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**at**

**2024 Media Institute of the Caribbean (MIC) Caribbean Media Summit**

**"A Regulator's Perspective on AI"**

**May 9, 2024**

Ladies and gentlemen, good morning. Sorry I am not there in person. Of course, in the future, I would simply send my Avatar.

The starting point of my reflection is the increasingly self-evident truth in an observation by Pew Research, two days ago that "...the rapid rise of generative artificial intelligence holds promise and peril for information providers". I begin there because the same could have been said about the printing press when it was banned by the church in 1559 but then went on to expand knowledge. Unlike the printing press, Artificial Intelligence is not a single easily defined thing. It is a constellation of technologies, systems, tools, techniques, and use cases. But, however defined, AI is a general purpose locomotive which powers the dominance of large tech companies all along the digital value chain in critical areas such as search, streaming, digital

advertising, App Stores, operating systems, social media, e-commerce, production of content, control and distribution of content, devices and influence over users.

Big Tech does this by amassing, combining and mining massive amounts of data across all these different segments and activities. Amazon is dominant in supply chain and e-commerce; Apple is synonymous with lifestyle; Google is so powerful that it is a verb; Facebook is the largest community in the world with over a third of humanity; Microsoft is second only to Amazon in cloud computing, and with its controlling interest in Open AI, has become a leader in the field of Artificial General Intelligence; and Netflix describes itself as “the Internet TV network for the Globe”.

It does not take much contemplation to discern the tension between that ecosystem and the social impacts on individual liberties. So, when the CEO for Open AI launched Chat GPT4 and then announced that it is dangerous, policy makers and regulators have no option but to pay attention, having been put on notice by the horse’s mouth, so to speak.

This means we must elevate AI regulation, as a special factor, and with a high degree of particularity. If we are not intentional in this endeavour, the design and governance of society will be sub-optimal.

But, let us be realistic. The mega digital platforms that deploy AI are not only too big to control but it is also not obvious how to regulate them effectively. I am therefore attracted to Mustafa Suleyman's framing of the challenge as a Containment Problem which encompasses regulation, better technical safety, new governance and ownership models, and new modes of accountability and transparency, all being necessary but none sufficient.

So, we are to think of Containment as a set of interlinked and mutually reinforcing technical, cultural, legal, and political mechanisms for maintaining societal control of AI technology. This requires a multi-modal approach, involving actors across all vectors of communication and information. These actors will be policy makers, regulators, operators, content creators, aggregators, intermediaries, users and civil society. For their part, regulators must be evidenced-based and rules must be adaptable and technologically agnostic, as far as practicable.

I should also say that the focus should not be on AI technology per se but on its use, misuse and missed use. So, the 2023 UK White Paper on AI Regulation is spot-on that existing expert regulators will have to apply cross-cutting principles to conduct detailed risk analysis and enforcement activities within their areas of expertise.

A broadcasting and content regulator, for example, might be less concerned about the capability of Generative AI to create text, images, video, and music but moreso AI's role in the selection of information and news that people read, the music that people listen to, the decisions people make as well as their political interaction and engagement.

Underlying that interest is a concern that AI systems are 'black boxes', which open an information chasm between those who create them and everybody else. So, information is created, amassed and distributed on an unprecedented scale, but most people have no knowledge of when, the nature or extent to which information about them is being stored, accessed, shared or used to manipulate their behaviour and decision-making.

This information asymmetry is one of the most pressing concerns in our transition to a world in which people are developing deeper and closer relationships of trust with 'smart' devices that are controlled by artificial intelligence.

That is why the empowerment of people through Digital, Media and Information Literacy needs to be a key element of every country's regulatory response. As Sasha mentioned yesterday, the Broadcasting Commission spearheaded the development of a **DMIL skills** framework for Jamaica. It

promotes a **convergence of essential literacies** for today's digital economy and society: **Media Literacy**: "the ability to understand, select, evaluate and use media as a leading purveyor and processor, if not producer, of information"; **Information Literacy**: "the importance of access to information, the evaluation, creation and sharing of information and knowledge, using various tools, formats and channels"; **ICT/Technology Literacy:** "the ability to use particular digital devices, software, and infrastructure"; and **Digital Literacy:** "an ability to effectively and critically access and evaluate information in multiple formats, in order to create new knowledge, using a range of tools and resources."

