursuing this option may not currently be achievable. If you decide that this AIDA is to proceed, then I urge you to repair its many serious flaws as well as you can in the following eight areas at the very least:

First, sever AIDA from parts 1 and 2 of Bill C-27 so that each of the sub-bills can be given proper attention.

Position the AI and data commissioner at arm's-length from ISED, appropriately staffed and adequately funded.

Provide AIDA with a mandatory review cycle, requiring any renewal or revision to be evidence-based, expert-informed and independently moderated with genuine public consultation. This should involve a proactive outreach to stakeholders not included in ISED's Bill C-27 meetings to date, starting with the consultations on the regulations. I'm reminded here of the familiar saying that if you're not welcome at the table, you should check that you're not on the menu.

Expand the scope of harms beyond individual support to include collective and systemic harms, as you've heard from others.

Base key requirements on robust, widely accepted principles in the legislation and not solely in regulations or schedules.

Ground such a principles-based framework explicitly in the protection of fundamental human rights and compliance with international humanitarian law, in keeping with the Council of Europe's pending treaty, which Canada has been involved with.

Replace the inappropriate concept of high-impact systems with a fully tiered, risk-based scheme, such as the EU AI Act does.

Tightly specify a set of unacceptably high-risk systems for prohibition.

I could go on.

Thank you for your attention. I welcome your questions.

The Chair: Thank you very much, Professor Clement.

[*Translation*]

I'll now give the floor to Professor Papernot.

[*English*]

Professor Nicolas Papernot (Assistant Professor and Canada CIFAR AI Chair, University of Toronto and Vector Institute, As an Individual): Thank you for inviting me to appear here today. I am an assistant professor of computer engineering and computer science at the University of Toronto, a faculty member at the Vector Institute, where I hold a Canada CIFAR AI chair, and a faculty affiliate at the Schwartz Reisman Institute.

● (1805)

[*Translation*]

My area of expertise is at the intersection of computer security, privacy and artificial intelligence.

I will first comment on the consumer privacy protection act proposed in Bill C-27. The arguments I'm going to present are the result of discussions with professors Lisa Austin, David Lie and Aleksandar Nikolov, some colleagues.

[*English*]

I do not believe that the act in its current form creates the right incentives for adoption of privacy-preserving data analysis standards. Specifically, the act's reliance on de-identification as a privacy protection tool is misplaced. For example, as you know, the act allows organizations to disclose personal information to some others for socially beneficial purposes if the personal information is de-identified.

As a researcher in this field, I would say that de-identification creates a false sense of security. Indeed, we can use algorithms to find patterns in data, even when steps have been taken to hide those patterns.

For instance, the state of Victoria in Australia released public transit data that was de-identified by replacing each traveller's smart card ID with a unique random ID. The logic was that no IDs means no identities. However, researchers showed that mapping their own trips, where they tapped on and off public transit, allowed them to reidentify themselves. Equipped with that knowledge, they then learned the random IDs assigned to their colleagues. Once they had knowledge of their colleagues' random IDs, they could find out about any other trip—weekend trips, doctor visits—all things that most would expect to be kept private.

[*Translation*]

As a researcher in this area, that doesn't surprise me.

[*English*]

Moreover, AI can automate finding these patterns.

With AI, such reidentification can happen for a large portion of individuals in the dataset. This makes the act problematic when trying to regulate privacy in an AI world.

Instead of de-identification, the technical community has embraced different approaches to privacy data analysis, such as differential privacy. Differential privacy has been shown to work well with AI and can demonstrate privacy, even if some things are already known about the data. It would have protected the colleague's privacy in the example I gave earlier. Because differential privacy does not depend upon modifying personal information, this creates a mismatch between what the act requires and emerging best technical practices.

[*Translation*]

I will now comment on the part of Bill C-27 that proposes an artificial intelligence and data act. The original text was ambiguous as to the definition of an AI system and a high-impact system. The amendments that were proposed in November seem to be moving in the right direction. However, the proposed legislation needs to be clearer with respect to data governance.

[*English*]

Currently, the act does not capture important aspects of data governance that can result in harmful AI systems. For example, improper care when curating data leads to a non-representative dataset. My colleagues and I have illustrated this risk with synthetic data used to train AI systems that generate images or text. If the output of these AI systems is being fed back to them, that is, to train new AI systems, these new AI systems perform poorly. The analogy one might use is how the photocopy of a photocopy becomes unreliable.

What's more, this phenomenon can disparately impact populations already at risk of being the subject of harmful AI biases, which can propagate discrimination. I would like to see broader considerations at the data curation stage captured in the act.

Coming back to the bill itself, I encourage you to think about producing support documents to help with its dissemination. AI is a very fast-paced field and it's not an exaggeration to say that there are new developments every day. As a researcher, it is important that I educate the future generation of AI talent on what it means to design responsible AI. In finalizing the bill, please consider plain language documents that academics and others can use in the classroom or laboratory. It will go a long way.

● (1810)

[*Translation*]

Lastly, since the committee is working on regulating artificial intelligence, I'd like to point out that the bill will have no impact if there are no more AI ecosystems to regulate.

[*English*]

When I chose Canada in 2018 over the other countries that tried to recruit me, I did so because Canada offered me the best possible research environment in which to do my work on responsible AI, thanks to the pan-Canadian AI strategy. Seven years into the strategy, AI funding in Canada has not kept pace. Other countries have larger funding for students and better computing infrastructure, both of which are needed to stay at the forefront of responsible AI research.

[*Translation*]

Thank you for your work, which lays the foundation for responsible AI. I thought it was important to highlight these few areas for improvement in the interest of artificial intelligence in Canada.

I look forward to your questions.

[*English*]

The Chair: Thank you very much.

To start the conversation, I'll yield the floor to MP Rempel Garner.

You have six minutes.

[*Translation*]

Hon. Michelle Rempel Garner (Calgary Nose Hill, CPC): Thank you, Mr. Chair.

Welcome to all of you.

[*English*]

I'll direct my questions to Dr. Papernot and Dr. Clement.

I'll scope my questions specifically on the AIDA component of the bill.

Since this bill was last debated at this committee, there have been several, as you said, Dr. Papernot, real-life examples of where lack of a regulatory structure or application of current legislation has created ambiguity and potential social harm.

I'd like to begin with the issue of Canada's intimate image distribution laws and the fact that the Canadian Bar Association and many other legal professionals have said that Canada's existing laws may not adequately protect women, particularly in the distribution of deepfakes and deepnudes that have been put online.

Do you believe this bill provides a timeline or provisions that would protect Canadians in this regard?

I'll start with Dr. Clement.

Prof. Andrew Clement: Thank you for that question.

I don't believe that it offers a timeline for the concerns you raise, but I'm reminded that there has been in the works for years now an online harm's bill that has undergone extensive consultation, citizens' forums—

Hon. Michelle Rempel Garner: I have limited time. I'm just looking specifically at this bill. Do you believe this bill adequately covers that provision?

Prof. Andrew Clement: I would say not.

Hon. Michelle Rempel Garner: Thank you.

We have Dr. Papernot.

Prof. Nicolas Papernot: My comments here would be that the bill is not clear enough when it comes to monitoring AI system outputs, so this is very difficult, because we don't have very good visibility of how different users of an AI system could compose the outputs that they each get, then leading to harmful behaviour.

Hon. Michelle Rempel Garner: That would speak to the fact that this bill doesn't create the environment in which enforcement provisions could be adequately utilized by law enforcement professionals, should existing laws surrounding, let's say, intimate image distribution be expanded to cover artificial intelligence. Is that correct?

Prof. Nicolas Papernot: That's right.

Hon. Michelle Rempel Garner: I would then go to intellectual property ownership.

Since this bill was last debated at this committee, The New York Times undertook a very significant lawsuit against OpenAI and Microsoft for the use of their intellectual property in the creation and training of their large language models. Do you believe that the decision regarding intellectual property ownership, or the determination of intellectual property ownership, should be left to the courts, or should it be addressed in a more formal legal format?

Prof. Nicolas Papernot: I don't have the right expertise to comment on that. What I will say is that it's currently impossible, technically speaking, to trace the prediction that a model makes back to the data that it learned that behaviour from. It would be very difficult to trace back what the offending pieces of training data are that the copyright claims are being made with respect to.

● (1815)

Hon. Michelle Rempel Garner: Do you believe, though, that this speaks to the need for perhaps parliamentary oversight or legislative oversight on defining what constitutes intellectual property in terms of input in training large language models?

Prof. Nicolas Papernot: I'm not sure.

Hon. Michelle Rempel Garner: I'll go to Dr. Clement.

Prof. Andrew Clement: As the witness mentioned in his testimony, there's insufficient focus in this bill on curation, and curation of the training data is incredibly important. If, as he just said, you can't trace back where something has come from, that is a big problem in itself. The New York Times case is going to be a big one.

Hon. Michelle Rempel Garner: Do you believe there's something this committee could do, or that the government should be doing, again to have a legislative imperative as opposed to just leaving this to interpretations by the courts, which are using laws that did not anticipate this type of technology?

Prof. Andrew Clement: Copyright is not an area of my expertise, but I would say that updating the Copyright Act and then linking that into this bill would be a way to go.

Hon. Michelle Rempel Garner: [*Inaudible—Editor*] this bill to address the challenge that Canadians are facing with regard to AI regulation?

Prof. Andrew Clement: I'm sorry, but I missed the first part of your question.

Hon. Michelle Rempel Garner: Would you characterize that particular aspect as an example of how this legislation fails to adequately address or provide a proper and comprehensive regulatory framework to address some of the challenges that Canada is facing with regard to artificial intelligence governance?

Prof. Andrew Clement: I believe it is an area that is missing here or needs to be developed.

