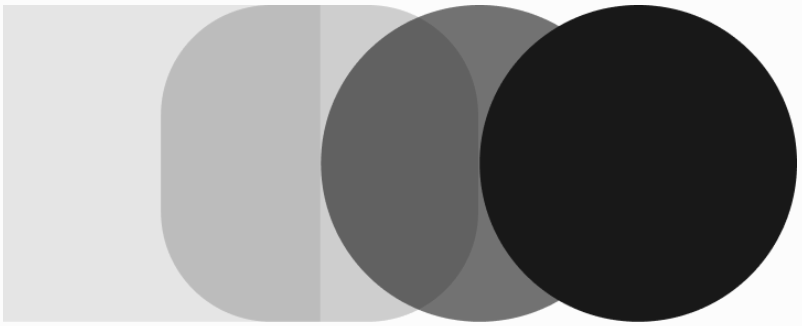
# Submission to the Select Committee on Artificial Intelligence (AI)

Portable's submission in response to the Select Committee on Artificial Intelligence (AI).

18 August 2023



Portable

We are a team living and working on the lands of the Wurundjeri and Boon Wurrung peoples of the Kulin nation. We acknowledge their ownership of the land and pay respects to their elders past, present and future.

Portable is a global leader in legal design and developing accessible products and services that improve access to justice. One of our products, amica.gov.au, helps people separate without a lawyer in Australia. It is supported by the Federal Attorney-General's Department, administered by National Legal Aid, whose operational management is coordinated by the Legal Services Commission of South Australia. Portable is the design and technology partner to lead product development. We will draw on amica as an exemplar of a successful AI-driven product developed in South Australia for the purposes of this submission.

We designed amica by drawing on user needs, HCD methodology, and an ethical AI design process. A core part of amica is to give both parties seeking to separate guidance on what they would expect if they used lawyers to determine their separation, which is where we use a machine learning model to provide them with guidance on what a fair outcome could look like in their situation, as a starting point for their own negotiation. We generated the initial dataset that we use for amica's machine learning model by crowdsourcing the decision making expertise of legal aid family lawyers, that we then used to train the system to help make these predictions. Over the life of the product, we have continued to evaluate and improve how we use data and AI to safely provide legal information for people who need it. We've provided 1,648 AI-created suggested division of assets for former partners since amica launched on July 1, 2020, and 384 of these parties have created consent orders to file in the FCFCOA to finalise these arrangements.

South Australia is in an excellent position to be an AI leader in Australia, leading innovation in the delivery of government services.

Working with known entities is the way to build trust in the community. Given trust is crucial when deploying AI, we recommend supporting Government and NGOs as opposed to new brands in the space.

**The current state of AI development, deployment and application across various sectors, with a particular focus on the economic, social and ethical implications for South Australia**

As a case study for providing government services to meet social need using AI, amica helps people who don't qualify for Legal Aid support but can't afford a lawyer to access a low-cost, DIY court-ready document. This reduces the economic burden on individuals and the government. Socially, it provides an accessible resource for people who need it. Ethically, it helps people navigate the legal system without requiring a lawyer, which could be seen as a barrier to justice for some. The service is targeted at people in the "justice gap" or "missing middle" who don't qualify for Legal Aid support, but can't afford a lawyer.

The cost of running amica for the Federal Government is miniscule. Over the six years of the project, the Federal Government have invested less than $5 million to fund the design, development, and ongoing staffing of the legal support team. We have projected that based on the outputs that people have generated in the system – suggested AI division, finalised parenting plans, finalised parenting agreements, finalised consent orders, and finalised property agreement, as valued at over $30 million. We're not including an economic value to the over 125,000 users who have visited the site and used the application to assist in determining their options under family law. Nor have we included the many thousands of hours of public servant time saved by people doing many of these processes themselves, instead of clogging up existing service delivery.

**The potential for AI to transform sectors critical to the South Australian economy such as agriculture, mining, manufacturing, and services and the skills required for this transformation**

amica exemplifies how AI can transform sectors critical to the South Australian economy, such as legal services and family support services. The application of amica's model (i.e. generating an initial learning data set that we train the system on to help make predictions) can be applied across a range of legal services, including wills and probate matters and employment disputes. South Australia has set an example in the family law space. We believe it could be applied to other legal areas too.

