

## A COMPARATIVE ANALYSIS OF ARTIFICIAL INTELLIGENCE REGULATION: IMPLICATIONS FOR SINGAPORE

In relation to artificial intelligence (“AI”) regulation, Singapore presently adopts a wait-and-see approach, refraining from implementing any hard regulation before 2026. This article is directed at making recommendations for Singapore’s future AI hard regulation and conducts a comparative analysis of the hard AI regulation in the EU, the People’s Republic of China (“China”) and South Korea. This article draws lessons specifically from Asian jurisdictions with similar socio-legal and commercial considerations. In particular, China and South Korea are at the forefront, actively pushing for hard regulation. Key takeaways include the potential drivers for a shift towards hard regulation, the scope and potential features of such future regulation.

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### I. Introduction

We, the Leaders of the Group of Seven (G7), stress the innovative opportunities and transformative potential of advanced Artificial Intelligence (AI) systems, in particular, foundation models and generative AI. We also recognize the need to manage risks and to protect individuals, society, and our shared principles including the rule of law and democratic values, keeping humankind at the center.<sup>[2]</sup> [reference added]

1 This statement by the G7 leaders is a call for governments to take action when it comes to artificial intelligence (“AI”) systems. We increasingly witness countries heeding this call by seeking to manage risks on both international and domestic planes. These efforts, however, are far from homogenous, often differing in both type and intensity; examples range from the EU’s formal AI Act (“EU AI Act”) to the soft

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  - 2 “G7 Leaders’ Statement on the Hiroshima AI Process” (30 October 2023) <<https://www.mofa.go.jp/files/100573466.pdf>> (accessed 1 March 2025).

law Guide on AI Governance and Ethics published by the Association of Southeast Asian Nations (“ASEAN”).

2 Singapore has so far opted for self-regulation, relying largely on non-binding frameworks and guidelines rather than enacting AI-specific legislation. As was outlined in Singapore’s National AI Strategy (“NAIS 2.0”) published in December 2023, Singapore will continue with its current approach for the next three to five years.<sup>3</sup> However, this does not mean that discussions about hard regulation by the State can be avoided.<sup>4</sup> Particularly for emerging technologies, the true question is not whether to regulate, but when and how.<sup>5</sup> By drawing on the experiences of other jurisdictions, this article will address the question of what AI-specific hard regulation could look like in Singapore. Notably, this article will also fill a lacuna in the existing comparative literature, which largely focuses on AI regulation in the Global North,<sup>6</sup> by bringing forth the perspective of Asian jurisdictions. The Asian perspective is important since the similar cultural context shared with Singapore provides closely applicable takeaways.<sup>7</sup>

3 This article proceeds as follows. Part II approaches the concept of “regulation” from a theoretical perspective – uncovering what regulation entails, the various ways in which regulation may be implemented and unique features of regulation pertaining to AI. In Part III, a comparative analysis is conducted between three legal orders – the EU, the People’s Republic of China (“China”) and South Korea. These legal orders are selected because they are at the forefront of AI regulatory development, and ample literature is available on their respective hard laws. The comparative analysis will analyse each legal order’s AI regulatory landscape

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3 Smart Nation Singapore, “National Artificial Intelligence Strategy 2.0” <<https://file.gov.sg/nais2023.pdf>> at pp 56–57 (accessed 1 March 2025).

4 In this article, the terms “hard regulation” and “State regulation” will be used interchangeably.

5 Simon Chesterman, “From Ethics to Law: Why, When, and How to Regulate AI” (May 2023) NUS Law Working Paper No 2023/014 at p 6.

6 Olanrewaju Akinola, Ogundipe Adebayo Tunbosun & Bankole Oladapo, “Comparative Analysis Regulatory of AI and Algorithm in UK, EU and USA” SSRN (2022) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4212588](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4212588)> (accessed 1 March 2025); Michael Veale & Frederik Zuiderveen Borgesius, “Demystifying the Draft EU Artificial Intelligence Act – Analysing the Good, the Bad, and the Unclear Elements of the Proposed Approach” (2021) 22(4) *Comput Law Rev* 97; Denise Almeida, Konstantin Shmarko & Elizabeth Lomas, “The Ethics of Facial Recognition Technologies, Surveillance, and Accountability in an Age of Artificial Intelligence: A Comparative Analysis of US, EU, and UK Regulatory Frameworks” (2022) 2 *AI and Ethics* 377.

7 These include similarities in the political context with trust and reliance on top-down efforts, as well as in the socio-legal context where there is often a stronger emphasis on commercial considerations over fundamental rights.

and highlight features unique to each legal order. Part IV then applies the comparative findings to Singapore and provides recommendations for future AI hard regulation in Singapore.

## II. Regulating AI: a theoretical approach

### A. Theories of regulation

4 Understanding the theory of regulation serves as a springboard for the later discussion on how to design AI-specific regulatory regimes. This section sets the scene by exploring four questions: (a) *what* is regulation; (b) *why* do States regulate; (c) *how* do States regulate; and (d) *when* do States regulate?

#### (1) *What is regulation?*

5 For the purposes of this article, regulation is defined as “a means to intentionally influence and/or constrain the behaviour of actors, be it individuals, groups, or legal entities such as companies”.<sup>8</sup> Whilst Lawrence Lessig had identified numerous modalities of regulation, including social norms and the market,<sup>9</sup> this article focuses specifically on how the State can regulate actors through legal means. This allows stakeholders (industry, consumers, *etc*) to better understand and anticipate the effects of future laws which, unlike other modalities of regulation, impose legally binding obligations and may confer rights.

#### (2) *Why do States regulate?*

6 The rationales for regulation are wide-ranging, including public interest and interest group theories. This article will focus on two rationales most pertinent to AI regulation.

7 First, States may enact regulation to protect society against market failure, including regulating to correct information inadequacies, externalities and predatory pricing behaviour.<sup>10</sup> One example is regulation mandating food and drinks labelling. In an unregulated market, producers are disincentivised from processing and providing information due to the

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8 Nathalie A Smuha, “From a ‘Race to AI’ to a ‘Race to AI Regulation’: Regulatory Competition for Artificial Intelligence” (2021) 13(1) *Law, Innovation and Technology* 1 at 60.

9 Lawrence Lessig, “The Law of the Horse: What Cyber Law Might Teach” (1999) 113 *Harv L Rev* 501.

10 Robert Baldwin, Martin Cave & Martin C Lodge, *Understanding Regulation: Theory, Strategy, and Practice* (Oxford University Press, 2012) at pp 15–22.

high costs involved. Without sufficient information in place for consumers to evaluate competing products, the operation of the competitive market is disrupted. The law thus comes in to ensure that information remains accessible and to correct undesirable market behaviour.<sup>11</sup>

8 Secondly, States may enact regulations to protect rights. Generally, such regulations set a minimum standard to protect individuals against the encroachment of rights by both the State and other individuals, or to ensure that resources are allocated based on notions of distributive justice, as opposed to economic efficiency.<sup>12</sup> An example is minimum wage legislation.

(3) *How do States regulate?*

9 A regulator's toolbox ranges from traditional rulemaking by political institutions and adjudication by courts or tribunals, to informal guidance in the form of standards, interpretive guides, and public and private communications.<sup>13</sup> Regulators decide to use particular tools to design a regulatory regime that strikes a balance specific to their jurisdiction's context and the nature of the problem at hand. This results in a spectrum of differing regulatory landscapes. In order of increasing state intervention, possible regimes include self-regulation, co-regulation and state regulation. Down the spectrum, there is also a shift from the imposition of soft regulation, which is legally non-binding, to hard regulation, which is legally binding.

10 On one end of the spectrum lies the self-regulation regime, where the regulatory target exerts control over its own membership and their behaviour. Soft regulation comprises non-binding guidelines and recommendations on how the regulatory target can exert control.<sup>14</sup> Self-regulation can occur within an industry or even within an organisation.<sup>15</sup> Self-regulation is typically selected for issues requiring higher levels of relevant expertise and higher efficiency in the production of controls.<sup>16</sup>

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11 Robert Baldwin, Martin Cave & Martin C Lodge, *Understanding Regulation: Theory, Strategy, and Practice* (Oxford University Press, 2012) at pp 18–19 and 24.

12 Tony Prosser, *The Regulatory Enterprise: Government, Regulation, and Legitimacy* (Oxford Academic, 2010) at p 14.

13 Simon Chesterman, "From Ethics to Law: Why, When, and How to Regulate AI" (May 2023) NUS Law Working Paper No 2023/014 at p 10.

14 Linda A J Senden, "Soft Law, Self-regulation and Co-regulation in European Law: Where Do They Meet?" (2005) 9(1) *Electronic Journal of Comparative Law* 1 at 22.

15 Roger Clarke, "Regulatory Alternatives for AI" (2019) 35(4) *Computer Law & Security Review* 398 at 404.

16 Robert Baldwin, Martin Cave & Martin C Lodge, *Understanding Regulation: Theory, Strategy, and Practice* (Oxford University Press, 2012) at pp 139–141.

11 Next, a co-regulation regime involves industry self-regulation with some oversight or ratification of a self-proposed framework by the State.<sup>17</sup> For instance, a co-regulation regime may consist of legislation establishing a regulatory framework containing obligations that were decided on through consultation with stakeholders.<sup>18</sup>

12 Finally, on the other end of the spectrum lies the state regulation regime which involves the enactment of hard regulation. This may be accompanied by a specialist government agency exercising powers to enforce formal rules and provide guidance.<sup>19</sup>

(4) *When is state regulation appropriate?*

13 The final question is when a jurisdiction should shift towards a state regulation regime. When thinking about this question, particularly in relation to new technology, regulators are faced with the Collingridge dilemma. During the early stages, imposing regulation is difficult due to the lack of information about the technology's likely impact. However, at a later stage, implementing regulation is also difficult since industry changes may have been made to accommodate the new technology, resulting in the technology becoming more entrenched and thus more costly to regulate.<sup>20</sup> While there is no conclusive solution, the following are two potential approaches that regulators can choose from to address the dilemma.

14 The first approach is known as “masterly inactivity”. Under this approach, regulators initially refrain from acting. They instead actively monitor and engage with the emerging market, buying time to develop a strategy.<sup>21</sup>

15 The second approach involves imposing regulation when a jurisdiction's existing regime is faced with suboptimal compliance. Regulation is thus introduced to strengthen compliance through

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17 Robert Baldwin, Martin Cave & Martin C Lodge, *Understanding Regulation: Theory, Strategy, and Practice* (Oxford University Press, 2012) at p 146.

18 Roger Clarke, “Regulatory Alternatives for AI” (2019) 35(4) *Computer Law & Security Review* 398 at 405.

19 Roger Clarke, “Regulatory Alternatives for AI” (2019) 35(4) *Computer Law & Security Review* 398 at 403.

20 Lyria Bennett Moses, “How to Think About Law, Regulation and Technology: Problems with ‘Technology’ as a Regulatory Target” (2013) 5(1) *Law, Innovation and Technology* 1 at 7.

21 Simon Chesterman, “From Ethics to Law: Why, When, and How to Regulate AI” (May 2023) NUS Law Working Paper No 2023/014 at pp 8–9.

enforcement.<sup>22</sup> For instance, left to their own devices, the tobacco industry in the 20th century abused the then-prevailing self-regulation regime to further their own profits. While the industry purported to develop “smoking prevention programmes”, in reality, these smoking prevention programmes did not include any information about the links between nicotine and addiction or the health detriments of smoking, and the programmes were instead alleged to have encouraged more smoking.<sup>23</sup> The failure of the self-regulation regime thus led jurisdictions like Singapore to shift towards a stricter state regulation regime.<sup>24</sup>

## **B. Features of AI regulation**

16 Applying the theory of regulation to the AI context, we observe how the nature of AI gives rise to several specific challenges. For one, the conceptual ambiguity surrounding the term “intelligence” results in the oft-cited challenge of defining “artificial intelligence”.<sup>25</sup> To date, there is no universal consensus on the scope and definition of AI.<sup>26</sup> This has resulted in inconsistent regulatory approaches across jurisdictions, increasing compliance costs for all stakeholders, from AI developers to deployers. Another challenge arises due to several problematic characteristics that result in AI being more difficult to regulate than other sources of public risk – AI’s ability to act autonomously, the potential to lose control over AI, and the discreetness, diffuseness and opacity of AI research and development<sup>27</sup> (“R&D”). “Discreetness” refers to how AI R&D can be carried out with few resources and limited infrastructure; “diffuseness” refers to how individuals working on the various components of an AI system may be located far away from one another; “opacity” refers to

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22 Ian Ayres & John Braithwaite, *Responsive Regulation Transcending the Deregulation Debate* (Oxford University Press, 1992) at p 38.

23 Lisa L Sharma, Stephen P Teret & Kelly D Brownell, “The Food Industry and Self-regulation: Standards to Promote Success and to Avoid Public Health Failures” (2010) 100(2) *Am J Public Health* 240 at 244–245.

24 “Overview of Tobacco Control” *Singapore Health Sciences Authority* <<https://www.hsa.gov.sg/tobacco-regulation/overview>> (accessed 1 March 2025).

25 Matthew U Scherer, “Regulating Artificial Intelligence Systems: Risks, Challenges, Competencies, and Strategies” (2015) 29(2) *Harv J L & Tech* 353 at 359–360; Krishna Deo Singh Chauhan, “From ‘What’ and ‘Why’ to ‘How’: An Imperative Driven Approach to Mechanics of AI Regulation” (2022) 23(2) *Global Jurist* 99 at 100–102.