Hon. Michelle Rempel Garner: Dr. Papernot and Dr. Clement, simply put, do you believe this legislation is up to the task, is adequate, salvageable?

Dr. Clement, you had strong feelings on this.

Prof. Andrew Clement: Yes, I made clear that I don't think this is suitable AI legislation. Whether it's salvageable depends on what your criteria are. There are clearly many areas where it could be improved.

Hon. Michelle Rempel Garner: Do you also believe that Canada is at risk—because this is so inadequate—of promulgating regulatory systems that are put in place in either the EU or the United States through trade agreements like CUSMA and CETA? We haven't really thought about our own domestic frameworks before looking at how these provisions in these trade agreements could force us to promulgate the data ownership or AI regulations of other major jurisdictions.

Prof. Andrew Clement: I'll let my colleague address that.

Prof. Nicolas Papernot: In terms of the act, I don't think it's adequate in it's current form.

Hon. Michelle Rempel Garner: I have one very quick question.

The Chair: Be very quick, Madam Rempel Garner.

Hon. Michelle Rempel Garner: On effective accelerationism, would you say yes or no?

This is the mantra that's being espoused by Marc Andreessen and Yann LeCun that we should all leave AI to be self-regulated by industry and leave humanity to the vices of our benevolent AI overlords.

Prof. Andrew Clement: Absolutely no.

Prof. Nicolas Papernot: I think we both made it very clear that there is need for a consultation with more stakeholders in this process.

Hon. Michelle Rempel Garner: I would agree.

Thank you, Chair.

The Chair: Thank you very much.

MP Gaheer, the floor is yours.

Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.): Thank you, Chair. Thank you to all the witnesses for making time for this committee.

My first question is for Ms. Bednar.

In your opening testimony, you mentioned the term “algorithmic collusion”.

Could you elaborate on what that is, if you think it's already happening and how we are already seeing it?

Ms. Vass Bednar: I will do my best.

This is an area where we have complementary tools and levers that would go alongside this legislation right through our Competition Act. We also have provisions in the Competition Act under false and misleading advertising, which I think could be a helpful tool for some of the deception that people see or experience when they are communicated with or receive the result of an algorithmically generated decision or result.

On algorithmic collusion, the question there is, when these systems are speaking to each other to either determine a price or in bidding—we see that Walmart and other companies are using increasingly algorithmic systems to negotiate with other algorithmic systems—is this a form of digital collusion that we would say is unacceptable or is this just an advancement in terms of our efficiency or our ability to negotiate rapidly to set prices or other outcomes?

It's not my main area. It's an area of interest and curiosity. It's something I've been researching. I'm happy to defer to other witnesses, too.

● (1820)

Mr. Iqwinder Gaheer: Does anyone else want to speak on this?

Prof. Nicolas Papernot: The example I mentioned in my opening statement of the photocopy illustrates that when you have multiple AI systems interacting, it can eventually lead to very poor performance because they each respectively lose their ability to model the underlying phenomena.

We are currently studying this negative interaction in our lab. It's not going to help people who are already at risk of being harmed by AI.

Mr. Iqwinder Gaheer: Is this already happening?

I'm a lawyer. I'm not a competition lawyer. A simple example is when two companies sort of collude to set the price of bread, for example. When AI does this, is there any evidence? Is there a trail of evidence that this collusion has taken place or not?

Ms. Vass Bednar: I see that Andrew has his hand up.

Sorry, I don't know who you are directing it to because we're not on the floor.

Prof. Andrew Clement: I was just going to respond to the idea of algorithmic collusion.

The bigger issue, of which I think this is an example, is that we do not know how these algorithms are being used. That's all hidden and proprietary.

There are enormous financial market incentives for companies to take advantage of whatever they can about their data. There might be indirect collusion in terms of creating an environment where algorithmic amplification, reinforcement or however you want to go becomes quite powerful, but is still very opaque.

Mr. Iqwinder Gaheer: Thank you.

My next question is for Mr. Papernot.

You mentioned in your opening testimony that there are new developments in AI every single day and that it's an ever-changing field.

Can you talk to the committee more about the minister's suggested amendment on high-impact systems?

For high-impact classes, there will be a schedule. There's an initial list of high-impact classes that will be modified through regulation to keep it flexible as the technology advances.

Do you want to speak on that a little bit?

Prof. Nicolas Papernot: I think one issue with identifying specific systems as being high impact is we have to keep in mind that AI systems can impact other forms of algorithmic data analysis, and so again, the outputs that these systems make can influence other systems downstream. That's something, I think, to keep in mind so that we don't completely deregulate those that are not considered as high impact.

Mr. Iqwinder Gaheer: What system would you propose? How would you change the law as it's currently worded?

Prof. Nicolas Papernot: That's not my expertise.

Mr. Iqwinder Gaheer: This is generally open for the committee, but we've heard a lot of comparative pieces about the EU regulation and the regulation that we're proposing here. How does AIDA align with what's happening in the EU?

Prof. Nicolas Papernot: I will say that the European Union legislation has a similar issue that it relies too excessively on de-identification. As I mentioned in my statement, the fact that the privacy legislation puts too much emphasis on modifying personal information puts it at odds with what the technology that is currently being developed can do.

We're no longer in this world where we protect data by modifying it. We're protecting data by carefully analyzing it with guarantees that come from the way the data is analyzed, and so I think that just underlies the entire.... If you look at AIDA and CPPA, both of them rely too excessively on de-identification to be implementable in a world where people are going to analyze data with AI, and this is the same in other legislation, and it's the same in the European Union.

● (1825)

Mr. Iqwinder Gaheer: Thank you.

[*Translation*]

The Chair: Thank you very much, Mr. Gaheer.

Mr. Garon, you have the floor.

Mr. Jean-Denis Garon (Mirabel, BQ): Thank you, Mr. Chair.

I'd like to thank the witnesses for being here.

Professor Papernot, you talked about the fact that nothing in the bill currently guarantees that anonymity will be preserved. You also talked about de-identification or anonymization of data, for example. It seems to me that these methods existed before the advent of artificial intelligence, and that economists and statisticians have used them. You put noise in the data, you obtain a regression, and it produces the same result.

As you said, the algorithms are now able to handle the data in such a way that anonymity is no longer guaranteed. However, Part 1 of the bill is very specific about what we consider to be methods that guarantee anonymity. It seems to me that technology is changing very rapidly. Shouldn't there be broader regulations in order to move the framework of what we consider to be technologies that guarantee anonymity at a faster pace than the legislative pace?

Prof. Nicolas Papernot: I think the main problem is that the legislation only talks about anonymizing or de-identification of data, which are not the only ways to protect personal information. In fact, a number of other techniques can be used that will provide better guarantees, that will better protect individuals and that will make it possible to have more useful analyses for society. So—

Mr. Jean-Denis Garon: Let me interrupt you, Professor Papernot.

The problem I raised is that the bill lists methods that can supposedly guarantee anonymity. You mentioned others that could be included in the bill. If we were to talk again in five years, do you think you could tell us about new methods, methods that don't exist today?

Prof. Nicolas Papernot: I'm not recommending any other methods that will make it possible to obtain anonymity. Instead, I'm proposing other ways of protecting personal information that don't require arriving at an anonymized dataset.

In fact, the reasoning is wrong: It's impossible to anonymize data, since it can always be reidentified, which has been scientifically proven. The problem is that we cannot model what is already known about the individuals we are trying to protect. I gave the example of transportation data; people already had information on their colleagues and knew which times of the week they had taken the bus. That's what they were using to de-anonymize the data.

Mr. Jean-Denis Garon: I understand.

Prof. Nicolas Papernot: What I'm asking is that we look at all the other approaches that don't need to change the data, but rather try to change the analysis of the data. We can continue to use the data, but analyze it differently.

Mr. Jean-Denis Garon: In your opinion, that's not in the bill as it stands.

Prof. Nicolas Papernot: This isn't in the current bill at all. The most advanced techniques being researched today are not compatible with a bill—

Mr. Jean-Denis Garon: Since my time is running out, I'd like to ask you a question. Would you be prepared to submit to the committee an explanatory note on your suggestions in this regard?

Prof. Nicolas Papernot: Yes, of course. I have a written example of what I mean, which I can share with the committee.

Mr. Jean-Denis Garon: Thank you.

I would now like to come back to something that may seem innocuous. My colleague Ms. Rempel Garner asked you some questions and talked about copyright when our faces are used.

I understand that you may not have the necessary expertise, but you said that it wasn't always possible, based on the results of the model, to identify the faces used. Nevertheless, there are still problems related to the fact that you don't know what is being done with your face.

I'm asking you a very naive question. If a child is born tomorrow morning—so the child has never been identified on the Internet—would you suggest that I put the child's face on the Internet, given the current regulations?

● (1830)

Prof. Nicolas Papernot: No.

Mr. Jean-Denis Garon: Thank you very much. That sends a clear message about the confidence an expert like you may have in the current regulations. There are even people who say that this bill is inadequate and that we should tear it up and rewrite it.

Canadian regulations already exist. Indeed, other legislation directly or indirectly regulates artificial intelligence and data protection. Do you think that, if Bill C-27 were amended to reflect the advances, there would be a way to improve what we already have, or is it a waste of time?

Prof. Nicolas Papernot: The bill can be improved, of course.

I'll go back to what I was saying earlier. We have to take into account the new technologies that have been developed over the past 10 or 15 years and that allow us to think about the protection of personal information and the way we analyze that data. That is what will make it possible to innovate and continue to develop new algorithms and new artificial intelligence systems while protecting the individuals whose data is used to create those systems.

You have to change the part of the act that requires you to change the data to get that protection. It is that reasoning that is not valid.

Mr. Jean-Denis Garon: We need to look at data analytics.

Prof. Nicolas Papernot: That's correct.

