



Patrimoine Canadian  
canadien Heritage

Sous-ministre Deputy Minister  
Gatineau (Québec) Gatineau, Quebec

June 11, 2024

Mr. Yves Giroux  
Parliamentary Budget Officer  
99 Bank Street, 9<sup>th</sup> Floor  
Ottawa, Ontario  
K1A 0A9

Dear Mr. Giroux:

I am writing in response to Information Request IR0784, in which you requested the following information pertaining to Bill C-63, introduced in the House of Commons on February 26, 2024:

- The estimated setup costs associated with the Digital Safety Commission of Canada, the Digital Safety Ombudsperson of Canada, and the Digital Safety Office of Canada;
- The projected total spending and number of full-time equivalent staff for the Commission, Ombudsperson, and Office for the fiscal years 2023-2024 to 2028-2029; and
- The projected number of annual complaints and investigations, and the projected value of fines imposed by the Commission for the fiscal years 2023-2024 to 2028-2029.

As you are aware, the *Online Harms Act*, which is Part 1 of Bill C-63, would, following Royal Assent, establish a Digital Safety Commission of Canada and a Digital Safety Ombudsperson of Canada, both supported administratively by a Digital Safety Office. The Commission would oversee and enforce the new regulatory framework and the Ombudsperson would act as a resource and advocate for users and victims. Bill C-63 completed first reading on February 26, 2024, and began second reading in the House of Commons on June 7, 2024. The sponsoring Minister is the Hon. Arif Virani, Minister of Justice and Attorney General of Canada, assigned as Minister of State (Online Harms) to assist the Minister of Canadian Heritage.

Work is ongoing at the Department of Canadian Heritage to further refine projections related to costing and spending, business volumes, and various other figures related to the Commission, Ombudsperson, and Office. Final figures have not yet been determined. The department will continue to work on finalizing these numbers, however, to respond to your request, we will provide the best information we have to date with the understanding that all information provided hereafter is subject to change and should only be considered as a rough order of magnitude. This information should not be treated as the department's expected final estimates and figures, as we continue to map out requirements and planned activities, and collect information and study available benchmarks.

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***Estimated setup costs associated with the Digital Safety Commission of Canada, the Digital Safety Ombudsperson of Canada, and the Digital Safety Office of Canada***

Budget 2024 provided Canadian Heritage with \$20 million over 3 years to initiate pre-implementation work prior to Royal Assent of Bill C-63, as follows:

<u>2024-25</u>	<u>2025-26</u>	<u>2026-27</u>	<u>Total 3 Years</u>
\$4.5M	\$8.5M	\$7.0M	\$20.0M

Once accessed, part of this funding will be used to set up an implementation task team of up to 12 FTEs maximum, who will be responsible for the planning and delivery of groundwork for creating the Commission, Ombudsperson, and Office. This work includes but is not limited, working with the Privy Council Office on the Governor in Council selection and appointment process, working on options for organization structure and developing a recruitment strategy for the Digital Safety Office, assessing and determining accommodation, equipment, and IT needs for these entities, continue and advance work on various processes and procedures as well as research, volume projections, and costing. The remainder of this funding would be reserved for the various operating costs of the Commission, Ombudsperson, and Office, once they are established should Bill C-63 obtain Royal Assent.

***Projected total spending and number of full-time equivalent staff for the Commission, Ombudsperson, and Office for the fiscal years 2023-2024 to 2028-2029***

In summer 2023, the department produced estimated projections for spending and FTEs for the Commission, Ombudsperson, and Office, based on a comparative analysis with other Canadian federal regulators such as the Office of the Privacy Commissioner and the Canadian Radio-Television and Telecommunications Commission, as well as benchmarks and comparators available at the time from foreign counterparts such as the European Union, United Kingdom, Australia, and Ireland. The following estimated projections took into consideration information from all four of the above organizations but were modeled mostly on the UK regime (Ofcom) as it is closest to what Canada was envisioning, although Ofcom has a larger number of staff commensurate to the UK's population and the broader mandate of the UK's *Online Safety Act*. That said, no foreign regime, including the UK, correlates exactly to what is planned in Canada, so the following figures are not held as final by Canadian Heritage, but rather only as one possible example.

	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
<b>Commission</b>	\$0 0 FTEs	\$0 0 FTEs	\$2.04M 8 FTEs	\$3.86M 16 FTEs	\$3.86M 16 FTEs	\$3.86M 16 FTEs
<b>Ombudsperson</b>	\$0 0 FTEs	\$0 0 FTEs	\$0 0 FTEs	\$5.45M 32 FTEs	\$8.54M 53 FTEs	\$8.54M 53 FTEs
<b>Office</b>	\$0 0 FTEs	\$0 0 FTEs	\$18.68M 85 FTEs	\$53.85M 196 FTEs	\$57.89M 261 FTEs	\$57.49M 261 FTEs
<b>TOTALS</b>	\$0 0 FTEs	\$0 0 FTEs	\$20.73M 93 FTEs	\$63.17M 244 FTEs	\$70.29M 330 FTEs	\$69.89M 330 FTEs

***Projected number of annual complaints and investigations, and the projected value of fines imposed by the Commission for the fiscal years 2023-2024 to 2028-2029***

*Annual complaints and investigations:*

It is important to note that the Digital Safety Commission’s workload will only partly be defined by complaints and investigations. The proposed *Online Harms Act* assigns the Commission functions central to its mission that go beyond taking complaints. These functions include:

- Development of policies and regulations. Subsection 140(1) contemplates the Commission to make regulations on the following:
  - Social media services’ duty to provide information;
  - The factors that the Commission must take into account to determine whether an operator of a regulated service is implementing measures adequate to mitigate the risk of harmful content;
  - Mandatory measures that regulated services must implement to mitigate the risk of harmful content;
  - Guidelines for regulated services that must be accessible to the public;
  - Tools to allow users of a regulated service to block other users from communicating with them on that service;

- Tools that regulated services must put in place to flag harmful content on the service and made available to users;
- Labelling harmful content spread by bots (“automated communication by a computer program”);
- The resource person who must be made available to users and the manner in which the resource person fulfills their role;
- The time and manner of submission, as well as the organization of the required information of the digital safety plan contemplated under s. 62 of the Act, which is a key element of the Duty to Act Responsibly;
- The duty to preserve content (including metadata) that incites violence or content that incites violent extremism or terrorism for one year after a regulated service makes it inaccessible to all persons in Canada;
- Design features for the protection of children, such as account options for children, parental controls, privacy settings for children and other age-appropriate design features;
- The duty to make content that sexually victimizes a child or revictimizes a survivor or intimate content communicated without consent inaccessible to persons in Canada; as well as making representations about such content and requests for reconsideration of a decision to make content inaccessible;
- The duty of an operator of a regulated service to keep all records, including information and data, that are necessary to determine whether the operator is complying with the operator’s duties under this Act, including the length of time for which the records must be kept;
- The accreditation of individuals to access inventories of electronic data to conduct research or engage in education, advocacy or awareness activities related to the purposes of the Act;
- The access to inventories of electronic data, including the conditions to which access is subject, for example with respect to confidentiality, data security and the protection of personal information;
- The criteria under which the Commission may make an order requiring the operator of a regulated service to give accredited individuals request access to any electronic data, including the conditions with respect to confidentiality, intellectual property, data security and the protection of personal information under which access to electronic data is granted, and the revocation and amendment of such orders;
- The case management of complaints to the Commission about content on a regulated service that is content that sexually victimizes a child or revictimizes a survivor or intimate content communicated without

consent, and the duties of operators of regulated services if complaints are allowed; and

- The manner of publication of notices of violation or undertakings.

A number of regulations will be needed to properly administer the *Online Harms Act* and ensure that regulated services are fulfilling their duties under the Act. These regulations will in turn determine the exact form of the way reviews and investigations into complaints are conducted. They will be subject to the appropriate provisions on regulation making in the Act.

The Commission will be able to designate persons or classes of persons as inspectors for the purpose of verifying compliance and non-compliance with the Act and who will have the power to search premises in person or electronically. The Commission will need to develop the appropriate procedures for this purpose.

Persons in Canada will be able to make submissions to the Commission respecting harmful content that is accessible on a regulated service or the measures taken by the operator of a regulated service to comply with their duties. The Commission will need to develop systems to process these submissions and inform operators of them in a manner that protects the identity of the person who made the submissions.

Persons in Canada will be able to make complaints to the Commission that content on a regulated service is content that sexually victimizes a child or revictimizes a survivor or intimate content communicated without consent.

Given the mandate and multiple powers and functions of the new Commission, a projection of annual complaints and investigations was not used in the department's costing exercise. Rather, international and domestic comparisons were used to help determine a responsible resourcing level given the number of internet users in Canada and the scope of the services regulated.

Part of the work of the implementation task team over the next two years will be to assess and project workload and volumes, such as the number of complaints and investigations.

In terms of the Duty to Act Responsibly and the Duty to Protect Children, the UK Ofcom's approach to regulation was considered the most appropriate comparator. Ofcom's regulatory processes are only recently being implemented, so could not be used for projecting regulatory burden, but an inference was drawn by the department that similar resource levels would be needed. In terms of the consultations and process of regulation in the Canadian context, the CRTC was considered as a comparator for resourcing levels. Australia's e-Safety

Commissioner, which enforces a complaint-based model, was considered as a possible comparator for complaints to the Commission about content on a regulated service that sexually victimizes a child or revictimizes a survivor or intimate content communicated without consent (and the Duty to Make Certain Content Inaccessible); however, a caseload projection was not used as the Australian model allows complaints for a wider range of harmful content than is contemplated under the *Online Harms Act*.

*Projected value of fines imposed by the Commission:*

The *Online Harms Act* sets out an administrative monetary penalty (AMP) regime. The Act also contemplates fines under its Offences provisions. The maximum administrative penalty for a violation is not more than 6% of the gross global revenue of the person that is believed to have committed the violation or \$10 million, whichever is greater. However, the amount of the penalty is determined by the Commission based on the nature and scope of the violation; the history of compliance of the person who is believed to have violated; any benefit that the person obtained by committing the violation; the ability of the person to pay the penalty and the likely effect of paying it on their ability to carry on their business; the purpose of the penalty; any other factor prescribed by regulation; and other relevant factor. Therefore, it is possible that AMPs will be considerably smaller than the maximum. It is contemplated in the Act that the Governor-in-Council will make regulations respecting the factors determining the size of AMPs. Therefore, the projected value of AMPs is not yet available.

An operator of a regulated service who commits an offence as detailed in section 120 of the Act is liable, on conviction on indictment, to a fine of not more than 8% of the person's gross global revenue or \$25 million, whichever is greater; or, on a summary conviction, a fine of not more than 7% of the operator's gross global revenue or \$20 million, whichever is greater.

Canadian Heritage officials remain open to working with your office and maintaining ongoing dialogue on information regarding Bill C-63.

Yours sincerely,

for

Isabelle Mondou