

Artificial Intelligence

Introduction

1. AI is changing work. Congress notes the rapid and exponential rate at which artificial intelligence and machine learning (AI) are being developed. The emergence of Generative AI in 2022/23 will only accelerate the rate of growth in the use of AI and expand its impact on the day to day lives of ordinary Australians.
2. Congress acknowledges that artificial intelligence will significantly impact work. Congress notes that it is now predicted that AI will impact between 40 and 60 percent of all jobs on the planet.
3. Congress asserts that workers voices must be heard in all of the debates about AI and that workers must share in the benefits of AI. Congress demands a human centred approach to AI.
4. Workers' must receive a fair share in the benefits and gains that may come through increased productivity as workers use AI.
5. Congress recognises that AI offers great potential to advance the interest of workers and citizens more broadly, but that potential will only be realised to the benefit of all if it is sensibly regulated and underpinned by rights in order to ensure outcomes that are equitable and that positively affects workers' lives and livelihoods instead of diminishing them. There are also significant risks, and Congress will take every step to advocate for the protection of workers' and consumers' rights where AI is adopted.
6. Congress calls for a coordinated national and unified policy approach to AI that balances innovation, development, risk, regulation, and rights. To achieve this Congress calls for the establishment of a National Artificial Intelligence Authority.
7. Congress believes that enforcement of AI regulations must be through legally binding mechanisms, not through voluntary codes.
8. Workers' rights are central to AI. Australian Unions will seek to advance the rights of workers with respect to the adoption and use of AI, by:
 - a. advocating for law reform;
 - b. defending and advancing workers' rights; and
 - c. campaigning and collective bargaining, privacy, liberty, and freedom.
9. Congress also notes the potential of the use of AI to have devastating effects on the democratic process and on citizens and their liberty, freedom, and privacy generally unless it is properly regulated. Congress further resolves to advocate for policies guarantee privacy, transparency and protections from discrimination and in relation to the adoption and use of artificial intelligence.

Our values and principles

10. Congress affirms the broad values and principles which guide the union movement. These values and these principles will guide our policy and action in relation to AI.

Our values

11. Our Core Values will drive us and govern us:
 - a. Fairness,
 - b. Transparency,

- c. Equity,
 - d. Health and Wellbeing, and
 - e. Participation and Democracy
12. Respect and encourage Aboriginal and Torres Strait Islander Peoples rights to maintain, control, protect and develop their intellectual property over their cultural heritage, traditional knowledge, and traditional cultural expressions.
 13. The Australian Trade Union Movement will be vigilant in its approach to AI and technological change: Alert, assertively positive and vigilant.
 14. Congress asserts that new technology, including AI should mean more jobs, higher pay, and improved productivity. Wealth generated must be shared with the workers who create it, use it, and shape it. We will not allow it to deepen the greedy pockets of big business.
 15. Workers must be involved in every debate about AI – nothing about us, without us. Workers and their unions have an interest in AI and its impact across the economy and as it touches every area of policy.
 16. AI can change the world for the better if we get it right. As a trade union movement, we intend that Australia gets it right, that the benefits are shared by all, and we lead the world in worker-centric approaches to AI policy.
 17. Dignity at work is a fundamental right. AI's incredible capacity must be directed to the augmentation of work and not to eliminate work.
 18. Rights will underpin our approach to the regulation of AI:
 - a. The right to work;
 - b. The rights to dignity in work;
 - c. The right to have a voice in the conversation;
 - d. A right to not just be consulted but to participate in decision making;
 - e. A right to challenge decisions made about us;
 - f. A right to privacy and security;
 - g. A right to image, voice, movement, creativity and intellectual capacity;
 - h. A right to training; and,
 - i. A right to work free from discrimination and bias.
 19. Establish and fight for Aboriginal and Torres Strait Islander peoples Cultural Intellectual Property, sovereignty, self- determination and rights.

Our principles

20. Every Australian has a right to know that AI will impact our work in ways we have not yet contemplated. It is estimated that 7.2 million employees – about half Australia's total workforce – will need to re-skill and adapt to generative AI, with 3.3 million having their roles augmented by the technology while 3.9 million will face disruption.
21. There must never be a decision about us without us. Workers' voices are both legitimate and mandatory in every debate about AI.
22. Protocols for using Aboriginal and Torres Strait Islander peoples Intellectual and Cultural Property (ICIP) must be embedded into AI legislative protections and Australian copyright law. These protocols must

establish Aboriginal and Torres Strait Islander peoples sovereign rights of ownership of: data, lands, language, culture, art, stories, music, song, dance, voice, image, likeness, body, movement and intellectual and creative output.

