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Project Explain
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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24 January 2020

By email: explain@ico.org.uk

Dear Sir / Madam,

Consultation on the ICO and the Alan Turing Institute's co-badged guidance 'Explaining decisions made with AI draft guidance'

This is the Financial Services Consumer Panel's response to the Information Commissioner's Office (ICO) and The Alan Turing Institute's co-badged guidance '*Explaining decisions made with AI*'.

The Panel welcomes the joint guidance which gives helpful, practical advice to organisations to help explain the processes, services and decisions delivered or assisted by AI, to the individuals affected by them. The Panel is supportive of the straightforward approach and simple language used throughout the guidance which should ensure it is used by as many organisations as possible.

The Consumer Panel is not the principal target audience for the guidance, so we have not answered the specific questions set out in the consultation. However, since the stated objective in issuing the guidance is to assist organisations in providing good documentation that can be understood by people with varying levels of technical knowledge, the Panel recommends that the guidance provides clearer encouragement to organisations about the benefits of testing their explanations of AI decisions with a range of actual consumers. Adopting this approach would help firms to demonstrate the effectiveness of their approach, and could help them to evidence how they have sought to make reasonable adjustments in line with wider obligations, for example those set out in the Equality Act 2010 or with the forthcoming FCA guidance for firms on the fair treatment of vulnerable customers.

In line with Panel's wider interest in the use of AI in financial services, the Panel offers the following observations to inform the broader work of the ICO and the Alan Turing Institute:

- **AI use in financial services** – recent publications have highlighted the increasing use of AI and machine learning within financial services. A recent Bank of England / FCA report found that two thirds of respondents reported using machine in some form, and in many cases, this has passed the initial development phase, and is

entering more advanced stages of deployment.¹ The publication of draft guidance to assist organisations to explain decisions to consumers is therefore very timely.

- **Increasing usage of AI raises potential concerns** – the Panel has a number of concerns about the increasing reliance on AI in financial services, which is a technology that is not yet fully understood. These include:
 - how organisations factor ethical issues into their manipulation of consumer data, including their usage of AI;
 - how to protect consumers in a system which makes use of ‘big data’ and relies on disclosure models which are not well understood;
 - how to prevent discrimination in consumers’ ability to access certain products, or the prices they are charged, based on analysis of their data, or decisions they have taken, for example objecting to being subject to solely automated decisions;
 - how to protect vulnerable consumers’ access to products;
 - how to shed light on how firms determine which factors to make use of within their algorithms, and the impact they have, when determining whether to offer consumers access to insurance or credit products, and at what price;
 - how to ensure organisations build diversity into their algorithms to guard against the propensity for AI to replicate the biases of its programmers;
 - how regulators can stay abreast of organisations’ use of AI, set appropriate standards, and determine whether decisions are compliant with both the letter and spirit of regulation; and
 - how to ensure that historical data which is subsequently discovered to be incorrect can be removed from algorithms.

These issues are common across many sectors, but the Panel would suggest that they have greater potential to have a pronounced, and potentially detrimental, impact in financial services due to the nature of financial decisions. In particular, decisions about finance are often intangible and may even be irreversible, they can be long-term in nature meaning that judgements about value or quality can only be made many years after decisions are made.

I hope that these broader comments are useful to the ICO and the Alan Turing Institute as it takes forward its work on AI. Panel members would be happy to meet up to discuss these topics in more detail. If this would be of interest then please contact the Panel Secretariat at enquiries@fs-cp.org.uk.

Yours faithfully,

Wanda Goldwag
Chair, Financial Services Consumer Panel

¹ <https://www.bankofengland.co.uk/-/media/boe/files/report/2019/machine-learning-in-uk-financial-services.pdf>