



GUY LOUCKS

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Meaghan Quinn
PSM
Industry House,
10 Binara Street,
Canberra

4 August 2023

Dear Meghan Quinn PSM,

Thank you for the opportunity to respond to your department's discussion paper. The following items focus primarily on the Ethics and Principles framework as these feed into the foundation for a sound co-regulatory framework and governing principles.

- **Human, societal and environmental wellbeing:** AI systems should benefit individuals, society and the environment.

On the understanding that there are sufficient acts/regulations around this – my concern of 'which individuals' (all animals are equal only some are more equal than others) should be addressed.

- **Human-centred values:** AI systems should respect human rights, diversity, and the autonomy of individuals.

On the understanding that this is for Australia only – and therefore within the concepts of our culture, democratic governing bodies and laws. As is captured within the Australian HRC as a prime example.

- **Privacy protection and security:** AI systems should respect and uphold privacy rights and data protection, and ensure the security of data.

A start – **need to add** words to cover Copyright issues (eg "AI accessing copywritten/IP information is held to the same laws as any human accessing the same data and the same restitution be made" or similar)

- **Transparency and explainability:** There should be transparency and responsible disclosure so people can understand when they are being significantly impacted by AI, and can find out when an AI system is engaging with them.

This principle suggests that the burden of identifying when interacting with an AI System lies with the human rather than the AI. **This is not appropriate or sufficient.** The burden must be on the AI to identify that they are an AI to ensure all humans (regardless of their capacity/culture etc) are fully aware that they are dealing with an AI.

Explainability – there **should be a requirement to provide** this in a manner that the average person can understand and not bury it in techno/legal/academic speak.

Further, all unidentified or unlabelled deep fakes, should be covered under the terms of Fraud and be liable to the same penalties there within. This is due to the significant and irreparable social, emotional, and physical damage which may be inflicted up the individual targeted by such items.

- **Contestability:** When an AI system significantly impacts a person, community, group or environment, there should be a timely process to allow people to challenge the use or outcomes of the AI system.

A timely process to allow people to challenge the use or outcomes of the AI system is fantastic, provided people are aware that they have been dealing with an AI system. This follows directly from the previous principle regarding Transparency and explainability.

As it stands, this principle is open to obfuscation and procedural misfeasance and maybe even systemic maleficence.

- **Accountability:** People responsible for the different phases of the AI system lifecycle should be identifiable and accountable for the outcomes of the AI systems, and human oversight of AI systems should be enabled.

This clause is lacking. "...and human oversight of AI systems should be enabled" does not have enough strength – **need to add** something along the lines of "... and human oversight of AI systems should be enabled, enacted, regularly monitored and fully documented in a fully auditable manner."

For the over-arching framework, an equal three party co-regulatory system with a separate chair should be considered. Equal parties made up of:

- Industry / technology
- Consumer – representing the average person, and
- The victims of AI error/fraud

Decisions to be majority plus one. Government to have seats at the table but not be party to the voting.

On top of this, a deciding chair held by a Government body to break any stalemate between these three bodies (the only government vote).

A robust and transparent complaints and appeals mechanism would also be required and should follow a similar structure.

Further, there should be a reporting process like that used by the United States FAA Aviation Safety Reporting System (ASRS), whereby there is no penalty for reporting, and equally no protection for failure to report. "Confidential, voluntary, non-punitive" are the founding principles of this reporting system.

Sincerely,

Guy Loucks
MRSN