23. When AI is engaged to depict the voice, image, movement or likeness of Aboriginal and Torres Strait Islander ancestors and/or deceased persons, all companies and entities must follow the applicable Aboriginal and Torres Strait Islander protocols and cultural Lore of those ancestors and/or deceased persons.
24. Congress asserts that workers have an interest in every debate about AI, its development and adoption. AI, like all technological development, is all intrusive it cannot be put in boxes and contained. Congress re-affirms the right of workers and their unions to actively participate in the debates and decisions related to AI.
25. Our voice must be heard at every level of debate. Unions commit to participating and leading debates at the workplace, the enterprise, across the nation and at the international level. Workers are experts in the industries and occupations in which they work and should be part of any informed decision-making process.
26. Congress notes the broad risks presented by the unregulated development and application of artificial intelligence, and further notes the current gaps between the pace at which 'alignment' (of AI with human objectives and goals) is developing versus the greater pace at which AI technology itself is being developed. Congress stresses the need for responsible human oversight and worker input into AI development and usage.
27. Workers should have real input into decisions that are made about the introduction and use of AI, augmentation of work using AI, automation and other matters affecting them. Workers should be given the information they need to make informed decisions about future changes. Workers in some fields, where the use of AI would be inappropriate or carry undue risk (for example, medical decision-making) should have the right to reject its use completely, in the public interest.
28. Congress calls for:
 - a. The removal of restrictions on collective bargaining, enabling workers to collectively bargain on the actual or potential use of artificial intelligence and associated issues (such as data ownership and privacy) in connection with their work.
 - b. Workplace consultation provisions which require those who engage workers to genuinely consult with workers about the potential use of AI in connection with their work.
 - c. Removal of any impediments or barriers to workers determining how they will interact and work with technology including AI. This may include workers deciding, in the public interest, that they will not adopt AI for certain applications (such as medical decision-making).
 - d. The removal of any barriers on the transparency of how technology will operate, make determinations or recommendations in the workplace.
29. Congress believes that businesses and entities must be explicitly liable for the generation of misinformation and disinformation arising from the use of AI and must take steps to adequately manage associated risks. Accessorial liability should also be established to ensure that developers of AI technologies are also held responsible.
30. All AI-produced content must be watermarked and/or otherwise labelled in a format that is clear, accessible, and permanently embedded.
31. Congress believes that the government must limit or curtail the harmful and exploitative use of AI.
32. Australian Unions will be vigilant to ensure that the jobs of the future are secure, union jobs. AI will radically change the world of work. It is inevitable that new jobs will emerge, old jobs will disappear and jobs we have never envisaged will be created. Unions will not accept any erosion of living standards as a result of changes to how we work.

33. Congress affirms a human centred approach to AI. AI can assist, it should augment, but it does not replace the human oversight of work and the final decision making. The union movement will not accept the abrogation of the responsibility of decision-making by humans to machines and area of law which permits this must be changed.
34. Congress demands significant investment by business and government to ensure that workers are beneficiaries and not fodder through the adoption and integration of AI.
35. Congress demands a participative and democratic approach to AI. AI and its impacts must be open, transparent, and understandable. The foundations upon which these technologies are built must be open and transparent in order for this participative decision making to take place. This includes the sources and uses of training data. AI must work for all and not just be managed and led by the privileged and not just by business.
36. Congress acknowledges the significant demonstrated risk of AI being misused as a tool for misinformation and disinformation. AI will unless properly regulated not just change the work we do but it will potentially impact our ability to think freely in our democracy. Congress affirms as fundamental the right of every citizen to think freely. Congress calls for the regulation of AI so as to eliminate bias, misinformation and disinformation.
37. Workers deserve a fair share of the value that they produce every day and unions reassert that, fundamentally, value is produced by the labour of workers. Artificial intelligence and other forms of automating technology and work augmentation have the potential to exponentially increase the output and value created by workers. It is critical that instead of generating super-profits, workers receive a fair distribution of any additional wealth that they create.
38. Australian Unions will bargain for AI productivity clauses with employers and across industries to ensure that workers are fairly paid, in accordance with the value they produce and so that the result of technology adoption is not work intensification or job losses.
39. AI offers the potential for both significant gains in relation to safe and health workplaces and the potential emergence of significant risks. Congress re-affirms the right of every worker to a safe and health workplace and that it is the employers' responsibility to provide this safe workplace. Unions reassert that the adoption of AI, as with the introduction of any technology, does not obviate the responsibility of employers to do so.
40. Congress notes with concern the potential for AI to be adopted in ways that diminish overall job satisfaction and control, and present associated workplace health and safety risks (such as in a supervisory capacity, through increases in the amount or sophistication of workplace surveillance, changes to work allocation or through the reduction of human input to increasingly routine and repetitive tasks).
41. Congress recognises the important of work to social and psychological wellbeing, and the important of meaningful work.
42. Congress also recognises the fundamental nature of consultation to Australia's Robens style health and safety laws, and the importance of ensuring that workplace consultation and the rights of health and safety representatives is a central feature of modern safe and healthy workplaces.
43. Congress also notes the potential for AI to be used positively in workplaces, by being applied to predict and control potential risks to health and safety (such as unsafe work practices, customer and patient aggression etc.)
44. We believe that every worker has a right to:
 - a. work free of surveillance.
 - b. to work that promotes social and psychological wellbeing.
 - c. to actively participate in workplace decision making and to be consulted about changes at work.

