

Part B: Submission

You may choose to send a document, a video, a voice recording or picture as your submission. *Please contact the Human Rights and Technology Project Team to send a file larger than 20 MB, such as an Auslan submission.*

This section includes a series of questions developed by the Commission that you may respond to. You do not need to answer every question.

Consultation questions

1. What should be the main goals of government regulation in the area of artificial intelligence?

Red flag law: A law (such as a Turing Red Flag Law) to be drafted so that autonomous systems are not readily mistaken for anything other than autonomous systems and should identify themselves as such when they begin to interact with people or other systems. The use of Russian or other bots that allegedly influenced the Brexit vote in the UK and the 2016 US presidential election are potential red flags and were allegedly not seen for what they were by influential and powerful organisations such as Facebook.

Laws that protect privacy: Governments are keen to use smart emerging technologies to gain information about the population, often in the name of protecting us from real or bogus fears, such as terrorism. Limits can and should be placed on the amount and type of information we unwittingly share, and governments could assume a role in that regard.

Testing: As we place more and more faith in machines, government may have a role in testing whether our faith in them is misplaced, as is currently the case for food and drugs, for example. Further, should machines, such as autonomous cars, be built with a human over-ride function, and should humans be trained to use them rather than lose that skill to a machine? These are some of the ‘thorny’ questions for government.

Our ongoing research on AI and the future of work indicates that Human Resources Practitioners are concerned about the potential impacts and see the potential and the limitations of government regulation.

For example, one of the focus group discussion participants who participated in our recent study stated: “ ... government’s role is to stimulate groups of people coming together to share and cross pollinate ideas and lead them into the future, I think that’s what it does for innovation but it also has on the other side of it some agenda, how does it regulate so that it's not a race to the bottom, that externalities are being factored into this, if you cut jobs – maybe you should pay a levy, you know, to some research or even some welfare so that these people can still be valid members – valued members of society et cetera and things like that ... it's very difficult for government to balance those two things without being constricting innovation ...”

2. Considering how artificial intelligence is currently regulated and influenced in Australia:

(a) What existing bodies play an important role in this area?

There currently appears to be an absence of regulation, monitoring and systematic evaluation on this key issue in Australia. There are two problems. AI is regarded as inevitable; hence nothing can be done. Second, the transmission and control of AI is in many cases external to the nation and linked to the business practices of multinational enterprises. Here the view tends to be that they cannot be regulated since they are located elsewhere.

(b) What are the gaps in the current regulatory system?

There is a need to establish a governing body on AI with legislative powers to monitor and track what is happening across the economy, advise government, inform public debate and establish industry benchmarks in terms of reporting, managing and addressing the consequences of AI. Existing bodies do not have a track record of regulating technology driven socio-economic phenomenon. Our ongoing research on AI and the future of work indicates that government regulation has been having a hard time keeping up with the ramifications of technological advancements.

For example, one of the focus group discussion participants referred to Uber/the gig economy stating that this aligns with a “... race to the bottom, it cuts wages and, you know, the traditional employment safety nets that have morphed over a hundred years now are irrelevant because people are sub-contractors, and whilst there’s some laws that trying to keep up with that kind of thing it’s really difficult for a government to regulate and when it does it’s seen as anti-innovation to protect some kind of minimum standard ...”.

3. Would there be significant economic and/or social value for Australia in a Responsible Innovation Organisation?

There is potential value in responsibly introducing emerging technologies into the social, economic and political fabric of society, and an organisation overseeing that phenomenon in its various guises could be worthwhile.

That said, there is a question as to whether a Responsible Innovation Organisation is an appropriate name. Introducing new technologies into systems or processes may or may not be innovative. It may simply be a novelty and not change anything substantively. The word ‘innovation’ can be distinguished from mere ‘novelty’. A ‘novel’ way of doing things tends to simply refer to adding something new or different (a tool for example), whereas an ‘innovative’ way to do things may involve using an old trusted method or application applied in a way that has not previously been applied to bring about a potential solution to a problem.

Additional economic value and/or social value for Australia might involve the advancement of an agenda for sustainable development in our local context. For instance, closing the gap between non-indigenous and indigenous Australians e.g. health services delivery in remote areas, improving the lives of people with disabilities e.g. communication, aid; reducing environmental costs of production e.g. biomimicry, efficiency etcetera.

Social responsibility codes are becoming embedded across organisations and range from gender equity to environmental reporting. Organisations may embrace it to demonstrate that they are part of the community and to indicate that they are engaged with some of the major challenges facing communities. Further they may wish to indicate to investors that they are familiar with the potential challenges to reputational risk if not adopting such a code.

