Navigating Governance Frameworks for Generative AI Systems in the Asia-Pacific

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EXECUTIVE SUMMARY

Across the APAC region, there is increasing interest in both understanding how generative artificial intelligence (AI) systems and large language models (LLMs) work, and exploring approaches to manage these technologies.

Leveraging the Future of Privacy Forum (FPF)'s global work on governance and regulation of AI,[1] FPF's Asia-Pacific (APAC) office commenced a research project on the regulatory and governance landscape for generative AI systems and LLMs in the APAC region in April 2023. The project focuses on 5 jurisdictions:

1. **Australia**
2. **China**
3. **Japan**
4. **Singapore**
5. **South Korea**

This Report is the culmination of that project. It notes that these jurisdictions are at an inflection point in the governance of generative AI systems, with a risk of fragmentation both within and between jurisdictions as regulatory responses diverge.

Section 1 of the Report charts early regulatory responses to generative AI in the 5 APAC jurisdictions. It notes that while most responses to date have favored voluntary guidelines and multi-stakeholder consultations, China has taken a unique approach by enacting binding regulations for generative AI.

This section also posits that as jurisdictions develop their respective generative AI governance frameworks, there are areas of consensus that could inform efforts to address regulatory fragmentation. Specifically, the 5 jurisdictions broadly agree on five identifiable risks posed by generative AI systems, and on certain recommended courses of action to address these risks. These five risks are:

» factual inaccuracies;
» lack of transparency;
» inappropriate use of personal data;
» malicious use of generative AI systems; and
» biased or discriminatory output.

Section 2 examines the broader landscape of existing laws and regulations in the five jurisdictions that may apply to generative AI. It highlights data protection law as a key source of legal obligations for developers and deployers of generative AI systems due to the use of personal data in training these systems.

This section also discusses data protection issues that are relevant for generative AI, such as lawful grounds for collecting and processing personal data, including publicly available personal data, managing data quality, handling personal data breaches, and fulfilling individual rights such as access to, correction, and erasure of personal data.

Section 3 highlights takeaways for policymakers and developers and deployers of generative AI, including but not limited to those in industry, in the APAC region to foster responsible governance of generative AI.

A key takeaway for **policymakers** is the need to counter the risk of regulatory fragmentation across the region. This may include ensuring alignment and interoperability with international policy frameworks, providing guidance on applying existing laws to generative AI, and promoting cross-regulator coordination.

Amongst the key takeaways for **developers and deployers of generative AI** are that robust internal AI governance structures, data management practices, privacy protection processes, security safeguards, and transparency measures are widely recognized building blocks for responsible development and deployment of generative AI systems. Enabling traceability of AI-generated content and clearly indicating its nature are also unanimous recommendations across the early regulatory responses to generative AI in the five jurisdictions.

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1 See, for example, *The Spectrum of Artificial Intelligence – An Infographic Tool* (December 14, 2020), available at https://fpf.org/blog/the-spectrum-of-artificial-intelligence-an-infographic-tool/, *The Spectrum of AI – Companion to the FPF AI Infographic* (updated July 18, 2023), available at https://fpf.org/blog/newly-updated-report-the-spectrum-of-artificial-intelligence-companion-to-the-fpf-ai-infographic/, and *Generative AI for Organizational Use: Internal Policy Checklist* (July 13, 2023), available at https://fpf.org/resource/fpf-releases-generative-ai-internal-policy-checklist-to-guide-development-of-policies-to-promote-responsible-employee-use-of-generative-ai-tools/