45. Copyright and intellectual property law must protect against AI-generated outputs that clearly connect to a discernible artistic, written, dance, or musical style.
46. Indigenous Cultural and Intellectual Property (ICIP) must be legislated into Australian copyright law and must protect against AI generated outputs that clearly connect to a discernible First Nations artist, performer, writer, dancer, singer, or musical style.
47. Australia's OHS laws must be reviewed to ensure they are fit for purpose and the role of Workplace Health and Safety representatives strengthened.
48. Congress calls of the Commonwealth and State Governments to ensure that:
 - a. Workplace health and safety laws sufficiently capture the risks and harms, including psychosocial risks and harms that can arise from working with or being subjected to the use of artificial intelligence in connection with work (for example, risks to health and safety (including psychosocial wellbeing) from work intensification, reduced autonomy and lower job control).
 - b. Workplace health and safety laws, regulations and guidelines adequately address the responsibilities of persons controlling business or undertaking and persons who create AI and other technologies for use in connection with work.
 - c. Workers who are injured in the course of their employment are not subjected to artificial intelligence-based decision-making in connection with their seeking or relying on accident compensation.
49. Congress calls for tripartite consultations aimed at promoting the safe and responsible use of artificial intelligence in order to harness its potential for positive effects on productivity, workplace health and safety and, meaningful work and avoid its negative effects.
50. Congress notes the demonstration of the potential for discrimination and bias by AI. Its proliferation represents a significant risk to a free and democratic society. We demand a world free from discrimination and bias. We demand that AI be regulated with a view to the elimination of discrimination and bias not to perpetuate it.
51. Many of the jobs that AI could either eliminate or significantly augment will be jobs in women dominated industries. Accordingly, AI represents both significant risk and huge potential for women. Many jobs that are and have been female dominated will change, many will disappear. Change is likely to require the acquisition of higher-level skills and potentially lead to higher levels of pay but only if we make a national imperative.
52. Congress affirms the rights of workers to be free from surveillance, to privacy, and ownership of their own data. Worker privacy protected and even more importantly, workers' right to think freely must be protected. Congress calls for privacy and data laws which recognise workers' rights in terms of their own data. Privacy protections should be extended to employee records.
53. Congress affirms the rights of Aboriginal and Torres Strait Islander peoples to govern the collection, ownership and application of data about Aboriginal and Torres Strait Islander communities, peoples, lands, and resources.
54. All workers should be afforded the appropriate intellectual, moral and other property rights and protections over their voice, image, body and movement and their creative and intellectual output.
55. Congress resolves to examine and explore collective solutions to the ownership and management of workers' data.
56. Surveillance of workers by management assisted by AI presents a significant psycho-social hazard, work intensification and burnout risk, and a denigration of workers' ability to creatively contribute to the value they create. Unions will advocate for reasonable limits on worker-surveillance in law and in bargaining.
57. Congress demands a human rights first approach to AI. The suggested dichotomy between a Rights base and a Risk based approach must be rejected as false. A rights-based approach buttressed by a risk-based approach will guide us.

