DIGITAL REGULATION COOPERATION FORUM (DRCF) – RESPONSE TO THE GOVERNMENT'S WHITE PAPER – 'A PRO-INNOVATION APPROACH TO AI REGULATION'

About the DRCF

1.   The Digital Regulation Cooperation Forum (DRCF) has four members: the Competition and Markets Authority (CMA), Ofcom, the Information Commissioner's Office (ICO) and the Financial Conduct Authority (FCA).

2.   The DRCF supports cooperation and coordination between its members on digital regulatory matters. The DRCF adds value in a variety of ways – by publishing joint position papers, helping to build regulators' understanding of new technologies, and offering practical solutions, such as collating regulators' research on digital issues to make it easier for stakeholders to access.

3.   The DRCF recently published its 2023/24 Workplan, outlining the key areas it will be focusing on over the coming year. Joint work on AI is a key theme of this workplan.

Introduction

4.   The DRCF is grateful for the opportunity to respond to the Government's AI White Paper, and for previous and ongoing engagement with the Department for Science, Innovation and Technology (DSIT), the Office for Artificial Intelligence (OAI) and the Centre for Data Ethics and Innovation (CDEI) on both the content of the White Paper and the proposed AI Regulatory Framework.

5.   New applications of AI are already playing a huge role in transforming whole sectors of the economy via increased productivity and innovation. Indeed, the DRCF's paper on the benefits and harms of algorithms highlighted a number of examples, such as machine learning used to positively impact healthcare, and algorithms used to summarise and digest complex information, for example in news media, financial research, search engine optimisations, and analysis of legal documents.[1]

6.   In its work to date the DRCF has, via its Algorithms and Enabling Innovation projects, already explored different elements of the Government's five proposed AI principles[2]. For example, the DRCF has researched, published and hosted webinars on transparency in algorithmic procurement, and has coordinated development of its members' capabilities

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[1] Digital Regulation Cooperation Forum, *The benefits and harms of algorithms: a shared perspective from the four digital regulators*, 23 September 2022.
[2] safety, security and robustness; appropriate transparency and explainability; fairness; accountability and governance; contestability and redress

on algorithmic assessments and research on the third-party audit market. The CMA and the ICO have worked closely to understand, review and inform the development of Google's Privacy Sandbox proposals, and the ICO and Ofcom have worked together on data protection and online safety.[3] The DRCF's research into the development of a possible multi-agency advice service for digital innovators (of which more detail is provided below) began in April 2022.

7.   The DRCF welcomes the recognition in the White Paper of the need for close co-ordination between regulators as they consider the AI principles, building capabilities and technical knowledge and identifying cross-cutting issues across the AI framework.

8.   As indicated in its 2023/24 Workplan, it is a DRCF priority to support the effective governance of AI, by building consensus around the application of the key principles in the White Paper. Highlighted below is the cross-regulatory work on AI that the DRCF plans for the coming year, together with the DRCF's response to suggestions in the White Paper regarding its potential role in the future regulatory framework for AI.

The AI White Paper and relevant aspects of the DRCF 23/24 workplan

9.   Each DRCF member regulator has an active programme of work on AI and algorithms. The members collaborate through the DRCF where joint working will foster coherence and efficiencies, including to identify new ways of supporting responsible innovation.

10.   The DRCF's plans for cross-regulator coordination and coherence in relation to AI over the next year are as follows:

(a) Joint consideration of how the proposed principles in the White Paper may apply within the remits of member regulators and work to ensure coherence in understanding and application of these principles.
(b) Joint efforts to build skills and capabilities across member regulators, as well as monitoring developments in AI through both AI and algorithms and horizon scanning workstreams.
(c) A joint research project into a potential multi-agency advice service for digital innovators, which is likely to provide useful input to the proposals in the White Paper for an AI sandbox.

