



Submission to the Australian Human Rights Commission – *Human Rights and Technology Discussion Paper*

Submission from Standards Australia Limited – MAY 2020

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5 May 2020

ATTN: Mr Edward Santow
Human Rights Commissioner
Australian Human Rights Commission
GPO BOX 5218
SYDNEY NSW 2001

Via email to: tech@humanrights.gov.au

Dear Mr Santow

Thank you for the opportunity to make this submission to the *Discussion Paper on Human Rights and Technology*.

We believe that exploring human rights issues in the deployment of technology is important. There are a few reasons for this, including Australia's human rights obligations as a country that is a signatory to several covenants and conventions.

Additionally, there is a widespread adoption of connective technologies, through processes of technological dissemination. This megatrend is shaping political risk, which has material impacts on businesses, individuals and members of specific affected communities.

For the purposes of this submission, we have limited our comments to our expertise as Australia's national standards body, but we discuss specific proposals in the Discussion Paper.

For any questions, or further information on matters raised in this submission, please contact [REDACTED], Strategic Advocacy Manager, at [REDACTED] or via phone at [REDACTED].

Yours sincerely

[REDACTED]

[REDACTED]

Head of Stakeholder Engagement

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Proposal 1: A National Strategy on New and Emerging Technologies

We broadly support the proposal for a National Strategy on New and Emerging Technologies. If developed, this should be comprehensive, co-ordinated and address various national priorities, ranging from national security to effective service delivery in a digital era, and human rights considerations. It should also expressly consider the role of Standards-setting bodies nationally and internationally in advancing responsible AI.

Standards Australia broadly supports the proposal for an integrated National Strategy on New and Emerging Technologies, given our work in some of these areas. This ranges from AI to data-sharing and even the constitutive elements of physical goods critical to our digital lives.

We note that *Australia's Tech Future*, published in 2018, articulated a number of clear objectives in relation to not just domestic technology adoption and development, but global advocacy too.¹ In addition, we are aware that the Department of Foreign Affairs and Trade (DFAT) is currently consulting on the development of a *Cyber and Critical Technology International Engagement Strategy*. We note the potential to achieve alignment here with work underway globally, including amongst Five Eyes partners.² Therefore, aligning this work, within the context of a National Strategy, will be important.³

Additionally, central to the development of any proposed strategy will be not just identifying areas of interest in emerging technology, but the articulation of specific decisions over how Australia will intervene, utilising what are always finite resources, to shape responsible technology development, and deployment and use in the context of global supply-chains for technology.

This might require a focus on areas with direct relevance to human rights, including intangible technology transfer that leads to misuse or adoption for what would be unlawful purposes in Australia, as well as the human rights impact of technology use itself at an aggregate level, in relation to specific attributes under anti-discrimination legislation.

The need for a global, and collaborative, focus here is particularly noticeable because Australian consumers are generally early adopters of information and telecommunication technologies (ICT), and many of these are imported.⁴

We recommend any strategy developed in this area should also expressly consider standards, both national and international, through bodies such as International Organization for

¹ Department of Industry, Innovation and Science (2018). *Australia's Tech Future: Delivering a strong, safe and inclusive digital economy*. Canberra: Commonwealth of Australia.

² See: New Zealand Security Intelligence Service (2020). *2019 Annual Report*. Wellington: NZ Security Intelligence Service. See also: Coats, D.R. (2019). *Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community*. Washington, D.C.: Office of the Director of National Intelligence.

³ Here, we also draw your attention to the submission of the Australian Industry Group to this Discussion Paper, specifically as it concerns the need for co-ordination in relation to this specific recommendation.

⁴ Productivity Commission (2016). *Digital Disruption: What do governments need to do? Commission Research Paper*, Canberra: Commonwealth of Australia, p.13.

Standardization (ISO) and the International Electrotechnical Commission (IEC), and how they could help Australia to effectively shape the responsible development of future technologies.

There is further work outside of the realm of standards, for which other agencies, bodies, think tanks and companies themselves will have more fulsome contributions to make.

Proposal 15 (specifically, Question F): Sandboxes

We support the notion of a sandbox or testbed for AI-informed decision-making, involving collaboration between the private sector, government agencies and others. We encourage the Commission to consider working to shape our proposed model of an AI Hub, as outlined in the AI Standards Roadmap, as we consider that several areas of mutual interest exist.

We note, and broadly support, the Commission’s recommendation for a sandbox to “test AI-informed decision-making systems for compliance with human rights.” Such approaches may provide the private sector, as well as government agencies, with the opportunity to explore, examine and respond to issues in real-time settings, refining approaches for later use. However, we understand uptake can be varied, depending on the parameters of such sandboxes, and that is true for areas it has already been trialed in, including financial services.