26 Daniel Seng, Jerrold Soh Tsin Howe & Lim How Khang, “An Introduction to the Relevant Technologies” in *Law and Technology in Singapore* (Simon Chesterman, Goh Yihan & Andrew Phang Boon Leong eds) (Academy Publishing, 1st Ed, 2021) ch 2, at pp 26–27.

27 Matthew U Scherer, “Regulating Artificial Intelligence Systems: Risks, Challenges, Competencies, and Strategies” (2015) 29(2) *Harv J L & Tech* 353 at 362–373.

the difficulty in finding out the inner workings of an AI system, and has resulted in AI often being referred to as a “black box”.<sup>28</sup>

17 These challenges have not stopped a number of academics, policymakers, civil society and even industry players from favouring AI regulation.<sup>29</sup> The reasons often advanced relate to the aforementioned categories.<sup>30</sup> First, it has been argued that AI regulation is necessary to protect society against market failure. AI regulation would help address information inadequacies between producers and consumers of AI, which are exacerbated by the opacity of AI. AI regulation could also protect third parties from negative externalities,<sup>31</sup> such as the displacement of workers.<sup>32</sup> Secondly, some argue that AI should be regulated to protect individuals and society from both physical harm and the encroachment of rights. Such concerns may arise in the face of the use of AI in biometric surveillance systems and social scoring.<sup>33</sup>

18 For regulators looking to address new and emerging technologies like AI, the regulatory toolbox has expanded.<sup>34</sup> In recent years, regulatory sandboxes have emerged as a policy tool to support innovation in sectors that would otherwise be subject to state regulation. In a regulatory sandbox, businesses are given an allotted period to pilot new technologies

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28 Warren J von Eschenbach, “Transparency and the Black Box Problem: Why We Do Not Trust AI” (2021) 34 *Philos Technol* 1607 at 1608.

29 Oren Etzioni, “Point: Should AI Technology be Regulated? Yes, and Here’s How” (2018) 61(12) *Communications of the ACM* 30; James Clayton, “‘Overwhelming Consensus’ on AI Regulation – Musk” *BBC* (13 September 2023) <<https://www.bbc.com/news/technology-66804996>> (accessed 1 March 2025); David Nolan *et al*, “The Urgent but Difficult Task of Regulating Artificial Intelligence” *Amnesty International* (16 January 2024) <<https://www.amnesty.org/en/latest/campaigns/2024/01/the-urgent-but-difficult-task-of-regulating-artificial-intelligence/>> (accessed 1 March 2025).

30 See paras 7–8 above.

31 Simon Chesterman, “From Ethics to Law: Why, When, and How to Regulate AI” (May 2023) NUS Law Working Paper No 2023/014 at p 4.

32 Jacques Bughin *et al*, “Notes from the AI Frontier: Modeling the Impact of AI on the World Economy” (McKinsey Global Institute, September 2018) <<https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Artificial%20Intelligence/Notes%20from%20the%20frontier%20Modeling%20the%20impact%20of%20AI%20on%20the%20world%20economy/MGI-Notes-from-the-AI-frontier-Modeling-the-impact-of-AI-on-the-world-economy-September-2018.ashx>> (accessed 1 March 2025).

33 “Artificial Intelligence Act: Deal on Comprehensive Rules for Trustworthy AI” *European Parliament* (9 December 2023) <<https://www.europarl.europa.eu/news/en/press-room/20231206IPR15699/artificial-intelligence-act-deal-on-comprehensive-rules-for-trustworthy-ai#:~:text=social%20scoring%20based%20on%20social,%2C%20social%20or%20economic%20situation>> (accessed 1 March 2025).

34 Compare the traditional regulatory toolbox at para 9 above.

without the full extent of formal regulation applying to them.<sup>35</sup> For instance, in 2017, Singapore's Road Traffic Act was amended to create a regulatory sandbox for trials of autonomous vehicles.

19 In deciding *when* to shift towards state regulation of AI, regulators should keep in mind the additional consideration that the race to develop AI is also triggering a race to AI regulation.<sup>36</sup> Numerous jurisdictions are now seeking a “first mover advantage”.<sup>37</sup> To elaborate, where Country A, the first mover, enacts an AI law, both domestic and foreign companies serving consumers in Country A will have to amend their processes to ensure compliance with Country A's legislation. Having incurred costs by doing so, these companies would be less willing to exit Country A and would instead lobby other regulators to adopt the same standards as a rule-taker, rather than a rule-maker. An excellent case study is the EU's General Data Protection Regulation<sup>38</sup> (“GDPR”), wherein the EU as a first mover created the benchmark for regulators around the world.<sup>39</sup> Therefore, apart from the Collingridge dilemma, jurisdictions also have to consider how time is of the essence for AI regulation.

### III. Comparative analysis: AI regulatory landscapes

#### A. *The EU*

##### (1) *AI regulatory landscape*

20 In Europe, the European Parliament and the European Commission have established the Digital Transformation Strategy and

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35 Simon Chesterman, “From Ethics to Law: Why, When, and How to Regulate AI” (May 2023) NUS Law Working Paper No 2023/014 at pp 10–11.

36 Nathalie A Smuha, “From a ‘Race to AI’ to a ‘Race to AI Regulation’: Regulatory Competition for Artificial Intelligence” (2021) 13(1) *Law, Innovation and Technology* 57 at 74.

37 Martin Kretschmer *et al*, “The Global AI Regulation Race: Why the EU Should Focus on Data Quality and Liability Rules” *Centre for Economic Policy Research* (22 November 2023) <<https://cepr.org/voxeu/columns/global-ai-regulation-race-why-eu-should-focus-data-quality-and-liability-rules>> (accessed 1 March 2025).

38 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

39 Pierre Kirch, Sarah Pearce & Behnam Dayanim, “The EU's First Mover Advantage as it Proposes a New Regulatory ‘System’ for Artificial Intelligence” *Paul Hastings* (26 April 2021) <<https://www.paulhastings.com/insights/client-alerts/the-eus-first-mover-advantage-as-it-proposes-a-new-regulatory-system-for>> (accessed 1 March 2025).

the Digital Decade Policy Programme 2030 respectively.<sup>40</sup> AI regulation is a key component under both strategies. The EU’s AI regulatory landscape today consists of a suite of legislation which comprise existing pieces of legislation (including the GDPR), newly-enacted legislation (including the Digital Services Act<sup>41</sup> and the Digital Markets Act,<sup>42</sup> which apply to digital platforms and digital marketplaces respectively<sup>43</sup>) and incoming legislation (including the much-anticipated EU AI Act<sup>44</sup>). The following paragraphs will examine the EU AI Act in particular since this piece of AI-specific regulation is the central tool in the EU’s AI regulatory toolbox.

21 Hints that the EU would impose AI-specific hard regulation were first dropped in 2019.<sup>45</sup> This was followed by the European Commission’s novel proposal for the EU AI Act in April 2021,<sup>46</sup> which draws inspiration from existing product safety regulation,<sup>47</sup> fundamental rights protection,

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40 “Shaping the Digital Transformation: EU Strategy Explained” *European Parliament* (22 April 2021) <<https://www.europarl.europa.eu/topics/en/article/20210414STO02010/shaping-the-digital-transformation-eu-strategy-explained#:~:text=The%20European%20Parliament%20is%20helping,skills%20and%20training%20for%20workers%2C>> (accessed 1 March 2025); “Europe’s Digital Decade: Digital Targets for 2030” *European Commission* (2023) <[https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/europes-digital-decade-digital-targets-2030_en)> (accessed 1 March 2025).

41 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act).

42 Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

43 “The Digital Services Act Package” *European Commission* (16 February 2024) <<https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package#:~:text=The%20DSA%20includes%20specific%20rules,strictest%20obligations%20of%20the%20Act>> (accessed 1 March 2025).

44 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

45 European Commission, “Communication from the Commission: Europe in May 2019: Preparing for a More United, Stronger and More Democratic Union in an Increasingly Uncertain World” (COM/2019/218 final) at p 29.

46 Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts (COM/2021/206 final).

47 See Annex II of the Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) for a list of existing EU legislation which apply the New Legislative Framework that was  
*(cont’d on the next page)*

surveillance<sup>48</sup> and consumer protection law.<sup>49</sup> The EU AI Act adopts a horizontal regulation approach, applying across various sectors and applications of AI.<sup>50</sup> Since the Act is envisaged as a “regulation” and not a “directive”, once the EU AI Act enters into force, it will directly have binding legal force throughout the EU without any need to be transplanted into Member State legislation.<sup>51</sup>

22 The EU has turned to hard regulation to ensure that the development and use of AI systems benefits the EU population and businesses, whilst having due regard to other interests which include protecting health, safety and fundamental rights, correcting “the information asymmetries of algorithmic decision-making”,<sup>52</sup> and safeguarding social solidarity by ensuring that AI systems are developed and used in a non-discriminatory and fair manner. The Act’s focus on human rights stems from the EU founding Treaties which state that the EU’s values include the protection of such rights.<sup>53</sup> However, there are questions as to whether the EU AI Act’s risk-based approach, rather than a rights-based approach, is ill-suited to protecting fundamental rights.

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introduced in 1985. The New Legislative Framework applies to products that pose a high risk to health, safety and fundamental rights, requiring that manufacturers of these products undertake pre-marketing controls to establish the safety and performance of said products.

- 48 See the requirement for pre-authorisation for the individual use of a biometric system under existing state surveillance law: Michael Veale & Frederik Zuiderveen Borgesius, “Demystifying the Draft EU Artificial Intelligence Act – Analysing the Good, the Bad, and the Unclear Elements of the Proposed Approach” (2021) 22(4) *Comput Law Rev* 97 at 101.
- 49 Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive).
- 50 Matt O’Shaughnessy & Matt Sheehan, “Lessons from the World’s Two Experiments in AI Governance” *Carnegie Endowment for International Peace* (14 February 2023) <<https://carnegieendowment.org/2023/02/14/lessons-from-world-s-two-experiments-in-ai-governance-pub-89035>> (accessed 1 March 2025).
- 51 Treaty on the Functioning of the European Union (2012/C 326/01), Art 288.
- 52 European Commission, “White Paper on Artificial Intelligence: A European Approach to Excellence and Trust” (19 February 2020) at p 9 <[https://commission.europa.eu/document/download/d2ec4039-c5be-423a-81ef-b9e44e79825b\\_en?filename=commission-white-paper-artificial-intelligence-feb2020\\_en.pdf](https://commission.europa.eu/document/download/d2ec4039-c5be-423a-81ef-b9e44e79825b_en?filename=commission-white-paper-artificial-intelligence-feb2020_en.pdf)> (accessed 1 March 2025).
- 53 Treaty on the Functioning of the European Union (2012/C 326/01), Preamble.

This is because fundamental rights do not follow a sliding scale and are tied to the individual, rather than to society.<sup>54</sup>

(2) *Scope of EU AI Act*

23 This sub-section answers two questions. First, under the EU AI Act, what qualifies as AI? Secondly, which entities do the EU AI Act apply to?

24 The first question is answered pursuant to Art 3(1) of the EU AI Act. The definition is aligned with the Organization for Economic Co-operation and Development's ("OECD") definition<sup>55</sup> and was ultimately selected following multi-stakeholder feedback that called for a definition of AI closely aligned with "global definitions",<sup>56</sup> in order to boost efficient practices by reducing legal uncertainty.<sup>57</sup> This overarching definition is broad and "encompasses systems ranging from simple to complex".<sup>58</sup> The OECD intended for the inclusion of additional criteria "to narrow or otherwise tailor the definition" depending on the relevant context.<sup>59</sup> The EU AI Act narrows down this broad definition through its risk-based approach and further definitions for specific technologies, like general purpose AI models.<sup>60</sup> However, the EU definition has been

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54 Martin Ebers, "Truly Risk-based Regulation of Artificial Intelligence – How to Implement the EU's AI Act" (2024) at pp 11–12 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4870387](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4870387)> (accessed 22 January 2025).

55 OECD, *Recommendation of the Council on Artificial Intelligence* (OECD/LEGAL/0449, 2025) at p 7.

56 "Artificial Intelligence – Ethical and Legal Requirements: Public Consultation" *European Commission* <[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12527-Artificial-intelligence-ethical-and-legal-requirements/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12527-Artificial-intelligence-ethical-and-legal-requirements/public-consultation_en)> (accessed 1 March 2025).

57 Ana Paula Gonzalez Torres, Kaisla Kajava & Nitin Sawhney, "Emerging AI Discourses and Policies in the EU: Implications for Evolving AI Governance" in *Artificial Intelligence Research* (Aurora Gerber ed) (Springer, 2023) at p 6.

58 OECD, "Explanatory Memorandum on the Updated OECD Definition of An AI System" *OECD Artificial Intelligence Papers* (2024) at p 9 <<https://www.oecd-ilibrary.org/docserver/623da898-en.pdf?expires=1710237390&id=id&accname=guest&checksum=2419A7DFBC51A88F58E052E025C1561B>> (accessed 1 March 2025).

59 Marko Grobelnik, Karine Perset & Stuart Russell, "What is AI? Can You Make a Clear Distinction Between AI and Non-AI Systems?" *OECD AI Policy Observatory* (6 March 2024) <<https://oecd.ai/en/wonk/definition>> (accessed 1 March 2025).

