

CHECK AGAINST DELIVERY

**SPEECH TO THE
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Hi everyone, and thank you to the organizers for bringing together so many great public servants across our country. My name is Michael McEvoy, and I'm the Information and Privacy Commissioner for British Columbia. Before I begin, I want to respectfully acknowledge that I present to you today on the traditional territories of the Ləkʷəŋiŋəŋ people, also known as the Songhees and Esquimalt First Nations.

You would have been called crazy if, less than a generation ago, you told people that in a few years' time most households would be equipped with smart speakers you could talk to and that virtually everyone would carry small, powerful computing devices in their pockets.

Most of us thought, and maybe this dates me, that artificial intelligence would look like Hal the computer in 2001: A Space Odyssey. You might recall Hal was a red light with a camera lens mounted on a console that had a mind of its own; refusing to open the pod doors leading to the untimely demise of Dave, the human astronaut.

I am pretty sure that Hal's diabolic streak has not been coded into the likes of Siri or Alexa or other computing devices. But in many ways, what lurks behind today's Artificial Intelligence is far less transparent than what laid behind Hal's red light.

Algorithms that deploy behavioral modification to sow discontent and unhappiness and exploit the darker human emotions are often invisibly woven into our digital world... a world that we have come to depend on.

At least with Hal, you knew where you stood!

Of course, I exaggerate: slightly. Artificial intelligence is an incredibly powerful tool that *can* be leveraged for the greater good. It has advanced scientific discovery, diagnosed disease, prevented harm and violence, and even helped find you the perfect way to bake sourdough bread.

But with this emerging and rapidly advancing technology has come the need to ensure that AI is used for the purposes of good. Much like the industrial revolution in the late 19th century, technological advancement is far outpacing our capacity to regulate and frankly, at times, to even understand what is going on behind the curtain. As a regulator who found myself in the middle of investigating matters like the Facebook/Cambridge Analytica scandal, I have seen just how fast the pace of change has been... and how difficult it is to ensure the public is properly protected from the dark side of technology.

That said I am also a student of history, and an optimist, so I believe that just as regulation and law caught up to the advancements of the industrial revolution, so too will they work to adapt to our information age.

While the likes of Facebook won't try to kill you by shutting the pod door to your survival, they *have* demonstrated an ability to probe human vulnerabilities in a way that few of us really understand.

But it is that same *understanding* that is a necessary ingredient for fairness and justice in our democracy and society. As citizens, it is critical for us to understand the reasons for especially those things that directly affect our well-being – decisions that are made about the health care we seek, the insurance we need, or the mortgage we apply for.

This need to understand was probably instilled in us back in elementary school when we all learned long division. You may recall that simply giving the teacher the answer was not good enough; we didn't get full marks unless we actually *showed* our work. The point of that is both to avoid cheating with a calculator but also to demonstrate that we understood the mathematical principles involved.

When it comes to AI or AI-based decision systems we should apply the same standards that our wise teachers applied to us. It's not good enough that the black box that formulates a decision or recommendation gives you an answer – you were denied life insurance or turned down for a mortgage loan. Public bodies or organizations should get a failing grade unless they are able to demonstrate the basic logic of how their AI programs formulated their answers.

As a lawyer, I understand this all too well. The value in a court decision or any administrative decision for that matter is the fact decisions must be stated by clear and comprehensible reasons. This transparency is critical to building trust and fairness in the administration of justice... it allows us to scrutinize these reasons and, in most cases, an opportunity to challenge them.

Artificial intelligence must be underpinned by the same trust and fairness if it is to be embraced by society. This is especially critical where government, whether federal, provincial, or municipal, wants to deploy it.

This is why my office has teamed up with the Yukon and BC Ombudsperson offices for a forthcoming report on artificial intelligence in the public sector. We recognized that our mandates encompassing privacy and fairness have complementary overlap in the area of AI.

Increasingly, our interactions as citizens with government will bring us into contact with AI. Automated systems of approval have already appeared on the scene for things like building permits, social assistance, and car insurance premiums.

There can be clear benefits: instead of having to wait weeks or months for a paper-based application to be manually reviewed by a clerk verifying certain information, you could have your hunting licence or business licence processed within hours. This efficiency obviously results in huge individual and social benefits.

But if you are denied that license for no apparent reason, beyond the fact the machine is never wrong, your trust – society’s trust – in such technologies will quickly diminish.

On April 21, the European Union became the first jurisdiction to propose comprehensive regulation about the deployment of AI. The regulation would obligate organizations and public bodies to demonstrate the logic involved in decisions made by AI.

Certain categories of activities related to AI would be banned altogether. These would largely be those that have an impact on autonomy and other fundamental rights, like behavioural modification or manipulation.

Other powerful tools, like real time facial recognition technology biometrics, could be used by law enforcement, but only in limited circumstances and with judicial oversight.

Drawing on the EU work and other such efforts around the world, I think a few areas of convergence have emerged.

First it must never be forgotten that AI is a human creation: despite the illusion of its impartiality, AI is still just a reflection of the humans that designed the system.

And humans come with biases we see reflected in AI systems. I would highly commend to you the recent documentary on Netflix, *Coded Bias*, which shines a bright light on this major flaw in AI systems.

And because humans are also responsible for the data used to program AI systems, the adage “garbage in, garbage out” is apropos: quality data and the integrity of data sets are essential to the quality of outcomes and the integrity of the system.

So how do we ensure responsible use of AI? Regulators, like myself, must be given the full authority to look under the hood of these systems and see how governments and private sector actors use these technologies.

Like the elementary student's long division answers, regulators should only be giving passing grades if an organization shows the substance of its work.

All of this may require some disclosure of proprietary intellectual property on the part of an organization to an oversight body but, in my view, that is a necessary cost of ensuring public trust in AI systems. I believe industry, government, and regulators can work together to achieve this. We can achieve technological innovation and transparency together.

It might require us, as they recommended in the EU, to declare certain kinds of activities so high risk that they be off limits to AI applications. To date, determining what is on or off the table has been largely left to industry. I don't believe that is either sustainable or acceptable. The public needs a say in this through legislated safeguards, so that we avoid a technological race to the bottom leading to a dystopian future

A good example is facial recognition technology: for years, none of the major tech companies would touch it or develop it for wide distribution, despite having the capability to do so. Then a little company came along and crossed the imaginary line: Clearview AI scraped billions of photos of individuals from the internet, overlaid FRT onto those photos, and created a database of vectors for commercial purposes in the form of an app to sell to law enforcement and private organizations

I am looking forward to working with fellow regulators, industry and government in tackling this challenge.

We need to create a world in which we harness the incredible power of human ingenuity while at the same time respecting fundamental human rights and dignity.

With that, I am happy to take your questions, if we have time.

My thanks to policy analyst Ethan Plato for help in preparing this speech.