



Australian Information Industry Association

Submission on the

**Automated Decision-Making Transparency
Obligation (APP 1) Issues Paper**

About the AIIA

The Australian Information Industry Association (AIIA) is the nation's peak body for those in the digital ecosystem, leading strategic policy and advocacy to shape a thriving digital sector. Through strong engagement with government, industry, and the broader community, the AIIA ensures the voice of its members informs decision-making on technology, innovation, and digital capability.

Membership provides direct access to influential networks, premium events, and opportunities to collaborate on initiatives with the sector's best and brightest to drive industry growth, improve productivity, and secure Australia's place as a global technology leader. AIIA members access real collaboration, real connections, and real outcomes.

Introduction

The AIIA welcomes the opportunity to contribute to the OAIC's consultation on the automated decision-making (ADM) transparency obligation in APP 1. We support the objective of the ADM transparency obligation and the broader goal of building public trust in the responsible use of AI and ADM. Transparency about how personal information is used in ADM is an important foundation for that trust, and clear, well-targeted guidance from the OAIC will help entities meet the obligation with confidence ahead of its commencement.

We have responded to selected questions below at a high level. We would welcome the opportunity to engage further as the guidance develops.

Meaning of computer program

The statutory term "computer program" is deliberately broad and, on its face, captures a wide range of ordinary business software. This includes productivity, workflow, cyber security, data analytics and customer relationship management tools, as well as AI features used for drafting, coding, translation or research. The great majority of these are deployed to support internal efficiency and user productivity, not to make or shape consequential decisions about individuals.

We encourage the OAIC to confirm that the use of software, automation or AI within a workflow does not, of itself, trigger the transparency obligation. What should matter is whether the program is connected to a decision that significantly affects an individual, and the degree to which it determines that decision rather than merely assisting a human, as discussed below. Guidance framed around the nature and consequence of the output, rather than the mere presence of software, would keep the obligation focused on the decisions it was intended to address.

Question 1 - Substantially and directly related to making a decision

The role of human control and oversight should be central to this assessment. In our view, a computer program is "substantially and directly related" to a decision where it effectively determines the outcome, that is, where the decision is reached without meaningful human involvement. Where a human decision-maker retains genuine authority to assess, accept or reject the program's output, the program supports the decision but does not substantially make it. This reflects the proper role of such tools, which is to augment rather than replace human judgment. A human decision-maker remains necessary to identify the outliers and edge cases that automated processes do not anticipate, and it is the exercise of that judgment, rather than the software, that makes the decision.

This approach reflects the position in comparable jurisdictions, where the relevant obligations attach to decisions made solely by automated means, that is, without meaningful human involvement, as under Article 22 of the GDPR and the UK GDPR. We note the UK framework is currently being updated under the Data (Use and Access) Act 2025, though the concept of meaningful human involvement is retained. For oversight to be meaningful, it should be genuine rather than a token sign-off, and exercised by a person with the authority and competence to change the outcome. Reading "substantially" in this way keeps the obligation focused on genuinely automated decision-making, rather than the wider field of tools that merely assist a human.

It follows that functions which organise, prioritise, surface or present information, or which recommend a course of action that a human is free to adopt or reject, should not be treated as substantially related to making a decision. We encourage the OAIC to confirm this in guidance, with worked examples that distinguish tools which determine an outcome from those that support a person who determines it.

Question 6 - Other frameworks the OAIC should consider

In considering the meaning of "rights" and "interests," and the obligation more broadly, we encourage the OAIC to have regard to the following frameworks. Our central point is alignment. The more the guidance is read consistently with adjacent regimes, the less entities face regulatory fragmentation and duplicated compliance effort.

- DTA Policy for the responsible use of AI in government and the Standard for AI transparency statements. Government entities are already subject to AI transparency obligations under these instruments. The guidance should align with them so that a single, consistent disclosure can satisfy both, rather than requiring agencies to produce overlapping or inconsistent statements.

- International regimes, including GDPR Article 22 and the EU AI Act. These offer mature reference points for the concepts of legal or similarly significant effects, and align Australia's approach with comparable international frameworks.

Question 9 - Meaning of “arranged for”

This is the area where we consider further guidance is most needed. The arrange-versus-operate distinction is difficult to apply to modern AI supply chains. We ask the OAIC to provide guidance and worked examples covering:

- Layered supply chains, foundation-model provider, fine-tuner, integrator/SaaS vendor, and the deploying APP entity, and which party has “arranged for” the ADM at each layer.
- The level of oversight that is reasonable when a third-party or “black-box” product cannot be fully inspected, including offshore providers.
- How the obligation interacts with the commercial-in-confidence exclusion where the arranging entity does not control or cannot disclose the underlying system.

Question 10 - Extent of disclosure

We support the OAIC’s view that disclosure should strike a balance between giving individuals enough meaningful information to understand an entity’s use of ADM and avoiding excessive detail that obscures rather than informs.

Commercial-in-confidence and security-sensitive material should be clearly excluded. This includes source code, model weights, proprietary algorithms and training datasets, consistent with the Explanatory Memorandum. Disclosure should be meaningful without revealing proprietary system design, or information that would allow a system to be gamed or defeated.