Mr. Jean-Denis Garon: Thank you very much.

The Chair: Thank you, Professor Papernot and Mr. Garon.

Mr. Masse, you have the floor.

[*English*]

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

I'll start with our online guests first to get them involved in the conversation, Mr. Clement first and then Ms. Bednar.

Mr. Clement, you mentioned the number of meetings, 223 meetings, being with the business sector. One of the things brought up that I think is an interesting question was by Mr. Gaheer, and it was on the algorithms. I'm wondering, with only focusing consultations with the companies.... We've seen at this committee in the past, whether it be gas pricing, where there's vertical integration in the industry, where there's no real competition because refining is all done by a select group of corporations. In fact, you have some brand name gas that has basically moved from market to market. We've seen as well, too, specifically bread price fixing. We've also had the Competition Bureau in on that. We've even seen the CEOs admit to us they didn't even have to collude to get rid of hero pay for grocery store retailer staff. They got rid of it all on the same day. Miraculously they came to the same conclusion.

The question I have specifically is: Is there a potential, I guess through the private sector, to create algorithms that actually also reduce further competition? You don't even have to have collusion if you have a lack of competition, which we have in many markets in Canada.

I'll start with Mr. Clement on the concerns about more algorithms being used to define the Canadian marketplace against consumers.

Prof. Andrew Clement: Let's start with the big ones, particularly in the context of AI. There are only three or four companies at this point that have the financial and technical means to develop large language models, so you've already started off with a very highly concentrated market before you go much further. There might be competition amongst some of the adaptations of that, but that is the way the industry is going generally.

Of course it's very complicated. There are lots of things going on, but we're certainly in a position where the few large actors—think of Amazon—just have so much market power that they can shape markets to their interest.

I hope that answers your question.

Mr. Brian Masse: It does. It's something that I touched on through some correspondence and reading and that I don't think has gotten a lot of attention.

I'll go to Ms. Bednar with regard to the AI commissioner.

I'll give the minister credit. There have been some changes to the Competition Bureau. There has been some increased funding over the previous government by this government. There were some modest changes, but we still have a long way to go, in my opinion, to protect consumers.

On the AI commissioner, I'm wondering how we keep the AI commissioner in the game as artificial intelligence expands its horizons and, on top of that, for them to have the right tools and the right enforcement powers. That's what I'm really worried about, that we will have a commissioner who doesn't have the strength and doesn't have the budget to deal with some of the complications we get.

● (1835)

Ms. Vass Bednar: I share that concern that they may not be empowered enough or have the tools they need and that we want them to have.

I also want to say that a lot of the dangers we're talking about are exacerbated during these periods of regulatory lag where, during these periods, new business techniques that the laws are ambiguous on become the new normal. With algorithms negotiating with suppliers or setting prices, as this becomes a new normal, it's going to be harder for the state to have legitimacy to, say, renegotiate or to finally identify this behaviour as something that can be a concern.

I think there's a natural tension to have the AI work happening within ISED, and as we see some of this tension play out similarly on the competition side, Canadians would benefit from this individual having a stronger, more independent mandate, as well as a more independent voice.

Those are some quick thoughts. I know that others have made more substantive suggestions to this committee in that regard.

Mr. Brian Masse: That's very helpful. I appreciate it.

I'm going to move to Mr. Papernot with regard to having new enforcement in the private sector.

You mentioned how the funding for AI research has not kept pace. In a part of this bill, should we have a consideration almost like proceeds of crime, where conduct that results in that maybe goes to fund research for AI, specifically to address the problems we might face?

As you know, there are a lot of good things. We're focusing on the negative right now, but at the same time, I'm wondering how we keep up on the private sector. If there are problems, how do we fund solving those problems without it just going back onto the public?

Prof. Nicolas Papernot: It's a bit out of my expertise, and I don't want to do you a disservice by trying to figure out where the funds should come from. What I will say is that we do need a lot more funding if we want to sustain the AI talent pipeline that will be needed to enforce this, even if you just think about public employees who will need the right expertise to evaluate the claims that are being made about these AI systems. Right now, we are not going to be producing enough AI talent in Canada if the universities don't have more funding to support that work.

Mr. Brian Masse: I'm probably out of time, but really quickly, if there is that support from the Canadian public to actually fund that AI research and so forth, would that put a better sense of responsibility on AI companies to perform properly as to the conduct of the public if that training and that support are provided to give them the workforce that's necessary? Perhaps that would give us a bit of a carrot-and-stick approach to ethical AI.

Prof. Nicolas Papernot: Yes. I think that the more clarity this bill brings, the more it's likely that it will support the AI systems and the AI ecosystem in Canada.

I know that we have lots of private sector sponsors at the Vector Institute. One of the things they've mentioned to us is that they want more clarity, because they're often smaller structures. They see a lot of penalties being described in the bill, but they want to be able to continue innovating in Canada and not be attracted to other countries that have that clarity in terms of how to manage that risk in the longer term.

Mr. Brian Masse: Thank you.

Thank you, Mr. Chair.

The Chair: Thank you, MP Masse.

Before we start the second round, colleagues, I have to get to the House to support and speak to a bill. As such, I would ask unanimous consent to designate Brian Masse as our acting chair for the remainder of the meeting, if you don't mind.

Some hon. members: Agreed.

The Chair: I see that I have unanimous consent. I leave you in the capable hands of MP Masse.

I'll yield the floor to Mr. Williams for five minutes.

Mr. Ryan Williams (Bay of Quinte, CPC): Thank you, Mr. Chair.

Thank you to our witnesses.

Ms. Bednar, it's nice to see you again. Thank you for coming to the committee.

I want to talk about two things with you, expanding on competition. One is that there were amendments—and I don't know if you've seen them—from the minister that expanded the scope of the bill. One of them was to add general-purpose definitions for AI in the act. What I'm really looking at is whether this is making this uncompetitive.

My second question is that we had a witness at a previous meeting, Todd Bailey, who told the committee that there's a deliberate tactic by entrenched businesses to create regulatory capture, locking in a regulatory module around their business and products and keeping out new competitors.

Can you comment on both of those items as they relate to competition?

● (1840)

Ms. Vass Bednar: In terms of our being uncompetitive if we move forward with this legislation, there's a moment of competition in terms of policy design here. I think that, in the future, we should expect to see more policy harmonization or diffusion in the privacy space. What we're seeing now is kind of this global federalist context where different jurisdictions, for a variety of reasons and in their various geopolitical contexts, as MP Rempel was pointing to, are putting forward very particular frameworks. In Canada, our federalism is typically a strength for our policy design. The worst thing we could do now is treat public policy as if we still carve it in stone. This is going to be a living document that we should be looking at, updating and upgrading, especially as this technology continues to improve.

I'll go back to the consent element that we were just touching on. I mean, when the largest firms are saying that they're entitled to anything on the public web to inform their models and their business decisions, how can any firm compete with that kind of policy?

Finally, let's not treat privacy as if it's under-regulated or unregulated in our digital economy. The digital economy is highly regulated, mostly by private actors.

The regulatory capture element is always a concern in policy design if we're overlistening to certain actors, of course. However, as real as the problem of regulatory capture can be, I like to believe in my heart of hearts that all actors coming forward with ideas and concerns are doing so in the best possible spirit.

I hope that's helpful for you.

Mr. Ryan Williams: Thank you, Ms. Bednar.

Mr. Chair, I'm going to cede the rest of my time to Mr. Généreux.

[*Translation*]

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you to my colleague and to the witnesses.

Professor Clement and Professor Papernot, you may not have followed all the testimony since the beginning of this study, but a number of people have talked about consultations.

Professor Clement, you said that the minister had conducted about 300 consultations, but only with businesses. A number of people have told us that this bill was not well written, particularly because there had been no prior broader consultation. Can you confirm that I understood correctly what you said about that?

[*English*]

Prof. Andrew Clement: Yes.

[*Translation*]

Mr. Bernard Généreux: Professor Papernot, do you share that opinion?

Prof. Nicolas Papernot: Consultations will need to continue once the act is in force to understand the challenges of implementing it in line with technologies and their evolution over time.

Mr. Bernard Généreux: Yes, I understand.

The other point that has been raised a number of times is that the act has two complementary and completely separate components: artificial intelligence, and everything to do with privacy. So there are links to be made between the two.

On the other hand, as you mentioned, we have to adapt to new AI technologies, which are evolving rapidly, as well as to the regulations put in place in Europe, the United States and around the world.

Most of the experts who have come to testify, as you have, since the study of this bill began, have told us that there should have been consultations much earlier and that, in light of those consultations, those two elements would probably not have been combined in the same bill.

Today, however, we're studying a bill that contains two elements that most people feel should be separated. Do you also believe that they should be separated, that AI is an extremely important element that should be dealt with independently, and that there should be much broader consultations than what has been done so far?

Prof. Nicolas Papernot: I agree that AI is one way to analyze data, but there are many other ways to do it. So we need regulations on privacy, just as we do for AI. For the latter, the part of Bill C-27 that deals with it talks a lot about privacy, but there are a lot of other ways to—

● (1845)

Mr. Bernard Généreux: That's the most important thing.

Prof. Nicolas Papernot: Of course.

Mr. Bernard Généreux: I understand.

[*English*]

The Acting Chair (Mr. Brian Masse (Windsor West, NDP)): Thank you, Mr. Généreux.

Do you want a quick answer?

Mr. Bernard Généreux: Yes, I'd like to hear from Mr. Clement.

Prof. Andrew Clement: Yes, I've said that consultation is sadly in short supply around AIDA, and a lot of the problems that I think we see in AIDA would have been addressed if people had been able to, from a variety of perspectives, come in and present them.