58. Congress calls on the Australian to establish a National Authority to co-ordinate our efforts across government. Australia has a rich almost unparalleled array of resources available to us to grapple with the challenges ahead. These resources must be co-ordinated across the whole of government.
59. Congress asserts that all rights workers have won must be protected regardless of technological change and that new rights will need to be created to mitigate emergent risks. Congress calls on the Government to engage with unions with a view to ensuring that the framework of industrial laws are sufficiently robust to deal with the use of artificial intelligence in connection with work, in particular by ensuring that:
 - a. General Protections, Discrimination, unfair dismissal and related laws sufficiently place responsibility for decisions on organisations and individuals who engage and administer labour, including where decisions are made or influenced by artificial intelligence programs. Accessorial liability should also be strengthened to ensure that providers of technologies, including AI, which lead to unfair or discriminatory outcomes may also be held responsible.
 - b. All decision-making, including decision-making using AI, which affects workers must be open, transparent and capable of both internal and external review and challenge. The right of all workers to an explanation is a critical component of this and should ensure that workers know how, why, and by whom a decision has been made. There must be sufficient transparency to enable workers to understand decisions affecting them, including the circumstance of their making, to ensure that such decisions are not discriminatory.
60. Congress calls for a Charter of Rights for workers with respect to the use of technology, including robotics, AI and automation generally, in connection with work.
61. The Fair Work Act will need review to ensure that it is fit for purpose. Its capacity to deal with disputes about the impact of AI on work must be assured and its ability to use arbitral power clear and unequivocal. No right won by workers should be undermined by the introduction of technology into the workplace.
62. Australia will need a new “Introduction of Change” regime. We must ensure workers are consulted before final decision are made not after. We must ensure that workers have a right to training. And we must ensure that employers cannot hide behind the veil of “the machine did it.”
63. Awards must contain provision that protect workers from surveillance, which protect their privacy and that protect workers’ rights in relation to their voice, their body, their image, and their creative and intellectual output.
64. As in Europe, regulation must move beyond employees to encompass contractors affording them the same rights.
65. Australia’s bargaining laws need urgent review. It is no longer sustainable (if it ever was) to limit what employers and employees and their union can bargain over. It will no longer be possible to even contemplate the potential reach of AI.
66. A new Division of the Department of Employment and Workplace Relations must be established to oversee the development by tripartite means new regulation and training as it pertains to AI and work.
67. Congress affirms the right of every Australian worker whose work will be impacted by AI must have a right to education and Training. AI will eliminate some jobs, augment others and create new jobs some of which we have not hitherto contemplated. Australia’s national Training effort must be focused accordingly.
68. Existing workforces whose future employment prospects might be diminished or otherwise affected by the adoption of AI should be given every opportunity to retrain with sufficient time to be able to participate in the workforce. Where job losses cannot be avoided, workers should receive adequate compensation, retraining and assistance to find other work.
69. Australian Unions will:

- a. Campaign for greater workplace and social protections for workers whose ability to participate in the workplace is affected by technology, including AI.
 - b. Collectively bargain for greater redundancy and redeployment provisions in industries likely to be impacted by increased use of technology, including AI.
70. Those who work in education, and in particular teachers and teaching assistants, should be consulted on appropriate protocols governing the use of AI with children and students, receive timely and appropriate training, and be protected by policies and procedures established to minimise the risk of harm.

Copyright

71. Congress believes that the use of content to train AI models should be subject to consent and compensation, this includes the ability for workers to opt out of their data being used for training generative AI. AI is an industry that is being developed for profit. Companies that scrape data should be obligated to compensate and seek consent from creators and be required to adhere to basic copyright laws, the same as any other business.
72. Laws must be implemented to require the public disclosure of copyrighted data used to train AI. Without such measures, it will be impossible for creatives to ascertain whether their work has been used to train AI.
73. Text and Data Mining (TDM) exceptions should be strictly limited.
74. Additionally, copyright protection should not be extended to works predominantly or exclusively made by AI. Copyright protection exists to reward and encourage human creativity and labour. It should not protect outputs solely or predominantly produced by AI.

A Just Transition

75. Congress asserts the right of every worker to a Just Transition.
76. Congress calls on Government to
- a. Ensure that redundancy protections are adequate in the case of redundancies arising from or in connection with the use of technologies, including AI.
 - b. Examine the current level of social protections that exist for workers and the unemployed, with a view to ensuring that these are adequately capable of dealing with the potential effects of technology, including AI, on the labour market. There should be a safety net for workers whose jobs are lost due to technological changes.
77. Congress calls for tripartite consultations with a view to:
- a. Exploring options for the creation and funding of transitional arrangements to assist workers and industries that are affected by the potential for automation or augmentation of work arising from AI or other new technologies. There should be Government funding to ensure that workers are not left behind and are adequately compensated as industries transition to increased automation and digitisation.

The Broader Implications of AI

78. Congress further calls on Government to:
- a. Put in place adequate safeguards to ensure that where artificial intelligence is used in the delivery of Government services, this does not:
 - Displace the importance of human decision-making; and
 - Does not lead to negative outcomes for those who use those services.

- b. Examine and where necessary amend the existing consumer protections framework to best protect consumers where they interact with or are subjected to decision-making or processes that involve artificial intelligence.
- c. Examine and where necessary amend existing privacy protections for workers and for other persons, taking into account the issues presented by artificial intelligence.
- d. Implement legislation that protects Aboriginal and Torres Strait Islander peoples intellectual and cultural knowledges against the threat of AI.
- e. Ensure that international trade agreements and other obligations do not limit its ability to regulate the use of artificial intelligence in the public interest.
- f. Ensure, through its procurement, modern slavery, and other regulations, that workers in the supply chains that are used to create and train artificial intelligence models are afforded minimum rights and standards.