



Actuaries
Institute.

12 November 2024

Director
AI and Consumer Law Review Unit
Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600

Email: AIACLRReview@treasury.gov.au

Dear Sir/Madam,

Treasury Review of AI and the Australian Consumer Law

The Actuaries Institute ('the Institute') welcomes the opportunity to respond to Treasury's discussion paper on the Review of AI and the Australian Consumer Law ('the Discussion Paper').

The Institute is the peak professional body for actuaries in Australia. Our members work in a wide range of fields including insurance, superannuation and retirement incomes, banking, enterprise risk management, data science and AI, climate change and sustainability impacts, and government services.

The Institute has a longstanding commitment to contribute to public policy discussions where our members have relevant expertise. The comments made in this submission are guided by the Institute's '[Public Policy Principles](#)' that any policy measures or changes should promote public wellbeing, consider potential impacts on equity, be evidenced-based and support effectively regulated systems. Our comments are confined to the appropriate regulatory settings for AI across the economy and society. We have not included comments on, for example, cyber risk, although encourage Treasury to also ensure policy consistency with that area.

AI regulation

AI creates immense opportunities to implement technology that benefits citizens, organisations and society as a whole. However, the same technology when implemented poorly or maliciously can cause substantial harms to individuals and it is important the law continues to evolve to provide adequate consumer protection from new sources. The Institute acknowledges this Discussion Paper is an important step to canvas community views towards that end.

Harms can arise through reduced access or exclusion to products and services, with insurance examples and potential solutions illustrated in the Institute's conference paper [Big Data and the Digital Economy – Benefits and pitfalls in the insurance industry](#) delivered at the Economic Implications of the Digital Economy Joint Conference hosted by the Australian Bureau of Statistics and the Reserve Bank of Australia in March 2022.

In the Institute's response to the [2023 Safe and Responsible AI discussion paper](#) we made four general recommendations, of which three are applicable here:

1. Regulation should primarily be outcomes focused, rather than technology focused, to help ensure it can be enduring/long lasting.

We acknowledge the commentary in the Discussion Paper on the technology neutral language used in Australian Consumer Law. The Institute supports this approach, to avoid potential gaps in regulation as technology changes, and to ensure consistent treatment of consumer outcomes regardless of the underlying technology.

3. Producing guidance on existing regulation should be prioritised over creating new regulation, in situations where such regulation already exists.
4. A centralised expert body should be created and appropriately funded, to provide assistance to primary regulators in considering AI governance, regulation and guidance.

The key theme of recommendations (3) and (4) is "harmony". We acknowledge the Discussion Paper is intended to promote discussion on Australian Consumer Law, which may inform further changes to the Law or support the creation of guidance material for practitioners. Regardless of the approach taken, it is critical to align AI regulation across government departments and jurisdictions, to avoid confusion and/or scope for unlawful conduct for practitioners and consumers.

Ongoing assistance

The Institute remains committed to working collaboratively with Government to further refine and improve the AI regulatory framework. We offer our expertise in risk assessment and management, particularly in areas such as insurance and financial services, to help develop more targeted and effective regulatory approaches. Our members stand ready to participate in working groups, provide detailed feedback on technical aspects of the proposals, or contribute to pilot programs testing the proposed regulatory mechanisms.

If you would like to discuss any aspect of this submission please contact the Institute via (02) 9239 6100 or public_policy@actuaries.asn.au.

Yours sincerely

(Signed) Elayne Grace

CEO