60 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 97.

criticised for being overly broad due to the use of vague phrases such as “varying levels of autonomy”.<sup>61</sup>

25 As for the second question, the EU AI Act imposes obligations on providers, deployers, importers, distributors and product manufacturers of AI systems, who have a link to the EU market.<sup>62</sup> The Act has extraterritorial effect in that it applies to providers and deployers who are not located in the EU, but whose AI systems are used in the EU.<sup>63</sup> The extraterritorial effect is crucial because of the composition of the EU’s AI development scene, whereby many of the companies successfully developing advanced AI systems in the EU are small and medium-sized enterprises<sup>64</sup> (“SMEs”) (eg, Aleph Alpha, Mistral, Poolside and nyonic). The largest AI development companies, such as Google, Microsoft, Baidu and Tencent, are instead mostly found in the US and China.<sup>65</sup>

26 Obligations are imposed according to the risk level of the AI system in question. The risk levels include: unacceptable risk, high risk, limited risk and minimal risk. An example of an AI system with unacceptable risk is one used for providing social scoring of natural persons, due to the potential to achieve discriminatory outcomes and exclude certain

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61 Philipp Hacker, “AI Regulation in Europe: From the AI Act to Future Regulatory Challenges” forthcoming in *Oxford Handbook of Algorithmic Governance and the Law* (Ifeoma Ajunwa & Jeremias Adams-Prassl eds) (Oxford University Press, 2024) at p 9.

62 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 2(1).

63 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 2(1)(c).

64 Philipp Hacker, “AI Regulation in Europe: From the AI Act to Future Regulatory Challenges” forthcoming in *Oxford Handbook of Algorithmic Governance and the Law* (Ifeoma Ajunwa & Jeremias Adams-Prassl eds) (Oxford University Press, 2024) at p 7.

65 Benjamin Cedric Larsen, “The Geopolitics of AI and the Rise of Digital Sovereignty” *Brookings Institution* (8 December 2022) <<https://www.brookings.edu/articles/the-geopolitics-of-ai-and-the-rise-of-digital-sovereignty/>> (accessed 1 March 2025).

groups.<sup>66</sup> AI systems with unacceptable risks are prohibited.<sup>67</sup> High-risk AI systems include those used for emotion recognition and critical infrastructure.<sup>68</sup> Limited-risk AI systems include chatbots. Minimal-risk AI systems include applications such as AI-enabled video games or spam filters.<sup>69</sup>

### (3) *Enforcement*

27 This subsection will address the *what*, *who* and *when* regarding enforcement of the EU AI Act. Article 99 of the EU AI Act sets out the penalties for non-compliance with the Act. In order of increasing fine quantum, Art 99 provides for three categories of non-compliance cases: (a) the supply of incorrect, incomplete or misleading information to notified bodies<sup>70</sup> and national competent authorities<sup>71</sup> in reply to a request; (b) non-compliance with the obligations set out for providers of high-risk AI systems or GPAI models, authorised representatives, importers, distributors, users or notified bodies; and (c) non-compliance with the Art 5 prohibitions against AI systems posing unacceptable

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66 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 31.

67 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 26.

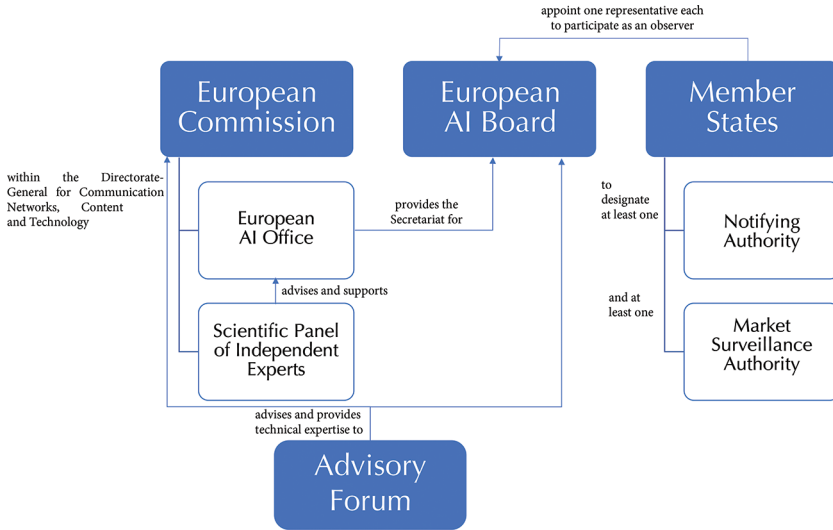
68 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Annex III.

69 “AI Act” *European Commission* <<https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>> (accessed 1 March 2025).

70 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Arts 3(22) and 31.

71 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 3(48).

risks. Member States will also need to lay down further penalties and enforcement measures in their respective territories.<sup>72</sup>



**Key bodies for enforcement of the EU AI Act**

28 The EU intends for enforcement of the AI Act to be carried out by four key bodies. First, Member States are required to designate at least one notifying authority and one market surveillance authority.<sup>73</sup> These authorities will supervise the application and implementation of the Act.<sup>74</sup> The second key stakeholder is the European AI Board, which comprises high-level representatives of competent national supervisory authorities, the European Data Protection Supervisor and the Commission.<sup>75</sup> The Board’s role is “to facilitate the consistent and

72 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 99(1).

73 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 153.

74 “Artificial Intelligence – Questions and Answers\*” *European Commission* <[https://ec.europa.eu/commission/presscorner/detail/en/QANDA\\_21\\_1683](https://ec.europa.eu/commission/presscorner/detail/en/QANDA_21_1683)> (accessed 1 March 2025).

75 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (cont’d on the next page)

effective application<sup>76</sup> of the EU AI Act by advising the Commission and the Member States on matters including the implementation of the EU AI Act, enforcement and technical specifications.<sup>77</sup> The third key stakeholder is the European AI Office, which is part of the European Commission.<sup>78</sup> The Office's mission is to develop the EU's expertise and capabilities in the field of AI. Notably, the Office is tasked with enforcing and supervising the new rules for general-purpose AI.<sup>79</sup> The final key stakeholders are the advisory forum and the scientific panel of independent experts who will assist the European AI Board and the European AI Office respectively.<sup>80</sup>

29 Enforcement will begin gradually, starting with the enforcement of prohibitions on unacceptable-risk AI systems six months after the Act enters into force.<sup>81</sup> Twelve months after the Act enters into force, rules on general-purpose AI will start to be enforced.<sup>82</sup> Finally, 24 months after the Act enters into force, the remaining obligations will take effect.<sup>83</sup>

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(EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 65.

- 76 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 66.
- 77 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 149.
- 78 Commission Decision of 24 January Establishing the European Artificial Intelligence Office (C/2024/1459).
- 79 "European AI Office" *European Commission* <<https://digital-strategy.ec.europa.eu/en/policies/ai-office>> (accessed 1 March 2025).
- 80 "Artificial Intelligence – Questions and Answers\*" *European Commission* <[https://ec.europa.eu/commission/presscorner/detail/en/QANDA\\_21\\_1683](https://ec.europa.eu/commission/presscorner/detail/en/QANDA_21_1683)> (accessed 1 March 2025).
- 81 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 113(a).
- 82 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 113(b).
- 83 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 113(c).

(4) *Unique features of and surrounding the EU AI Act*

30 The creation of the EU AI Act happened through the EU legislative process. This is a complicated process involving countless stakeholders on both the EU and national levels, and may have accordingly resulted in vague and uncertain compromises. There has been criticism regarding the “incomplete and legally questionable” procedures for the designation of systemic general-purpose AI models,<sup>84</sup> as well as ambiguity and vagueness of the Act. For instance, prohibited “AI-enabled manipulative technologies” are defined as “AI systems with the objective to or the effect of materially distorting human behaviour, whereby significant harms, in particular having *sufficiently important adverse impacts on physical, psychological health or financial interests* are likely to occur”<sup>85</sup> [emphasis added]. This definition has been criticised as being unclear and over-inclusive, potentially banning even unproblematic AI systems.<sup>86</sup>

31 Another unique feature is the prevalence of regulatory sandboxes. Article 57(1) requires each Member State to establish at least one regulatory sandbox by 2 August 2026.<sup>87</sup> Participants complying with the terms and conditions of these sandboxes will not be subject to administrative fines.<sup>88</sup>

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84 Kai Zenner, “Some Personal Reflections on the EU AI Act: A Bittersweet Ending” *LinkedIn* (15 February 2024) <<https://www.linkedin.com/pulse/some-personal-reflections-eu-ai-act-bittersweet-ending-kai-zenner-avgee/>> (accessed 1 March 2025).

85 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Recital 29.

86 Luciano Floridi, “The European Legislation on AI: A Brief Analysis of its Philosophical Approach” (2021) 34 *Philos Technol* 215 at 219.

87 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 57(1); Clara Hainsdort *et al*, “The Pre-final Text of the EU’s AI Act Leaked Online” *White & Case* (6 February 2024) <<https://www.whitecase.com/insight-alert/pre-final-text-eus-ai-act-leaked-online>> (accessed 1 March 2025).

88 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 57(12).

32 Despite the EU's claims that the Act "has a future-proof approach",<sup>89</sup> this article questions how well the Act will react to new AI developments. When ChatGPT was launched in November 2022, the 2021 proposal of the EU AI act was a poor fit for foundation models. Under the 2021 proposal, an AI system was allocated to a risk category based on its intended use.<sup>90</sup> However, foundation models today have the potential to be deployed for countless intended purposes and may not conform to one specific use or market, making placement in a single risk category difficult.<sup>91</sup> The proposal was thus amended to include new rules for foundation models. It remains to be seen how the EU AI Act will cope with future AI developments that do not fall squarely within the Act's remit. Amending the EU AI Act would be no easy feat since the Act would have to return to the lengthy legislative process.

33 The EU's context is also unique. For one, the EU is able to utilise the "Brussels Effect" to set the initial agenda, influencing and shaping the global regulatory environment.<sup>92</sup> The GDPR is one instance where the Brussels Effect materialised, incentivising changes in products offered in non-EU countries and influencing regulation adopted by such countries. The Brussels Effect exists not only because of the size of the EU internal market, but also because the EU has built an institutional architecture that has converted its market size into a tangible regulatory influence.<sup>93</sup> Numerous experts have opined that, just like the GDPR, the EU AI Act with its extraterritorial effect will cause the Brussels Effect,<sup>94</sup> particularly

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89 "AI Act" *European Commission* <<https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>> (accessed 1 March 2025).

90 Proposal for Artificial Intelligence Act (COM/2021/206 final).

91 Kai Zenner, "A Law for Foundation Models: The EU AI Act Can Improve Regulation for Fairer Competition" *OECD* (20 July 2023) <<https://oecd.ai/en/work/foundation-models-eu-ai-act-fairer-competition>> (accessed 1 March 2025).

92 The Brussels Effect refers to the EU's ability to promulgate its own regulations on a global scale by relying on market forces. See Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press, 2019) at p xiv; and Ana Paula Gonzalez Torres, Kaisla Kajava & Nitin Sawhney, "Emerging AI Discourses and Policies in the EU: Implications for Evolving AI Governance" in *Artificial Intelligence Research* (Aurora Gerber ed) (Springer, 2023) at p 12.

93 Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press, 2019) at p 25.

94 Philipp Hacker, "AI Regulation in Europe: From the AI Act to Future Regulatory Challenges" forthcoming in *Oxford Handbook of Algorithmic Governance and the Law* (Ifeoma Ajunwa & Jeremias Adams-Prassl eds) (Oxford University Press, 2024) at p 6; cf, Catriona Gray & Robert H Wortham, "AI Governance and Assurance: Global Trends 2023-24" (AI Assurance Club, March 2024) at p 2 <<https://static1.squarespace.com/static/63dce129c4a0240681746067/t/660444fd1a562b09bf187ff0/1711555838568/Global+Trends+2023-24.pdf>> (accessed 1 March 2025).

in jurisdictions with significant trade relations with the EU.<sup>95</sup> This great potential sheds light on the EU's urgency to acquire the first mover advantage for AI regulation. However, it remains to be seen whether this potential will pan out given the possibility for regional rollouts of technology. For instance, Meta created GDPR-compliant versions of its products specifically for EU customers which facilitated opt-outs from tracking and personalisation, while their non-compliant versions remained in use by the rest of the world.<sup>96</sup> We see hints of this when Google delayed the release of Gemini in Europe due to the uncertainty concerning regulatory compliance.<sup>97</sup>

## B. China

### (1) AI regulatory landscape

34 China's attention to AI development can be traced to the release of the New Generation Artificial Intelligence Development Plan ("AIDP") in 2017.<sup>98</sup> The AIDP sets out the blueprint for China's approach to AI development, including its overarching goal of becoming the world leader in AI development by 2030.<sup>99</sup> China's substantial market size and expansive datasets are key contributors to its rapid AI development.<sup>100</sup> In regulating AI development, China has adopted a regulatory approach that is both vertical and iterative. Each measure targets a specific use case,

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95 Charlotte Siegmann & Markus Anderljung, "The Brussels Effect and Artificial Intelligence: How EU Regulation Will Impact the Global AI Market" (Centre for the Governance of AI, August 2022) at p 5 <[https://cdn.governance.ai/Brussels\\_Effect\\_GovAI.pdf](https://cdn.governance.ai/Brussels_Effect_GovAI.pdf)> (accessed 1 March 2025).

96 Philipp Hacker, "AI Regulation in Europe: From the AI Act to Future Regulatory Challenges" forthcoming in *Oxford Handbook of Algorithmic Governance and the Law* (Ifeoma Ajunwa & Jeremias Adams-Prassl eds) (Oxford University Press, 2024) at p 6.

97 Andrew Grush, "Did You Know Google Gemini Isn't Available in Europe Yet?" *Android Authority* (7 December 2023) <<https://www.androidauthority.com/did-you-know-google-gemini-isnt-available-in-europe-yet-3392451/>> (accessed 1 March 2025).

