



February 28, 2022

Cyber Law Bureau  
State Internet Information Office  
People's Republic of China (PRC)  
(By email: shenduhecheng@cac.gov.cn)

Dear Cyber Law Bureau, State Internet Information Office

The Center for AI and Digital Policy (CAIDP) welcomes the opportunity to provide comments on the draft Internet Information Service Deep Synthesis Management Provisions (互联网信息服务深度合成管理规定) (“DSMP”).<sup>1</sup>

The CAIDP is an independent non-profit organization that advises national governments and international organizations on artificial intelligence (AI) and digital policy. We work with more than 100 AI policy experts in almost 40 countries. We have provided recommendations to the G20 nations - in our *Statement to G-20 Digital Economy Task Force (DETF)*, we urged the G20 to focus on fairness, accountability, and transparency for all AI systems.<sup>2</sup> We recommended that the G20 endorse “red lines” for certain AI deployments that violate fundamental freedoms. We have also recently published the report *Artificial Intelligence and Democratic Values* which surveys the AI policies and practices of 50 countries around the world.<sup>3</sup> The CAIDP currently serves as an advisor on AI policy to the OECD, the Global Partnership on AI, the Council of Europe, the European Union, and other international and national organizations.

Deep Synthesis technology, also described as “deep fakes,” is a form of synthetic media that present lifelike images and audio that are not real. “While the act of faking content is not new, deepfakes leverage powerful techniques from machine learning and artificial intelligence to manipulate or generate visual and audio content with a high potential to deceive.”<sup>4</sup> Nowadays, deepfake technology is disproportionately used to victimize vulnerable groups. According to one report, 96% of deepfakes on the internet are pornographic and target women.<sup>5</sup> Some experts even

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<sup>1</sup> CAIDP, *Public Voice: China Seeks Comments on AI-Powered Deep Synthesis systems* (Feb. 4, 2022), <https://www.caidp.org/public-voice/>; 国家互联网信息办公室关于《互联网信息服务深度合成管理规定（征求意见稿）》公开征求意见的通知 (original text), [http://www.cac.gov.cn/2022-01/28/c\\_1644970458520968.htm](http://www.cac.gov.cn/2022-01/28/c_1644970458520968.htm)

<sup>2</sup> CAIDP, *Statement for the Digital Economy Task Force* (Mar. 17, 2021), <https://www.caidp.org/app/download/8303562963/CAIDP-DETF-03172021.pdf>

<sup>3</sup> Center for AI and Digital Policy, *Artificial Intelligence and Democratic Values 2021* (2022),

<sup>4</sup> Wikipedia, *Deepfakes*, <https://en.wikipedia.org/wiki/Deepfake>

<sup>5</sup> Sensity, *The State of Deepfakes 2020: Updates on Statistics and Trends* (2020): <https://sensity.ai/reports/>

label deepfake pornography as the next epidemic of abuse.<sup>6</sup> In this regard, **we support** your proposal to prohibit the *inappropriate* use of deep synthesis technology (深度合成服务) to produce or publish pornography, which infringes on privacy or dignity of a person.

Following the English translation of the DSMP<sup>7</sup>, **we propose**, among other things the following:

### AI Principles and Values

1. *We encourage the addition of principles of fairness, accountability, and transparency for Deep Synthesis AI systems.*

The principles of fairness, transparency and accountability are set out in the G20 AI Guidelines<sup>8</sup> and UNESCO Recommendation on the Ethics of Artificial Intelligence<sup>9</sup>, both of which the PRC has endorsed. Therefore, the DSMP should require deep synthesis service providers to follow these principles.

2. *We recommend including a specific provision protecting the rights of children and other vulnerable groups.*

Article 7 of DSMP imposes responsibility on providers to follow standards, laws, and regulations, as well as protect the interests of minors. The importance of protecting children in the AI context is recognized by UNESCO<sup>10</sup> and G20 principles, as well as in China's Internet Information Service Algorithmic Recommendation Management Provisions (互联网信息服务算法推荐管理规) (Article 18). Minors are also duly protected under the Personal Information Protection Law (中华人民共和国个人信息保护法) (Articles 28

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<sup>6</sup> BBC, *Deepfake pornography could become an 'epidemic', expert warns* (May 27, 2021), <https://www.bbc.com/news/uk-scotland-57254636#:~:text=Deepfake%20pornography%20is%20where%20computer,to%20abuse%20and%20harass%20women>

