Asia Internet Coalition (AIC) Industry Submission on Australia's Responsible AI Discussion Paper

3 August 2023

To
The Department of Industry, Science and Resources (Technology Strategy Branch)
Government of Australia

On behalf of the Asia Internet Coalition (AIC) and its members, we are respectfully submitting our recommendations on Australia's Responsible Artificial Intelligence (AI) Discussion Paper consultation "Discussion Paper". AIC is an industry association of leading internet and technology companies in the Asia Pacific region with a mission to promote the understanding and resolution of Internet and ICT policy issues in the Asia region.

The Discussion paper on AI is a pivotal milestone for transforming Australia into a knowledge-based economy as it spells out a strategy to establish an ecosystem necessary for AI adoption by harnessing an agile framework for addressing different aspects of unique user journeys encompassing different market horizontals and industry verticals by ensuring responsible use of AI. The Discussion Paper outlines existing regulatory and governance responses in Australia and overseas and identifies gaps, as well as several measures to strengthen the framework governing the safe and responsible use of AI.

As responsible stakeholders, we appreciate the ability to participate in this consultation and the opportunity to provide inputs to the Discussion Paper. **As such, please find appended to this letter detailed comments and recommendations, which we would like to respectfully request the Government of Australia to consider.**

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact me directly at Secretariat@aicasia.org or +65 8739 1490. Thank you for your time and consideration and we look forward to hearing from you.

Sincerely,

Jeff Paine
Managing Director
Asia Internet Coalition (AIC)

Detailed Comments and Recommendations

Section A: Comments on key provisions of the Discussion document

1. **Definitions:** We recognize the importance of international harmonization and interoperability in defining key terms related to Artificial Intelligence (AI). It is crucial for the Digital Industry and Standards Regulation (DISR) to stay up-to-date with international efforts to promote consistency and alignment in defining these terms.

   In the Discussion Paper, DISR has provided definitions for various AI-related terms, including AI itself, Machine Learning, Generative AI models, Large Language Models (LLMs), Multimodal Foundation Model (MfM), and Automated Decision Making (ADM). The commendable approach taken by DISR is to refer to definitions found in recognized international standards and frameworks. For instance, the definitions of AI and Machine Learning in the Discussion Paper are based on the International Standards Organization's (ISO) definitions. Notably, the ISO definition of AI bears resemblances to the Organization for Economic Cooperation and Development's (OECD) definition of AI in their Recommendation of Council on Artificial Intelligence.

   Since AI systems are developed and deployed internationally, it is essential to strive for alignment in defining AI-related terms across jurisdictions. International alignment reduces discrepancies and conflicts between different legal frameworks, fostering compliance across jurisdictions. Secondly, it establishes a foundation for constructive dialogue and cooperation among governments on addressing AI-related risks. Lastly, it supports the development and dissemination of best practices and benchmarks for the safe and responsible deployment of AI systems on a global scale.

2. **Allocation of responsibilities:** The definitions provided in the Discussion Paper did not adequately consider the various entities involved in the supply chain of an AI system. Any new regulatory obligations (and associated liabilities) should fall on the entity that is best positioned to both identify and efficiently mitigate the risk of harm. By distinguishing between AI developers and AI deployers, obligations can be tailored to reflect an entity's role within the AI ecosystem. This enables companies to fulfill their respective obligations and better safeguard consumers.

3. **Transparency:** We welcome the recognition that transparency is an important element of a framework for responsible AI. Transparency can help enable accountability, empower users, and build trust and confidence. Transparency requirements should be tailored to ensure that the information is actionable and presented when stakeholders want it, in terms they can understand, and without extraneous details that can be distracting or confusing. It is equally important to balance the desire for transparency with other important equities, for example speed, safety, security and privacy. Importantly, some intuitively appealing forms of transparency can carry some of the most significant risks and provide little actual benefit in terms of accountability and building

trust. For example, disclosure of source code or individual user data may provide little insight into how a system works or why it made a given decision, but could enable abuse or exploitation of systems, and carries significant risks to user privacy and intellectual property.

4. **Risk-based approach:** AI is not risk-free, but when developed and used responsibly it can help reduce a vast array of risks inherent in everyday life. Conceptually, we support a risk-based approach to any new regulatory framework, but it is vital to ensure that it is targeted at the right use cases, taking into account the likelihood of harm and not just the severity of the harm, as well as the cost of not using AI in terms of forgone benefits. It's also important to reflect the wider operational context when assessing the level of risk. Organizations using AI will have more incentive to invest in additional mitigations and safeguards to reduce risks if doing so reduces the regulatory burden.

5. **Accountability:** To maintain public confidence, accountability mechanisms that demonstrate responsible AI development and deployment are essential. AI risk impact assessments can be effective in identifying and mitigating risks throughout an AI system's life cycle. They drive internal changes, address concerns, and promote trust among external stakeholders. However, a requirement to make the results of an impact assessment public, as suggested in the Discussion Paper, would be problematic in terms of trade secrets, privacy and security.

Section B: Recommendations for Responsible AI Policy

1. **Enhancing global security while preventing malicious actors from exploiting this technology**

AI has significant effects on the stability and security of the world. AI has the ability to both identify and track modified and false information. Through sophisticated security operations and threat intelligence, it can also power a new generation of cyber defences. The problem is to maximise the potential benefits of AI while putting the right safeguards in place to stop the malicious use of AI and working together to deal with bad actors. Governments, academia, public society, and industry all need to have a deeper understanding of the dangers posed by strong AI systems as well as how to make more complex AI systems consistent with human values.

a. *Safeguarding international security interests in advanced technologies:*

- Create the best "next-generation" trade control regulations for certain AI-powered software programs that are considered security threats, as well as for certain organizations that fund AI-related research and development in ways that could jeopardize international security.
- To facilitate information exchange between governments and the commercial sector about AI security vulnerabilities, strengthen international collaborations and public-private forums.

