

Paving the Way for Ethical Artificial Intelligence Advances in Indonesia, Minister of Communications and Informatics Issues Circular Letter No. 9 of 2023 on Artificial Intelligence Ethics

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In the dynamic landscape of technology, the rapid evolution and integration of Artificial Intelligence (“AI”) has prompted the establishing of regulatory frameworks to ensure responsible and safe implementation. Indonesia, recognizing the vast impact of AI, took a significant initial step with the issuance of Circular Letter of the Minister of Communications and Informatics (“MOCI”) No. 9 of 2023 concerning Artificial Intelligence Ethics (“Circular Letter”) on 19 December 2023.

This Circular Letter outlines ethical guidelines for the use of AI, providing a foundation for positive, safe, and empowering integration of AI technologies, covering its purposes and objectives, scope, legal basis, and main contents.

1. Purposes and Objectives

The Circular Letter serves as a crucial guideline with dual objectives: creating and formulating internal company policies for electronic system operators and guiding the implementation of AI activities in compliance with the existing laws. Its overarching purpose is to provide business actors with a reference for ethical values and principles, particularly public electronic system operators and private electronic system operators involved in programming activities based on AI.

2. Scope

The Circular Letter offers general guidance on values, ethics, and control of AI-based activities, encompassing consulting, analysis, and programming. It applies to businesses registered under the Standard Classification of Indonesian Business Fields (*Klasifikasi Baku Lapangan Usaha Indonesia* or KBLI) 62015, focusing on Artificial Intelligence Based Programming Activities, as well as users of private and public electronic systems.

3. Legal Basis

Built upon the existing legal framework, the Circular Letter mainly draws from Law No. 11 of 2008 concerning Information and Electronic Transactions (“ITE Law”) and Law No. 27 of 2022 concerning Protection of Personal Data (“PDP Law”), and is also based on other existing regulations among others Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation As Law, Government Regulation No. 71 of 2019 concerning Implementation of Electronic Systems and Transactions, Government Regulation No. 5 of 2021 concerning Implementation of Risk-Based Business Licensing, and MOCI Regulation No. 5 of 2020 concerning Private-Scope Electronic System Operators.

4. Main Contents

Implementation of AI capabilities includes consulting, analysis and programming activities within subsets of among others: machine learning, natural language processing, expert systems, deep learning, robotics, neural networks.

The Circular Letter emphasizes the ethical implementation of AI, considering inclusivity, humanity, security, accessibility, transparency, credibility and accountability, protection of personal data, sustainable development and environment, and intellectual property.

Key guidelines include:

- a. Ethical and code of conduct adherence for business actors and electronic system operators.
- b. Educational programs to develop technical competencies and ethical understanding in the community.
- c. Implementation of AI-based programming capabilities to support human activities.
- d. Government, administrator, and user supervision to prevent misuse of AI technology.
- e. Utilization of AI facilities to increase user creativity in solving problems and work.
- f. Implementation of AI that maintains data privacy so that no individual is harmed.

The Responsibility Principle for Business Actors includes:

Encouraging business actors to uphold responsibility principles, the Circular Letter emphasizes protection of the public, preventing AI from becoming a sole decision-maker, and ensuring compliance with regulatory obligations. It calls for transparency in AI development, risk management, and crisis preparedness.

Following the issuance of the Circular Letter, we have formulated an analysis outlining the pros and cons associated with its implementation:

1. Pros

The Circular Letter's guidelines encourage the positive use of AI, fostering efficiency, innovation, and business transformation. It also serves as a guide to mitigation of potential losses arising from AI use, promoting the creation of a safe and empowering digital ecosystem.

2. Cons

Acknowledging the cons, the Circular Letter's regulatory structure falls below ministerial regulations or laws, functioning more as a soft regulation. This implies a lack of coercive power and sanctions for violations committed due to AI use.

As explained earlier, the Circular Letter stands as a soft regulation lacking coercive or impartial power, prompting a realization among MOCI along with other stakeholders, including business actors, that in the long run a more robust legal framework will be essential. Recognizing this need, MOCI is actively engaged in the development of a ministerial regulation specifically addressing the use of AI. The Circular Letter, despite its soft nature, serves a pivotal role as a preliminary guide and foundational document for forthcoming regulations. It lays the groundwork, offering valuable insights and principles that will likely contribute to the formulation of more authoritative and comprehensive ministerial regulations concerning the ethical use of AI within Indonesia's evolving technological landscape.

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The article above was prepared by Dentons HPRP's lawyers

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