

August 22nd, 2017

Ms Krista Campbell, Director General
Innovation, Science and Economic Development Canada
235 Queen Street
Ottawa, ON K1A 0H5

Dear Ms Campbell,

Thank you once again for meeting with the Association of Professional Computer Consultants (APCC) a few weeks ago in Ottawa. We greatly appreciate you taking the time to hear our concerns regarding the “Fair Workplaces, Better Jobs Act” (Bill 148).

Our membership consists of Independent Contractors operating providing high complexity / high value consulting services in the fields of Information Technology, Engineering and Accounting. They operate and thrive as small businesses, motivated by a desire to pursue valuable skill specialization opportunities, opt out of large company organizational dynamics and achieve greater work life flexibility.

Our members are concerned about the specific impact of Bill 148 on Independent Contractors operating in Ontario.

While the draft legislation has not yet been presented, our members are concerned by the recommendation 125-127 of the Changing Workplaces Independent Review Committee’s final report, which pertain specifically to Independent Contractors. These concerns can be summarized as;

1. **Conflicting Policy.** The proposed changes will create meaningful differences between the Provincial and Federal frameworks for assessing Independent Contractor relationships. The current subjective framework established through litigation case law is confusing, difficult to apply and highly unpredictable, and we believe this dynamic will become significantly worse once the Ontario panel’s recommendations are added.
2. **Insufficient Study & Unintended Consequences.** Consultation with the Ontario Changing Workplaces Committee was dominated by Minimum Wage and shift scheduling considerations, with Independent Contractor relationships getting only minor consideration. The resulting recommendations were a surprise to industry, and contain great potential for unintended consequences.
3. **Core issues not addressed.** Fundamentally, any Independent Contractor policy update should serve the twin purpose of protecting vulnerable workers, and creating objective clarity around what situations are compatible with an Independent Contractor relationship. The Bill 148 recommendations achieves neither objective, but introduce significant risk and uncertainty to all parties, which is likely to stifle this important part of the economy after implementation.

The trend towards Independent Contract engagements is the most significant and meaningful shift in Canadian Labour markets is the last twenty years, and has been an overwhelmingly positive

contributor to Canada's tax base and innovation agenda. By all credible sources, this transition will only accelerate going forward¹.

We very much appreciate your comments and advice on how to best develop a dialogue with the Canadian government on the importance of Independent Contractor policies in Canada.

While much of the governing legislation falls in other department portfolios, we note the significant and positive impact Canadian IC community plays in driving Canada's innovation agenda, both by enabling knowledge workers to pursue valuable skill specializations, as well as providing Client organizations access to emerging technologies (witness our own example of a funded machine learning research engagement occurring right now that involves a team of Independent Contractors affiliated with the University of Alberta).

Recognizing the Ministry of Innovation's interests and ongoing efforts, we feel it is important to share this information. We hope that you share our concerns and that there may be an opportunity to work together to address them in the near future.

Sincerely,

Kent McCrea
Director, Ottawa Chapter (Volunteer)
Association of Professional Canadian Consultants

¹Independent Work: Choice, necessity and the gig economy. McKinsey Global Institute, 2016.