

Response to the Consultation on the Centre for Data Ethics and Innovation

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1. We are excited about the announcement of the new Centre for Data Ethics and Innovation, and think that it can fill an important gap in the current institutional landscape. A great deal of research and discussion on the ethics of data and AI has begun to emerge, but there is still little work on turning this research into concrete recommendations for governance and regulation. The proposed Centre is exactly the kind of body we need to do this work. We see the CDEI's valuable role to be one of synthesis, taking a broad overview and translating existing work into real-world action.
2. We agree that the CDEI should advise on regulatory gaps and policy but not enforce regulation itself at this stage. However, the notion of a body that advises on regulation across such a broad range of sectors, without itself having regulatory powers, seems unprecedented.¹ Because data and AI pervade all areas of life, the Centre will clearly need to engage with a huge range of government bodies: not just those whose remit explicitly relates to data and AI², but also many other departments and bodies whose focus relates to or is impacted by data-driven technologies. We're sure the CDEI are well aware of the challenges here and thinking carefully about what to prioritise. We suggest two concrete areas that seem like natural places to start, since making progress on them seems practical in the near term and likely to help build public confidence in the Centre:
 - a. Issues most likely to cause "public anxiety", such as the use of data and AI in online advertising and elections, working with bodies such as the Advertising Standards Agency (ACA), and the Electoral Commission.
 - b. Another area we see as immediately important is how the malicious use of data and AI and data could threaten cyber resilience³, something the CDEI could work with the Financial Conduct Authority and other government departments who work on cyber security (e.g. the FCO and DSTL) to address.
3. While we agree with the currently proposed role of the Centre to advise on gaps in regulation, there could be a case for cross-sector regulation of technology in future, in ways that cannot easily be addressed by existing regulators - for example to address issues of liability. We recommend that the Centre be set up in such a way so that it could potentially be given regulatory powers in future - keeping open the possibility of cross-sector regulation without needing to set up another new body.

¹ For example, an advisory NDPBs like the Council for Science and Technology advises across a similarly broad range of policy areas, but only on "high-level priorities" rather than more specific regulatory advice.

² Such as those mentioned in the consultation - the Office for AI and AI Council, and regulators such as the ICO and CMA

³ See Brundage et.al. (2018). The malicious use of artificial intelligence: Forecasting, prevention, and mitigation. arXiv preprint arXiv:1802.07228.

4. Another possible model for the CDEI might be to operate as a body through which all relevant regulation has to pass for approval (perhaps analogous to a kind of ethics board.) We are concerned that given how data and AI will impact almost all sectors, the responsibility to identify all relevant areas of regulation is a huge one - which will only increase over time. If instead there were some way to pass some of that burden onto specific departments, by requiring that they identify relevant areas of regulation and policy themselves (and providing guidelines to do so), this could distribute the workload and increase the likelihood of capturing more relevant areas. Of course, there are likely many challenges in implementing this in practice - defining what counts as “relevant” regulation, and giving departments the incentive to do this work themselves - but we just raise this as a possible consideration for future.

5. We completely agree that the CDEI can have a “unique role, acting as an authoritative source of advice to government”, and are pleased to see emphasis on how the Centre can work collaboratively with other institutions and avoid duplicating work. We note a few areas where we think the CDEI is particularly well-placed to engage with other institutions and build on existing work:
 - a. We’re keen to see the CDEI “respond to, and seek to shape, the international debate on standards.” In the last year, a proliferation of different principles and codes for the ethical use of data and AI have emerged, but we see a real need to think through the application of these principles in practice: what tradeoffs and barriers do we encounter when trying to follow these standards in specific settings? The CDEI seems very well-placed to contribute to this work of thinking through how standards apply in specific settings. We suggest that the CDEI may particularly want to engage with the International Organisation of Standardisation’s new committee on AI (ISO/IEC JTC 1/SC 42) via the British Standards Institution (BSI) which is a member of this committee - which will focus on foundational standards and trustworthiness, both which seem to be directly relevant to the proposed work of the Centre.
 - b. On public engagement, there is great work already being done by the Royal Society⁴ and the RSA⁵, but there is much more still to be done. The CDEI might start by taking some of the conclusions of work done so far and considering any implications for governance and regulation. For example, the RSA’s report presents findings on in which areas people are most and least comfortable with the use of automated decision systems - which could be used by the CDEI to decide which specific areas they prioritise when developing or promoting ethical standards (i.e. it may be particularly important to explore the application of

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<https://royalsociety.org/~media/policy/projects/machine-learning/publications/public-views-of-machine-learning-ipsos-mori.pdf>

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<https://www.thersa.org/discover/publications-and-articles/reports/artificial-intelligence-real-public-engagement>

standards for the use of algorithms in the workplace and in criminal justice, given public concern in these areas.) To give another example, in areas where public awareness of the use of AI is generally low (e.g. marketing⁶), the CDEI may want to consider whether regulation could be used to increase transparency.

- c. A clearer description of the kind of research that the CDEI will commission, and the purpose of that research, would help distinguish it from other organisations that will commission research, such as the Ada Lovelace Institute. We could envision a model where, for example, an organisation like Ada Lovelace commissions a range of more fundamental academic research on topics related to AI and data ethics, or research exploring long-term societal impacts of technology - and then the Centre commissions work to pull together existing research, draw conclusions that can inform “real world impact” such as near-term policy and regulation recommendations. It would be great to see the Centre collaborate with other organisations in this space to ensure both long-term, foundational work and more immediate, practical research are covered and can inform one another.
6. We see a possible tension between the functions of providing advice to government and building public confidence -- which relates to the question of how independent of government the CDEI should be. Given that several other independent institutions (such as the Ada Lovelace Institute and the Royal Society) already exist and are prioritising engaging the public on these issues, we suggest that the Centre will be able to add most value by focusing on its close relationship to government. Ensuring that the government can deal effectively with matters of public concern by delivering concrete recommendations will be crucial for building public confidence in the long-term, but might be harder for the Centre to do the more independent it is. We also suggest that in order to establish “confidence and clarity” for citizens, the Centre should clearly outline its position in relation to government, its mechanisms of accountability, and commitment in a clear and public manner once decided.
 7. Finally, while we agree that “ethical and innovative uses of data and AI will often be mutually reinforcing”⁷, we also believe that tensions between ethics and innovation will inevitably sometimes arise. For example, as acknowledged in the consultation, innovative forms of targeting could save lives if used to more effectively deliver medical treatment (and so the opportunity cost of *failing* to innovate is high) - but those same methods, if misused, could also seriously threaten individual autonomy. The CDEI could do really valuable work by focusing on anticipating some of these tradeoffs in advance in each of the six focus areas. This could naturally build out of work exploring the application of principles in practice we suggested in 4a.

⁶ According to the Royal Society & Ipsos Mori report on Public Views of Machine Learning, “participants were not generally aware that machine learning is already used to tailoring marketing online.”

⁷ Consultation, p.11, 2.4