Digital Policy Alert

Consumer Protection in International AI Frameworks

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Our text-level analysis of nine international AI frameworks shows that seven frameworks cover consumer protection, all except the G7 Principles and the ASEAN Expanded Guide on Generative AI. A total of 11 provisions address consumer protection across seven frameworks, with various degrees of focus and actionability.

- Six provisions focus on consumer protection as the core concern, while five provisions only touch upon consumer protection tangentially.
- 10 provisions across all seven frameworks provide actionable measures to pursue consumer protection. Only one provision, in the Council of Europe Framework Convention, addresses consumer protection in non-actionable language.
- The frameworks with the most provisions on consumer protection are the ASEAN Guide, Council of Europe Framework Convention, Joint Declaration, and the UNESCO Recommendation, which all have two provisions each. Additionally, all consumer protection provisions in the ASEAN Guide, Joint Declaration, and UNESCO Recommendation are also actionable. Further, both of the ASEAN Guide's provisions are core.

We now outline the prevalence, focus, and actionability of relevant provisions in each international framework, before summarising their language.

OECD AI Principles

One OECD AI Principle addresses consumer protection. Principle 1.3 (Transparency and explainability) covers it tangentially and is actionable.

Principle 1.3's consumer protection element is the focus on enabling those adversely affected by an AI system to challenge an output ((iv)).

UN General Assembly resolution

One provision in the UN General Assembly resolution A/RES/78/265, sub-paragraph 6(l), is of core relevance to consumer protection. The provision is actionable.

Sub-paragraph 6(l) encourages investment in developing and implementing safeguards such as risk and impact assessments to mitigate the impact on human rights and fundamental freedoms.

Council of Europe Framework Convention

Two Convention Articles, one core and one tangential, address consumer protection. Article 16 is actionable, while Article 18 is non-actionable.

Article 16, on risk and impact management frameworks, is the core provision. It requires the adoption of risk assessment and management frameworks, which should evaluate risks posed by AI systems with regard to impacts on human rights, democracy, and the rule of law.

Article 18, on the rights of persons with disabilities and of children, is tangentially relevant to consumer protection. It requires Parties to take "due account" of specific needs and vulnerabilities in relation to the rights of such persons. However, it does not specify any protective measures and is therefore non-actionable.

G7 Hiroshima Process Code of Conduct

One provision in the Code of Conduct, Provision 8, relates to consumer protection, which is tangential and actionable.

Provision 8, on prioritising research and investment to mitigate societal, safety and security risks, focuses on safety research. Its consumer protection element is the commitment to prioritise research on key risks including "protecting children and vulnerable groups".

ASEAN Guide on AI Governance and Ethics

Two provisions in the ASEAN Guide address consumer protection, both of which have core relevance and are actionable. The Guide is addressed to deployers and developers and offers worked examples and decision factors.

- Principle 4, on human-centricity, is a core provision combining material on labour and job redesign with a consumer protection component. It suggests that AI systems should not be used to "sway or deceive users" into decisions that do not benefit them. It also suggests that dark patterns be avoided and that systems not take advantage of vulnerable individuals. It is the only provision in the dataset to address dark patterns.
- Section 4, on stakeholder interaction and communication, combines disclosure, employee communication, consent to training-data use and supplier relationships with a consumer protection component. It suggests feedback channels and mechanisms for aggrieved individuals, which can also allow users to correct inaccurate personal data. It further suggests considering whether users should be able to opt out of the AI-enabled service, and obtaining feedback from affected users where they cannot. It is the only provision in the dataset to list factors for deciding on an opt-out: the degree of risk, reversibility, alternative decision-making mechanisms, the complexity of maintaining parallel systems, and technical feasibility.

UNESCO Recommendation on the Ethics of AI

Two provisions relate to consumer protection, one of which is of core and another of tangential relevance. Both are actionable. The policy area is addressed to Member States.

The core provision is Policy Area 11, on health and social well-being. It combines health care policy, privacy and consent, and human decision-making in diagnosis and treatment with a consumer protection component. It covers four elements of consumer protection, more than any other provision in the dataset:

- Users should be able to "effectively refuse" interaction with an AI system imitating human or animal characteristics and request human intervention (paragraph 127).

- Special attention should be paid to the possibility of AI being used to manipulate and abuse human cognitive biases (paragraph 125).
- Member States should establish research on harms to mental health such as depression, social isolation and addiction, and on their regulation (paragraph 124) and develop guidelines for human-robot interaction, including chatbots and companion robots for children and adults (paragraph 125).
- Due attention should be paid to children and young people in four areas: the regulation of health and mental health AI (paragraph 122), awareness of anthropomorphisation (paragraph 128), research on psychological and cognitive impacts (paragraph 129), and mechanisms to engage them in decision-making on AI (paragraph 130).

The tangential provision, Policy Area 2, on ethical governance and stewardship, calls on Member States to carry out self-assessments of AI systems with regard to whether adoption would result in violations of human rights obligations (paragraph 57). Further, it calls on Member States to encourage public entities, private sector companies and civil society organisations to add mechanisms, such as an independent AI Ethics Officer, to oversee ethical impact assessment (paragraph 58).

Joint Declaration on AI, Freedom of Expression and Media Freedom

Two provisions address consumer protection. It has core relevance in one provision and tangential relevance in another. Both provisions are actionable. The Declaration addresses states, companies, as well as financial institutions and investors. Its consumer protection element in both provisions concerns human rights due diligence, and it is the only framework in the dataset to address this element.

The core section addressed to the private sector calls on companies to conduct human rights due diligence at every layer of the AI lifecycle, to make it publicly available and to subject it to external scrutiny ((a)). It extends due diligence to financial institutions and investors funding AI ((a) of the list addressed to them), the only framework examined to do so. The section's other material is unrelated, including staff diversity and training, data protection, content governance appeals and relations with media organisations.

The section on state regulation of companies, which is tangential, calls on states to introduce regulations requiring human rights due diligence at every stage of the AI lifecycle, subject to external, independent scrutiny ((a)(i)). The due diligence should include a specific assessment for marginalised persons or groups more susceptible to negative mental health impacts, opinion manipulation, and online violence and harassment. The section's other material on transparency, oversight institutions, data protection, competition and linguistic diversity is unrelated to consumer protection.

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