

Consultation on the Use of Automated Decision-Making (ADM) by Government January 2025

Executive Summary

The Australian Retailers Association (ARA) welcomes the opportunity to contribute to the government's consultation on the use of automated decision-making (ADM).

The ARA is the oldest, largest, and most diverse national retail body, representing a \$430 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects, and unifies our independent, national, and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers our small and medium sized members, who make up 95% of our membership. Our members operate in all states and across all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA supports the adoption of ADM and views its widespread use as an opportunity to drive efficiencies and foster innovation in both the public and private sectors. As such, we advocate for ADM implementation in government to be guided by existing legislation and frameworks, avoiding unnecessary complexity or duplication. Notable examples include the Voluntary AI Safety Standard (for non-high-risk applications), Mandatory Guardrails (for high-risk applications), and the Privacy Act 1988, as amended by the Privacy and Other Legislation Amendment Act 2024.

This submission addresses two key areas:

- The ARA's broader perspective on ADM and its adoption, highlighting the importance of aligning government efforts with existing safeguards to ensure trust and consistency.
- The direct impact of government ADM adoption on the retail sector, focusing on potential risks, challenges, and opportunities for retailers.

The ARA's overarching position is that ADM can significantly enhance decision-making processes and productivity while building confidence in technological progress, providing appropriate governance mechanisms are in place to avoid critical risks. With proper implementation, ADM in government can serve as a foundation for its broader adoption in the private sector, delivering benefits to businesses and consumers alike.

ARA's Broader Perspective on ADM and Its Adoption

The ARA supports the adoption of ADM as a catalyst for innovation and efficiency while emphasising the importance of aligning new regulations with existing legislative safeguards to maintain consistency, avoid duplication, and support workforce upskilling.

Considerations

Legislative Duplication:

- ARA is concerned about the risk of duplicating legislative requirements for ADM, which could lead to unnecessary complexity for businesses. Existing frameworks, such as the Privacy Act 1988 (as amended by the Privacy and Other Legislation Amendment Act 2024), already require transparency in ADM processes and provide robust safeguards for individuals and businesses alike.

- The development of the Voluntary AI Safety Standard for non-high-risk applications and Mandatory Guardrails for high-risk applications further addresses transparency, accountability, and safety, rendering additional overlapping regulation unnecessary.

Avoiding Over-Regulation:

- Excessive regulation of ADM could hinder innovation and adoption, particularly for small and medium-sized enterprises (SMEs). Aligning ADM policies with existing frameworks like the AI Guardrails is essential to avoid introducing regulatory burdens that stifle adoption.
- International approaches, such as the OECD AI Principles, advocate for proportional regulation that focuses on high-risk applications while encouraging innovation in less critical areas. This provides a valuable precedent for Australia's regulatory approach.

Upskilling and Digital Literacy:

- The ARA rejects the notion that ADM will de-skill the workforce. On the contrary, ADM adoption presents an opportunity to upskill workers through targeted training programs. Ensuring businesses and employees are equipped with digital skills will support the effective integration of ADM technologies.
- Digital literacy programs, informed by initiatives like the Small Business Cyber Resilience Service, can enhance workforce capabilities, ensuring that ADM complements human decision-making rather than replacing it.

Recommendations**Align with Existing Legislation:**

- The government should leverage the Privacy Act 1988, Voluntary AI Safety Standard, and Mandatory Guardrails to guide ADM implementation, avoiding the creation of overlapping or duplicative frameworks.

Proportional Regulation:

- Regulatory efforts should prioritise high-risk applications of ADM, ensuring that businesses are not overburdened by unnecessary requirements for low-risk applications.
- Introduce non-binding guidance or voluntary standards to help businesses understand and comply with ADM requirements without imposing undue complexity.

Support for Digital Literacy and Upskilling:

- The government should collaborate with industry bodies to develop programs that enhance digital literacy and ADM-related technical skills across the workforce. These programs should prioritise SMEs, ensuring they are not disadvantaged in the transition to ADM.

Promote Innovation While Managing Risks:

- Ensure that ADM policies foster innovation by providing clarity and consistency, with targeted safeguards to manage risks without stifling technological advancements.

The Direct Impact of Government ADM Adoption on the Retail Sector

The ARA recognises the transformative potential of ADM for government operations and the efficiencies it can deliver. However, it is essential to consider how government ADM adoption could directly impact the retail sector. These impacts primarily relate to operational costs, compliance burdens, and the importance of maintaining robust mechanisms for appeals and dispute resolution. Presuming the Privacy Act and related legislative safeguards are adhered to, the ARA does not hold specific concerns regarding transparency, notification requirements, or related aspects.

Considerations

Operational Costs and Compliance Burdens:

- The retail sector could face increased costs associated with aligning business processes and data systems with government ADM requirements. These may include investment in technology to provide data in specified formats or compliance with automated auditing and reporting systems.
- Small and medium-sized retailers may bear a disproportionate share of these costs due to their more limited resources, potentially creating competitive imbalances within the sector.

Appeals and Dispute Resolution:

- Retailers require clear, accessible, and timely mechanisms to challenge or appeal decisions made by government ADM systems. Without such pathways, businesses could face operational delays, financial losses, and reduced trust in automated processes.
- Provisions within the Privacy Act 1988 already establish requirements for transparency and accountability in ADM systems. Provided these safeguards are consistently upheld, further regulatory intervention in these areas may not be necessary.

Conclusion

The ARA supports the adoption of an automated decision-making (ADM) as a transformative tool that can enhance efficiency, innovation, and fairness in both public and private sectors. The successful implementation of ADM within government has the potential to set a benchmark for private sector adoption, delivering widespread benefits across industries. Successful government implementation could also inspire the retail sector to adopt ADM in settings such as supply chain optimisation, personalised customer experiences, fraud detection, and inventory management, driving further efficiencies and innovation within the industry.

Our position emphasises the importance of leveraging existing legislative frameworks, such as the Privacy Act 1988, Voluntary AI Safety Standard, and Mandatory Guardrails, to avoid unnecessary duplication and ensure consistency. By addressing potential impacts on operational costs, compliance burdens, and dispute resolution, ADM can foster trust and confidence among retailers and other stakeholders.

The ARA is committed to collaborating with government and industry to ensure ADM achieves its full potential as a driver of progress and innovation while safeguarding the interests of businesses and consumers alike. We look forward to further engagement on this important topic.