What do you do now? Separating it, I think, would help. Whether it can be amended, I don't know. That's not for me, but, at this point, I think that, if it does get passed, we should build into it a review process so that, in an ongoing way, we can provide a broad-based updating of it, as others have said.

The Acting Chair (Mr. Brian Masse): Thank you very much.

We're now moving to Ms. Lapointe for five minutes.

[*Translation*]

Ms. Viviane Lapointe (Sudbury, Lib.): Thank you, Mr. Chair.

I want to congratulate Mr. Garon on passing his bill earlier this afternoon in the House.

[*English*]

My question is for Mr. Papernot.

On Monday, we heard from Gillian Hadfield, who's the chair of the Schwartz Reisman Institute. In her testimony here at committee, she said that the legislation concerned does a lot to address individual harms, but she also suggested that the legislation doesn't adequately address harms or risk on a systemic level, for example, trading on our financial markets.

The question I would have for you is: How does the introduction of AI into these systems impact our ability to control and to also ensure reliability of our financial markets or protect against antitrust behaviour and maintain trust in our judicial systems?

Prof. Nicolas Papernot: I don't have expertise in the financial markets. What I'll tell you is in terms of the transparency that AI systems lack. It's very difficult to understand how AI systems arrive at specific predictions from the data that they train from. It would be very difficult to understand how they have extracted patterns in historical financial data, for instance, to make the predictions that they make on the current market. That's probably the main problem.

The additional issue that I see is that you're going to have to provide some understanding to humans as to how these AI systems make their predictions. Again, there's a very difficult open problem to solve before we arrive at technology that is capable of doing that, and we risk seeing something that is similar to how we have greenwashing. We can have similar issues in AI systems, where the way that their predictions are justified can be disconnected from the way that the predictions are made by the AI systems, so that can lead to misleading claims about them not being biased and so on.

I would think that those two aspects are relevant to the financial markets in particular.

Ms. Viviane Lapointe: Can you offer the committee your expert opinion on legislating these systemic harms in a manner that can keep up with the technology? Should the onus be on technology design and developers?

Prof. Nicolas Papernot: I think what's important is to have a conversation. I think one example that comes to mind is the aerospace industry, where there's a really thorough process for surfacing errors that are being encountered in deployment. This is what we're missing in the AI industry, having a very clear protocol as to how we should surface bugs in the algorithms as they occur so that we can then figure out the solutions as engineers but also implement the right legislation to support these solutions.

That's something I would leave to you to see how we could draw inspiration from these regulated sectors like the aerospace industry.

● (1850)

The Acting Chair (Mr. Brian Masse): I see Mr. Clement has his hand up. Could we get him in on it?

I'll give you a minute of my time coming up.

Prof. Andrew Clement: This is a really crucial issue. We've heard that AI systems are unpredictable in their behaviour, and also that we can't understand, or we can't explain, how they've come up with those, so those are two big problems.

In addition to having conversations and being open about this, we need to apply a sort of precautionary and accountability principle, so that organizations that put them into play are accountable and have to take prior steps before they start experimenting on us.

The aerospace industry has these well worked out systems, because when a plane comes down, everybody knows about it, and that's dreadful. When an AI system, and it doesn't have to be an AI system, but when a complicated digital network system goes wrong, the problems are distributed, and it's very difficult to analyze them. It's in a worse situation, I think, than aerospace.

Ms. Viviane Lapointe: Thank you.

Mr. Papernot, we've already seen many privacy breaches with online systems. What should we know about the escalation of these types of breaches, based on your extensive work in privacy, security, and machine learning?

Prof. Nicolas Papernot: What do you mean by the escalation?

Ms. Viviane Lapointe: The escalation of the types of breaches we're seeing.

Prof. Nicolas Papernot: I see.

Again, it goes back to my point about the issue of putting the emphasis on the specific pieces of data that are being leaked versus how that data is analyzed. As more and more data leaks are happening, this means that malicious individuals have access to more and more information about individuals. They can then go and find a line through these data leaks.

It makes it easier for them to go and reidentify people from data that has been protected through de-identification. Whereas, if instead we focus on the algorithms that are being used to analyze this data, we can ensure that the output of the analysis is not going to leak additional information about the individuals. That is how we will control how much information is available about individuals to malicious entities. It's really about changing the focus from trying to modify the data itself to how we analyze the data.

The Acting Chair (Mr. Brian Masse): Thank you.

I'm sorry, but you're out of time. I gave you some of my time, as well.

Mr. Garon has been very patient. It's also an especially exciting day for him.

Congratulations on your bill passing in the chamber. It was no small feat.

[*Translation*]

Mr. Jean-Denis Garon: Thank you, Mr. Chair.

I'm going to turn to you, Professor Bednar. In the 19th and 20th centuries, industries extolled the virtues of a free market with no regulation. This has led to huge fortunes, huge monopolies, as well as abuses against consumers.

All of this has led to historic regulations. One is the antitrust laws that we know today and the big consumer protection laws. However, with the artificial intelligence industry advancing at an exponential rate, I get the impression that we need a framework for the market to work.

I will quote you in English, a language I rarely use. You said earlier, “Smart regulation clarifies markets”.

In French, we would say that smart regulations make markets work better. As we know, that is the basis of economics, in a way.

Do you think that, in this context, the best solution is for this industry and the market to regulate themselves? In your opinion, are we at a stage in the development of artificial intelligence where regulation, viewed from a historical perspective, is as important as antitrust legislation may have been at one time?

[*English*]

Ms. Vass Bednar: No, I'm not in favour of prolonged self-regulation. Much of the regulatory lack that we've seen is a product of the late 1990s U.S. approach which was famously referred to as permissionless innovation. We took a step back, and I think Canada had a little bit of an echo there.

I understand that firms often have their own kinds of policy practices in place, but now it's time for Canada to formalize just where that bar is set, and continue to learn from both the private sector, large businesses, small businesses, and, of course, a range of actors from civil society and—

● (1855)

[*Translation*]

Mr. Jean-Denis Garon: Professor Bednar, I have to interrupt you, because time is very limited. That said, the chair is very generous.

Do you think that, in its current form, Bill C-27 is too permissive when it comes to self-regulation? Should we rely instead on government regulations, for example?

[*English*]

Ms. Vass Bednar: I think that by virtue of being a massive piece of legislation, it prevents pure self-regulation through firms. It asks firms to comply in particular ways that cost them and have some cost associated with these new norms.

I don't think it puts forward or enshrines pure self-regulation when it comes to privacy and the use of data.

The Acting Chair (Mr. Brian Masse): Thank you very much.

We'll move now to Mr. Généreux.

You have the remaining committee time here, which is about three and a half minutes.

[*Translation*]

Mr. Bernard Généreux: Thank you, Mr. Chair.

Mr. Papernot, a number of witnesses have told us that they weren't consulted before the bill was introduced, even though the minister boasted about consulting 300 organizations. That's what we heard from one woman—I've forgotten her name, unfortunately—who represented a women's rights advocacy organization.

Earlier, my colleague, Michelle Rempel Garner, was talking about deepfakes, image manipulation. I'm choosing my words carefully here. As we all know, Taylor Swift was victimized a few days ago. Her image was used. Does this bill actually protect women?

Prof. Nicolas Papernot: I would suggest you talk to the populations affected by biases that will be exacerbated by AI systems, because I don't think I'm in a position to comment on the risks.

Mr. Bernard Généreux: Mr. Clement, what are your thoughts on the issue?

[*English*]

Prof. Andrew Clement: I'd repeat that you would have to talk to the people who are affected.

I believe it was a person from LEAF who made that earlier remark. However, I don't see personally that this bill would provide it. It hasn't been something we would have thought of or anticipated—having that particular way for groups who are affected to register their concerns.

[*Translation*]

Mr. Bernard Généreux: Thank you.

I'll give the rest of my time to Mr. Vis.

[*English*]

The Acting Chair (Mr. Brian Masse): You have another 45 seconds. You're good.

Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC): Very quickly, Mr. Papernot, the bill does not prohibit the government to ban an AI system that may cause harm. The bill contains monetary penalties.

Do you think we need to consider putting in a power for either the commissioner or the minister to ban certain AI systems when they are proven to be detrimental either to Canadian society or individuals?

Prof. Nicolas Papernot: I think it's more important to think about how we can support responsible AI than to focus too much on the penalties, because there are socially beneficial applications of AI. Openness in science has led to a lot of improvements in AI and how responsible it is.

I would focus on that aspect in particular.

The Acting Chair (Mr. Brian Masse): Thank you very much.

With that, committee members, we wrap up our first session.

I want to thank the online witnesses as well as our witness here for participating.

We will briefly suspend and get set up for the next hour.

Thank you.

● (1900)

_____(Pause)_____

● (1905)

The Acting Chair (Mr. Brian Masse): Colleagues, we're going to get started. We have until eight o'clock.

Pursuant to the motion adopted November 7, the committee is resuming consideration of the study of recent investigation and reports on Sustainable Development Technology Canada.

I'd like to welcome our witness today, Ms. Lawrence, former president and chief executive officer of Sustainable Development Technology Canada.

Ms. Lawrence, as you know, you have five minutes for an opening statement. Please begin, and thank you again for coming to the committee here today.

Ms. Leah Lawrence (Former President and Chief Executive Officer, Sustainable Development Technology Canada, As an Individual): Thank you, Mr. Chair, and good afternoon, honourable members. I guess it's good evening.

As said, my name is Leah Lawrence and I'm the former president and CEO of Sustainable Development Technology Canada. I served there from 2015 to 2023.

When I started at SDTC, it was on the brink of shutdown, but I was able to put in place a team that transformed the organization. We took it from being consistently 20% over budget to under budget. We were formally commended by the Auditor General of Canada and the Treasury Board Secretariat for our increased flexibility, our diverse funding streams and overhead costs that were half of those of comparable federal programs. Given this, ISED increased SDTC's funding during my tenure by over 200%.