- Investigate techniques for spotting and thwarting disinformation efforts, such as meddling in elections, when nefarious individuals create or manipulate media using generative AI (deepfakes/cheapfakes).
- Establish joint AI research centres to advance AI research and adoption amongst like-minded countries.

b. Streamline government adoption of AI technologies:

- Reform government acquisition policies to take advantage of and foster world-leading AI. This includes investments in the most-needed, future-facing capabilities and expanding the aperture of companies that can deliver innovation.
- Examine institutional and bureaucratic barriers that prevent governments from breaking down data silos and adopt best-in-class data governance to harness the full power of AI.
- Capitalise on data insights through human-machine teaming, building nimble teams with the skills to quickly build/adapt/leverage AI systems which no longer require computer science degrees so that these teams can — in hours or days — address problems like responding to an active threat event.

2. Unlocking opportunity by maximising AI's economic promise

Economies that embrace AI will see significant growth, outcompeting rivals that are slower on the uptake. Adopting AI in existing industries represents an opportunity to move up the value chain, producing more complex and valuable products and services. AI also promises to help increase productivity despite growing demographic challenges. Governments, the private sector, educational institutions, and other stakeholders will need to work on joint and separate strategies to enable businesses, workers, and communities to capitalise on AI's benefits. Governments should increase investments in fundamental AI research, studies of the evolving future of work to help with labour transitions, and programs to ensure strong pipelines of STEM talent. Governments and industry need to deepen their efforts to upskill workers and support businesses meeting changing demands and new ways of producing goods and services.

2.1. *Invest in innovation, awareness building and human capital competitiveness:*

- Grow investments in fundamental AI research through national labs and universities, and research foundations.
- Complementing the development of centres of government expertise, expand AI research in sectoral agencies to address key societal challenges, for example agencies overseeing environmental protection, public health, and disaster prevention and relief.
- Maintain and expand technology transfer frameworks to help universities both obtain government funding and progress new AI applications, pursuing AI innovations produced

with federal funding and partnering with private tech companies to develop advanced AI applications.

2.2. *Promote an enabling legal framework for AI innovation*

a. Advance regulation and policies that help support AI innovation and responsible deployment.

- Adopt or maintain proportional privacy laws that protect personal information and enable trusted data flows across national borders, and establish a legal framework for AI models' incidental use of such data on the open web for training purposes.
- Establish competition safe harbours for open public-private and cross-industry collaboration on AI safety research.
- Adopt or maintain copyright systems that enable appropriate and fair use of copyrighted content, while giving publishers and content creators choice and control over reproduction of their works.

b. Clarify potential liability for misuse/abuse of both general-purpose and specialised AI systems (including open-source systems, as appropriate) by various participants – researchers and authors, creators, implementers, and end users.

2.3. *Prepare the workforce for an AI driven job transition and promote opportunities to broadly share AI's benefits:*

a. Create a strong pipeline of local STEM and computer science talent.
b. Invest in alternative pathways for non-college-degree holders.
c. Invest in community infrastructure to enhance economic mobility and inclusion (broadband, transportation, regional innovation hubs, affordable housing, transportation),improving labour market mobility.

3. Promoting responsibility while reducing risks of abuse

Businesses and consumers will be unwilling to deploy AI systems without trust and confidence, which will limit their ability to reap the benefits of AI. AI is already assisting in the fight against global issues like disease and climate change, and it has the potential to be a strong force for progress and fairness. However, if not created and implemented properly, AI systems may also increase societal problems. It will take a multi-stakeholder approach to governance to meet these difficulties. While standards and widely used best practices will be more effective in addressing some of these issues, others will call for legislation, such as mandating high-risk AI systems to go through expert risk assessments customized to particular applications. In collaboration with

communities and civil society, fundamental research will be needed to better understand potential consequences and mitigations for other concerns.

3.1. Pursue proportionate, risk-based regulation that enables responsible development and application of next-generation technologies

a. Encourage regulators to take a proportionate, risk-based approach to "high-risk" AI

- Define "high-risk AI systems" as those intended for use in applications that pose a material risk of significantly harming people or property or imperilling access to essential services.
- Establish proportionate penalties for non-compliant deployments, with reasonable opportunities to cure issues given the novel nature of the technologies.

b. Require organisations that deploy high-risk AI systems to:

- Provide documentation describing how the system is intended to be used, known inappropriate uses, known risks, and recommendations for independent deployers and users to manage risk.
- Undergo risk assessments by independent internal or external experts.
- Disclose the results of capacity and risk assessments, with protection for trade secrets and controlled technologies as appropriate.
- Align documentation, risk assessment, and management practices with relevant standards, frameworks, and industry best practices as those standards develop.

c. Require regulatory agencies to issue detailed guidance on how existing authorities (e.g., those designed to combat discrimination or protect safety) apply to the use of AI.

- Direct sectoral regulators to update existing oversight and enforcement regimes to apply to AI systems, including on how existing authorities apply to the use of AI, and how to demonstrate compliance of an AI system with existing regulations using international consensus multi-stakeholder standards like the ISO 42001 series.
- Instruct regulatory agencies to issue regular reports identifying capacity gaps that make it difficult both for covered entities to comply with regulations and for regulators to conduct effective oversight.