98 "Notice: New Generation Artificial Intelligence Development Plan" *The State Council of the People's Republic of China* (8 July 2017) <[https://www.gov.cn/zhengce/content/2017-07/20/content\\_5211996.htm](https://www.gov.cn/zhengce/content/2017-07/20/content_5211996.htm)> (accessed 1 March 2025); see translated version by Graham Webster *et al*, "Full Translation: China's 'New Generation Artificial Intelligence Development Plan' (2017)" *DigiChina* (1 August 2017) <<https://digichina.stanford.edu/work/full-translation-chinas-new-generation-artificial-intelligence-development-plan-2017/>> (accessed 1 March 2025).

99 Huw Roberts *et al*, "The Chinese Approach to Artificial Intelligence: An Analysis of Policy, Ethics, and Regulation" (2021) 36 *AI & Soc* at 59.

100 Xiao Baiyang, "Agile and Iterative Governance: China's Regulatory Response to AI" (2024) at p 4 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4705898](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4705898)> (accessed 1 March 2025).

and in the event that a measure has flaws or is insufficient, a new measure is released to fill the gap. This approach allows China to keep up with the rapid pace of AI development, avoid the risk of over-inclusivity in the scope of its regulations, and steadily build up its regulatory know-how and policy tools.<sup>101</sup> The risks of adopting this approach are examined below.

35 China's AI regulatory toolbox comprises both soft and hard regulation. Soft regulation includes national policies (such as the AIDP) and industrial standards (such as the AI-Technical Specification for Deep Synthetic Image Systems).<sup>102</sup> Hard regulation includes existing nationwide laws (such as the Personal Information Protection Law), administrative regulations (such as the Provisions on the Management of Algorithmic Recommendations in Internet Information Services<sup>103</sup> ("Algorithm Recommendation Regulation")) and local regulations (such as the Regulations of Shanghai Municipality on Promoting the Development of the AI Industry). This article will focus on three administrative regulations as they set out the key obligations for developing and deploying AI systems in China – the Algorithm Recommendation Regulation, the Provisions on the Administration of Deep Synthesis Internet Information Services<sup>104</sup> ("Deep Synthesis Regulation"), and the Interim Measures for the Management of Generative Artificial Intelligence Services<sup>105</sup> ("Generative AI Regulation"). A policy tool central to all three administrative regulations is the algorithm registry, which is a standardised disclosure database. The algorithm registry can be built upon for the use of future hard regulations, for instance, by requiring the disclosure of further information.

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101 Matt Sheehan, "China's AI Regulations and How They Get Made" (July 2023) at p 4 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

102 T/CESA 1197-2022.

103 Cyberspace Administration of China, "Provisions on the Management of Algorithmic Recommendations in Internet Information Services" (12 December 2021) <[https://www.cac.gov.cn/2022-01/04/c\\_1642894606364259.htm](https://www.cac.gov.cn/2022-01/04/c_1642894606364259.htm)> (accessed 1 March 2025); see translated version at <<https://www.chinalawtranslate.com/en/algorithms/>> (accessed 1 March 2025).

104 "Provisions on the Administration of Deep Synthesis Internet Information Services" *Cyberspace Administration of China* (25 November 2022) <[https://www.cac.gov.cn/2022-12/11/c\\_1672221949354811.htm](https://www.cac.gov.cn/2022-12/11/c_1672221949354811.htm)> (accessed 1 March 2025); see translated version at <<https://www.chinalawtranslate.com/en/deep-synthesis/>> (accessed 1 March 2025).

105 "Interim Measures for the Management of Generative Artificial Intelligence Services" *Cyberspace Administration of China* (10 July 2023) <[http://www.cac.gov.cn/2023-07/13/c\\_1690898327029107.htm](http://www.cac.gov.cn/2023-07/13/c_1690898327029107.htm)> (accessed 1 March 2025); see translated version at <<https://www.chinalawtranslate.com/en/generative-ai-interim/>> (accessed 1 March 2025).

36 Additionally, in June 2023, China's State Council announced that preparations would begin for a draft horizontal AI law to be submitted to the National People's Congress, *ie*, China's Legislature.<sup>106</sup> Potential reasons for this shift towards a comprehensive horizontal law include a desire to clarify China's overarching strategy towards AI following the various piecemeal legislation thus far, and to bring Chinese AI regulation closer in line with its foreign counterparts like the EU and the US.<sup>107</sup> There was previously speculation that a draft law would be released in 2024, and it remains to be seen how this will play out in 2025.<sup>108</sup> Although there has not been any official announcement on the contents of this draft AI law, advisory versions have been released by the Chinese Academy of Social Sciences<sup>109</sup> ("CASS"), a state-owned research institute, and a group of scholars representing seven universities and research institutions in China.<sup>110</sup> While not conclusive of the content of the eventual AI law, these advisory versions provide guidance on how influential policy thinkers are approaching AI legislation. The CASS's advisory version contains elements similar to the EU AI Act including a differentiated approach based on risk, and a "negative list" of AI areas and products which require governmental approval before being developed and/or released.<sup>111</sup> The latest scholars' advisory version also contains an AI classification

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- 106 "Notice: State Council's 2023 Legislative Work Plan" *The State Council of the People's Republic of China* (31 May 2023) <[https://www.gov.cn/zhengce/content/202306/content\\_6884925.htm](https://www.gov.cn/zhengce/content/202306/content_6884925.htm)> (accessed 1 March 2025).
- 107 "Forum: Analyzing an Expert Proposal for China's Artificial Intelligence Law" *DigiChina* (23 August 2023) <<https://digichina.stanford.edu/work/forum-analyzing-an-expert-proposal-for-chinas-artificial-intelligence-law/>> (accessed 1 March 2025).
- 108 Zeyi Yang, "Four Things to Know About China's New AI Rules in 2024" *MIT Technology Review* (17 January 2024) <<https://www.technologyreview.com/2024/01/17/1086704/china-ai-regulation-changes-2024/>> (accessed 1 March 2025).
- 109 In April 2024, the Chinese Academy of Social Sciences ("CASS") released the second version of their Model AI Law: The Chinese Academy of Social Sciences, "The Model Artificial Intelligence Law (MAIL) v.2.0" *zenodo* (16 April 2024) <<https://zenodo.org/records/10974163>> (accessed 1 March 2025). The first version of the Model AI Law by CASS may be found at: <<http://iolaw.cssn.cn/zxzp/202309/W020230907361599893636.pdf>> (accessed 1 March 2025); see translated version at <<http://iolaw.cssn.cn/zxzp/202309/W020230907361599972836.pdf>> (accessed 1 March 2025).
- 110 "Artificial Intelligence Law (Draft of Scholars' Suggestions) is Here" *China Law Society* (18 March 2024) <<http://www.fxcxw.org.cn/dyna/content.php?id=26910>> (accessed 1 March 2025); see full draft at <[https://mp.weixin.qq.com/s/?\\_\\_biz=MzA3NTI0NzYxNw==&mid=2651608138&idx=5&sn=80541cac544ddc386306f00f9c4b991b&chksm=85770f25917be77ff43bd34a3e91a6f036eb16610ea99dcb0ed2b1a4024ff0df7d8652bd2aa2&scene=27](https://mp.weixin.qq.com/s/?__biz=MzA3NTI0NzYxNw==&mid=2651608138&idx=5&sn=80541cac544ddc386306f00f9c4b991b&chksm=85770f25917be77ff43bd34a3e91a6f036eb16610ea99dcb0ed2b1a4024ff0df7d8652bd2aa2&scene=27)> (accessed 1 March 2025).
- 111 The Chinese Academy of Social Sciences, "The Model Artificial Intelligence Law (MAIL) v.2.0" *zenodo* (16 April 2024) at Chapter 3, Arts 51–52 and 80 <<https://zenodo.org/records/10974163>> (accessed 1 March 2025).

system based on factors including AI's impact on economic and social development, national security, public interest and individuals' rights.<sup>112</sup> These hint at a potential harmonisation of laws towards a risk-based approach. It remains to be seen how the prior three administrative regulations will interact with the upcoming horizontal law.

37 The embrace of hard regulation was a natural move given China's strong faith in effective and efficient strict state control.<sup>113</sup> The use of hard regulation allows China to maintain tight control over information and ensure that information flows in a manner that protects China from market failure to support its AI development scene.<sup>114</sup> Efforts range from the prohibition on unreasonable price discrimination using recommendation algorithms<sup>115</sup> to mandating conspicuous labels on synthetically generated content.<sup>116</sup> China also utilises hard regulation to maintain political and social stability.<sup>117</sup> Efforts include legislatively providing that generative AI services must "uphold the Core Socialist Values"<sup>118</sup> and requiring the protection of platform economy workers' rights when using algorithms to determine their schedules and salaries.<sup>119</sup>

## (2) *Scope of Chinese AI regulation*

38 First, the Algorithm Recommendation Regulation entered into force in March 2022 following backlash from the Chinese Communist Party ("CCP") in 2017 against ByteDance's news and media applications

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112 "Artificial Intelligence Law (Draft of Scholars' Suggestions)" *Drafting Expert Group* (16 March 2024) at Art 61 <[https://mp.weixin.qq.com/s?\\_\\_biz=MzA3NTI0NzYxNw==&mid=2651608138&idx=5&sn=80541cac544dc386306f00f9c4b991b&chksm=85770f25917be77ff43bd34a3e91a6f036eb16610ea99dcb0ed2b1a4024ff0df7d8652bd2aa2&scene=27](https://mp.weixin.qq.com/s?__biz=MzA3NTI0NzYxNw==&mid=2651608138&idx=5&sn=80541cac544dc386306f00f9c4b991b&chksm=85770f25917be77ff43bd34a3e91a6f036eb16610ea99dcb0ed2b1a4024ff0df7d8652bd2aa2&scene=27)> (accessed 1 March 2025); see translated version at <[https://cset.georgetown.edu/wp-content/uploads/t0592\\_china\\_ai\\_law\\_draft\\_EN.pdf](https://cset.georgetown.edu/wp-content/uploads/t0592_china_ai_law_draft_EN.pdf)> (accessed 1 March 2025).

113 Weiyue Wu & Shaoshan Liu, "A Comprehensive Review and Systematic Analysis of Artificial Intelligence Regulation Policies" (2023) at p 3 <<https://arxiv.org/pdf/2307.12218>> (accessed 1 March 2025).

114 Matt Sheehan, "China's AI Regulations and How They Get Made" (July 2023) at p 4 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

115 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 21.

116 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 17.

117 Angela Huyue Zhang, "The Promise and Perils of China's Regulation of Artificial Intelligence" (2024) University of Hong Kong Faculty of Law Research Paper No 2024/02 at p 5.

118 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 4(1).

119 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 20.

which dictated user feeds through their recommendation algorithms.<sup>120</sup> The CCP viewed such algorithms as a threat to its ability to set the agenda of public discourse.<sup>121</sup> Under the Regulation, “algorithmic recommendation technology” includes “generation and synthesis, individualized pushing, sequence refinement, search filtering, schedule decision-making and so forth to provide users with information”.<sup>122</sup> One example of “individualized pushing” is the use of algorithms in online shopping applications to recommend products based on users’ consumption habits.<sup>123</sup> Obligations are largely imposed on algorithmic recommendation service providers, including the obligation to provide users with an option to opt out from the algorithmic recommendation service.<sup>124</sup>

39 Next, the Deep Synthesis Regulation entered into force in January 2023 following concern about deepfakes.<sup>125</sup> “Deep synthesis technology” is defined as “technologies such as deep learning and virtual reality, that use generative sequencing algorithms to create text, images, audio, video, virtual scenes, or other information”.<sup>126</sup> This includes technology that generates voice content or biometric features in videos.<sup>127</sup> Obligations are imposed on a wider range of actors compared to the Algorithm Recommendation Regulation, namely deep synthesis service providers, technical supporters, users and application distribution platforms.<sup>128</sup> Notably, service providers are required to “adhere to the correct political

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120 Matt Sheehan, “Tracing the Roots of China’s AI Regulations” *Carnegie Endowment for International Peace* (27 February 2024) <<https://carnegieendowment.org/2024/02/27/tracing-roots-of-china-s-ai-regulations-pub-91815>> (accessed 1 March 2025).

121 Matt Sheehan, “China’s AI Regulations and How They Get Made” (July 2023) at p 12 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

122 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 2.

123 Hui Xu, “China’s New AI Regulations” *Latham & Watkins* (16 August 2023) at p 3 <<https://www.lw.com/en/admin/upload/SiteAttachments/Chinas-New-AI-Regulations.pdf>> (accessed 1 March 2025).

124 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 17.

125 Matt Sheehan, “China’s AI Regulations and How They Get Made” (July 2023) at p 13 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

126 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 23.

127 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Arts 23(2) and 23(4).

128 The terms “deep synthesis service providers”, “technical supporters” and “users” are defined in Art 23 of the Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), while “application distribution platforms” are defined in Art 13.

direction”<sup>129</sup> and to “make a conspicuous label in a reasonable position or location” for content “which might cause confusion or mislead the public”.<sup>130</sup>

40 Finally, the Generative AI Regulation entered into force in August 2023 following concerns about large language models like ChatGPT and increasingly general-purpose AI technologies which do not clearly fall within any one existing vertical measure.<sup>131</sup> “Generative AI technology” is defined as “models and relevant technologies that have the ability to generate content such as texts, images, audio, or video”.<sup>132</sup> Examining the definitions of “generative AI technology” and “deep synthesis technology”, while there is significant overlap between the two, the scope of the Generative AI Regulation is broader and includes generative AI services that operate offline.<sup>133</sup> Obligations are imposed on generative AI service providers,<sup>134</sup> who “could be construed as similar to the ‘technical supporters’” under the Deep Synthesis Regulation.<sup>135</sup> The Regulation only applies where services are provided to the public, thus exempting generative AI services researched, developed and used by certain bodies (such as education and research institutions) that are not provided to the

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129 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 4. This obligation is part of the People’s Republic of China’s efforts to maintain political stability and stems from internal document “Document 9”, which warns against Western ideas such as constitutionalism and civil society. Due to the vagueness of what the requirement entails, deep synthesis service providers are forced to proceed with caution. See Matt Sheehan, “China’s AI Regulations and How They Get Made” (July 2023) at p 13 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025); Emmie Hine & Luciano Floridi, “New Deepfake Regulations in China are a Tool for Social Stability, But at What Cost?” (2022) 4 Nat Mach Intell 608 at 609.