Over the last year, I spent a lot of time responding to various inquiries as a result of the actions of a whistle-blower. This, and the resulting media attention, took a big toll on me and the organization. I felt that my leadership had become a distraction that would prevent SDTC, an organization that I had dedicated myself to for over eight years, from fulfilling its mandate, so, despite having the continued confidence of SDTC's board of directors, I resigned. I note that in resigning I received no severance, and because SDTC's employees are not civil servants, no government pension.

I decided to resign two days after appearing before the House of Commons ethics committee after I listened in disbelief to ISED CFO Doug McConnachie testifying on the same panel. He told the committee he had spent 30 hours talking to SDTC's whistle-blower, speculating as evidenced by recordings obtained by media on the outcomes of the various investigations under way while they were still ongoing, including saying that these investigations "could have been done in a way that exonerated the board and scapegoated Leah".

As the ISED overseer of the investigation, Mr. McConnachie's actions were unethical and compromised the investigation. Despite his actions, the investigation still found no wrongdoing or misconduct and made several administrative recommendations that the team and I were implementing when I decided to resign. However, I am here today to talk primarily about governance and conflict of interest.

The SDTC Act and the Government of Canada set the public policy framework. The board of directors sets the governance framework. In the case of SDTC, half of the board is appointed by the Government of Canada. Also, an assistant deputy minister from ISED attends all board meetings and is privy to all materials. That includes all funding recommendations and all discussions of conflict of interest.

The CEO's and the management's job is to take that policy direction from the government and the governance direction from the board and turn it into operating practices for the organization. I note the board also approves all project funding.

From 2015 to 2019, I did a lot of work on governance reform with the previous chair and the chair of governance, Jim Balsillie and Gary Lunn.

A key change—to harmonize the conflict of interest rules for our two categories of board members, including limiting and eliminating direct conflicts and implanting cooling-off periods—was blocked when a non-government appointee got a ruling from the Ethics Commissioner that they did not need to follow the same governance standards as government appointees. This made it impossible for management to hold all board members to the same rules.

Early in 2019, it became very apparent to me that the government wanted to replace the chair of the board. In May or June of 2019, I was informed by ISED's official representative, ADM Andy Noseworthy, that Ms. Annette Verschuren was going to be appointed to replace Mr. Balsillie.

I expressed concern SDTC was funding a project for her company. I expressed concern there was a potential for both conflict of interest and the perception of conflict of interest. I expressed concern that both Ms. Verschuren and SDTC could potentially be damaged by the appointment.

● (1910)

In the days that followed, our government relations lead contacted the minister's staff to reiterate our concerns about Ms. Verschuren's appointment, noting that no previous chair had direct or perceived conflicts of interest and that, further, it was previously a condition of the chair's appointment to be conflict-free. ADM Noseworthy subsequently told me that in the absence of a written policy explicitly prohibiting a beneficiary of funds from becoming chair, the appointment would go ahead.

I fear that my ongoing efforts to continue to strengthen the governance regime at the board level were largely stymied from this point on. Henceforth, it became largely an exercise in managed conflict, rather than precluding or eliminating conflict.

I continued to work on governance reform with legal advisers, and was pleased when the board finally adopted a policy of post-directorship cooling-off periods and hired a board ethics adviser. These are good developments; however, they are not enough. Another important reform remains outstanding: that any appointee to the board be free of conflicts of interest.

My second recommendation is that the Treasury Board Secretariat convene a group of chairs and CEOs from the many independent agencies that provide funds on behalf of the government and ask them what supports they need to discharge their mandates from a governance and public accountability point of view.

In closing, independent government-funded organizations like SDTC play an important role. They have access to people and resources that the government does not, and can deliver on outcomes that complement and support government policy.

The action plan that ISED has required of SDTC, which they have implemented, does not address the matters of governance and conflict of interest that I have raised here today and that I advocated for throughout my time at SDTC.

I thank you for your time today, and I am happy to take your questions.

The Acting Chair (Mr. Brian Masse): Thank you, Ms. Lawrence.

Mr. Perkins, you have six minutes.

Mr. Rick Perkins (South Shore—St. Margarets, CPC): Thank you, Mr. Chair.

Thank you, Ms. Lawrence, for being here. We appreciate it. It's probably been a very challenging time for you. I appreciate your willingness to come here and speak of it.

You mentioned in your opening statement the period of time when there was a change in the chair. Maybe I could start there.

You were originally hired by the newly appointed chair at the time, Jim Balsillie, to clean up some of the governance practices and management practices at the place. In 2017 or so, these internal reports were done by the Treasury Board and the Auditor General. I think you said they gave SDTC a clean bill of health on all of these things that you had fixed. Is that correct?

● (1915)

Ms. Leah Lawrence: That is correct. The Auditor General's report was in 2017, and I believe just after that, the Treasury Board Secretariat report was completed.

Mr. Rick Perkins: It would seem to me that with all of that going on, shortly thereafter would be an odd time to change the chair, unless the chair requested that. In the time when that was going on....

Mr. Balsillie is not a shy guy. He speaks publicly on a lot of issues and has for a long time, as one of the co-founders of one of Canada's most iconic companies.

Did the minister's office or anyone at the political level ever contact you and express concern about what he was saying publicly while chair of SDTC?

Ms. Leah Lawrence: In particular, in the time period of 2018 and into early 2019, there were several moments when it was raised with me or with my team that there were concerns about public statements Mr. Balsillie was making as an individual. At the time, there was a consultation under way on data and digital legislation. Of course, this is an area he's an expert in. He would make critiques about legislation and provide input in his role as an individual. Often, in the aftermath of those statements, we would get calls asking why he was making statements—

Mr. Rick Perkins: Who would you get those calls from?

Ms. Leah Lawrence: On one occurrence, it was the associate deputy minister, when I was in a meeting on another thing. I was asked if he should continue as chair and if it was a thing to continue. The second instance was at the working level, when mid-level people called our government relations team.

Mr. Rick Perkins: Did that ever get communicated to you as a reason why there would be a change in the chair?

Ms. Leah Lawrence: It was clear that there was evident discomfort and that they were actively looking for another chair. Although I was not privy to the conversations with Mr. Balsillie in the minister's office, it's my understanding that he wanted to continue, and he communicated that to them. Around May 2019 and June 2019, I was informed that there were two candidates they'd like me to talk to as potential candidates for the board chair. One of them was Ms. Verschuren.

Mr. Rick Perkins: Who informed you of that?

Ms. Leah Lawrence: Minister Bains actually asked me to speak to those two potential candidates, and I did.

When I spoke to Ms. Verschuren, I asked her to speak to the Ethics Commissioner. This was well in advance of her appointment. I indicated that I thought it was important that she talk to them about her direct conflicts. At the time, SDTC had a contract with her company. This was well known. It was public information. It's posted both on SDTC's website and, of course, on Ms. Verschuren's company's website.

Mr. Rick Perkins: According to your opening statement, after that—I'm assuming it was after, based on what you just said—Minister Bains suggested that she would be a good replacement. How many days did it take between when that happened, you did the review, and Mr. Balsillie was switched to Ms. Verschuren?

Ms. Leah Lawrence: It was probably about two or three weeks later when I had a call from ADM Noseworthy telling me that Ms. Verschuren would be the new chair. When I raised the concerns again, he told me that without a policy it would continue, and it happened.

I think it was on June 19 that she was appointed. I actually was the one who called Mr. Balsillie to tell him that he was no longer chair. She was chairing a meeting three days later.

Mr. Rick Perkins: Is this where this idea of "managed conflict" comes from, that somehow you could manage the conflict that the government was aware of when they appointed her?

Ms. Leah Lawrence: Well, I have to say that the management team has to put in place policies and procedures that are required when they are following the direction of the board and/or the government when they have an appointee who has a direct conflict. Yes, now we're in a position of direct conflict where you have to have a disclosure, which we did have before, but it did not have a chair's name on it with a direct conflict. Then you have to make sure that you are following the procedures very closely.

Mr. Rick Perkins: I'm not understanding whether you had a policy or not. It seemed to be the issue that you didn't have a policy on conflict, so it was okay to have conflicts. The SDTC act itself in subsection 16(2) states that no member shall profit or gain any income from the foundation or its activities.

Clearly the associate deputy, the deputy and Minister Bains, in making that appointment, must have been aware of that. If they weren't aware of that, then they must have been aware of section 4 of the public office holder act which says that in the exercise of their duty no public office holder shall further their private interests or those of their family and friends. They must have been aware of that, regardless of whether or not you had a corporate governance policy on it. They were breaking those acts by doing this.

● (1920)

Ms. Leah Lawrence: I was never asked about any of those things. I do not know if they reviewed those before making the appointment.

The Acting Chair (Mr. Brian Masse): You have about another 30 seconds.

Mr. Rick Perkins: Can you explain to me again, and for everybody who's watching, what managed conflict means?

I've served on a number of boards. You don't go on a board, first of all, if you have a conflict and you're doing business with that organization. That's just normal corporate and individual ethics. You don't do that. Also, if you are on a board and a conflict comes, then you probably choose to leave that board if that conflict isn't more important to your business interest than being on the board. You make a choice.

In this case, it doesn't seem like managed conflict means that. It means that you can have your cake and eat it too, it seems.

Ms. Leah Lawrence: While I can't speak for the board members, I can tell you what the process is.

They have to declare their conflicts. Conflicts are talked about at the beginning of every meeting. When a conflict has been declared they do not receive the materials related to that conflict. They have to leave the meeting, as part of the conflict of interest policy, when anything related to their declared conflict is discussed. That's how it had to be managed once people had conflicts declared.

