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Safe and responsible AI in Australia Discussion Paper
Department of Industry, Science and Resources

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1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to comment on whether further governance and regulatory responses are needed in relation to AI.
2. We have answered questions in the discussion paper that we consider are relevant to the ACNC's role.

About the ACNC and the charity sector

3. The ACNC is the national regulator of charities established by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**). The objects of the ACNC Act are to:
 - a. maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
 - b. support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
 - c. promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.
4. Currently, the ACNC has oversight of around 60,000 registered charities. These charities vary considerably in size, role, and function. Charities are a vital part of our community and economy. Registered charities employed over 1.42 million people¹ and reported revenue of \$190 billion in the 2021 reporting period.² While some charities are large and well-known entities, most charities are very small, volunteer-run organisations.³

Use of AI by charities

5. Some charities are already adopting AI technologies. Infoxchange's 2022 survey into how not-for-profit organisations use digital technology found that 12% of respondents were using AI.⁴

¹ Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 19.

² Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 24.

³ Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 12; 19-21.

⁴ Infoxchange, *Digital Technology in the Not-for-profit Sector Report* November 2022 (2002), 14

<<https://www.infoxchange.org/au/digital-technology-not-for-profit-sector>>.



6. Beyond conducting research into AI, we are aware that some charities are developing AI technologies to support their service delivery, using AI as part of their service delivery, or are using AI tools to support their fundraising.
7. Charities typically have limited resources to call on to respond to additional operational requirements and expenses. The ACNC's ninth Australian Charities Report found that total expenses for charities had increased by \$7.1 billion to \$174.8 billion in the 2021 reporting period.⁵ Other expenses, which include operational costs, constitute 37.1% of all expenses for the charities sector.⁶ Also, the sector is aware that the community expects charities to expend their resources on their purposes and can be critical of charities perceived to be 'wasting' resources on administrative expenses.⁷
8. In this environment, AI can help charities to reduce costs and maximise the use of the data that charities may hold about their beneficiaries and donors.⁸
9. However, Infoxchange's 2022 report also stated that:
 - a. 44% of respondents reported that staff were not confident or "a bit" confident in using technology and systems;⁹
 - b. 50% of organisations had low interest in or were sceptical about taking on new technologies,¹⁰
 - c. Only 54% of organisations had "a process in place to manage information security related risks",¹¹
 - d. 35% of respondents listed access to affordable, skilled technical resources as their biggest challenge.¹²
10. Another survey of CEOs of not-for-profit organisations found that 30% of respondents were not considering or had not made progress on establishing a program to uplift their organisation's cybersecurity or privacy measures.¹³
11. Larger charities may have more resources (both in terms of financial resources and volume of data to use to train the tool) to leverage in using AI. Infoxchange's report notes:

⁵ Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 26.

⁶ Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 36.

⁷ See, for example, Social Ventures Australia and the Centre for Social Impact, 'Paying What It Takes: Funding Indirect Costs to Create Long-term Impact' (2022) 37.

⁸ See, for example, Dr Lobna Karou, *What Nonprofits Stand To Gain From Artificial Intelligence*, Forbes, 22 January 2021, < <https://www.forbes.com/sites/forbesnonprofitcouncil/2021/01/22/what-nonprofits-stand-to-gain-from-artificial-intelligence/?sh=73b2e1594834>>.

⁹ Infoxchange, *Digital Technology in the Not-for-profit Sector Report November 2022* (2002), 11 <<https://www.infoxchange.org/au/digital-technology-not-for-profit-sector>>.

¹⁰ Infoxchange, *Digital Technology in the Not-for-profit Sector Report November 2022* (2002), 14 <<https://www.infoxchange.org/au/digital-technology-not-for-profit-sector>>.

¹¹ Infoxchange, *Digital Technology in the Not-for-profit Sector Report November 2022* (2002), 20 <<https://www.infoxchange.org/au/digital-technology-not-for-profit-sector>>.

¹² Infoxchange, *Digital Technology in the Not-for-profit Sector Report November 2022* (2002), 21 <<https://www.infoxchange.org/au/digital-technology-not-for-profit-sector>>.

¹³ PwC, *PwC Australia's 3rd Annual Not-for-profit CEO Survey*, 9, < <https://www.pwc.com.au/about-us/social-impact/not-for-profit-ceo-survey.html>>.



Economies of scale generally hold. Digital Technology spend as a percentage of operating expenditure (OpEx) generally decreases with size; very small spend 4.5% of OpEx while large organisations spend 3.8% of OpEx. Interestingly, very large organisations (500+ employees) buck this trend, spending 6.3% of OpEx on Digital Technologies, indicating potential underlying digital challenges that need to be overcome to deliver value.¹⁴

3. Are there any further non-regulatory initiatives the Australian Government could implement to support responsible AI practices in Australia? Please describe these and their benefits or impacts.

