

Submission to the Productivity Commission Inquiry into Harnessing Data and Digital Technology

INTRODUCTION

I am an older person, a retired career public servant and fellow CPA, and an aged care advocate for an organisation comprised of self-funded retirees.

As a retired public servant (NSW Public Service) with decades of experience in policy development and implementation, and as an older Australian who is witnessing the exponential rise in the use of artificial intelligence (AI) and recently creeping into the aged care sector, I write to express both optimism and concern.

I welcome the Productivity Commission's inquiry into harnessing data and digital technology.

The potential benefits of AI—including robotic caregivers, predictive health tools, and smart monitoring systems are significant and which I support.

These innovations promise to enhance safety, efficiency, and independence for older people.

However, without a robust and flexible legislative framework, we risk exposing vulnerable Australians to unintended harm, ethical breaches, and loss of dignity.

COMMENT

This submission has been informed by research using AI intentionally or unintentionally.

AI offers immense promise in aged care but only if its deployment is guided by foresight, compassion, and accountability.

As someone who has spent a lifetime in public service and now bears witness to the benefits of using AI in various settings and purposes, including aged care, I believe we must act now to ensure that innovation does not outpace legislation, particularly the provisions in the new Aged Care Act.

The Case for Proactive Regulation

It is accepted that AI is not a static technology. It evolves rapidly, often outpacing the capacity of traditional legislative processes.

In aged care, where decisions made by or with the assistance of AI can directly affect a person's health, autonomy, and quality of life, the stakes are too high to rely on reactive or piecemeal regulation.

I therefore advocate for the development of overarching legislation to regulate the use of AI in aged care. legislation that is proactive, principles-based, and capable of evolving alongside technological advancements.

Key Principles for AI Governance in Aged Care

Any regulatory framework should be built on the following principles:

- **Transparency:** Older Australians and their families must be informed about how AI systems operate and what decisions they influence.

- **Human Oversight:** AI should support—not replace—human judgment in care decisions.
- **Consent and Privacy:** Data collection and use must be governed by clear, informed consent and robust privacy protections.
- **Accountability:** Providers must be held responsible for the outcomes of AI-assisted care.
- **Equity:** AI systems must be designed and deployed in ways that are culturally safe and free from bias.

Embedding Flexibility into the New Aged Care Act

The forthcoming Aged Care Act, due to commence on 1 November 2025, presents a timely opportunity to embed enabling provisions that allow for the regulation of AI through delegated legislation. This approach would:

- Empower the responsible Minister or regulator to issue binding standards, rules, or guidelines specific to AI use.
- Allow for regular updates without requiring full parliamentary amendment.
- Ensure that AI governance remains responsive, evidence-based, and ethically grounded.

This model is consistent with contemporary legislative practice and mirrors mechanisms used in other sectors, such as therapeutic goods and digital health.

RECOMMENDATIONS

I respectfully urge the Productivity Commission to:

- Recommend the inclusion of enabling provisions in the new Aged Care Act to regulate AI via delegated legislation.
- Support the development of a national AI governance framework tailored to aged care.
- Encourage collaboration between aged care regulators, digital health agencies, ethics bodies, and consumer advocates.

Respectfully submitted by:

Adelina Tabila

Date: 26 August 2025