ACT
Association for
Competitive Technology

15 June 2026

Ms. Elizabeth Tydd
Australian Information Commissioner
GPO Box 5288
Sydney NSW 2001

RE: ***Comments of the Association for Competitive Technology to the Office of the Australian Information Commissioner in response to the Consultation on Guidance for Transparency in Automated Decision Making***

Dear Commissioner Tydd:

The Association for Competitive Technology (ACT) appreciates the opportunity to provide input to the Office of the Australian Information Commissioner (OAIC) as it develops guidance for transparency in automated decision making.[1]

ACT represents small business application developers and connected device companies located both within Australia and around the globe. These companies drive a global app economy worth more than AUD 2.3 trillion, and this economy continues to grow. ACT members leverage the connectivity of smart devices to create innovative solutions that introduce new efficiencies across consumer and enterprise use cases and rely on a predictable and fair approach to the regulation of AI and automated decision making to grow their businesses and create new jobs.

We submit our comments and recommendations below and welcome the opportunity to assist the Australian government in its efforts moving forward.

As AI technology is already having a tremendous impact across industries and sectors, including creative industries, electronics, and healthcare, it raises a variety of unique considerations for policymakers. As you continue to develop guidance for transparency in automated decision making, we urge you to incorporate the perspective of small business developers and align with the ACT's comprehensive AI policy principles:

1. **Harmonising and Coordinating Approaches to AI**

[1] https://www.oaic.gov.au/engage-with-us/consultations/consultation-on-guidance-for-transparency-in-automated-decision-making

A wide range of federal, local, and state laws prohibit harmful conduct regardless of whether the use of AI is involved. For example, the Australian Consumer Law prohibits misleading or deceptive conduct, and these protections apply regardless of whether AI is involved. The use of AI does not shield companies from these prohibitions. However, agencies must approach the applicability of these laws in AI contexts thoughtfully and with great sensitivity to the novel or evolving risks AI systems present. Policymakers must first understand how existing frameworks apply to activities involving AI to avoid creating sweeping new authorities or agencies that awkwardly or inconsistently overlap with current policy frameworks.

2. Quality Assurance and Oversight

Policy frameworks should utilise risk-based approaches to ensure that the use of AI aligns with any relevant recognised standards of safety, and efficacy. Small software and device companies benefit from understanding the distribution of risk and liability in building, testing, and using AI tools. Policy frameworks addressing liability should ensure the appropriate distribution and mitigation of risk and liability. Specifically, those in the value chain with the ability to minimise risks based on their knowledge and ability to mitigate should have appropriate incentives to do so. Some recommended areas of focus include:

- Ensuring AI is safe and efficacious.
- Encouraging AI developers to consistently utilise rigorous procedures and enabling them to document their methods and results.
- Encouraging those developing, offering, or testing AI systems intended for consumer use to provide truthful and easy-to-understand representations regarding intended use and risks that would be reasonably understood by those intended, as well as expected, to use the AI solution.

3. Thoughtful Design

Policy frameworks should encourage design of AI systems that are informed by real-world workflows, human-centred design and usability principles, and end-user needs. AI systems should facilitate a transition to changes in the delivery of goods and services that benefit consumers and businesses. The design, development, and success of AI should leverage collaboration and dialogue among users, AI technology developers, and other stakeholders to have all perspectives reflected in AI solutions.

4. Access, Infrastructure, and Affordability

Policy frameworks should enable products and services that involve AI systems to be accessible and affordable. Significant resources may be required to scale systems. Policymakers should also ensure that developers can build accessibility

features into their AI-driven offerings and avoid policies that limit their accessibility options.

5. Data Bias

The errors in datasets used for AI innovation will remain one of the more pressing issues with AI systems that utilise machine learning techniques in particular. Regulatory agencies should examine data provenance and bias issues present in the development and uses of AI solutions to ensure that bias in datasets does not result in harm to users or consumers of products or services involving AI, including through unlawful discrimination.

6. Research and Transparency

Policy frameworks should support and facilitate research and development of AI by prioritising and providing sufficient funding while also maximising innovators' and researchers' ability to collect and process data from a wide range of sources. Research on the costs and benefits of transparency in AI should also be a priority and involve collaboration among all affected stakeholders to develop a better understanding of how and under which circumstances transparency mandates would help address risks arising from the use of AI systems.

7. Modernised Privacy and Security Frameworks

The many new AI-driven uses for data, including sensitive personal information, raise privacy questions. They also offer the potential for more powerful and granular privacy controls for consumers. Accordingly, any policy framework should address the topics of privacy, consent, and modern technological capabilities as a part of the policy development process. Policy frameworks must be scalable and assure that an individual's data is properly protected, while also allowing the flow of information and responsible evolution of AI. A balanced framework should avoid undue barriers to data processing and collection while imposing reasonable data minimisation, consent, and consumer rights frameworks.

8. Education

Policy frameworks should support education for the advancement of AI, promote examples that demonstrate the success of AI, and encourage stakeholder engagements to keep frameworks responsive to emerging opportunities and challenges.

- Consumers should be educated as to the use of AI in the service(s) they are using.

- Academic education should include curriculum that will advance the understanding of and ability to use AI solutions.

9. Intellectual Property

The protection of intellectual property (IP) rights is critical to the evolution of AI. In developing approaches and frameworks for AI governance, policymakers should ensure that compliance measures and requirements do not undercut safeguards for IP or trade secrets.

While promoting transparency, we advise against disclosing proprietary information, such as training data. The mere fact that a model was trained on specific data does not guarantee its effectiveness for a given use case. Instead, the scientifically sound and industry-standard approach to assessing performance is testing the model in its intended environment using data representative of the target population.

In addition, in an ecosystem where many types of businesses are making use of AI services with different levels of visibility into the inner workings of the relevant models, it is important for policymakers to ensure obligations like the automated decision-making transparency obligation fall on the appropriate party. To that end, we are also submitting ACT's AI Roles and Interdependencies Framework,[2] which describes the AI ecosystem and how different entities relate to each other and to the technology, which will aid in understanding where applying transparency obligations is most appropriate.

ACT appreciates the opportunity to provide its views to the OAIC.

Sincerely,



[2] https://actonline.org/wp-content/uploads/ACT-AI-Roles-Interdependencies-Framework-final-text-May-2024-UK-English.pdf

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