Standards Australia, building on the work of the National Institute for Standards and Technology (NIST) in the United States and their proposals for testbeds for AI, and the interest in more agile approaches to regulation, has proposed this model for Australia, through a Hub.

This is outlined in our AI Standards Roadmap.⁵ This is being progressed through discussions with the Department of Industry, Science and Resources (DISER). We would welcome the opportunity to examine how a specific examination of human rights considerations, on a project-basis, might be included in this model of a Hub. Indeed the Roadmap signals the need to take a sector-based focus, through a consortia-based model, to leverage insights from across the private sector, government (including relevant regulators), civil society and academia.

⁵ Standards Australia (2020). *An Artificial Intelligence Standards Roadmap: Making Australia’s Voice Heard*. Sydney: Standards Australia, pp. 35-36.

Proposal 21: Compliance with Standards by Governments and review of industry standards

Standards Australia continues to welcome the adoption of international standards relating to accessibility, by stakeholders, through our existing processes. We would welcome a mechanism to examine market use of these Standards and information on the impact their use is having.

As the Discussion Paper notes, the adoption of standards can have an impact in driving procurement behaviour and, in doing so, change the nature of services provided.

The adoption of EN 301 549 in Australia in 2016, was significant and was referenced in relevant procurement processes, specifically at a Federal level.

Specifically, in relation to Proposal 21, Standards Australia acknowledges that the use of standards might vary and welcomes any further insights that might be provided via an inquiry or other appropriate mechanism that can elicit information as to how this Standard, and related, measures, promote greater accessibility.

Proposal 23: Development of an Australian Standard or Technical Specification

We would welcome the opportunity to facilitate the development of an Australian Standard or Technical Specification that “covers the provision of accessible information, instructional and training materials to accompany consumer goods, in consultation with people with disability and other interested parties.”

Standards Australia notes that a lack of consideration of accessibility, including by-design, can have negative impacts for people with disabilities, as well as companies and organisations, and adversely impact broad technological diffusion.

This is compounded for those who experience disadvantage across multiple axes of difference, highlighting the importance of considering intersectionality.⁶ In Standards Australia’s earlier submission to this Inquiry, we noted the impact poor service design in relation to digital deployment can have on members of the community broadly, as well as specific affected communities with low levels of digital literacy.⁷

Standards Australia can work alongside stakeholders to assist both public sector organisations and agencies and/or market participants to develop an Australian Standard or Technical Specification to shape the contours of what accessibility might look like in the context of access to digital consumer goods.

It is important to note that the processes undertaken to develop Australian Standards and Technical Specifications differ, although their potential end-use might not vary radically. An Australian Standard requires very broad support, and consensus, in order to be developed and, ultimately, published. Technical Specifications, on the other hand, require rigorous input and support, but are not predicated on consensus.

For these reasons, any proponent who wishes to utilise the Standards Australia pathway should carefully consider which channel might be more useful to them, noting the differing levels of support required.⁸

In relation to this particular proposal, we would welcome the opportunity to develop such a Standard or Technical Specification with stakeholders, noting this would require a proponent (i.e. an organisation or individual) willing to submit a proposal that demonstrates the need for the work, net benefit case and stakeholder support.

⁶ Crenshaw, K. (1991). ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color,’ *Stanford Law Review*, 43(6): 1241-1299.

⁷ Standards Australia (2019). *Submission on the Human Rights and Technology White Paper*. Sydney: Standards Australia

⁸ Standards Australia (2019). *Standardisation Guide 03: Standards and Other Publications*. Sydney: Standards Australia.

Annexure 1 – Background on Standards Australia

Standards Australia is recognised by the Commonwealth as Australia's peak non-government standards body. Founded in 1922, it is an independent and not-for-profit organisation and is the Australian member of the International Organisation for Standardisation (ISO), International Electro technical Commission (IEC) and the Pacific Area Standards Congress (PASC). At the international level, Standards Australia is committed to representing the views of stakeholders, government and consumers in standards development and related activities. Domestically, standards are developed for the net benefit of Australia and enhance economic efficiency, increase community safety and sustainability, and improve industry and international competitiveness.

Standards Australia facilitates standards development through technical committees, by bringing together relevant stakeholders to develop standards documents through a process of consensus. Our current catalogue consists of approximately 6000 voluntary standards across 12 sectors of the Australian economy, including energy and electrotechnology, ICT, manufacturing and consumer products and services. The building and construction sector is a standards development priority for Standards Australia and involves engagement with legislative authority at all levels of Australian government.

Standards Australia works with all tiers of government and industry. Our standards development process creates opportunities for a robust exchange of knowledge, expertise, and perspectives in the development of consensus based standards and other solutions to improve performance, productivity, as well as health and safety outcomes for all Australians.