◆▮ Department of Justice   Ministère de la Justice
   Canada   Canada

CCM#: 2018-005848
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For Information

MEMORANDUM TO THE DEPUTY MINISTER

Artificial Intelligence and Other Technologies/ Intelligence artificielle et autres technologies
Meeting with Alex Benay on May 17, 2018
FOR INFORMATION

SUMMARY

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- The Legal Practices Sector (LPS) is coordinating work on the development and the use of new technologies in the delivery of legal services in close collaboration with sectors and portfolios.

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- The interest of the Department of Justice's (Justice) in AI is twofold: developing advice and regulatory frameworks and products for the whole of government guidance and use; and experimenting AI technology as a user.

- TBS is developing policy instruments with respect to how departments could use AI ethically in support of decision-making.

- You will be meeting with TBS Chief Information Officer (CIO) on May 17, 2018 and he may raise with you the work that he is doing on emerging technologies and AI.

BACKGROUND

In light of your meeting on May 17, 2018 with Alex Benay, this note provides information on TBS work on emerging technologies and the implication of Justice in this area.

While using emerging technologies, in particular Artificial Intelligence (AI), raises significant opportunities for the Government of Canada it will be necessary to ensure that its use is ethical, secure and responsible.

In the legal sector, depending on the nature of the technology solution and its use, the technology may act as a disruptor in the legal work of the government, the administration of justice generally and the private sector.

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As importantly, technology will reshape other sectors of private industry and the work of government as a whole whether in policy development or program administration/operations functions. As the legal advisor to the Government of Canada, we need to continue to monitor and analyze the advancement of technology to ensure we are proactive in offering legal advice and guidance.

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There is currently no legislation, regulations, policy position or framework within the Government of Canada to govern the use of AI in Canada. There is a need to engage stakeholders to look at this unchartered territory with a critical reflection on challenges and new legal, ethical and policy issues.

Mr. Benay was a key speaker at the Justice's AI Forum held on February 8, 2018. He spoke about the disruptive impact of technology and how to change our ways of working particularly in light of the fact that Canadians reside online. He mentioned the need to be more open with data and share more freely within Government and with others externally to better serve Canadians. The key is defining roles, making a policy reset, and standardizing core and AI technologies. His message was clear that the Government of Canada can be a world leader in this field.

Justice Canada Work

Aligned with the DM's vision of recognizing and building expertise, Justice has an important role to play in providing policy, legislative and legal advice on AI related legal issues to its clients.

With the AI Task Force, Justice is on the leading edge and part of the critical discussions surrounding how to leverage new technology as a department and as a government. This AI Task Force enables Justice to have a holistic approach in order to identify opportunities, implement pilot projects, advise on legal, policy and ethical issues and explore the department's capacity to use AI.

Following a presentation to ADMs on March 5, 2018, it was recommended to develop an inventory of counsel in the Department with expertise in emerging technologies, such as AI, and establish a Practice Group on AI and other emerging technologies.

In terms of pilot projects, Justice is involved as a user in three pilot projects. The first is a pilot within the Tax Law Portfolio to test a litigation outcome prediction tool developed by Blue J Legal Inc. that is now commercially available. The second is a partnership with Immigration, Refugee and Citizenship Canada (IRCC) to seek the development of

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an AI powered tool for immigration law to support litigation outcome prediction, trend analysis and legal research. The third is a similar partnership with Employment and Social Development Canada to develop an AI powered tool to assist in the work under the *Government Employee Compensation Act*. A Request for Information has been posted by Public Service and Procurement Canada with respect to the latter two pilots and industry responses will inform the development and procurement of the AI tools sought.

Note also that the DM Taskforce on Public Sector Innovation has recently had discussions on AI. The IRCC Justice AI pilot referred to above has been added to their work plan to showcase innovation/disruptive technology in the work of the public sector and one that we hope will accelerate core systems transformation, in this case procurement innovation.

We are also working on a research project with the University of Montreal's Cyberjustice Laboratory, who launched the website presenting the "*Autonomy through Cyberjustice Technologies*" (ACT). This project allows Justice to actively follow AI trends in the world, but also to apply the results and lessons learned to our own activities.

Justice and the Quebec Department of Justice are engaged in discussion to share ideas and best practices on topics of common interest related the practice of law and technologies.

