



Department of Prime Minister and Cabinet
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POSITIONING AUSTRALIA AS A LEADER IN DIGITAL ECONOMY REGULATION – AIIA RESPONSE

About the AIIA

The Australian Information Industry Association (**AIIA**) is Australia's peak representative body and advocacy group for those in the digital ecosystem. We are a not-for-profit organisation to benefit members, and AIIA membership fees are tax deductible. Since 1978, the AIIA has pursued activities to stimulate and grow the digital ecosystem, to create a favourable business environment for our members and to contribute to Australia's economic prosperity.

We do this by delivering outstanding member value by:

- providing a strong voice of influence
- building a sense of community through events and education
- enabling a network for collaboration and inspiration; and
- developing compelling content and relevant and interesting information.

We represent a larger number of technology organisations in Australia, including:

- Global corporations
- Multinational companies
- National organisations; and
- a large number of small and medium businesses, start-ups, universities and digital incubators.

Some 92% of AIIA members are small and medium Australian businesses and 8% of AIIA members are large Australian companies and multinational corporations.

INTRODUCTION

The AIIA welcomes this opportunity to respond to the Issues Paper: [*Positioning Australia as a Leader in digital Economy Regulation, Automated Decisions Making and AI Regulation*](#). The AIIA has been active in working with state and federal governments over many years on AI

ethics frameworks and AI Strategy development. AI is a critical current and emerging technology that will drive innovation and productivity across the economy with the CSIRO estimating AI technologies could add \$315 billion to the Australian economy by 2028. Australia needs to lead commercialisation and adoption of AI in our economy and we must be forward thinking in understanding what frameworks and guardrails may be necessary to ensure government and industry use of AI is within what society would expect.

It should be noted that AI is a group of technologies not a single technology so care needs to be taken when considering government action. A simple web chat bot is a version of AI all the way through to facial recognition technologies. It may be helpful for government when talking about AI policies and regulation it forms a view as to what types of AI it is focused on: for example technologies that allow for automated decision making that are customer and citizen facing. AI technologies are also rapidly changing and evolving. Regulating AI in such a dynamic space runs the risk of becoming outdated very quickly.

AI commercialisation is a key focus for the Australian Government which the AIIA has supported and welcomes the recent announcement for the grants process for the AI Capability Centres and the National AI Centre established through CSIRO's Data61. Further, the QUAD and AUKUS alliances have Quantum and AI technologies as areas of strategic national capability so clearly this technology – and the skills and people needed – is an important area of policy focus.

Given this, it is critical the AI is fostered and supported and regulatory barriers are not created to lead to uncertainty, red-tape or risk for research and adoption in Australia. The AIIA supports industry and government led frameworks on ethical use of AI to provide guardrails for industry adoption.

As a an AI technology start-up member of the AIIA has submitted as part of this review and developing our response, there is a *“sufficient and high-quality framework for AI regulation already exists and can expand in response to issues that arise from the deployment of AI in production”* and that *“there is a real danger that Australia’s embryonic AI industry will never find a foothold and eventually fade into irrelevance [without support]. A homegrown ecosystem of researchers, implementers and customers is critical to achieving the Government’s vision of Australia becoming a top 10 digital economy and society by 2030. The Government should consider how it can foster a thriving local industry that can lift Australia to this next level of productivity in line with its Digital Economy Strategy.”*

Technology regulation

The AI regulation issues paper is current example of how government’s are trying to understand where and how to regulate and intervene in the technology sector. We have already witnessed government regulation in technology social media platforms and cyber security (critical industries and privacy). This will only become more complex as technologies like AI becomes increasingly embedded in the economy and in each industry.

The AIIA is concerned about the growing regulatory burden falling on our sector and the duplication, overlap and complexity of regulation. We are also concerned that government’s default position based on current evidence, is to a regulatory solution when other joint industry approaches may be better considered and meets COAG best practice regulatory principles. As such, there should be a mechanism for government regulators and policy departments to come together to discuss current and any proposed new regulations that impact on the tech sector. The AIIA has proposed establishing a Council of Tech Regulators

comprising both regulators and policy departments to serve this purpose and industry must have a seat at the table. The Council could assist cross industry regulators and policy makers in dealing with AI issues as they arise and have a whole of government view and understanding.

Free flow of data and standards

The AIIA strongly supports the free flow of data across borders and Australia has signed on to this principle in numerous international forums. AI use cases involve looking at large international data sets to derive insights that benefit society (for example agricultural, climate change data and water resource management). It is also important that Australia align to international standards so that local adoption does not become overly complex.

Further Australia should take a lead in setting these standards. For example, the ISO and IEC subcommittee dealing with this topic (SC42) currently has more than 30 participating countries – including Australia. The standards being developed include not only technical foundations for AI, but also governance, ethics, societal implications, bias and other topics related to the responsible use of AI. Aligning to these standards wherever possible, and adapting where needed to reflect Australian requirements, will assist in ensuring responsible research in AI as well as connecting Australian businesses with global opportunities. We agree with the Microsoft submission to this review where it states: *“Developing divergent, “Aussified” standards, as some have argued, would contribute to a fragmented global approach that would leave Australian businesses at a significant disadvantage”*.

Government should be an exemplar of AI

The AIIA supports the Government’s AI Ethics Principles which provide a good basis for decision making and use of AI. However, we believe that government should lead when it comes to AI adoption, both from utilising the technology, but also frameworks and governance structures that ensure AI use does not lead to adverse consequences.