The Acting Chair (Mr. Brian Masse): Thank you, Mr. Perkins.

Now we need to move to Mr. Van Bynen, who has been patiently waiting online since the start of the meeting.

Mr. Van Bynen, you have six minutes.

Mr. Tony Van Bynen (Newmarket—Aurora, Lib.): Thank you very much, Mr. Chair.

I'd like to begin by acknowledging the ongoing work and the investigations from the Office of the Auditor General and the Ethics Commissioner, in addition to the law firm that's looking into the HR concerns.

You also appeared before the ethics committee on November 8.

My question is this: Why did you request to be reinvited to this committee when there's so much ongoing work to get to the bottom of these issues raised by the whistle-blowers and SDTC?

Ms. Leah Lawrence: First of all, I will say that I did speak to the Auditor General this week. I am participating in all of those processes, even though I'm an individual and no longer employed by SDTC.

I requested to come here because I thought it needed to be known that SDTC's team and I did try to raise the concern that a chair appointed with a direct conflict would cause potential damage to both SDTC and Ms. Verschuren.

Mr. Tony Van Bynen: You've had the concern. You've referenced the concern a number of times. A few times I've heard the phrase that these were “known” conflicts. Can you tell me what you did with these known concerns? Were they documented? Were they highlighted? Is there evidence of those discussions within the records of the corporation that we can use to verify those things?

Ms. Leah Lawrence: I was giving the advice that I thought would be taken and that would be common sense, which would be that a person with a direct conflict would potentially damage the organization of SDTC if they became chair.

Mr. Tony Van Bynen: If I may—

Ms. Leah Lawrence: My advice is not in writing, but I do believe there were conversations at the ministerial level. There may be things in writing between my team and the minister's office staff. You'd have to ask SDTC if there are those kinds of exchanges.

Mr. Tony Van Bynen: So there could be documentation that could be made available as part of resolving the issue. That's good to know. If you could give us some indication as to where those documents might be found in order to assist in the review, that would certainly be appreciated as well.

When reflecting on what came to light from the fact-finding mission, what did you learn? What things would you have done differently, in hindsight?

Ms. Leah Lawrence: I think the fact-finding mission had some recommendations related to administration and governance. That's another reason that I came here today, to speak to some of those. In my view, as I said in my opening statement, the ISED implementation plan actually does not cover some of the governance issues that need to be addressed.

With respect to the administrative issues and their implementation, I was involved in launching those before my resignation. It's my understanding that SDTC has filed the conclusion of that implementation with ISED and they're waiting for feedback on those.

Mr. Tony Van Bynen: Okay.

I'd like to go back to Mr. Perkins' comments, that if it's not written in your charter or your operating documents that things shouldn't happen, these things can happen. When does it become an evaluation of things being unethical as opposed to looking for a document that says it's okay, when you know from the values you've learned in business that it's not the right thing? When does that override the strict adherence to documentation?

● (1925)

Ms. Leah Lawrence: I'm not sure I understand the question. I don't think strict adherence to documentation should override direct conflicts.

Mr. Tony Van Bynen: It sounds to me like that's what was brought forward. You had indicated that there was a conflict that you felt was a problem—how you made that known is still to be determined—and then the response you received was that there's nothing to stop that from happening. When do we say that there may be nothing that says it shouldn't happen—but ethically it should not happen? When do we get into those discussions? Were there discussions like that?

Ms. Leah Lawrence: Yes. As I said in my opening statement, I raised concerns that she had a direct conflict, that she had a contract with the organization, and I raised concerns that there would be perceived and direct conflict problems to manage. But once the minister makes an appointment, once we're instructed by the department to implement, and the Ethics Commissioner okays it as well, we have to put in place a process and a procedure to manage.

The manage is that we would send out that there's a declared standing conflict. I think Ms. Verschuren talked about that. The second piece is that on circulation before each meeting, there would be any new companies put forward. Board members would respond to that. Then, it would be discussed and in the board minutes for every meeting who had declared a conflict and what the nature of that conflict was. In the case where recusal was required, the individual would leave the meeting when a particular item was discussed.

Mr. Tony Van Bynen: As I understand it, the minutes didn't necessarily reflect that. Is that correct?

Ms. Leah Lawrence: This was one of the findings, that minutes required to have more clear documentation of these matters. The materials, though, had clear statements that were circulated in the board packages.

Mr. Tony Van Bynen: When you became aware of the allegation raised by the whistle-blowers, what was your organization's initial plan and reaction to address this?

Ms. Leah Lawrence: The whistle-blowers made their complaint to the board of directors. The complaint included allegations against both me and the chair. We were immediately told that we would not be part of the investigation and we would be asked to speak to them at the appropriate time.

From my understanding, the board put in place a special committee to investigate the whistle-blower complaint. They hired a third party law firm to do a review and they worked with that law firm to produce a report. That law firm pulled tens of thousands of documents from the IM/IT team. There was an artificial intelligence review and they did just less than 30 hours of interviews with the staff. That was what happened when the complaint from the whistle-blower was received.

The Acting Chair (Mr. Brian Masse): Thank you.

I'm sorry, Mr. Van Bynen, but your time is up.

Mr. Garon, you have six minutes.

[*Translation*]

Mr. Jean-Denis Garon: Thank you very much.

Welcome to the committee, Ms. Lawrence. Thank you for being with us and taking the time to answer our questions.

Perception is extremely important in our world. Sustainable Development Technology Canada, SDTC, is governed by the Canada Foundation for Sustainable Development Technology Act and by regulations. The organization distributes public funds and is therefore subject to scrutiny by parliamentarians and the public, which is legitimate.

Given that, I'd like to pick up on the example of Ms. Verschuren, who accepted the position of chair of SDTC's board even though some of her companies were receiving funding from the organization. We also know that they got more funding subsequently, but we were told that legal opinions had been produced.

So, on the one hand, there was a determination that it wasn't illegal to do that, but, on the other, there were significant concerns about the ethics of doing so. Normally, when a legal opinion is sought in a situation like that, wouldn't it just make sense to step back and turn down the position or decline the funds?

[*English*]

Ms. Leah Lawrence: I'm sorry, but the interpretation was cutting out.

I think your question was whether the directors should have declined the funds once they had been appointed. Is that correct?

[*Translation*]

Mr. Jean-Denis Garon: I also suggested that Ms. Verschuren could have declined to become board chair.

[*English*]

Ms. Leah Lawrence: When I spoke to Ms. Verschuren and when I spoke to assistant deputy minister Andrew Noseworthy this was why I raised the concern that her coming forward to be chair posed a real and perceived conflict of interest.

I had thought that they would advise her of those concerns and that the Ethics Commissioner would also give her more strict guidance, but this did not happen. I agree with you, sir. I would have expected something greater.

● (1930)

[*Translation*]

Mr. Jean-Denis Garon: Given that a legal opinion was sought because there was a serious ethical issue, and given that legal experts were of the opinion that it was legal to proceed, doesn't that mean the act that governs the organization should be amended?

[*English*]

Ms. Leah Lawrence: I think what's key is to actually review the act.

The SDTC act states within it that they would like to have people who have deep expertise in the area. At the time SDTC was created, which was 20 years ago, there was a very narrow group of individuals who it might be applicable to appoint to the board of directors.

Today the pool is much broader. I think the bar for conflict of interest could be much higher, as you have spoken about. That would be something the committee could consider and recommend changing in the act.

[*Translation*]

Mr. Jean-Denis Garon: Yes, the act has been around for some time, and the context the organization is operating in has obviously changed, but its board members are still appointed by the government, which has to be aware of changes in the political environment and the market, for example.

At the Standing Committee on Access to Information, Privacy and Ethics, you told my colleague, Mr. Villemure, that “it's difficult to have a board of directors that is completely conflict free”.

Appointing this particular chair, whose companies had received funding, was taking things bit far, though. How do you see it? Why do you think the government was so determined to appoint Ms. Verschuren as chair of the board?

[*English*]

Ms. Leah Lawrence: I can't speak for the government and the minister's decision-making. What I know is that I recommended against making the appointment, and I raised the concerns.

[*Translation*]

Mr. Jean-Denis Garon: I have a question about the facts of the matter. Do you think there might have been someone, somewhere in all of Canada, who was just as competent and could have occupied the position without being in conflict of interest?

[*English*]

Ms. Leah Lawrence: What I know is my previous chair did not have conflicts of interest, so I do think that there's a broad candidate pool that could have been chosen from that did not have direct conflicts of interest.

[*Translation*]

Mr. Jean-Denis Garon: I understand.

We've been told that, when her own companies were involved, Ms. Verschuren recused herself, left the room and didn't participate in the board's discussions. Here's an important question. If a person in conflict of interest recuses herself and leaves the room but is, by all appearances, in a position of authority and will continue to be, does the conflict of interest leave the room along with that person?

[*English*]

Ms. Leah Lawrence: I don't think there's a question, but I think you're—

[*Translation*]

Mr. Jean-Denis Garon: Let me rephrase the question. While the board of directors discusses a given matter, the chair, who may be in conflict of interest, leaves the room. Do you think the conflict of interest leaves at the same time as the chair?

[*English*]

Ms. Leah Lawrence: I see. I think that in a situation where you have a power structure of a chair or directors that have particular conflicts, the best you can do in this situation is do exactly that, have them leave the room, but obviously, the perception is strong, even if they hold the highest standards and do not discuss the activities, that they should have recused themselves. I think that's the reason we find ourselves here today, that even if they held the highest possible standard and did not see any situations where they didn't talk about things conflicted outside of the meeting rooms, even if they did hold that high standard, the perception is strong that they may have.

The Acting Chair (Mr. Brian Masse): Thank you, Mr. Garon.