130 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 17. Such content includes voice simulations, face image synthesis and immersive simulation scenes: Esther Franks, Bianca Lee & Hui Xu, “Report: China’s New AI Regulations” (2024) 5(1) *Global Privacy Law Review* 43 at 48.

131 Matt Sheehan, “China’s AI Regulations and How They Get Made” (July 2023) at p 14 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

132 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 22(1).

133 Helen Toner, “How Will China’s Generative AI Regulations Shape the Future? A DigiChina Forum” *DigiChina* (19 April 2023) <<https://digichina.stanford.edu/work/how-will-chinas-generative-ai-regulations-shape-the-future-a-digichina-forum/>> (accessed 1 March 2025).

134 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 22(2).

135 Esther Franks, Bianca Lee & Hui Xu, “Report: China’s New AI Regulations” (2024) 5(1) *Global Privacy Law Review* 43 at fn 8.

public.<sup>136</sup> The Generative AI Regulation has extraterritorial effect and applies to generative AI service providers located outside of China but providing services within its territory.<sup>137</sup> The Generative AI Regulation extends the list of obligations already imposed on generative AI service providers by the Deep Synthesis Regulation to include obligations to label generated content,<sup>138</sup> and to employ effective measures to prevent discrimination.<sup>139</sup> The draft Generative AI Regulations initially imposed more onerous obligations, which have since been amended. One example is the initial obligation on providers “to ensure the truth, accuracy, objectivity, and diversity of the data,”<sup>140</sup> which has been amended to an obligation to “employ effective measures” instead.<sup>141</sup> Some have interpreted these amendments to the draft Generative AI Regulations as evidence of the Chinese government’s pro-growth mindset towards the AI sector.<sup>142</sup>

41 Returning to the algorithm registry that was alluded to earlier, it was first created under the Algorithm Recommendation Regulation.<sup>143</sup> Algorithmic recommendation service providers that have “public opinion properties or capacity for social mobilization”<sup>144</sup> are required to

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136 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 2.

137 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 20.

138 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 12. Note that the obligation to label generated content was only imposed on deep synthesis service providers, and not the deep synthesis services’ technical supporters, under Art 17 of the Provisions on the Administration of Deep Synthesis Internet Information Services (PRC).

139 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 4(2).

140 Measures on the Administration of Generative Artificial Intelligence Services (Draft for Solicitation of Comments), Art 7(4) <[http://www.cac.gov.cn/2023-04/11/c\\_1682854275475410.htm](http://www.cac.gov.cn/2023-04/11/c_1682854275475410.htm)> (accessed 1 March 2025); see translated version at <<https://www.chinalawtranslate.com/en/gen-ai-draft/>> (accessed 1 March 2025).

141 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 7(4).

142 Angela Huyue Zhang, “The Promise and Perils of China’s Regulation of Artificial Intelligence” (2024) University of Hong Kong Faculty of Law Research Paper No 2024/02 at p 18.

143 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 24.

144 The terms “public opinion properties” and “social mobilization” are not defined in the Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC). However, guidance can be sought from the definition of “internet information services with public opinion properties or with capacity for social mobilization” under Art 2 of the Provisions on the Security Assessment of Internet Information Services that have “Public Opinion Properties” or the “Capacity for Social Mobilization”. See translated version at <<https://www.chinalawtranslate.com/en/provisions-on-the-security-assessment-of-internet-information-services->

submit information to the algorithm registry on how their algorithms are trained and deployed,<sup>145</sup> as well as complete a security assessment.<sup>146</sup> The same obligation is extended to deep synthesis service providers<sup>147</sup> and generative AI service providers with the same properties or capacity.<sup>148</sup> Filings to the algorithm registry are typically done by service providers on a voluntary basis but regulatory authorities can request for filing.<sup>149</sup> Although the Deep Synthesis Regulation and the Generative AI Regulation did not make any express changes to the filing procedure for the algorithm registry, in practice, there was a shift in regulators' treatment of the procedure. As opposed to a simple filing process,<sup>150</sup> regulators now withhold official approval of filings until they are satisfied with the safety and security of the models, turning the filing process into more of a licensing regime.<sup>151</sup>

### (3) *Enforcement*

42 There is limited information on China's enforcement regime for the three abovementioned AI measures. The relevant regulatory bodies include the Cyberspace Administration of China ("CAC"), the Ministry of Science and Technology ("MOST") and the Ministry of Industry and Information Technology ("MIIT"). Given its focus on data privacy and cybersecurity, the CAC led the first wave of AI regulations in China – bringing the AI regulation agenda before the CCP Central Committee, writing the draft regulations and bringing in other ministries and

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that-have-public-opinion-properties-or-the-capacity-for-social-mobilization/> (accessed 1 March 2025).

145 Leanne Voshell, "First Mover AI Regulation in Brussels and Beijing: Patterns and Comparison" (6 March 2024) <<https://www.europeanguanxi.com/post/first-mover-ai-regulation-in-brussels-and-beijing-patterns-and-comparison>> (accessed 1 March 2025).

146 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 27.

147 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 19.

148 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 17.

149 Esther Franks, Bianca Lee & Hui Xu, "Report: China's New AI Regulations" (2024) 5(1) *Global Privacy Law Review* 43 at 45.

150 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 17.

151 Matt Sheehan, "Tracing the Roots of China's AI Regulations" *Carnegie Endowment for International Peace* (27 February 2024) <<https://carnegieendowment.org/2024/02/27/tracing-roots-of-china-s-ai-regulations-pub-91815>> (accessed 1 March 2025).

agencies as co-signatories for a bureaucratic buy-in.<sup>152</sup> The MOST guides China on its overarching direction for monitoring and enforcement.<sup>153</sup> Thus far, the MOST played a key role in developing the 2017 AIDP, the non-binding Governance Principles for a New Generation of Artificial Intelligence<sup>154</sup> and in advising on the requirements for model training within the Generative AI Regulation. The MIIT primarily guides industry development,<sup>155</sup> and was a co-signatory of all three regulations. The MIIT is expected to gain prominence in China's AI regulatory landscape as AI regulation shifts from the regulation of online content to industrial and commercial applications.<sup>156</sup> It is unclear how the numerous regulatory bodies will interact. In particular, the absence of a clear delineation of responsibilities among the three core enforcement bodies risks confusion internally and for the industry.<sup>157</sup>

43 Moving on to the penalties for non-compliance, the Algorithm Recommendation Regulation<sup>158</sup> and the Generative AI Regulation<sup>159</sup> expressly provide that the authorities may issue warnings or public denouncements, order correction by service providers, order suspension and impose a fine (for violations under the Algorithm Recommendation

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152 Matt Sheehan, "China's AI Regulations and How They Get Made" (July 2023) at pp 22–23 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

153 Fabian Heymann *et al*, "Regulating Artificial Intelligence in the EU, United States and China – Implications for Energy Systems" (2023) *IEEE Power & Energy Society* at p 4, Table 1.

154 "Developing Responsible Artificial Intelligence: New Generation Artificial Intelligence Governance Principles Released" *China Ministry of Science and Technology of the People's Republic of China* (17 June 2019) <[https://www.most.gov.cn/kjbgz/201906/t20190617\\_147107.html](https://www.most.gov.cn/kjbgz/201906/t20190617_147107.html)>; see translated version at <<https://www.newamerica.org/cybersecurity-initiative/digichina/blog/translation-chinese-expert-group-offers-governance-principles-responsible-ai/>> (accessed 1 March 2025).

155 "Ministry of Industry and Information Technology" *Global Times* <<https://www.globaltimes.cn/db/government/6.shtml>> (accessed 1 March 2025).

156 Matt Sheehan, "China's AI Regulations and How They Get Made" (July 2023) at p 23 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

157 This confusion is exacerbated due to the fact that there are more than 15 different governmental organisations dealing with AI-related issues in the People's Republic of China. See Karman Lucero, "Artificial Intelligence Regulation and China's Future" (2019) 33(1) *Colum J Asian L* 94 at 132–135 and 157.

158 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 31.

159 Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 21.

Regulation).<sup>160</sup> The Deep Synthesis Regulation does not expressly stipulate any penalties. However, for deep synthesis services with “larger information security risks”, authorities may order the providers thereof and technical supporters to suspend information updates, user registration, or other related services, and also order correction.<sup>161</sup>

(4) *Unique features of and surrounding Chinese AI regulation*

44 China’s unique political system results in a government that is able to undertake *agile* regulatory action.<sup>162</sup> The Chinese Government’s efficiency in implementing new regulation was evident through the enactment of the Generative AI Regulation within a mere seven months to supplement the gaps left by the Deep Synthesis Regulation. This agility allows for a uniquely Chinese approach to the Collingridge dilemma – one where regulation is first imposed during the early stages, and further regulation is imposed as more becomes known about the technology. However, with comprehensive horizontal legislation on the horizon, it is unclear whether China intended for the vertical and iterative approach to merely be a stopgap measure ever since it started regulating the sector. Regardless, the uniquely Chinese approach is susceptible to problems which include determining when further regulation should be imposed, the risk of a fragmented AI regulatory landscape in the long run, increasing compliance costs with the rising number of sector-specific regulations and the enactment of initially vague regulations.<sup>163</sup> On the last point, vague regulations are often viewed as problematic in other jurisdictions due to difficulties with compliance. In China, vagueness is instead a desirable tool referred to as *strategic ambiguity*. Due to its pervasive oversight over the overall regulatory landscape, vagueness provides leeway for the Chinese Government to promote conflicting AI policies while reconciling them through selective implementation.<sup>164</sup> One

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160 Provisions on the Management of Algorithmic Recommendations in Internet Information Services (PRC), Art 31; Interim Measures for the Management of Generative Artificial Intelligence Services (PRC), Art 21.

161 Provisions on the Administration of Deep Synthesis Internet Information Services (PRC), Art 21.

162 Xiao Baiyang, “Agile and Iterative Governance: China’s Regulatory Response to AI” (2024) at pp 8 and 21 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4705898](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4705898)> (accessed 1 March 2025).

163 Yang Luodongni, “Research on the Legal Regulation of Generative Artificial Intelligence – Take ChatGPT as an Example” (2023) 178 *SHS Web of Conferences* 1.

164 For instance, Art 7(4) of the Interim Measures for the Management of Generative Artificial Intelligence Services (PRC) may appear to be strict as it imposes an obligation on providers to “employ effective measures to ... increase the truth, accuracy, objectivity, and diversity of training data”. However, since the threshold for providers to have employed “effective measures” remains unclear, the discretion in interpreting and enforcing the provision lies with enforcement authorities. By  
*(cont’d on the next page)*

example is the use of vague terms like upholding “core socialist values”. Vague regulations also result in a sense of uncertainty in the industry, cultivating a culture of overcompliance.

45 The Chinese market is also unique. China’s strong state control permeates into the private sector to safeguard national security, and to direct monetary and human capital to the most profitable areas.<sup>165</sup> The strong state control can be seen in the reinforcement of public-private partnerships, the designation of large domestic corporations (such as Baidu and Tencent) as “national AI champions” which grants them preferential access to government projects and nationwide data resources,<sup>166</sup> and the central government acquiring ownership and control in private AI companies.<sup>167</sup> Unfortunately, China’s focus on and provision of support to large corporations exacerbates the difference in competitive advantage between large corporations and small and medium-sized enterprises (“SMEs”), including startups.<sup>168</sup>

### C. South Korea

#### (1) AI regulatory landscape

46 South Korea’s AI regulatory landscape is complex. Within the past decade, there have been three changes in political administration, with each administration establishing a new strategy and policy focus for

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selectively enforcing the provision, the People’s Republic of China can advance its twin conflicting goals of becoming a leader in AI development and AI regulation. See Karman Lucero, “Artificial Intelligence Regulation and China’s Future” (2019) 33(1) *Colum J Asian L* 94 at 145–146.

165 In the People’s Republic of China, the Government typically restricts competition in sectors involving key infrastructure, such as the energy and electricity sectors. The Government does this to retain state control over essential resources and to ensure that these resources are not monopolised by the private sector. This practice has extended to the AI sector. See Weiyue Wu & Shaoshan Liu, “A Comprehensive Review and Systematic Analysis of Artificial Intelligence Regulation Policies” (2023) at p 3 <<https://arxiv.org/pdf/2307.12218>> (accessed 1 March 2025).

166 In 2017, each of these national AI champions were appointed to lead specific industries. For instance, Tencent and Alibaba were to focus on developing medical and smart city platforms respectively: Erik Wernberg-Tougaard, “China’s AI Champions” *China Experience* (23 February 2021) <<https://www.china-experience.com/china-experience-insights/chinas-ai-champions>> (accessed 1 March 2025).

167 Benjamin Cedric Larsen, “The Geopolitics of AI and the Rise of Digital Sovereignty” *Brookings* (8 December 2022) <<https://www.brookings.edu/articles/the-geopolitics-of-ai-and-the-rise-of-digital-sovereignty/>> (accessed 1 March 2025).

168 Xiao Baiyang, “Agile and Iterative Governance: China’s Regulatory Response to AI” (2024) at p 27 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4705898](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4705898)> (accessed 1 March 2025).

