



## Opinion

# Failure to invest in government capacity is a luxury we can't afford

The Canadian government must have sufficient in-house, or in-government, capacity to address and evaluate changes in the knowledge-driven economy, from a Canadian public-interest perspective.

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After years of public concern about the largely unchecked spread of online hate and illegal content on social media platforms, the Canadian government is introducing new rules to govern online content. The legislation is expected to include a new regulatory body, new law enforcement powers, and the new ability to audit platforms' algorithms—their valuable "secret sauce" that determines what users see. This legislation follows on the heels of Bill C-11 that proposes to modernize Canadian privacy law by setting controls on a data economy fuelled by the massive collection and processing of people's personal data.

These bills are part of a rising global awareness that democratic governments have to be more active participants in governing the digital economy, a decisive move away from what has been a 40-year trend toward smaller government. Australia, for example, recently introduced legislation that would require Google and Facebook to pay media organizations for the news content used in their online search and social media services. Meanwhile, the Biden administration is signalling its intent to regulate BigTech by nominating critics favouring anti-trust measures to break up platforms' monopoly power to key regulatory positions.

That Canada is finally taking seriously the need to regulate these platforms is a welcome development. Of course, as with all things the devil will be in the

details, as critics are pointing out in regard to C-11.

Beyond these substantive issues, the government faces an additional, and potentially more consequential challenge, in properly regulating the digital economy in general and platforms, in particular. The best rules in the world are of little use if governments lack the ability to understand, evaluate and regulate; that is, if they lack the capacity to regulate in the Canadian interest.

This needed push for greater public oversight faces the additional challenge of ensuring that the government has the capacity to independently evaluate and enforce legislation, and to staff any new regulatory bodies. In short, the government will have to finally address a problem that has been festering since the 1980s: the long-term and general hollowing out of the government's capacity to actually govern.

The lack of government capacity has become a front-page issue during the pandemic. The *Globe and Mail* found that the Public Health Agency of Canada has "a critical shortage of scientific expertise" to confront the pandemic. The federal government has "acknowledged 'multiple capacity and skills gaps across the agency' that have hurt Canada's response to the pandemic."

In another area, the emergence of the digital economy raises a particular challenge for policy-makers needing to balance privacy with innovation, and manage complex, fast-evolving technologies. Policy-makers' shortcomings were particularly evident during the proposed smart-city project in Toronto where all three levels of government appeared willing to outsource their urban technology and data governance policy-making to the vendor, the Google subsidiary Sidewalk Labs. The Ontario auditor-general concluded that Ontario lacked "a policy framework to guide the development of a mixed-use smart city." She would have likely found the same of the federal and Toronto governments if her remit had extended to them.

That governments lack the capacity to govern doesn't mean they govern less. Instead, they turn to

outside contractors to do the heavy policy lifting. As a 2021 article in *The Hill Times*, for example, notes a heavy government reliance on management consultants, both within government and as external contractors. Crucially, this is a self-inflicted problem that government have been facing for decades. Official reports bemoaning the state of Canada's civil service have been raising concerns about a lack of policy capacity since the 1990s, even as governments continue to spend billions on outside consultants generally. In a recent case, IBM won a contract to design and implement a prohibited-firearms program, arguably a program government officials should be capable of operating.

This lack of internal policy capacity matters because governing is not just about buying vaccines and mailing cheques. Governments are responsible for setting the basic rules affecting everything from the economy and policing, to health, national defence and international trade. Doing this well requires a deep understanding of Canada and the world. It requires a deep knowledge bench.

In stable times, it's easier to believe you can get by without this deep bench, outsourcing big decisions to for-profit companies limited by short-term interests and an eye on the next contract. In a rapidly changing world, like the one in which we now find ourselves, failure to invest in government capacity is a luxury we can't afford.

The Canadian government must have sufficient in-house, or in-government, capacity to address and evaluate changes in the knowledge-driven economy, from a Canadian public-interest perspective. This includes long-term institutional knowledge to define the Canadian interest and evaluate policy options. External consultants, think tanks or private companies may provide useful research or policy ideas. However, private initiatives can only take Canada so far. A for-profit company's priorities won't necessarily align with the general public interest.

In short, while the government capacity problem may be a multi-faceted issue, government

has to get back in the habit of being the experts at the table.

Part of the challenge is ensuring that policy-makers have access to relevant, cutting-edge knowledge, including Canada-focused research. To that end, the Centre for Digital Rights recently launched the Digital Rights Archive, for which we are serving as unpaid advisors. The Archive is a free-to-use searchable stack of high-quality research, analysis and commentary on topics ranging from cybersecurity and infrastructure to smart cities and digital policy generally.

This carefully selected trove of research is intended to help policy-makers get rapid access to useful, relevant research from around the world.

Another way to improve government capacity would be to create a government institute focused on applied policy issues, including the economic and social challenges of a digital/datatified society. Such an institute could be modelled on the old Economic Council of Canada, whose purpose was to provide research into economic issues relevant to Canada and make recommendations based on this research.

Finally, while the Canadian government has taken small steps in this direction, governments must demonstrate the willingness and capacity to regulate the digital economy. This will entail building expertise at all levels of government in areas including data governance and intellectual property. It will also involve crafting policies and laws independently from the big technology platforms, even when those platforms protest and employ bully tactics, as has been the case with Australia's media-reform legislation.

The small-government era began with the view, imported from the United States and the United Kingdom, that government itself was the problem. Forty years later, having weathered a global pandemic, a technological revolution and the rewiring of the international system, it's increasingly obvious that government isn't the problem, it's part of the solution. But only if it has the tools to do the job.

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*The Hill Times*