Next, welcome Mr. Barrett. You have five minutes, sir.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): You made assistant deputy minister Andrew Noseworthy aware of the conflicts of interest and problems in appointing Ms. Annette Verschuren as chair of the board in advance of her appointment. Is that correct?

● (1935)

Ms. Leah Lawrence: That's correct.

Mr. Michael Barrett: Mr. Noseworthy was aware that by appointing her, ISED was violating their own contribution agreement with Sustainable Development Technology Canada. Is that correct?

Ms. Leah Lawrence: I would have thought he would have known that, given that he is overseeing the organization and he knows what the act and the contribution agreement say.

Mr. Michael Barrett: Can you confirm that you had your staff contact the minister's office to raise your concerns about this appointment?

Ms. Leah Lawrence: Yes. We had several discussions at the staff level, so there were bilateral discussions with the minister's office. It was told to the minister's office that the previous chair had not had conflicts and that, in fact, in our knowledge, there had never been a chair with a company that was being funded by SDTC.

Mr. Michael Barrett: What was the year that this appointment was happening and who was the minister?

Ms. Leah Lawrence: It was June 2019. The minister was Navdeep Bains.

Mr. Michael Barrett: In 2019 the Trudeau government went ahead with the appointment after you had raised concerns with the minister about the conflict.

Ms. Leah Lawrence: That's correct.

Mr. Michael Barrett: The minister of innovation was personally aware of serious problems with appointing Annette Verschuren but did it anyway. I'm asking for a third time because this is surprising.

Ms. Leah Lawrence: Mr. Bains did not tell me directly. I did not communicate with him directly, but Ms. Verschuren has said that she had talked to Mr. Bains three times before she agreed, and she said that he did know that she had a direct conflict.

Mr. Michael Barrett: Why do you believe that the Liberal government and the minister of innovation were so focused on appointing Ms. Verschuren?

Ms. Leah Lawrence: I don't have direct knowledge of what their concerns were, but I do know that they had concerns about his discussions publicly on other government legislation and policy that were ongoing.

Mr. Michael Barrett: Sorry, their concerns with whom?

Ms. Leah Lawrence: With digital and data consultations that were ongoing at the time.

Mr. Michael Barrett: I understand why you believe they wanted to replace the former chair. Why do you believe they were determined to replace the former chair with a chair that had been identified as being in conflict? Why was it so important to pick her?

Ms. Leah Lawrence: I don't know. In fact, at the time that I was informed that they were going to replace the chair, I was asked by former minister Bains to speak to two candidates. I did speak to two candidates. The other one declined to put their name forward.

Mr. Michael Barrett: Did that candidate have a conflict of interest?

Ms. Leah Lawrence: They did not, but they were concerned that they may invest in the sector in the future. Therefore, they felt they should not put their name forward.

Mr. Michael Barrett: I don't have a lot of time, but it's really important to understand this.

There was a conflict that the board chair they put forward was in because she had an interest in companies that had received money from SDTC. Is that correct?

Ms. Leah Lawrence: Her company had a contract with SDTC at the time of her appointment.

Mr. Michael Barrett: Right. She had a conflict before taking the position and is now under investigation by the Conflict of Interest and Ethics Commissioner for directing funds from SDTC and voting for it for a company that she had an interest in.

Are you aware that this is the case as well?

Ms. Leah Lawrence: Yes, I understand that those investigations are ongoing.

Mr. Michael Barrett: Do you know how often Annette Verschuren was in contact with the minister of ISED?

Ms. Leah Lawrence: With the most recent minister, as far as I know, she only met with him twice. It was once at an announcement and once at a summit.

Mr. Michael Barrett: Did she deal with the deputy minister?

Ms. Leah Lawrence: I believe they had ongoing dialogues, yes.

Mr. Michael Barrett: Who was the deputy minister that she would have been communicating with?

Ms. Leah Lawrence: It was deputy minister Simon Kennedy.

Mr. Michael Barrett: How often would she have dealt with Mr. Kennedy?

Ms. Leah Lawrence: I couldn't say.

Mr. Michael Barrett: Would it be more than 10 times?

Ms. Leah Lawrence: It would have been whenever an issue came up that would have pertained to SDTC, like contribution agreements, infringement of change in acts and those kinds of things.

Mr. Michael Barrett: Who acted as the liaison between SDTC and ISED?

Ms. Leah Lawrence: At that level, she contacted the deputy minister directly. At my level, I dealt almost exclusively with Andy Noseworthy.

Mr. Michael Barrett: Did Veena Bhullar or Amber Batool fill that role?

● (1940)

Ms. Leah Lawrence: Veena Bhullar was our government relations lead. At some points, Amber Batool would have had communications with the minister's office. It would have been at the policy chief level.

Mr. Michael Barrett: Thank you.

The Acting Chair (Mr. Brian Masse): Thank you, Mr. Barrett.

We'll go over to Ms. Lapointe for five minutes, please.

Ms. Viviane Lapointe: Thank you, Mr. Chair.

Ms. Lawrence, one of my learnings in organizational excellence is that you can have the best of policies written, but if they're not followed and if there's not a mechanism to monitor and check to see if they're being followed, then those policies don't carry much weight.

Can you talk to the committee about the official ethics guidelines that your organization was expected to follow? Can you also talk about the processes and mechanisms that were in place to ensure that those guidelines were properly followed, both by the board and by employees?

Ms. Leah Lawrence: There are two things—or probably three things.

When I started at SDTC in 2015, I was surprised to find that the conflict of interest policies for the employees and the board were actually the same. That is to say that employees actually were allowed at that point to have direct conflicts of interest. One of my first acts as CEO was to separate those two policies and ensure that there were no direct conflicts for employees. That continues to this day.

With respect to boards of directors, all a CEO can do is advise. The ethics policy for the board of directors had always had the ability for a board member to have conflicts. By the time I was appointed, most of the GIC appointees did not, but it had been a long-standing practice that the non-governmental appointees had managed conflict, as we have been talking about earlier.

The process in place is as follows: Before we go into an investment committee round, there are standing conflicts when people are appointed that are managed and are always looked at by the investment vice-president and director when we're going into a round.

The next thing that happens is there is a circulation well in advance of the meeting for boards of directors to declare if they have a conflict or a perceived conflict with a potential recipient of funds and consortia partners related to them. That has to be received back before the board members will receive any of the materials. If they declare a conflict, they do not receive the materials related to that declared conflict in the board package.

In the board package, all of the declarations are summarized and the chair would then call for any additions or any changes at the board meeting. Anybody who perhaps became aware of something between those dates could raise it at that time.

That's the process.

The idea is that these things would be minuted and followed up on as the case may be.

That's the process. It was followed in most cases. This was the managed conflict that we had in place.

Ms. Viviane Lapointe: I appreciate that was the policy, the expected practice, and that board members would need to recuse themselves. They would need to discuss conflict at the beginning of each meeting, but I believe the RCGT report clearly said that didn't happen. That's the adherence piece, where it may be written, but in practice, did that happen? The report indicates that it didn't.

Could you expand on that for the committee?

Ms. Leah Lawrence: I believe that SDTC filed with the ethics committee, and perhaps this one, that this process was filed. Perhaps the minutes didn't reflect it in an appropriate way and that's the problem. This process is and was followed.

Ms. Viviane Lapointe: What would be the role of the CEO in a situation where a board member doesn't recuse himself or herself, or doesn't declare a conflict of interest at that point?

Ms. Leah Lawrence: The role of the CEO is to work very closely with the governance chair. From 2015 to 2019, when Gary Lunn was the governance chair, we did that very actively. That time was an easier time, because, as was stated, we didn't have as many direct conflicts as we had after Annette Verschuren's appointment.

He and I would work together to approach board members to talk to them about perceived and real conflicts, and because of his gravitas as a former minister of the Crown, that often carried the day, and, actually, always carried the day. Once he was gone, and once we had a very different operating environment related to a direct conflict with Annette Verschuren's appointment, at that point all the CEO can do and the vice-president investments can do is recommend.

In most cases, the director would ask that the adjudication go to the committee or the committee chair. In some cases, if we felt strongly that it needed to be adjudicated before the committee, if it was a direct conflict, we would engage the committee chair. In other cases, where it was a perceived conflict, it would get discussed directly at committee.

● (1945)

The Acting Chair (Mr. Brian Masse): Thank you very much.

We'll move to Mr. Garon, for two and a half minutes.

[*Translation*]

Mr. Jean-Denis Garon: Thank you very much, Mr. Chair.

We can see that it might be useful to amend the act that governs Sustainable Development Technology Canada. In the meantime, in the interest of restoring public confidence, if that's even possible, what can be done right now to improve not only the organization's governance but also public perception of that governance?

[*English*]

Ms. Leah Lawrence: First and foremost, I understand right now that the Government of Canada is going to be looking at appointing new board members, because there are some that will be retiring. What's important and must be done is that those new board members have no conflict of interest. That would be the one and first recommendation I would make.

[*Translation*]

Mr. Jean-Denis Garon: I'll just interrupt you there. Is it possible to find board members who don't have conflicts of interest?

[*English*]

Ms. Leah Lawrence: Definitely.

I signed off on the Auditor General review that was mentioned earlier. It was one of the last things I did before resigning from SDTC. That review will be very important. It will help bring together some of the threads in terms of the various agencies, actors and individuals, and what their roles and responsibilities should be in this kind of a governance model.

[*Translation*]

Mr. Jean-Denis Garon: What do you think are the main amendments that could be made to improve the situation? If you don't have time to share a list with us now, would you be willing to send written recommendations to the committee about changes that can be made right away and future legislative changes that could prevent this kind of situation from happening again?

[*English*]

Ms. Leah Lawrence: It would be my pleasure to follow up with that kind of information. I know that SDTC's staff, in negotiating contributions eight and nine, proposed such amendments to ISED as well, so they would be able to provide that information to you.