AI.<sup>169</sup> Despite each strategy having a clear vision, their implementation is said to have fallen short, perhaps due to the disruption caused by changes in administration, the lack of support from stakeholders (like civil society organisations) who disagree with the South Korean Government's approach to AI regulation and the inconsistent enforcement of existing related laws like the Personal Information Protection Act<sup>170</sup> ("PIPA").

47 In general, South Korea's AI regulatory regime does not impose onerous obligations on industry, and companies are given relatively wide discretion to develop and deploy AI. The State utilises tools including national strategies focusing on AI,<sup>171</sup> guidelines,<sup>172</sup> standards<sup>173</sup> and hard regulation to regulate the industry which is led by local big tech companies (such as Naver and Kakao).<sup>174</sup> Hard regulation comprises: (a) existing pieces of legislation (including the Framework Act on Intelligence

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169 In December 2019, under the Moon Jae-in administration, the National Strategy for Artificial Intelligence was released. In September 2022, the more conservative Yoon Suk Yeol administration released the Digital Strategy of Korea. See "Korea to Come up with the Roadmap of Digital ROK, Realizing the New York Initiative" *South Korea Ministry of Science and ICT* (28 September 2022) <<https://www.msit.go.kr/eng/bbs/view.do?sCode=eng&mId=4&mPid=2&bbsSeqNo=42&nttSeqNo=742>> (accessed 1 March 2025).

170 Evan A Feigenbaum *et al*, "Korea's Path to Digital Leadership: How Seoul Can Lead on Standards and Standardisation" (February 2024) at pp 33–34 <[https://carnegieendowment.org/files/Feigenbaum\\_Nelson\\_Korea\\_Digital\\_Leadership.pdf](https://carnegieendowment.org/files/Feigenbaum_Nelson_Korea_Digital_Leadership.pdf)> (accessed 1 March 2025).

171 These include the 2019 National Strategy for AI, the Artificial Intelligence, System and Regulation Maintenance Roadmap and the non-binding Digital Bill of Rights. See The Government of the Republic of Korea, "National Strategy for Artificial Intelligence" (28 October 2019) <[https://wp.oecd.ai/app/uploads/2021/12/Korea\\_National\\_Strategy\\_for\\_Artificial\\_Intelligence\\_2019.pdf](https://wp.oecd.ai/app/uploads/2021/12/Korea_National_Strategy_for_Artificial_Intelligence_2019.pdf)> (accessed 1 March 2025) and "Establishing a Roadmap to Improve Laws, Systems, and Regulations to Prepare for the Era of Artificial Intelligence" *South Korea Ministry of Science and ICT* (24 December 2020) <<https://www.msit.go.kr/bbs/view.do?sCode=user&mPid=112&mId=113&bbsSeqNo=94&nttSeqNo=3179749>> (accessed 1 March 2025).

172 In 2022, the Korean National Human Rights Commission released the Human Rights Guidelines for the Development and Use of AI. See "Human Rights Commission Prepares <Human Rights Guidelines for Development and Utilization of Artificial Intelligence>" *South Korea Human Rights Commission* (17 May 2022) <<https://www.humanrights.go.kr/base/board/read?boardManagementNo=24&boardNo=7607961&menuLevel=3&menuNo=91>> (accessed 1 March 2025).

173 In 2020, the Korean Ministry of Science and ICT and the Korea Information Society Development Institute released the "AI Ethical Standards". See "Ministry of Science and ICT Establishes 'Artificial Intelligence (AI) Ethical Standard'" *South Korea Ministry of Science and ICT* (23 December 2020) <<https://www.korea.kr/briefing/pressReleaseView.do?newsId=156428773>> (accessed 1 March 2025).

174 Local big tech companies enjoy considerable public support: Byoung-il Oh, "The Risks of Artificial Intelligence and the Response of Korean Civil Society" *Association for Progressive Communications* (5 March 2024) <<https://www.apc.org/en/blog/risks-artificial-intelligence-and-response-korean-civil-society>> (accessed 1 March 2025).

Informatization<sup>175</sup> and the PIPA;<sup>176</sup> (b) new legislation, notably the Act on the Development of Artificial Intelligence and Establishment of Trust (the “AI Basic Act”); (c) and the proposed Act on the Protection of Artificial Intelligence Service User.<sup>177</sup>

48 This article will focus on the AI Basic Act since it is intended to be the main legal instrument governing AI in South Korea. The Act was passed at the plenary session of the National Assembly on 26 December 2024. While the Act still requires approval from the Judiciary Committee and a final plenary session, it is expected to take effect in January 2026.<sup>178</sup> South Korea has also announced its plans to implement standards by January 2026, including safety management standards for high-impact AI and deepfake watermarking.<sup>179</sup>

49 The Act is a culmination of 19 prior fragmented bills on AI,<sup>180</sup> with the goals of clarifying South Korea’s strategic direction for AI and implementing measures to protect South Korea against emerging threats like deepfakes.<sup>181</sup> Building on its prowess in the semiconductor industry, South Korea’s main goal is boosting its economy by facilitating

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175 The Framework Act on Intelligence Informatization requires the creation of a comprehensive plan, implementation plan and promotion plan for AI, as well as the promotion of policies for the development of AI technology. See official translated version of the Framework Act at <[https://elaw.klri.re.kr/eng\\_mobile/viewer.do?hseq=57430&type=sogan&key=54](https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=57430&type=sogan&key=54)> (accessed 1 March 2025).

176 Under Art 37-2, data subjects have the right to reject or request an explanation for AI-automated decisions. See the official translated version at <[https://elaw.klri.re.kr/eng\\_service/lawView.do?lang=ENG&hseq=62389](https://elaw.klri.re.kr/eng_service/lawView.do?lang=ENG&hseq=62389)> (accessed 1 March 2025).

177 This Act was proposed by the Korea Communications Commission and is intended to strengthen protection for users of AI services. For instance, AI service providers will be required to establish platforms where users can report AI-related damage. See “2024 Work Plan” *Korea Communications Commission* (22 March 2024) at p 7 <<https://kcc.go.kr/user.do?boardId=1113&page=A05030000&dc=K00000200&boardSeq=60233&mode=view>> (accessed 1 March 2025).

178 “Newly Enacted Law Sets Basis for Nat’l Development of AI” *Korea.net* (27 December 2024) <<https://www.korea.net/NewsFocus/policies/view?articleId=264071>> (accessed 1 March 2025).

179 “MSIT’s Work Plan for 2025” *South Korea Ministry of Science and ICT* (16 January 2025) <<https://www.msit.go.kr/eng/bbs/view.do?sCode=eng&mId=4&mPid=2&pageIndex=&bbsSeqNo=42&nttSeqNo=1065&searchOpt=ALL&searchTxt=>>> (accessed 1 March 2025).

180 “Establishing a Basis for Fostering and Regulating the Artificial Intelligence Industry” *MSIT* (27 December 2024) <<https://www.gov.kr/portal/ntnadmNews/4124183>> (accessed 1 March 2025).

181 The Government of the Republic of Korea, “National Strategy for Artificial Intelligence” (28 October 2019) at pp 26 and 48 <[https://wp.oecd.ai/app/uploads/2021/12/Korea\\_National\\_Strategy\\_for\\_Artificial\\_Intelligence\\_2019.pdf](https://wp.oecd.ai/app/uploads/2021/12/Korea_National_Strategy_for_Artificial_Intelligence_2019.pdf)> (accessed 1 March 2025).

AI innovation and improving its digital competitiveness.<sup>182</sup> These goals shed light on the Ministry of Science and ICT's<sup>183</sup> ("MSIT") motivation to strongly push for passing the Act despite its shortcomings, since the Act would entrench South Korea's position as an attractive trustworthy AI hub.<sup>184</sup>

(2) *Features of South Korean AI Basic Act*

50 The AI Basic Act is a comprehensive piece of legislation applying to "artificial intelligence systems", the definition of which closely mirrors the EU AI Act.<sup>185</sup> The Act operates on two planes, with an overarching emphasis on AI ethics. This emphasis is reflected by how the Act expressly provides for the enactment and publication of a set of AI Ethics Principles, which will cover safety, reliability, accessibility, contribution to human life and prosperity.<sup>186</sup>

51 The first plane focuses on protecting society against emerging threats and imposes obligations on the "Artificial Intelligence Business Operators", which includes developers and providers of AI services.<sup>187</sup> Notably, Art 36 requires "AI Business Operators" that are not located within South Korea but exceed a threshold stipulated by Presidential Decree to appoint a domestic representative. Depending on the risk level

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182 "Ministry of Science and ICT Discusses AI Safety and Digital Vision with the World" *South Korea Ministry of Science and ICT* (27 February 2024) <<https://www.msit.go.kr/eng/bbs/view.do?sCode=eng&mId=4&mPid=2&pageIndex=&bbsSeqNo=42&nttSeqNo=976&searchOpt=ALL&searchTxt=>> (accessed 1 March 2025).

183 This is the lead ministry for the Korean AI Basic Act.

184 This was demonstrated by the Korean Science, ICT, Broadcasting and Communications Committee of the National Assembly's strong emphasis on the quick enactment of legislation (which can be supplemented by subsequent secondary legislation) despite an inability to reach a consensus on providing for user protection in the Bill. See report of the 403rd National Assembly (Special Session) 1st Information and Communications Broadcasting Bill Review Subcommittee (14 February 2023) at pp 14 and 16 (Commissioner Jeong Pil-mo) and p 16 (Park Yun-gyu, Second Vice Minister of Science and ICT) <[https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC\\_H2X2J1V2M0Q1B0F9V2P9Q1E2D9T1Z2](https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_H2X2J1V2M0Q1B0F9V2P9Q1E2D9T1Z2)> (accessed 1 March 2025).

185 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 2(2); see the full text at: <[https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC\\_R2V4H1W1T2K5M1O6E4Q9T0V7Q9S0U0](https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_R2V4H1W1T2K5M1O6E4Q9T0V7Q9S0U0)> (accessed 1 March 2025) and the unofficial translation at: <<https://www.linkedin.com/pulse/united-korean-ai-act-bill-contents-comparison-eu-english-min-h98kc>> (accessed 1 March 2025).

186 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 27.

187 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 2(7).

of the AI system in question, the domestic representative may have to ensure that the business complies with safety and reliability obligations.

52 Similar to the EU AI Act, the South Korean AI Basic Act is also risk-based. However, the Act only flags out three categories of AI systems – high-impact AI, generative AI and large-scale AI. First, high-impact AI is defined in Art 2(4) and includes AI used for essential services and involving biometric information for criminal investigations. AI Business Operators are required to evaluate whether their AI systems qualify as high-impact before launching their products or services.<sup>188</sup> High-impact AI is then subject to transparency,<sup>189</sup> safety and reliability obligations<sup>190</sup> and high-impact AI Business Operators must endeavour to conduct impact assessments.<sup>191</sup> Next, generative AI systems (as defined in Art 2(5)) are subject to transparency obligations and labelling requirements.<sup>192</sup> Finally, large-scale AI systems are those that exceed the prescribed cumulative computational amount used for learning stipulated by Presidential Decree. Large-scale AI Business Operators must carry out risk identification, assessment and mitigation measures.<sup>193</sup>

53 The South Korean AI Basic Act is no stranger to criticism. Article 35 on impact assessments has been critiqued by civil society groups as it does not impose mandatory obligations on high-impact AI Business Operators.<sup>194</sup> Another criticism is the narrower scope of the South Korean Act, in contrast to the EU AI Act. The South Korean AI Basic Act does not expressly prohibit any type of AI (unlike AI systems with unacceptable risks under the EU AI Act), and the South Korean Act makes no mention of general-purpose AI.

54 The second plane focuses on promoting the South Korean AI industry and imposes voluntary obligations on the state and local

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188 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 33.

189 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 31: requires AI Business Operators to notify users that the product or service uses high-impact AI.

190 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 34.

191 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 35.

192 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 31.

193 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 32.

194 “[Commentary] Regrettable Passage of AI Basic Law in the National Assembly that Focuses on Industry and Ignores Human Rights” *Jinbonet* (27 December 2024) <<https://act.jinbo.net/wp/50085/>> (accessed 1 March 2025).

governments, as well as the MSIT.<sup>195</sup> The Act provides that state and local governments may support companies seeking to adopt AI services,<sup>196</sup> may designate AI clusters to allow for the functional, physical and regional clustering of AI research and development<sup>197</sup> and may establish AI sandboxes.<sup>198</sup> The Act also expressly provides for the promotion of AI convergence and international co-operation.<sup>199</sup> Notably, the controversial principle of “permission first, subsequent regulation” under Art 11 of the initial Bill,<sup>200</sup> which required state and local governments to initially allow the research, development and launch of AI services, was ultimately not included in the final Act.

### (3) *Enforcement*

55 The government body overseeing enforcement of the Act is the MSIT, as was decided following much deliberation by the National Assembly’s subcommittee.<sup>201</sup> The Act statutorily encodes the establishment of three bodies to support the development of South Korea’s AI policy. The first body is the National AI Committee, which is established under the President, and comprises high-level representatives of national agencies as well as civilian members who have expertise in AI.<sup>202</sup> The Committee reviews and co-ordinates national AI policies.<sup>203</sup> The second body is the AI Policy Centre, which appears to be under the MSIT. The Centre’s role is to provide technical support for the development of AI

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195 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Arts 13–26.

196 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 16.

197 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 23.

198 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 24.

199 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Arts 19 and 22.

200 Note that following fierce critiques by civil society groups and the Korean National Human Rights Commission, this principle is expected to either be deleted or significantly modified in the MSIT’s new draft. See “[APC] Controversial Cases on AI in Republic of Korea” *Jinbonet* (27 December 2023) <<https://act.jinbo.net/wp/48706/>> (accessed 1 March 2025).