The White Paper's proposed cross-regulatory principles for AI and central co-ordination function

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[3] Digital Regulation Cooperation Forum, *Digital Regulation Cooperation Forum: 2021/22 Annual Report*, 2022; Digital Regulation Cooperation Forum, *Digital Regulation Cooperation Forum: 2022/23 Annual Report*, 27 April 2023

11. DRCF member regulators are working together to build coherence on the application of government's cross-sectoral principles on AI, through its well-established AI and algorithms workstream.

12. Each DRCF member regulator is considering the application of the principles in the context of the regimes for which it is responsible, coming together to build coherence where possible. For example, the DRCF is carrying out detailed mapping of the concept of fairness in algorithmic decision-making, which will involve each regulator sharing views on how AI fairness is defined, understood and promoted in its regulatory contexts.

13. The White Paper sets out a proposal for central coordination functions, to support the implementation, monitoring and development of the framework and promote coherence across regulators. It also indicates that government will not seek to duplicate the work of regulators, and will encourage the use of existing expertise where it exists. The DRCF looks forward to ongoing discussion with government about the application of the AI principles and would be happy to share insights from its cross-regulatory work.

Building capabilities and staying up to date on developments in AI

14. Individual member regulators have carried out significant work to build their own capabilities. The DRCF is enhancing this via an active program of work to develop appropriate skills and capabilities in each of the four member regulators in order to meet current and future digital responsibilities.

15. The DRCF is actively considering the risks and opportunities created by emerging technologies. One specific area of joint work for next year is in relation to use cases and potential risks created by generative AI in the areas of member regulators. It plans to share joint insights, discuss these issues with external stakeholders and consider future joint work in this area.

16. As noted in the CMA's response to the White Paper, some regulators may not be fullyequipped with technical expertise to manage the potential risks and opportunities of AI in their respective remits. The DRCF is open to discussions with government on how it might help to support other regulators in upskilling, understanding and managing the implications of AI.

17. DRCF member regulators already share knowledge and best practice on digital issues with the wider regulatory community via the DRCF's quarterly Regulator Roundtables, attended by ten other UK regulators. DRCF members also share expertise on AI and algorithms via the Regulators and AI Working Group, which the ICO has hosted since 2019 and which is attended by 27 UK regulators as well as six non-regulator bodies.

18.   The DRCF will also continue its efforts to involve other regulators within the activities planned as part of its 2023/24 Workplan. This could include inviting external participation to discussions and workshops on the meaning of AI principles. It could also mean inviting non-DRCF regulators to participate in the Forum's discussions of the opportunities and risks of novel technologies, such as generative AI.

19.   As well as working with other UK regulators, the DRCF is convening an international community of regulatory authorities with a similar focus to the DRCF, to gather insights into how overseas jurisdictions are approaching cooperation in digital regulation

DRCF's research into a potential multi-agency advice service for digital innovators

20.   DRCF member regulators recognise they have an important role to play in helping innovators develop safe and trustworthy new AI products and services. There are a range of different approaches to advice services already in existence across UK regulators, such as sandboxes.[4]

21.   Through its Enabling Innovation workstream, the DRCF is carrying out research into how a multi-agency advice service, which would enable interaction with multiple regulators on a single issue, could best be designed to suit the needs of digital innovators. This project, made possible by a grant from the Regulators' Pioneer Fund launched by the former Department for Business, Energy and Industrial Strategy, is running to the end of August 2023.

22.   It is likely that this project, in combination with the Algorithms project, will generate insights that could inform the Government's plans to establish an AI sandbox as part of the new AI regulation framework. The DRCF continues to share insights from its research with government as these emerge and looks forward to working further with government in this area.

Conclusion

23.   The DRCF looks forward to continuing its productive dialogue with DSIT and other government departments. The DRCF is aiming for its work over the coming year to be valuable to all stakeholders including member regulators, businesses and government, and trusts that by working together, we can maximise the benefits of AI and algorithms for UK citizens, industry and wider society.

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[4] Information about the FCA's Regulatory Sandbox can be found here; information about the ICO's Regulatory Sandbox can be found here.