

4 October 2024

Department of Industry, Science, and Resources
GPO Box 2013
Canberra, ACT, 2601
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Dear Sirs,

Safe and Responsible AI: Introducing mandatory guardrails for AI in high-risk settings: proposals paper

Thank you for the opportunity to respond to the paper, *Introducing mandatory guardrails for AI in high-risk settings*. Our submission is attached.

Clubs Australia represents over 5,000 clubs across Australia that employ more than 140,000 people. Clubs are not-for-profit, member-owned organisations that provide social, cultural sporting and recreation infrastructure to their members and the wider community.

Clubs in Australia are committed to responsible AI usage and ethical practices. We acknowledge the need for a balanced regulatory framework that supports innovation but is balanced against the unique contributions and challenges faced by member clubs.

A list of our recommendations is set out in **Appendix A**.

Should you require any further information from Clubs Australia regarding this submission, please do not hesitate to reach out at [REDACTED]

Yours sincerely,

[REDACTED]

Alison Tehan
Deputy Executive Director
Clubs Australia



A. Proposed principles

Clubs Australia believes the proposed principles on high-risk AI are comprehensive but must be applied flexibly. We suggest the following adjustments:

- **Low-risk AI:** Clear guidelines on low-risk applications, such as administrative tasks and customer service chatbots, should be established to allow clubs to use AI, particularly narrow AI use without unnecessary regulatory burden.
- **Categories of Uses:** Treat certain high-risk AI categories, like biometric-based exclusion identification in gambling, separately with specific regulations. This provides unique considerations and balanced flexibility when potential harm outweighs conventional rights.

The use of biometrics to assist clubs in managing their safer gambling obligations including exclusion identification by AI-powered facial recognition technology (**FRT**) is vital.

These programs involve the individuals signing deeds that prohibit them from entering gambling areas at the club (or the venue as a whole). While certain principles must be in place throughout the AI life cycle to minimise false negative and false positive identifications which may be a result of the AI developing discriminatory or biased properties. There must also be proportionate and sufficient flexibility in circumstances when potential harm may take priority over traditional civil rights.

1. **Recommendation: Clubs Australia recommends** the proposed principles be non-exhaustive and open-ended to allow flexibility for certain approved uses to be treated separately.

B. Defining high-risk AI

Clubs Australia believe that the proposed principles, supported by examples, provide a solid foundation for understanding high-risk AI settings and models. However, to enhance clarity and certainty, we recommend a hybrid approach that combines both principles-based and list-based elements.

For a list-based approach, similar to the EU and Canada, we suggest including existing high-risk use cases such as:

- Facial recognition technology
- Biometric data processing
- AI in healthcare diagnostics
- AI in financial decision-making

To capture emerging uses of AI, the list should aim to be technologically neutral and regularly updated based on technological advancements and industry feedback.

For a principles-based approach, the guidance should address:

- Clear definitions of high-risk AI settings and models
- Examples of both high-risk and low-risk applications
- Criteria for assessing risk levels
- Best practices for transparency, accountability, and testing

2. **Recommendation: Clubs Australia recommends** a hybrid approach that includes an exhaustive list to capture existing high-risk uses and open-ended principle-based guidance in consideration of emerging uses of AI and technological advancements.



C. Banned uses (unacceptable risk level)

Certain high-risk AI use cases should be banned due to unacceptable risk levels.

Lack of knowledge/consent:

Applications using personal data without knowledge or consent, especially exclusion systems in designated gambling areas at the club premises, should also be banned.

As mentioned above, self-exclusion involves the individual entering into a deed that allows clubs to prevent that individual from entering gambling areas, such as gaming rooms or the venue. State and Territory governments may also look to extend gambling-related exclusions to include involuntary exclusions in the future. In addition, patrons banned for convicted or suspected criminal activities may be impacted.

Exclusions and bans require the collection of biometrical data for use by systems using AI. The storage and use of this personal data should not be permitted without individual consent or knowledge in the case of involuntary orders.

Age-restricted/minors:

Clubs operate in a highly regulated industry with a number of age-restricted services. As a vulnerable group, AI may pose potential risks of misuse causing harm to minors

AI deployment in age-restricted services must protect minors from potential misuse. AI age verification systems in industries like online gaming and finance must adhere to stringent regulations.

- 3. Recommendation: Clubs Australia recommends** establishing clear definitions and criteria for high-risk AI applications to ensure the regulatory framework addresses the most dangerous uses while still allowing innovation.

D. Application to General Purpose AI

The importance of a flexible and adaptable regulatory framework to capture new and emerging forms of high-risk AI, including GPAI. The principles' emphasis on testing, transparency, and accountability throughout the AI lifecycle provides a robust framework that can adapt to evolving technologies. This framework should be regularly reviewed to keep pace with technological advancements, ensuring continued relevance and effectiveness.

Clubs Australia highlights the need for stringent standards across all GPAI models, focusing on safety, transparency, and accountability to ensure that clubs' deployment can manage GPAI risks and comply with the relevant regulations.