To transform the legal services market in South Australia, AI requires a combination of technical and strategic skills. The ability to generate an initial learning data set to train the system requires a combination of technical skills and legal skills. Knowledge of machine learning algorithms and programming languages such as Python, R, or Java will be required.

In addition to technical skills, developing a strong AI research and development sector is essential. This requires investment in research and development, as well as creating an environment that attracts AI investment and retains AI talent. South Australia has shown a strong commitment to this through its appointment of a Select Committee on Artificial Intelligence and its focus on developing a competitive advantage in AI.

A focus on user needs is also critical. Solutions like amica have been successful because they are designed with the user in mind. This requires a deep understanding of user needs and the ability to develop accessible and innovative solutions that meet those needs. It also involves a commitment to ongoing user testing and feedback to continuously improve the product.

Finally, addressing the ethical and legal implications of using AI in the legal services market is essential. This includes addressing issues around bias in AI decision-making,

privacy and data security, and the ethical use of AI. Developing policies and regulations around these issues will require collaboration between government, industry, and academia.

The transformation of the legal services market in South Australia will require a multi-faceted approach that combines technical skills, strategic thinking, a focus on user needs, and a commitment to ethical and legal considerations.

**Issues surrounding the use of AI in the commission of criminal offences**

A lot has been written surrounding the use of AI in the commission of criminal offences (see Rigano, 2018; Vitanov, 2021; Sachoulidou, 2023; Hao, 2019). Key takeaways from existing literature indicate an immediate need for a clear and coherent governance model that guarantees both the fundamental rights of individuals and legal clarity for developers in the use of AI in the commission of criminal offences. It is also important to categorise the use of AI applications as high-risk in instances where there is the potential to significantly affect the lives of individuals and ensure that any AI tools used by law enforcement or the judiciary are safe, secure, fit for purpose, and subject to risk assessment and strict necessity and proportionality testing. Additionally, the power asymmetry between those who employ AI technologies and those who are subject to them must be recognised as well as the challenges of assigning legal responsibility and liability for potential harm produced by these advanced digital technologies.

**The challenges and opportunities of AI in relation to privacy, data security, and the ethical use of AI, including the risk of bias in AI decision making**

Again, much has been written about the challenges and opportunities of AI in relation to privacy, data security, and the ethical use of AI (see OVIC, 2018). Below we draw on our experience of developing amica to highlight the challenges and opportunities of AI.

Instead of using published case data to power the machine learning algorithm, which we found contained biases due to the contentious nature of the parties' disputes, we chose to create a synthetic dataset that included the same variable we'd expect to see in our user base, including their respective incomes, number of children, marriage duration, super balances, and an overview of their respective financial contributions to the relationship. We did this by creating a way to crowdsource data from actual lawyers by developing a web interface that provided legal aid family lawyers with hypothetical scenarios that represented the kind of information we'd expect to see from people using the tool.

We asked lawyers to assess the hypothetical scenarios, enter a division of assets they'd consider fair, and then reset it and continue to fill in the data set using the web tool. By working with National Legal Aid and legal aid bodies in every state and

territory, we were able to create a data set to inform our machine-learning model. It is currently operating live on amica and provides a suggested starting point to guide former couples in negotiating on the division of their assets.

The example of amica demonstrates the potential for AI to provide innovative and accessible solutions in the legal sector while balancing the need for privacy, data security, and ethical considerations.

**The potential for South Australia to develop a competitive advantage in AI, including through the development of a strong AI research and development sector, the attraction of AI investment, and the training and retention of AI talent**

South Australia has the potential to develop a competitive advantage in AI through the development of a strong research and development sector, the attraction of AI investment, and the training and retention of AI talent. Portable is committed to supporting this potential, with an Adelaide office of talented developers and other staff who have been growing a community of practice in PHP and other related technologies.

In addition to a strong talent pool, South Australia has been attracting tens of thousands of people each year to make the move to the state (Guardian Labs, 2023). This presents an opportunity to build a diverse and innovative AI community that can take advantage of the state's unique resources and position.

A focus on developing a strong AI research and development sector can lead to the creation of innovative and accessible solutions like amica, which can benefit the economy and provide resources for people who may not have access to them otherwise. The potential for South Australia to develop a competitive advantage in AI is significant, and Portable is excited to be a part of this growing community of innovators and developers.

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