201 See report of the 403rd National Assembly (Special Session) 1st Information and Communications Broadcasting Bill Review Subcommittee (14 February 2023) at pp 18–19 <[https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC\\_H2X2J1V2M0Q1B0F9V2P9Q1E2D9T1Z2](https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_H2X2J1V2M0Q1B0F9V2P9Q1E2D9T1Z2)> (accessed 1 March 2025).

202 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 7.

203 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 8; “Government and Private Sector Unite to Elevate Nation to AI G3 Status” *MSIT* (30 July 2024) <<https://www.msit.go.kr/eng/bbs/view.do?sCode=eng&mfId=4&bbsSeqNo=42&nttSeqNo=1025>> (accessed 1 March 2025).

policy, and to conduct investigations into how AI affects the society.<sup>204</sup> The third body is the AI Safety Research Institute, which was launched in November 2024 under the MSIT. The Institute focuses on research into the risks of AI and seeks to serve as a global hub facilitating discussions on AI safety.<sup>205</sup> Through its research, the Institute aims to support local AI companies by minimising risk factors that would otherwise hinder their global competitiveness.<sup>206</sup>

56 Turning back to the MSIT's enforcement powers, the MSIT has the power to conduct fact-finding investigations into AI Business Operators, and to thereafter impose suspension or correction orders on businesses which are found to have violated the Act.<sup>207</sup> Administrative fines of up to 30m won may also be imposed on high-impact AI or generative AI Business Operators who fail to comply with notification obligations, foreign AI Business Operators which are required but failed to appoint a domestic representative, and persons who fail to comply with the MSIT's suspension or correction orders.<sup>208</sup> In contrast to the fines under the EU AI Act which can go up to €35m or 7% of the offender's global annual turnover,<sup>209</sup> the fines under the South Korean AI Basic Act are significantly less severe. However, this does not necessarily mean that AI Business Operators would be less deterred in light of South Korea's enforcement-heavy landscape, at least in relation to its data protection laws.

#### (4) *Unique features of and surrounding South Korean AI regulation*

57 While the South Korean AI Basic Act largely mirrors the EU AI Act (albeit remaining silent on or imposing more lenient obligations in some respects), it adds on its unique pro-innovation slant by statutorily encoding AI development and industrial promotion measures in the same

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204 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 11.

205 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 12.

206 "Korea's AI Safety Institute Officially Launched" *The Korea Times* (27 November 2024) <[https://www.koreatimes.co.kr/www/tech/2025/02/129\\_387207.html](https://www.koreatimes.co.kr/www/tech/2025/02/129_387207.html)> (accessed 1 March 2025).

207 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 40.

208 Act on the Development of Artificial Intelligence and Establishment of Trust (South Korea), Art 43.

209 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), Art 99.

Act. This differs from the EU AI Act which makes no mention of funding programmes like the Horizon Europe and the Digital Europe programmes through which the EU promotes AI research and innovation.<sup>210</sup> However, this unique feature of the South Korean Act may have been introduced as a means to accord some stability to South Korea’s AI policy direction, in the face of its ever-fluctuating regulatory landscape on a national level.

58 Another unique feature of South Korea’s AI regulatory landscape is the active participation by civil society organisations. Notably, in 2021, following the rapid introduction of AI products in both the public and private sectors, 120 organisations came together to release their manifesto which called for an AI-specific hard regulation providing for the supervision of AI, transparency, AI risk assessments and rights redress mechanisms.<sup>211</sup> In relation to the prior AI Bill and the existing AI Basic Act, civil society organisations have also been actively voicing their feedback by submitting written oppositions to the National Assembly’s Strategy and Defense Committee, and by drafting a civil society version of the AI Bill which they intend to submit to the 22nd National Assembly. With civil society pushing for AI hard regulation more closely aligned with jurisdictions like the EU, the 22nd National Assembly’s reception of their approach remains to be seen.

#### IV. Implications for Singapore

59 Having surveyed the state of affairs in the various comparator jurisdictions, we will now examine Singapore’s landscape and the lessons that those jurisdictions offer for Singapore when it decides to shift away from its current regulatory approach.

##### A. Singapore’s AI regulatory landscape

60 Singapore aspires to become a regional and eventually, global AI hub.<sup>212</sup> It seeks to attain “excellence” in AI development and deployment and the “empowerment” of individuals, businesses and communities

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210 “European Research Development and Deployment of AI” *European Commission* (19 November 2024) <[211 “\[APC\] The Risks of Artificial Intelligence and the Response of Korean Civil Society” \*Jinbonet\* \(6 March 2024\) <<https://act.jinbo.net/wp/49155/>> \(accessed 1 March 2025\).](https://digital-strategy.ec.europa.eu/en/policies/european-ai-research#:~:text=Horizon%20Europe%2C%20the%20primary%20EU,AI%20and%20quantum%20technology%20projects.></a> (accessed 1 March 2025).</p></div><div data-bbox=)

212 Anders C Johansson, “Singapore is Becoming an AI Hub” *LinkedIn* (20 February 2024) <<https://www.linkedin.com/pulse/singapore-becoming-ai-hub-anders-c-johansson-qgnec/>> (accessed 1 March 2025).

using AI.<sup>213</sup> To achieve these goals, Singapore has adopted a co-regulation regime. The State has embarked on numerous collaboration efforts with various parties, including the Advisory Council on the Ethical Use of AI and Data (which has representatives of key players of the AI industry as its members), and the policy prototyping programme by the Infocomm Media Development Authority (“IMDA”) and Meta. These collaborations allow Singapore’s regulators, most prominently IMDA and the Personal Data Privacy Commission (“PDPC”), to receive industry input on their AI-specific regulations while learning more about the technology.

61 Singapore’s AI regulatory regime draws on existing hard regulation (including the Personal Data Protection Act 2012<sup>214</sup> (“PDPA”) and the Copyright Act 2021<sup>215</sup>) and soft regulation. The soft regulation comprises comprehensive guidelines (including the Model AI Governance Framework<sup>216</sup>), guidelines for specific types of AI technology (including the Proposed Model AI Governance Framework for Generative AI<sup>217</sup>), and guidelines for specific industry sectors (including the financial<sup>218</sup> and healthcare sectors<sup>219</sup>). Singapore has refrained from implementing AI-specific hard regulation, instead opting for a “masterly inactivity” approach.<sup>220</sup> This approach ensures that innovation is not stifled during the time Singapore takes to learn more about the risks of AI and the possible AI regulatory approaches. Additionally, the release of

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213 In December 2023, the Singapore Government published its second National AI Strategy, following up from its first Strategy in 2019. See Smart Nation Singapore, “National Artificial Intelligence Strategy 2.0” (2023) at pp 13 and 18 <<https://file.go.gov.sg/nais2023.pdf>> (accessed 1 March 2025).

214 2020 Rev Ed.

215 2020 Rev Ed.

216 Infocomm Media Development Authority & Personal Data Protection Committee Singapore, “Model Artificial Intelligence Governance Framework: Second Edition” (21 January 2020) <<https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Resource-for-Organisation/AI/SGModelAIGovFramework2.pdf>> (accessed 1 March 2025).

217 AI Verify Foundation & Infocomm Media Development Authority, “Proposed Model AI Governance Framework for Generative AI: Fostering a Trusted Ecosystem” (16 January 2024) <[https://aiverifyfoundation.sg/downloads/Proposed\\_MGF\\_Gen\\_AI\\_2024.pdf](https://aiverifyfoundation.sg/downloads/Proposed_MGF_Gen_AI_2024.pdf)> (accessed 1 March 2025).

218 Monetary Authority of Singapore, “Principles to Promote Fairness, Ethics, Accountability and Transparency (FEAT) in the Use of Artificial Intelligence and Data Analytics in Singapore’s Financial Sector” <<https://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Monographs%20and%20Information%20Papers/FEAT%20Principles%20Final.pdf>> (accessed 1 March 2025).

219 Ministry of Health Singapore *et al*, “Artificial Intelligence in Healthcare Guidelines (AIHGle)” (October 2021) <[https://www.moh.gov.sg/docs/librariesprovider5/eguides/1-0-artificial-in-healthcare-guidelines-\(aihgle\)\\_publishedoct21.pdf](https://www.moh.gov.sg/docs/librariesprovider5/eguides/1-0-artificial-in-healthcare-guidelines-(aihgle)_publishedoct21.pdf)> (accessed 1 March 2025).

220 Simon Chesterman, “From Ethics to Law: Why, When, and How to Regulate AI” (May 2023) NUS Law Working Paper No 2023/014 at pp 8–9.

soft guidelines and frameworks in the interim period ensures that the industry is informed of the key principles that Singapore regulators are focused on. In the expectation that these principles will shape future binding obligations, the industry has buffer time to implement practices and measures that address these principles. Industry players that adopted this proactive approach will likely find compliance with future obligations more manageable.

62 In the AI regulation scene, Singapore's priority is clearly not about hogging international headlines. Singapore has instead set its sights on the AI governance testing scene with its development of AI Verify, an AI governance testing framework and software toolkit. By running a voluntary self-assessment of their AI systems, which is typical of a co-regulation approach, organisations can objectively verify that their AI systems are performing as claimed.<sup>221</sup> The question of whether AI Verify will continue to be relevant turns on its interoperability with other key emerging regulatory frameworks,<sup>222</sup> such as those covered earlier.

## **B. Takeaways for Singapore's future state regulation**

### *(1) Shifting to hard regulation*

63 While AI-specific state regulation is yet to be implemented, a shift toward hard regulation may occur when Singapore decides that it is able to make an informed decision about which AI regulatory approach to adopt. To identify the factors that may drive this shift, we examine what led to Singapore's decision to revise the PDPA in 2020. One factor was the Brussels Effect caused by the GDPR.<sup>223</sup> Following the EU's adoption of the GDPR in 2016, Singapore responded in 2017 with a proposal by the PDPC to revise the PDPA.<sup>224</sup> The proposed amendment

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221 Josh Lee Kok Thong, "AI Verify: Singapore's AI Governance Testing Initiative Explained" *Future of Privacy Forum* (6 June 2023) <<https://fpf.org/blog/ai-verify-singapores-ai-governance-testing-initiative-explained/>> (accessed 1 March 2025).

222 With the development of harmonised standards (for demonstrating compliance) by other jurisdictions, AI Verify may gradually lose its relevance. For instance, the EU's CEN-CENELEC Joint Technical Committee 21 is currently developing a set of harmonised standards.

223 Greg P Corning, "The Diffusion of Data Privacy Laws in Southeast Asia: Learning and the Extraterritorial Reach of the EU's GDPR" (2024) 30(5) *Contemporary Politics* 656 at 667.

224 "First Public Consultation on Review of the PDPA" *Personal Data Protection Commission Singapore* (27 July 2017) <<https://www.pdpc.gov.sg/news-and-events/announcements/2017/07/first-public-consultation-on-review-of-the-pdpa>> (accessed 1 March 2025).

was passed after three public consultations.<sup>225</sup> With the adoption of the EU AI Act, Singapore regulators are likely to respond in a similar fashion, or at least seek public feedback regarding the impact of the EU AI Act. Another factor was the rising threat of data breaches, with both public institutions<sup>226</sup> and industry<sup>227</sup> falling victim to cyberattacks. As the threats posed by AI become more pronounced (for instance, through the use of deepfakes or AI being used for election manipulation), Singapore may similarly be driven to legislate and enforce requirements for trustworthy AI. Singapore may leverage these requirements to entrench its position as a reliable and trustworthy AI hub. One other factor is how public opinion may assert a bottom-up influence on regulators. In South Korea, civil society serves as a voice for the public, actively campaigning for hard regulation and what hard regulation should look like. Stakeholders like civil society and academia have the potential to play a similar role in Singapore in representing public opinion regarding AI regulation. The State is likely to take these stakeholders' stances into careful consideration given Singapore's focus on incorporating diverse inputs and getting a wide buy-in for its regulatory decisions.<sup>228</sup>

64 When shifting to hard regulation, Singapore must continue to capitalise on its strengths to maintain a competitive advantage. Singapore's strengths include its clear and efficient state co-ordination. Due to its dominant party system and its small size, the State is able to issue clear policies with a consistent policy direction and ensure efficient co-ordination between different governmental bodies. Another strength is how the State has constructive relationships with the industry, research organisations, civil societies and foreign regulators.<sup>229</sup> This opens up opportunities for Singapore to seek feedback, collaborate and enter into partnerships. These relationships and opportunities ensure that the

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225 "Public Consultation Paper Issued by the Ministry for Communications and Information and the Personal Data Protection Commission: Draft Personal Data Protection (Amendment) Bill, Including Related Amendments to the Spam Control Act" (14 May 2020) at p 5 <[https://www.mci.gov.sg/files/Press%20Releases%202020/public%20consultation%20on%20pdp%20\(amendment\)%20bill%202.pdf](https://www.mci.gov.sg/files/Press%20Releases%202020/public%20consultation%20on%20pdp%20(amendment)%20bill%202.pdf)> (accessed 1 March 2025).

226 Public institutions that fell victim to cyberattacks include the Ministry of Defence Singapore and SingHealth, Singapore's largest group of public healthcare institutions.

227 Companies that fell victim to cyberattacks include AXA Insurance and Singapore Airlines.

228 "Minister for Foreign Affairs Dr Vivian Balakrishnan's Remarks at the 78th UNGA Side Event" *Ministry of Foreign Affairs Singapore* (19 September 2023) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2023/09/FM-Dr-Vivian-Balakrishnan-Remarks-at-the-78th-UNGA-Side-Event>> (accessed 1 March 2025).