The UK House of Lords Select Committee on Artificial Intelligence published a report on April 16th, 2018, making recommendations following its mandate "to consider the economic, ethical and social implications of advances in artificial intelligence." Other countries are also working on this and some have well developed frameworks, such as the EU General Data Protection Regulation (GDPR).

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Finally, Justice is working with TBS and is being proactive to better respond to these emerging technologies and support new client needs as AI applications are increasingly becoming part of their operations.

TBS Work

TBS updated their IM/IT policies last year resulting in cloud, accessibility, architecture, and other changes being added. This year, they are focusing on how they design policies and programs in a digital first manner.

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TBS has developed a series of White Papers (Responsible AI in Government of Canada in which they are referencing the work Justice is doing, especially the Justice AI Task Force; Blockchain; and Data Interoperability/Application Program Interfaces) which will be released this summer. The purpose of the series is to provide federal institutions with a single source of core information about the use of Artificial Intelligence, Blockchain, and Data Interoperability, including what they are, how government can use them, what the policy, ethical and legal implications are, and how they will change the public service. Their primary objective is to assist federal institutions by providing recommendations on how these systems should be implemented.

TBS is presently developing a *Standard Automated Decision-Making* to set requirements on how departments can use AI ethically to make decisions. The Standard will be followed by an Algorithmic Impact Assessment tool. This is the first time such a tool will be used by a national government.

A horizontal review, conducted by TBS, will utilize a number of tools including artificial intelligence to examine the entire stock of federal regulations to assess the degree of flexibility, complexity and the age of the regulations. On a broader scheme, TBS is working across government and sectors through the CIO Strategy Council (CIOSC), on which Mr. Benay is a co-chair, to establish a Standards Council of Canada-accredited standards body for ethical AI. By way of background, the CIOSC engages thought leaders and is working in advancing research, pilots and standards in areas ranging from cybersecurity, the Internet of Things, big data/data sovereignty and AI, to name a few.

We have been advised that departments are following the *Government of Canada Cloud Adoption Strategy* for Cloud Computing. Cloud computing offers benefits that enable CIOs to make significant advances in service performance, security, innovation, agility and elasticity. The Strategy provides, amongst others, a consistent approach to managing risks of cloud adoption.

At the international level, TBS is working with the Organisation for Economic Co-operation and Development (OECD) and G7 countries on common guidelines for governments.

DISCUSSION

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Justice is on the leading edge and part of the critical discussions surrounding how to leverage new technology. Justice will continue to provide advice and guidance on legal, policy, and ethical issues through the work of the AI Task Force and the various legal services units that are engaged with their clients.

The Information Solutions Branch (ISB) is evaluating the potential use of a cloud-based approach for improving connectivity with Justice's Departmental Legal Service Units (DLSUs) up to and including information at the Protected B level. DLSUs have typically accessed computer services from their host department's network with only remote connectivity to the Justice network. This situation has been problematic in terms of enabling horizontal communication and collaboration and in terms of speed and reliability of accessing Departmental systems. Over the last two years, approximately 14 DLSUs have been physically connected to the Justice network but this has been a costly and time-consuming approach. Given improvements in cloud computing, it is anticipated that Justice can move its key applications into the cloud so that all Justice employees, including DLSU staff, can be provided with a high-level of service.

RESOURCE IMPLICATIONS

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COMMUNICATION IMPLICATIONS

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NEXT STEPS

In addition, the Justice AI Task Force will have discussions on the best approach to follow-up after the Justice AI Forum held in February 2018.

Justice is looking forward to the *Standard Automated Decision-Making*, to set requirements on how departments can use AI ethically to support decision-making. This Standard will be useful in the context of innovation and the use of AI technology.

Prepared by:

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Annie Durand-Brunet, Counsel, Legal Practices Sector
(613-952-4082)

Date: May 16, 2018

Reviewed by:
Linda DuPont, Acting General Counsel and Director, Legal Practices Policy Branch,
Legal Practices Sector
(613-957-4959)

Michelle Mann, Senior Counsel, AI Working Group Co-Chair, IRCC Legal Services
(613-437-6366)

Nathalie Sarault, Senior Counsel, AI Working Group Co-Chair, TBS Legal Services
(613-907-7884)

Date: May 16, 2018

Approved by:
Richard Tardif, Director General and Senior General Counsel, Legal Practices Sector
(613-952-3816)

Date: May 16, 2018

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