12. We support increased public education and awareness campaigns to support responsible AI practices.
13. In the context described above, smaller charities may not consider adopting AI technologies, or may not properly consider all potential risks. Even if they were in a position to adopt AI technologies, they may not be able to because of insufficient financial resources. As a result, these charities may not be able to take advantage of the efficiency savings that may be realised through AI technology.
14. A small charity that wishes to adopt AI may choose to adopt a pre-existing tool. There are also risks here, if that tool has inbuilt biases or fragilities that are difficult to manage or mitigate for a small charity without the appropriate resources. This may have significant impacts on those who rely on services provided by charities. Many charities provide essential services to vulnerable people, who may be disproportionately affected by systemic biases.
15. Charities may also be subject to processes impacted by AI. For example, government agencies may decide to implement AI technologies as part of their grant-making processes. In such circumstances, it will be important for staff or volunteers of charities to have a sufficient grasp of AI technology to understand how the charity may be impacted by that implementation.
16. There may therefore be a need to build capacity amongst employees and volunteers of charities, to ensure that all charities can engage with AI technologies. Beneficiaries of charities may also need to be upskilled, so that they can engage with the decision-making process that may impact them. Such upskilling may be supported by public education and awareness campaigns.

4. Do you have suggestions on coordination of AI governance across government? Please outline the goals that any coordination mechanisms could achieve and how they could influence the development and uptake of AI in Australia.

17. The ACNC's objects include the "reduction of unnecessary regulatory obligations on the Australian not-for-profit sector". We consider that consistent, clear, and comprehensive

¹⁴ Inforchange, Digital Technology in the Not-for-profit Sector Report November 2022 (2002), 10 <<https://www.inforchange.org/au/digital-technology-not-for-profit-sector>>.



regulation and guidance will be important to encourage the development and uptake of AI in Australia, and in the charity sector.

18. As outlined above, charities have limited resources to call on to respond to additional administrative requirements and expenses. This means that charities may avoid adopting AI technology if compliance with associated regulatory requirements appears burdensome.
19. As a result, we suggest that any regulation be consistent across Australia and supported by clear and detailed guidance to assist the charity sector in fulfilling its obligations.

6. Should different approaches apply to public and private sector use of AI technologies? If so, how should the approaches differ?

20. We consider education and guidance are an essential aspect of any regulatory approach regarding the use of AI in the charity sector. However, before regulation of charities' use of AI is contemplated, we suggest there needs to be greater understanding of how charities are already using AI and the measures they have implemented to manage risk. This will avoid any disproportionate or inadvertent negative consequences of regulation on charities.
21. To support charities in adopting AI technologies, the charity sector would benefit from education and guidance that is tailored to the needs and operating conditions of charities, and which includes information about cybersecurity and privacy.
22. AI technologies use large amounts of data, which may include individuals' personal or sensitive information. Almost all charities hold personal information, including the details of staff, members, donors, and beneficiaries. This typically includes financial and sensitive information. The sensitive information of charity beneficiaries, for example, may include health concerns, criminal records, or religious affiliations.
23. Despite this, as noted above at [9] – [10], charities may not have processes or programs in place to manage or uplift their cybersecurity or privacy measures. This may be because of budget constraints or a lack of staff or volunteers with sufficient expertise. As a result, the risk to the sensitive data that they hold may be amplified.
24. It is important for charities to take measures to protect the information they hold. To support charities, the ACNC has published a Governance Toolkit covering cybersecurity and associated resources. It includes a self-assessment tool and checklist.¹⁵
25. Charities have a comparable need to the private sector for support and guidance to enhance data security practices, procedures, and infrastructure. In our view, the needs of charities may be more acute because of the constraints on their spending and given the factors outlined above. As a result, charities may require further support in establishing sound cybersecurity and privacy practices.

¹⁵ Australian Charities and Not-for-profits Commission, Governance Toolkit: Cyber Security, <<https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/governance-toolkit/governance-toolkit-cyber-security>>.



7. How can the Australian Government further support responsible AI practices in its own agencies?

26. As stated above, we consider that consistent, clear, and comprehensive regulation and guidance will be important to encourage agencies to adopt AI technologies. A lack of clarity may lead to agencies avoiding AI.
27. The framework could take into consideration that government agencies undertake a wide range of work with significant variations in complexity. Certain AI technologies may be appropriate in some circumstances but not others. A nuanced approach would allow agencies, supported by clear guidance, to identify appropriate applications and realise efficiencies, which will free resources to focus on other work.
28. We also consider it may be useful for the government to make available tools and resources that agencies could use, such as databases that could be used to train AI technologies, where that data can be shared. This would support smaller agencies who may not otherwise have access to such resources.

11. What initiatives or government action can increase public trust in AI deployment to encourage more people to use AI?

29. We consider that strong cybersecurity and privacy practices as well as transparency in the development and use of AI are important to build public trust in AI technologies.
30. The ACNC acknowledges the importance of promoting information privacy and sees sound records management as part of good governance. We also acknowledge that the public is becoming increasingly concerned about the vulnerability of the large amounts of personal and sensitive information held digitally by government, private sector, and community sector organisations, following several high-profile data breaches. If the community is confident that charities are handling personal information correctly, it will enhance trust and confidence in the Australian not-for-profit sector.

Next steps

31. If you have queries about this submission please contact [REDACTED], Acting Policy Manager, Legal and Policy, [REDACTED]



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Acting Assistant Commissioner General Counsel
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