4. Under what circumstances would a Responsible Innovation Organisation add value to your organisation directly?

n/a

5. How should the business case for a Responsible Innovation Organisation be measured?

The business case for such an organisation could relate to them taking responsibility for developing a code of conduct and training modules related to responsible innovation as well as asking questions of industry about the introduction of AI and machine learning such as:

- Will customers benefit and if so how? If not, to what extent will they not benefit and is that a material loss?
- Will employees benefit and if so how?
If not, is that loss of benefit acceptable in the wider scheme of things?
- In the context of the answers to the previous questions, will the organisation benefit and if so, what are the main benefits?
- To what extent do organisational benefits outweigh or override the loss of benefits to customers, employees, suppliers or to wider society?

Such an organisation could also take responsibility for asking fundamental questions about the business case for deciding whether to automate or not. To paraphrase UNSW's AI Professor Toby Walsh (2017), it could ask at least three questions:

1. Does automation make technical sense?
2. Does automation make economic sense? Is there a productivity dividend?
3. Does automation fit within what's accepted by society and what customers want?

These are not the questions that a computer can answer, though a computer could provide data to assist in supporting an answer. In principle, decisions about automation should remain the prerogative of human beings. However, that principle could be eroded during a future that places increasing trust in computers and smart machines.

In that context, such an organisation could bring a healthy scepticism to bear on proposals relating to the inevitability of automation. For example, UNSW's AI Professor Toby Walsh

noted that Frey and Osborne's 2013 Oxford based Study which used computer generated data to predict the fate of 702 jobs, rated the probability of bicycle repairer's job being automated at 94%.

As a cyclist himself Walsh concluded that there is almost zero chance of even small parts of a bicycle repairer job being automated within the next 20 or 30 years, essentially on the grounds of economic viability. He noted that bicycles are fiddly and irregular with parts that wear, stretch and break. The cost to automate would be prohibitive, especially considering that human repairers are poorly paid and willing to do the work cheaply. He added that the job is largely social, where repairers often mix with riders to enthuse about the latest kit, make jokes, drink coffee and talk politics and as yet they choose to do these things with humans, not robots.

The strongest business case for an Artificial Intelligence and Human Rights nexus is the code of conduct against socio-economic exclusion. For example, the IBM Corporation (2018) contends that AI systems should be developed with a moral compass if the full potential of AI is to be realised while reducing the risks. For this reason, IBM has been complementing its AI related research and development with corporate ethics that focuses on five themes; accountability, value alignment, explainability, fairness and user data rights (p. 29). The "Responsible Innovation Organisation" could govern such thematic priorities – which could be measured internally (by organisations), monitored externally (by government regulators), and reported annually (e.g. through CSR reports or Annual reports).

The development and reporting of social performance codes for organisations is embodied in the reporting practices of listed, NGO and public organisations. Responsible innovation practices being included as part of these codes represents only incremental change.

6. If Australia had a Responsible Innovation Organisation:

(a) What should be its overarching vision and core aims?

Machines are the servants of human beings, not their masters.

It is imperative that the following four dimensions of responsible innovation, as described by Stilgoe et al. (2013), be at least considered into core organisational missions and aims:

1. Anticipation – taking a forward view that takes account of AI related opportunities, risks, environmental concerns, etc.
2. Inclusion – enabling the hearing of ‘new voices’ that may challenge what can be narrow ‘we know what’s good for you’ top-down approaches.
3. Reflexivity – putting AI research into context through the regular posing of questions regarding norms and values.
4. Responsiveness – making changes as experience is gained and knowledge is built, including taking action to address any unintended consequences of AI.

Adherence to these dimensions should contribute to the protection of Australia’s interests, ensuring that new technologies promote the interests of Australians.

(b) What powers and functions should it have?

- Offer expert advice and information
- Creation and training in codes of ethics related to AI
- Conduct investigations (similar to the ACCC)
- Summon witnesses
- Conduct investigations
- Report to the Parliament
- Provide best practice examples and benchmarking
- Offer organisational certification in terms of standards and compliance

(c) How should it be structured?

- Independent chair for a fixed term with security of tenure
- Board consisting of members representing technological, scientific, ethical, humanist, business and legal perspectives.

(d) What internal and external expertise should it have at its disposal?

Scientific, technological, ethical, humanist, business, legal expertise.

(e) How should it interact with other bodies with similar responsibilities?

- As standard practice, independently
- If occasion requires, collaboratively involving tripartite collaboration between various stakeholders: government, industry and educators

(f) How should its activities be resourced? Would it be jointly funded by government and industry? How would its independence be secured?

- Funded by government
- Independent of government
- Arm's length from industry

(g) How should it be evaluated and monitored? How should it report its activities?

Report to parliament, not a minister.

References cited:

- IBM (2018). The Business Case for AI in HR. IBM Corporation: New York.
- Stilgoe, J., Owen, R., & Macnaghten, P. (2013). Developing a framework for responsible innovation. *Research Policy*, 42(9), 1568-1580.
- Walsh, T. (2017). It's alive. Artificial Intelligence from the logic piano to killer robots. La Trobe University: Melbourne