This DMIL initiative comports with the UNESCO Recommendation on the Ethics of AI, specifically Policy Area 9 on Communication and Information, which aims to support and guide the responsible development of artificial intelligence that is grounded in human rights, inclusion, diversity, and innovation.

The UNESCO Recommendation states that governments should use AI systems to improve access to information and knowledge. This can include support to researchers, academia, journalists, the general public and developers, to enhance freedom of expression, academic and scientific

freedoms, access to information, and increased proactive disclosure of official data and information.

The Recommendation emphasizes digital, media and information literacy skills to strengthen critical thinking and competencies needed to understand the use and implication of AI systems, in order to mitigate and counter disinformation, misinformation and hate speech. A better understanding and evaluation of the positive and potentially harmful effects of recommender systems should also be part of those efforts.

Regulators need to have an active role in the integration of these policy actions into the framework for transitioning to a knowledge society.

Perhaps I can conclude with one other thought. Yesterday, someone asked about the capability of AI to capture or mimic human emotion such as that which a journalist captures in a human interest story. That question invites a caution against falling in the trap of thinking AI is a finished subject. As Mustapha Suleyman, co-founder of Deep Mind said in a MIT Technology Review article, “Generative AI is just a phase. What’s coming next is Interactive AI.”

I suggest that Interactive AI will come with enhanced anthropomorphisation of machines, coupled with their

neuro-technological capability to read brain waves, infer people's mental preferences, and to prime, imprint or trigger those preferences; "purposely designed to bypass [our] rational defences". Such capabilities raise ethical and regulatory concerns, not least of which is that even quicker than ourselves, technology will be able to know our weaknesses, our disease, our political and religious views, sexual proclivities, family, friends, associates, enemies, and consumption habits.

Existing law around freedom of thought and freedom of expression only contemplates externalities, in the sense that we should not be constrained from formulating thoughts and expressing them freely. But as Professor Nita Farahany tells us, "there are no legal protections from having your mind read involuntarily." Regulation must therefore now contemplate a 'Jurisprudence of the mind' to encompass protection of the brain, as an operating system, which should be inviolate to intrusion by means of neural computation.

President Obama foreshadowed these concerns from as far back as 2013. In a letter to his Presidential Commission for the Study of Bioethical Issues, Obama requested that they should engage with the scientific, legal and wider community on the ethical and legal issues pertaining to neuroscience, "questions, for example, relating to privacy, personal agency, and moral responsibility for one's actions".

So folks, you should see that the regulatory question will be one of context. In some places and contexts AI is merely a

tool, in other contexts it is a partner, in some contexts it will be a substitute and in other contexts AI will be - as articulated by the late Professor Stephen Hawking and others - an existential threat.

So, a one-size fits all approach will not fit all the AI use cases and range of concerns. For example, it may be necessary for content regulators to mandate the disclosure of involvement of AI in the preparation or presentation of news. This may be so because of concerns about the potential abuse of AI systems such as the way that AI algorithms segregate humanity into 'bubbles' where dissenting views are no longer heard. Over time, this can undermine the basis for shared values and tolerance in a society, and threaten democracy itself. But that disclosure may very well be unnecessary when AI is involved in other broadcasting, communication or journalistic endeavours. It will be a question of the risk profile of the particular AI use case.

In sum, regulators are concerned about age-old issues presented in new and complicated contexts – free expression, democratic participation, identity, cultural harmony, non-discrimination and protection of the most vulnerable – manifesting now around data privacy, algorithmic bias, disinformation, deep fakes and the intersection of AI and neurotechnology, across platforms and devices. You will see that this requires a very different and forward-looking

regulatory intelligence, the contours of which are still emerging.

Thank You.