- 4. Recommendation: Clubs Australia suggests** a flexible and adaptive regulatory framework that is regularly reviewed and updated should be applied to high-risk GPAI models.

E. Proposed mandatory guardrails

The proposed mandatory guardrails effectively distribute responsibility across the AI supply chain and throughout the AI lifecycle. The requirements assigned to developers and deployers should be proportionate, ensuring that each party is accountable and informed about their role in the development and deployment of AI systems.

Clubs Australia believe that the proposed mandatory guardrails are generally adequate to address the risks associated with AI. Yet a more tailored approach is necessary for broad application, we suggest adapting the guardrails based on the risk level of different AI models. For low-risk AI models, the focus should be on ensuring basic compliance with transparency and accountability standards. For high-risk AI models, more stringent measures should be implemented, including rigorous testing, continuous monitoring, and detailed reporting requirements.



Clubs in Australia often lack the financial and technical resources of larger organisations. Accordingly, it is crucial to provide clear guidance and support to help not-for-profit clubs comply with these regulations without incurring excessive financial or operational burdens. Clear guidance and support for different risk levels should also be provided to clubs.

Additionally, it is essential to acknowledge the challenges faced by regional and rural clubs. These clubs often lack the reliable infrastructure required for AI deployment and regulatory compliance, in contrast to their metropolitan counterparts.

- 5. Recommendation: Clubs Australia recommend** adapting the guardrails based on roles in the AI lifecycle and the risk level of different AI models, with clear guidance and support across various sectors.

F. New national framework

Clubs Australia would see benefits in the development of a new national AI framework that eliminates the need for fragmented, Commonwealth and State-based regulations. This approach would ensure consistency across jurisdictions and prevent state agencies from having to create separate AI rules. Additionally, enabling stakeholder involvement, providing unambiguous direction, and adopting a balanced strategy to a technological-specific regime administered by a suitably qualified and experienced department.

A standardised framework would allow clubs to operate more efficiently, with clear and consistent guidelines that promote best practices for safe and responsible AI use. By creating a streamlined, uniform approach the risk of gaps or inconsistencies with Australia's existing laws is reduced, clear and supports small-to-medium businesses. Clubs can better focus on managing AI-powered technologies, such as FRT used in responsible gambling programs, without being burdened by varying regulatory requirements.

Clubs Australia believes this approach facilitates a regulatory framework capable of adapting to technological progress without incurring high costs or experiencing implementation delays and limits regulatory fatigue for clubs.

- 6. Recommendation: Clubs Australia supports** the development of a new national AI framework to provide consistent guidance across states, benefiting clubs by streamlining compliance and reducing regulatory complexity.

G. Practical support for phased implementation and clear guidance

Clubs Australia suggest the following measures, in recognition of the resource constraints faced by not-for-profit clubs and small-to-medium-sized businesses and to reduce the regulatory burden when applying mandatory guardrails for AI in high-risk settings:

- **Simplified compliance processes:** Develop streamlined and easy-to-follow compliance procedures tailored for small-to-medium-sized businesses.
- **Clear guidance and resources:** Offer comprehensive guidance documents, templates, and training programmes to assist businesses in understanding and implementing the guardrails.
- **Phased implementation:** Introduce the guardrails in phases, allowing businesses ample time to adapt and comply without undue pressure.

- 7. Recommendation: Clubs Australia recommend** implementing simplified compliance processes, clear guidance, and phased implementation to ensure that small and medium-sized businesses can comply with the new regulations without incurring excessive financial or operational burdens, while still safeguarding public interests.



Appendix A: List of Clubs Australia Recommendations

Rec. No.	Theme	Recommendation
1.	Proposed principles	Clubs Australia recommends the proposed principles be non-exhaustive and open-ended to allow flexibility for certain approved uses to be treated separately.
2.	Defining high-risk AI	Clubs Australia recommends a hybrid approach that includes an exhaustive list to capture existing high-risk uses and open-ended principle-based guidance in consideration of emerging uses of AI and technological advancements.
3.	Banned uses (unacceptable risk level)	Clubs Australia recommends establishing clear definitions and criteria for high-risk AI applications to ensure the regulatory framework addresses the most dangerous uses while still allowing innovation.
4.	Application to General Purpose AI	Clubs Australia recommends a flexible and adaptive regulatory framework that is regularly reviewed and updated should be applied to high-risk GPAI models.
5.	Proposed mandatory guardrails	Clubs Australia recommends adapting the guardrails based on roles in the AI lifecycle and the risk level of different AI models, with clear guidance and support across various sectors.
6.	New Comprehensive Legislative Framework	Clubs Australia supports the development of a new national AI framework to provide consistent guidance across states, benefiting clubs by streamlining compliance and reducing regulatory complexity.
7.	Practical Support for Implementation	Clubs Australia recommend implementing simplified compliance processes, clear guidance, and phased implementation to ensure that small and medium-sized businesses can comply with the new regulations without incurring excessive financial or operational burdens, while still safeguarding public interests.