229 Although, arguably, there is still much to be desired regarding the "volume" of civil society's voice in Singapore.

State is equipped to consider domestic needs in the face of fast-paced AI developments and AI regulation.

65 Singapore’s overall regulatory strategy will likely be to harmonise with the AI regulations of major jurisdictions while leveraging its abovementioned strengths. We now turn to the concrete features that Singapore can adopt in its hard regulation to realise this strategy.

(2) *Scope of hard regulation*

66 This article first examines the takeaways from the comparative analysis regarding the definition of AI.<sup>230</sup> The EU and South Korea, drawing guidance from the OECD, adopt a more technical definition. China adopts a definition that focuses on the function of each particular AI technology. Since Singapore’s goal is to position itself as an AI hub, its focus will likely be on regulatory interoperability to facilitate cross-border AI-related activity. Singapore should avoid adopting a vague definition, which would result in uncertainty in its laws, and instead adopt the OECD definition, with amendments to its broad scope where necessary. This would be a strategic move given the “considerable convergence” around the OECD’s definition of AI.<sup>231</sup> China’s function-based definition is not tenable for the horizontal regulatory approach that Singapore is likely to adopt. A horizontal approach is likely since it is in line with Singapore’s existing approach to soft regulation, and there appears to be impending global harmonisation towards such an approach.

67 In determining *who* to impose obligations on, Singapore should seek guidance from the EU AI Act and China’s Deep Synthesis Regulation. The EU AI Act covers a comprehensive range of actors along the AI value chain,<sup>232</sup> imposing different obligations depending on the risks, knowledge and resources of the relevant actor. As for China, initially, its Algorithm Recommendation Regulation solely targeted algorithmic recommendation service providers but the range of actors became far more comprehensive in its Deep Synthesis Regulation.<sup>233</sup> In

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230 See also “AI Watch. Defining Artificial Intelligence 2.0” *European Commission* (29 October 2021) <<https://publications.jrc.ec.europa.eu/repository/handle/JRC126426>> (accessed 1 March 2025).

231 Catriona Gray & Robert H Wortham, “AI Governance and Assurance: Global Trends 2023-24” *AI Assurance Club* (March 2024) at p 2 <<https://static1.squarespace.com/static/63dce129c4a0240681746067/t/660444fd1a562b09bf187ff0/1711555838568/Global+Trends+2023-24.pdf>> (accessed 1 March 2025).

232 These include providers, deployers, importers, distributors and product manufacturers of AI systems. See para 25 above.

233 China’s Provisions on the Administration of Deep Synthesis Internet Information Services imposes obligations on deep synthesis service providers, technical supporters, users and application distribution platforms. See para 39 above.

its hard regulation, Singapore should similarly have a distribution of compliance responsibilities along the value chain. This is desirable because compliance would be more feasible, rather than being overly onerous for any one actor. This would work best in achieving the regulators' aim of ensuring the trustworthiness and safety of AI. Singapore can also consider excluding research activities from the scope of its legislation, as the EU and China have done, to ensure that Singapore's AI research scene maintains its competitive edge without being weighed down by compliance obligations.<sup>234</sup>

### (3) *Potential features*

68 Assuming that Singapore will indeed enact hard regulation that takes the form of a horizontal approach, its content should usefully have the following features. First, Singapore should adopt a risk-based regime. Doing so would allow Singapore to keep up with the global convergence around risk-based regimes,<sup>235</sup> while allowing Singapore regulators to calibrate the extent of regulatory intervention to the expected level of risks. This minimises the potential for over-regulation. In designing a risk-based regime, some key decisions that Singapore will have to make include whether it will adopt a risk classification system with numerous categories (like the EU AI Act) or focus on AI systems posing high risks (like the CASS draft AI law and the South Korea AI Basic Act), how it will define risk categories (for instance, by providing an exhaustive list or a definition to be applied on a case-by-case basis),<sup>236</sup> and the obligations that will be imposed on AI systems falling into each category. Ultimately, the comparative analysis draws out possible options, but the decisions are to be determined based on Singapore's context and the regulator's risk appetite. For instance, in deciding how to approach AI systems with high risk, potential options include imposing an outright prohibition, requiring governmental approval before development and/or release,

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234 Excluding research and development activities from the scope of hard regulation would reduce the number of channels through which the State can learn about cutting-edge AI developments. However, Singapore can continue to rely on its close relationships and conversations with the private sector for this. See Mark MacCarthy, "The US and Its Allies Should Engage with China on AI Law and Policy" *Brookings Institute* (19 October 2023) <<https://www.brookings.edu/articles/the-us-and-its-allies-should-engage-with-china-on-ai-law-and-policy/>> (accessed 1 March 2025).

235 Catriona Gray & Robert H Wortham, "AI Governance and Assurance: Global Trends 2023-24" *AI Assurance Club* (March 2024) at p 2 <<https://static1.squarespace.com/static/63dce129c4a0240681746067/t/660444fd1a562b09bf187ff0/1711555838568/Global+Trends+2023-24.pdf>> (accessed 1 March 2025).

236 The fact-specific and subjective nature of risk assessments adds to the difficulty of defining risk categories. See Johanna Chamberlain, "The Risk-based Approach of the European Union's Proposed Artificial Intelligence Regulation: Some Comments from a Tort Law Perspective" (2023) 14(1) *European Journal of Risk Regulation* 1 at 7.

or implementing a “permission first, subsequent regulation” system. A governmental approval system is optimal for Singapore due to the efficiency of its regulatory authorities. Such a system would also allow Singapore to attract innovation while ensuring the safety of these AI systems. A “permission first, subsequent regulation” system would not be viable for Singapore, which tends towards a precautionary approach, especially when legislating. Another example is how the South Korean Basic AI Act’s approach of statutorily encoding its AI development and industrial promotion measures would not be necessary in the Singapore context. In view of Singapore’s comparatively more stable regulatory landscape, Singapore should instead continue to promote AI development through its Ministries’ efforts such as rolling out research funds and scholarships.

69 Next, Singapore must ensure that obligations imposed are practicable. Singapore should avoid making the same mistakes as China in its draft Generative AI Regulations which imposed overly onerous obligations with “impossible standards”.<sup>237</sup> Regulators must also consider whether compulsory obligations are practicable not just for big tech, but also SMEs and startups.

70 Singapore can further consider adopting a policy tool similar to China’s algorithm registry. An algorithm registry would allow regulators to obtain a better overview of cutting-edge AI technology and shape their policies and regulations accordingly.<sup>238</sup> A centralised database would also be useful if Singapore were to adopt a system relying on governmental approval. Regulators can consider interfacing this registry with AI Verify. For instance, disclosure requirements could be satisfied by submitting an AI Verify report. If Singapore decides to implement an algorithm registry, a key consideration would be the extent of disclosure required of companies. A balance would have to be struck between collecting sufficient information for the registry to be useful and imposing overly onerous obligations on companies.

71 Another notable policy tool is the regulatory sandbox. Regulatory sandboxes already play a prominent role in Singapore, there being a

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237 Matt Sheehan, “China’s AI Regulations and How They Get Made” (July 2023) at p 14 <[https://carnegieendowment.org/files/202307-Sheehan\\_Chinese%20AI%20gov.pdf](https://carnegieendowment.org/files/202307-Sheehan_Chinese%20AI%20gov.pdf)> (accessed 1 March 2025).

238 Matt Sheehan, “What China’s Algorithm Registry Reveals about AI Governance” *Carnegie Endowment for International Peace* (9 December 2022) <<https://carnegieendowment.org/2022/12/09/what-china-s-algorithm-registry-reveals-about-ai-governance-pub-88606>> (accessed 1 March 2025).

total of 12 sandboxes as of 2023.<sup>239</sup> Since Singapore sandboxes tend to be well-defined with clear guidelines, procedures and requirements, they need not be included in Singapore's comprehensive AI legislation. Instead, leaving the relevant governmental bodies with the discretion to create and design regulatory sandboxes confers them flexibility and efficiency in decision-making.

72 Regarding enforcement, Singapore should impose penalties for non-compliance so that its hard regulation carries weight. These penalties may include fines, warnings, public denouncements, correction orders or even suspension orders. The State would also have to decide whether enforcement will be carried out by IMDA and PDPC, or whether an AI oversight agency will be established. This article supports the first option due to the administrative concerns that arise with an increasing number of regulatory bodies (like in China), and how IMDA and PDPC have built up a steady foundation and expertise on AI. This is not to say that establishing a new AI oversight agency would not become a viable (if not, optimal) option for Singapore a few years down the road. Similar to the AI-specialised bodies which have been established in the EU and South Korea, a similar body may be useful to ensure consistency and coherency between Singapore's AI policies and to build a strong foundation of AI expertise.

73 Finally, one pressing concern is how Singapore will "future-proof" its hard regulation. Just as the EU and China had difficulties fitting and regulating generative AI under their initial hard measures, similar problems are bound to occur with future AI developments. For instance, the new technology may not fall within any existing risk category or may pose novel risks for society. Singapore's first port of call should be to apply existing laws to this new technology, rather than to create new regulation for specific subsets of AI technology.<sup>240</sup> To minimise resorting to the latter option, regulators must keep abreast of the latest AI capabilities and developments, and reflect this state of knowledge in each new measure.<sup>241</sup>

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239 Tech for Good Institute, "Sandbox to Society: Fostering Innovation in Southeast Asia" (January 2024) at p 20 <<https://techforgoodinstitute.org/wp-content/uploads/2024/02/Full-Report-Sandbox-to-Society.pdf>> (accessed 1 March 2025).

240 Exercising this option repeatedly will not be sustainable in the long run. With every new piece of legislation targeting a specific subset of AI technology, compliance costs and regulatory uncertainty would increase, resulting in a fragmented AI regulatory landscape for Singapore.

241 Virginia Dignum, "Future-proofing AI: Regulation for Innovation, Human Rights and Societal Progress" *Foundation for European Progressive Studies* (15 June 2023) <<https://feps-europe.eu/future-proofing-ai-regulation-for-innovation-human-rights-and-societal-progress/>> (accessed 1 March 2025).

(4) *Regulatory interoperability*

74 Ultimately, due to Singapore’s position as a rule-taker, ensuring regulatory interoperability is crucial. Greater interoperability is attractive for the industry due to easier compliance across jurisdictions and reduced costs,<sup>242</sup> and also for jurisdictions due to transparency and greater mitigation of risks.<sup>243</sup> One of Singapore’s efforts to improve interoperability is the development of a globally-recognised testing framework and software toolkit, AI Verify. Another effort is the crosswalk between the US National Institute of Standards and Technology’s (“NIST”) AI Risk Management Framework and AI Verify. The crosswalk maps criteria from one framework to the other, demonstrating how, for instance, satisfaction of NIST’s criteria would similarly satisfy AI Verify’s criteria.<sup>244</sup> Singapore should consider establishing similar crosswalks with a greater number of jurisdictions (for both foreign hard regulation or non-binding measures) and even signing digital economy agreements pertaining to AI with more jurisdictions.<sup>245</sup>

75 This article opines that more objective interoperability mechanisms, which for instance stipulate the metrics for measuring an AI system’s fairness, are unlikely to take shape in the near future as discourse is still ongoing.

## V. Conclusion

76 This article has responded to the G7 leaders’ call to “recognize the need to manage [AI] risks” by examining how the EU, China and South Korea have, and Singapore can, manage these risks using hard regulation. It sparks a much-needed conversation given the need for Singapore to seriously consider AI-specific hard regulation before 2026 (*ie*, when Singapore’s NAIS 2.0 has run its course), or when any negative triggers emerge.

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242 OECD, “Interoperability of Privacy and Data Protection Frameworks” (2021) <[https://goingdigital.oecd.org/data/notes/No21\\_ToolkitNote\\_PrivacyDataInteroperability.pdf](https://goingdigital.oecd.org/data/notes/No21_ToolkitNote_PrivacyDataInteroperability.pdf)> (accessed 1 March 2025).

243 Angela Onikepe, “Interoperability in AI Governance: A Work in Progress” *TechPolicy.Press* (17 July 2024) <<https://www.techpolicy.press/interoperability-in-ai-governance-a-work-in-progress/>> (accessed 1 March 2025).

244 Josh Lee Kok Thong, “Explaining the Crosswalk between Singapore’s AI Verify Testing Framework and the U.S. NIST AI Risk Management Framework” (23 January 2024) <<https://fpf.org/blog/explaining-the-crosswalk-between-singapores-ai-verify-testing-framework-and-the-u-s-nist-ai-risk-management-framework/>> (accessed 1 March 2025).

245 Emily Jones *et al*, “Norm Entrepreneurship in Digital Trade: The Singapore-led Wave of Digital Trade Agreements” (2024) 23(2) *World Trade Rev* 208 at 210.

77 Singapore's decision regarding the appropriate time to shift toward AI-specific hard regulation, as well as the design of such measures, will turn on various factors. These include Singapore's risk management strategy, industry and societal perceptions, and political considerations. Despite the differences in cultural perceptions, Singapore should align its hard regulation most closely with the EU, given the EU's position as the current leader in AI regulation.

78 Singapore must also continue to engage in global conversations and co-operation efforts. Thus far, Singapore has done well in establishing the bilateral AI Governance Group with the US, signing the Bletchley Declaration<sup>246</sup> and developing the ASEAN Guide on AI Governance and Ethics. Singapore must continue these conversations and collaborations to ensure its relevance in the AI space.

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246 "The Bletchley Declaration by Countries Attending the AI Safety Summit, 1-2 November 2023" *GOV.UK* (13 February 2025) <<https://www.gov.uk/government/publications/ai-safety-summit-2023-the-bletchley-declaration/the-bletchley-declaration-by-countries-attending-the-ai-safety-summit-1-2-november-2023>> (accessed 1 March 2025).