The 2021 AIIA white paper [Growing Globally Competitive Industries](#) included a chapter on AI and made the following recommendations as it related to government:

- Targeted education about AI should be delivered to APS senior executives.
- Set targets and adoption of AI by government agencies (noting the Government’s AI Strategy has identified that government should work on AI projects).
- Under the Secretaries ICT Committee, government should stand up a Government AI Ethics Committee.
- Government to partner with industry so it can become a model AI citizen around innovation adoption of AI.

The AIIA has also been recommending that government needs to create transparency around AI adoption to foster societal trust and understanding of the technology. The creation of an AI Register would be a logical step in that direction (starting with citizen facing AI and ADM). We also strongly support any initiatives by government to create AI ethics and adoption frameworks and governance structures so that AI adoption is considered appropriately by senior executives and not left to technology procurement managers.

AI sectoral regulation and liability

The adoption of AI and automated decision making (ADM) technologies is coming under regulatory scrutiny in industries where AI and ADM can lead to direct impacts on health

outcomes of people. The transport sector regulators have been working through the issues around the use of autonomous technologies for some time. Likewise, the health sector is another area where a sectoral approach to the issues is appropriate.

The AIIA is of the view that a sectoral approach is warranted and specific use cases and issues are dealt with in a targeted manner and that specific sectoral use case regulations should not be made into a cross economy regulation governing AI.

The AIIA proposes that a principles based approach using the Government's [AI Ethics Principles](#) and the [OECD AI Principles](#) should be taken.

AI and facial recognition technologies

The AIIA is aware of the work being done by the University of Technology Sydney (UTS) that is looking at what laws may be required to govern the use of facial recognition technology in Australia.

We accept the prima facie concern that some facial recognition technologies can be used for harm highlighted by documented examples of perverse or biased outcomes from this technology in law enforcement in overseas jurisdictions. We would support measures around putting in guardrails around government and general use of this specific technology application.

AIIA RESPONSE TO ISSUES PAPER QUESTIONS

1. *What are the most significant regulatory barriers to achieving the potential offered by AI and ADM? How can those barriers be overcome?*

Response: We don't believe there are any significant regulatory barriers to the adoption of AI across the economy.

2. *Are there specific examples of regulatory overlap or duplication that create a barrier to the adoption of AI or ADM? If so, how could that overlap or duplication be addressed?*

Response: We are not aware of any regulatory overlap that is causing economy wide issues around AI adoption. Specific challenges around AI and liability and use cases are being dealt with in certain sectors like transport and health as is appropriate.

3. *What specific regulatory changes could the Commonwealth implement to promote increased adoption of AI and ADM? What are the costs and benefits (in general terms) of any suggested policy change?*

Response: We don't believe there is a requirement for new regulation to aid the adoption of AI. In fact, new regulations could in fact do the opposite. As cited in our response, there may be merit in targeted regulations around specific AI technologies and use by government and others such as facial recognition technologies.

4. *Are there specific examples where regulations have limited opportunities to innovate through the adoption of AI or ADM?*

Response: The feedback from members is this is not an issue but new regulations have the potential to stop innovation and adoption if not thought through carefully and co-designed with industry.

5. *Are there opportunities to make regulation more technology neutral, so that it will more apply more appropriately to AI, ADM and future changes to technology?*

Response: One of the issues with AI regulation is that the technology will change and evolve. We believe the principles and frameworks that currently exist meet current requirements providing guardrails and safeguards for AI use. Specific sectoral issues around AI and ADM should continue to be dealt with by each sector and their regulator. It is important that Australia play a lead role and be involved in global standards around AI.

6. *Are there actions that regulators could be taking to facilitate the adoption of AI and ADM?*

Response: Regulators should be aware of the AI Ethics Frameworks of government as well as international standards so broad compliance is achieved as a baseline. There may be merit in having sectoral specific sub-frameworks to provide additional guidance.

7. *Is there a need for new regulation or guidance to minimise existing and emerging risks of adopting AI and ADM?*

Response: See other responses.

8. *Would increased automation of decision making have adverse implications for vulnerable groups? How could any adverse implications be ameliorated?*

Response: This is a possible outcome if decision makers around the adoption and use of AI within their organisation don't follow and understand the AI Principles. Government should be an exemplar and lead industry and currently decision making frameworks and agency governance models are immature and we welcome the work starting to be done by parts of government to address this gap.

9. *Are there specific circumstances in which AI or ADM are not appropriate?*

Response: The use of facial recognition technologies in sensitive use scenarios needs to be carefully considered. Many of the controversial use cases around the world stem from

government use and mis-use of this technology. The Government needs to lead in AI frameworks and governance where it currently lags.

10. *Are there international policy measures, legal frameworks or proposals on AI or ADM that should be considered for adoption in Australia? Is consistency or interoperability with foreign approaches desirable?*

Response: Yes and our response discusses these matters specifically Global standards and interoperability with local regulations will ensure that Australia AI companies can export internationally..

Closing Remarks

The AIIA looks forward to continuing to work with the Digital Economy Taskforce in this important work and develop co-designed approaches to leading technology and regulatory issues facing Australia.

Thank you for considering this response. Should you have any enquiries about the content of this submission, please contact policy@aiaa.com.au.

Yours sincerely,



Simon Bush
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