26 June 2023

Federal Government of Australia
Department of Industry, Science and Resources
Technology Strategy Branch

Subject: Response to the Department's Supporting Responsible AI consultation process

To: the team consulting regarding consultation on AI regulation,

I write on behalf of the Biometrics Institute, an independent and international not-for-profit membership organisation with a long history of promoting the responsible, ethical and effective use of biometrics.

The Biometrics Institute was established in 2001 in Australia, supported in part by the Federal Government, with a mission to promote the responsible, ethical, and effective use of biometric technologies. Since then, our 220+ membership has expanded to include government agencies, banks, telcos, social media platforms, technology and services providers, academics, and regulators from over 30 countries – around a quarter of which are in our foundational home of Australia. In support of our mission, we connect stakeholders internationally through a range of events, produce a range of good practice material to support those governing and implementing biometrics, and lead thought about biometrics today and into the future.

Over the past few years, surveys of stakeholders by the Institute have increasingly identified that insufficient regulation impedes advancement of biometric technology globally. This perspective is likely informed by an understanding that there are material risks associated with the use of biometrics, particularly when handled without due respect for privacy and ethical considerations. Some of these risks are shared with other applications in the field of artificial intelligence. Therefore, we are pleased to see consultation on how artificial intelligence might be regulated.

As a membership organisation accountable to a wide range of members including the governments of many different nations, the Institute cannot comment directly on proposals that may arise in any particular jurisdiction, but we certainly encourage Australian authorities and the private sector to connect with the Biometrics Institute which does provide training, thought leadership and forums. This opportunity has been utilized by many key government agencies and the private sector, including not-for-profits and consumer groups.

That said, the Institute furthers its mission in many ways, all ultimately to promote and support responsible, ethical, and effective use of these technologies. The following abridged information may be relevant as the Department develops its thinking:

- The Institute develops a range of guiding materials for those considering biometric technologies. A limited selection of this material is made publicly available with the remainder, including our *Privacy Guidelines* and overarching *Good Practice Framework*, available to members. These materials have been developed through engagement with the expertise of our full international membership about the ramifications of biometric technology and its responsible, ethical use. With over 22 years of history, we have witnessed many challenges and reflected these in our guidance – including issues of bias, management of both risks in making individual decisions and risks across systems as a whole, the roles of people and machines in the field, the impacts upon individual and group privacy, and ramifications for people's rights.
- The Institute can help government agencies and enterprises to determine key questions arising from scenarios involving the use of biometric technologies – whether in a specific use case (such as biometrics in a particular product context), or more generally (such as when governments or enterprises are planning or overseeing their use of biometric technologies). In such engagements, the Institute canvasses a group of experts in the field to review the scenario presented and determine relevant questions based upon our *Good Practice Framework*,

and then facilitates discussion between relevant stakeholders so that they may determine an appropriate course of action.

- The Institute is aware that inconsistent use of language across different stakeholder groups and different usage scenarios causes significant difficulty in advancing dialogue about biometrics and related fields. To help address this, the Institute is developing a targeted dictionary of terms used in biometrics, aiming to include the wide array of different uses to which each term is put. Of note is the evolution of the meaning assigned to the term 'biometrics' itself as technology advances: both changes in meaning and in technology have consequences for thinking about regulation.

A list of all our guiding tools can be found online. We hope that you will find this guiding material useful, whether in development of an appropriate framework for regulation, or merely to help understand how our part of the artificial intelligence community has developed a significant perspective on responsible use through real-world experience over the past 22 years.

This real-world experience comes from our members, which includes both users of these technologies (such as government departments and banks) and those who build and sell such technologies (such as face recognition software, fingerprint readers, or related consulting services). Our constitution specifically ensures that our user members always retain control over the organisation to ensure that the Biometric Institute, whilst welcoming major technology suppliers for their insights and expertise, is not a vendor lobby group. This has been of critical importance in our 22-year development.

Finally, while we cannot comment on the consultation document ourselves, we have brought it to the attention of our members and encouraged them to do so. We hope that their contributions are both helpful and support our shared objective of ensuring responsible use of these technologies.

Why this paper is important:
- The Biometrics Institute promotes the use of biometrics but only if used responsibly and ethically
- Biometrics are complex, different use cases present different levels of risk which need to be assessed, planned and managed carefully
- Using biometrics responsibly, requires informed decision-making. The Institute provides unique tools like the *Three Laws of Biometrics*, its *Good Practice Framework* and *Privacy Guidelines* to work through the decision-making process
- The Institute is well placed to provide these tools and accompanying guidance as the independent and impartial international membership organisation representing a diverse multi-stakeholder community

On the 29 November 2023 we are holding our annual Showcase Australia at Hotel Realm in Canberra discussing how to prepare for a responsible future of biometrics. We would encourage you to send relevant people to attend this event to engage in our important dialogue which is held under Chatham House Rule.

Yours sincerely,

Isabelle Moeller
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Background about the independent Biometrics Institute

The Biometrics Institute is the independent and impartial international membership organisation promoting the responsible and ethical use of biometrics.

The Biometrics Institute represents a multi-stakeholder community of over 220+ organisations from over 30 countries who engage in regular dialogue to develop good practices and though-leadership for biometrics. At a time where legislation, policies and standards can hardly keep at pace with the technology developments and applications, the work of the Biometrics Institute is extremely important.

Before an organisation embarks on its biometric journey, and then as it gains experience within this field, the Institute provides invaluable guidance and information through its *Privacy Guidelines, the Top Ten Vulnerability Questions, the Understanding Biometrics Implementation Guide* as well as the *United Nations Compendium of Recommended Practices for the Responsible Use and Sharing of Biometrics in Counter-Terrorism*.

In 2019 we released our own *Ethical Principles for Biometrics* and updated our *Privacy Guidelines* to ensure they respond to the latest technology developments as for example AI.

In July 2020 we launched our *Biometrics Institute Good Practice Framework*. This document is a first-of-its-kind good practice tool that outlines the stages of the strategic planning, procurement and operation of a biometric system or network. Its primary function is to provide a structured pathway through the factors that may influence or constrain a biometric application. We are now in discussion on how we can best help member putting recommended good practices into use.

The Institute is not-for-profit and self-funded and has been set up as a user group. It is well-governed by a Board of Directors whose Chairperson and Deputy Chairperson are drawn from its user community who include government agencies, aviation industry, financial services and social media amongst others. Annual Board elections are taking place at the Annual General Meeting every November.

It was founded in 2001 and has a proven track record of providing the biometrics community with outstanding service. Its Chief Executive was awarded the Women of Biometrics 2017 industry award. She joined the Biometrics Institute in 2002.

We signed agreements for collaboration with international organisations such as the United Nations to reach out into regions that are more difficult for the Institute itself to reach out to. The focus of the work we have done with the UN is on human rights and data protection.

It continuously grows its network connecting biometric experts and those new to the community to ensure the responsible and ethical use of biometrics. Our outreach goes well beyond our membership. We currently have close to 6,000 followers on Twitter (@BiometricsInsti) and Isabelle is connected with over 3,000 people on LinkedIn.

A list of members can be found on our website https://www.biometricsinstitute.org/memberships/list-of-members/