The Acting Chair (Mr. Brian Masse): Thank you.

I'm now going to Mr. Perkins for five minutes, please.

Mr. Rick Perkins: Thank you, Mr. Chair.

If I have this right so far, in 2018-19, the former chair, Jim Balsillie, is speaking out publicly against the lack of movement by the government on its digital privacy policy. The government expresses concern to you, as chair, that he would be doing that and still be in this role. Shortly thereafter, the minister phones you and says, “We're going to change the chair. Here are two names.” You express reservations about one of them, who had a clear conflict of interest. Minister Bains and the Governor in Council, the cabinet, appoints her to this job anyway knowing there is a conflict of interest.

Is that correct?

Ms. Leah Lawrence: That's correct.

Mr. Rick Perkins: The person in constant contact with you personally as the CEO going back and forth to the ministry was ADM Noseworthy. Is that correct?

Ms. Leah Lawrence: I believe it was, yes, from 2018 on.

Mr. Rick Perkins: ADM Noseworthy said before this committee that he didn't recall any discussions of conflicts of interest around these.

Do you believe that to be a true statement?

Ms. Leah Lawrence: What I know is that the materials were circulated to ADM Noseworthy and his team before every meeting. I know that conflict was discussed at every meeting. In my recollection, Mr. Noseworthy was in those meetings.

Mr. Rick Perkins: Before this committee, deputy minister Simon Kennedy said he was not aware of any of the conflicts until the whistle-blower came to him in 2023.

Do you think it's possible for the minister's office to appoint somebody when they've been notified of a conflict by the associate deputy minister, who presumably reports to the deputy minister? The deputy minister talks to the minister. Could the deputy minister claim he didn't know about these conflicts? Does that make any sense to you?

● (1950)

Ms. Leah Lawrence: I cannot speak about Deputy Minister Kennedy, because he was not the deputy at the time of Annette's appointment. That happened after.

Mr. Rick Perkins: Who was?

Ms. Leah Lawrence: It was John Knubley.

Mr. Rick Perkins: Would you have expected him to know about this?

Ms. Leah Lawrence: Yes, I would have expected that public information.... Some research would have been done before candidates were spoken with.

Mr. Rick Perkins: You mentioned that your government relations lead was in contact with the minister's office about these conflicts.

Who was that?

Ms. Leah Lawrence: It was Veena Bhullar.

Mr. Rick Perkins: Was all of this verbal, or did she also communicate it in writing?

Ms. Leah Lawrence: I don't know whether she communicated it in writing. SDTC would have to bring forward any information if she did.

Mr. Rick Perkins: Mr. Chair, I would ask that the committee request any emails from this individual sent to the minister's office or to the deputy minister concerning these conflicts, if there are any.

The Acting Chair (Mr. Brian Masse): Thank you. It's well noted.

Mr. Rick Perkins: Did the idea of managed conflicts change the tone on the board from what you experienced previously under Mr. Balsillie? How did board members deal with their conflicts in proposals that came forward, whether it was COVID relief money or...at least to Andrée-Lise Méthot and Stephen Kukucha, who subsequently had projects approved that they had financial interest in? SDTC funded them.

Was this a managed conflict that seemed okay because the board set out that it was okay, or did they say, “Oh, no, we don't think this is appropriate behaviour, so we'll make it a choice of either being on the board or having our financial interests benefit”?

Ms. Leah Lawrence: I can give you a specific example.

There was a board member pre-2019. Mr. Lunn and I spoke to them about a potential conflict they had as a consultant with an organization. They stepped back from the organization and recused themself. Later, after Mr. Lunn was gone and Ms. Verschuren was appointed—it was about a year after she was appointed—that individual came back and said, “Well, given that direct conflicts are now allowed, I'm going to go on the board of this organization.” That was a funded company.

Mr. Rick Perkins: Who was that?

Ms. Leah Lawrence: That was Guy Ouimet.

Mr. Rick Perkins: He appeared before this committee and admitted that he had a $4-million project that got funded while he was on the board.

Did Ms. Verschuren approach any management to lobby for money on behalf of the Verschuren Centre?

Ms. Leah Lawrence: Not that I'm aware of.

Mr. Rick Perkins: We have emails from your chief investment officer VP that confirm he did and that he approved the fast-tracking of that consideration. Those were given to us by the whistle-blower. Would that surprise you?

Ms. Leah Lawrence: Excuse me, but this is a bit technical. The fast track would be if she—

Mr. Rick Perkins: She had requested it. It's in the email.

Ms. Leah Lawrence: I would have to look at the email. A fast track is a thing that is different from—

Mr. Rick Perkins: I don't need the fast track explanation.

Did any director who left the board after the cooling-off period policy was passed then contact the board to lobby for money from SDTC on behalf of a company they were involved in or employed with, against the policy of the board?

Ms. Leah Lawrence: There was an instance where a board member left the board. I asked Ms. Verschuren to write him a letter saying that he could not apply from the perspective of the company that he currently worked for.

Mr. Rick Perkins: However, that board member was calling and applying.

Ms. Leah Lawrence: He was part of an application he wanted to put forward. We had to remind him that the cooling-off period had passed.

Mr. Rick Perkins: What was his name?

Ms. Leah Lawrence: It was Geoff Cape.

Mr. Rick Perkins: He actually went on to be the CEO of this company after leaving the board and within the one year cooling-off period was trying to get money from the board.

Ms. Leah Lawrence: Yes, I believe he told the committee that he thought it didn't apply to him because they had applied before he became the CEO.

The Acting Chair (Mr. Brian Masse): Thank you very much. Unfortunately, that's your time.

I know the clock in the corner over there is a little fast, but you will have your full five minutes, Mr. Sorbara, to take the committee home.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

Welcome, Ms. Lawrence, to the committee.

I'd like to start off with just a few things that I have written down here.

You said that during your tenure, employees would recuse themselves or they would discuss conflicts at the beginning of each meeting.

Ms. Leah Lawrence: It was directors, sir, not employees.

Mr. Francesco Sorbara: I'm sorry. It was directors, yes.

Directors would recuse themselves or discuss conflicts at the beginning of each meeting.

You can correct me if I get details wrong.

Ms. Leah Lawrence: I apologize.

Mr. Francesco Sorbara: No, no, please.

Also, you acknowledged that the RCGT report clearly said that this did not happen.

Can you expand on that point or the thought that I put out there?

● (1955)

Ms. Leah Lawrence: Is the question whether they actually recused themselves?

Mr. Francesco Sorbara: Why didn't they recuse themselves, and why does the report say that it did not happen if you indicated that it was supposed to happen at the beginning of each meeting?

Ms. Leah Lawrence: Yes.

I believe this was filed with the committee by SDTC in terms of response to the RCGT report. They did recuse themselves. They did leave the meetings. What happened is that the minutes didn't properly reflect that.

Mr. Francesco Sorbara: In your role as CEO during those situations, you would have raised these issues at board meetings if there was a conflict, if the individuals should be leaving.

Ms. Leah Lawrence: They did leave. That's what happened.

Mr. Francesco Sorbara: Okay.

Here's my next question.

I sat on the ethics committee in a prior Parliament; I do not in this session. When you testified at the ethics committee, the opposition members referred to the actions taken by you while CEO as “criminality”, “fraud” and “forgery on the Canadian taxpayer.” They went on to say, “This warrants a police investigation.” How do you respond to such accusations from the opposition members?

I've read your bio. You were the CEO for seven years, if the dates in front of me are correct. You have served on past boards and with chairs. You have a level of competence that I would indicate as such.

How would you respond to those accusations from the Conservative MPs?

Ms. Leah Lawrence: They are factually untrue. That's one of the reasons I wanted to come back here today: to be able to answer questions like yours.

Mr. Francesco Sorbara: Thank you for stating that very concisely.

In your commentary today—and I'm not sure if it was in your opening statement or in response to members' questioning—you indicated that you felt strongly about the potential conflict, or the conflict, in terms of Ms. Verschuren but that there was no email sent. You didn't write this down or put it in a letter or a memo or anything to that extent. In hindsight, do you think that you should have done that, or am I missing something in your testimony and you can correct me?

That struck me, and I perked up when you indicated that.

Ms. Leah Lawrence: I guess I would say, sir, that papering myself to protect myself is not a practice that I usually think is a priority. What I try to do is give fearless advice, and I hope it would be followed.

Mr. Francesco Sorbara: Okay.

The role of an individual in being president and CEO of any organization is one of high responsibility. I would say that the bar is very high in terms of disclosing conflicts, raising red flags and basically protecting the organization's ability to competently undertake investments, in this case, SDTC, and so forth. As my colleague beside me has said, there's a fiduciary responsibility that you have as CEO and as any CEO would have.

At that time that you have indicated that you may not have written down your thoughts about what was going on, should you not have written down your thoughts and emailed them or indicated them in a memo, saying that you may not agree with this or that this potential conflict existed?

This happens on a daily basis. Minutes are taken. Notes are taken. People have conversations all the time, of course, but don't you think that this warranted that level?

Ms. Leah Lawrence: I asked and advised Ms. Verschuren to go to the Ethics Commissioner. I told Mr. Noseworthy there was a significant concern. My employee in the government relations lead told the minister's office.

Yes, I expressed concern, and I did it at multiple levels. That's my duty, and that's what I did.

When the minister then decides to not accept that advice, I have to accept that too.

The Acting Chair (Mr. Brian Masse): With that, colleagues, we are out of time.

I want to thank our witness, Ms. Lawrence. I also thank her for waiting the extra time to accommodate the committee's changed schedule.

I want to thank the interpreters, the clerk and the analysts for putting up with me at the top of the table here.

I wish everyone a safe and good night.