<sup>7</sup> Stanford Cyber Policy Center (Feb. 4, 2022) Translation: Internet Information Service Deep Synthesis Management Provisions (Draft for Comment) – Jan. 2022, <https://digichina.stanford.edu/work/translation-internet-information-service-deep-synthesis-management-provisions-draft-for-comment-jan-2022/>

<sup>8</sup> G20, *G20 AI Guidelines* 2019 sects 1.2, 1.3, 1.5, [https://www.g20-insights.org/related\\_literature/g20-japan-ai-principles/](https://www.g20-insights.org/related_literature/g20-japan-ai-principles/)

<sup>9</sup> UNESCO, *Recommendation on the Ethics of Artificial Intelligence*, pars. 28-30, 37-41, 42-43 (2021), <https://unesdoc.unesco.org/ark:/48223/pf0000380455>. (“UNESCO AI Recommendation”). The Recommendation was adopted by UNESCO member states, including the PRC, on Nov. 25, 2021.

<sup>10</sup> UNESCO *AI Recommendation*, par. 125.

and 21). So are the elderly (Article 19) and “individual characteristics” (Article 17) in the former as well as individual’s/ identity characteristics (Articles 24 and 26) and religious beliefs (Article 28) in the latter. We strongly encourage you to prohibit use of deep synthesis technology to manipulate or harm minors, the elderly, minorities, or other vulnerable groups.

3. *We encourage adding environment, ecosystem flourishing and sustainability as one of the principles that deep synthesis services providers/users shall consider.*

Scientists have expressed their concern of deep fake geography,<sup>11</sup> which needs to be considered. Deep fake data can create a false reality on environmental issues such as climate change and global warming.

4. *We encourage you to recognize pluralism and diversity as one the principles that service providers/users should follow.*

We support the prohibition against using deep synthesis to spread false information, although we are concerned whether Article 4 of the DSMP will be used as a legal tool to limit free speech. Article 4 of the DSMP indicates that deep synthesis providers as well as users shall respect social morals and ethics, adhere to the correct political direction, public opinion orientation and value orientation. In media sources DSMP is considered to “mould a cyberspace that promotes Chinese socialist values.”<sup>12</sup>

UNESCO in the recommendation on the Ethics of Artificial Intelligence highlighted the need for “Respect, protection and promotion of diversity and inclusiveness should be ensured throughout the life cycle of AI systems, consistent with international law, including human rights law.”<sup>13</sup>

5. *We recommend clarifying issue of consent in the case of editing facial, vocal, or distinguishing biological information.*

Article 12 of DSMP requires deep synthesis providers to obtain the individual consent of the subject whose personal information is being processed, if a deep synthesis service provider processes significant editing functions for biometric information, such as face and human voice, or other distinguishing biological information. There is a need to provide

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<sup>11</sup> Science Daily, *A growing problem of ‘deepfake geography’: How AI falsifies satellite images* (Apr. 21, 2021), <https://www.sciencedaily.com/releases/2021/04/210421124657.htm>

<sup>12</sup> Reuters, *China issues draft rules for fakes in cyberspace*, (Jan. 29, 2022), <https://www.reuters.com/world/china/china-regulator-issues-draft-rules-cyberspace-content-providers-2022-01-28/>

<sup>13</sup> *UNESCO AI Recommendation*, par. 19.

clarity on what the threshold of “significant” is. The misappropriation of the likeness of an individual, including their image or voice, should be prohibited.

### Specific Provisions and Clarifications

6. *We recommend clarifying obligations related to rumors.*

There is a need to provide precise definitions in Article 17 of the DSMP, as to (a) who has the obligation determine whether a statement is a rumor, and (b) how deep synthesis service providers can comply with the obligations to establish mechanisms for dispelling rumors, and promptly require them to do so.

7. *We encourage you to introduce Ethical Impact Assessments on AI systems.*

In accordance with the UNESCO’s Recommendation on the Ethics of Artificial Intelligence, specifically paragraph 53, we recommend that the DSMP incorporate a procedure “to carry out ethical impact assessments on AI systems to predict consequences, mitigate risks, and avoid harmful consequences.”<sup>14</sup>

8. *We encourage transparency in the government’s supervision and inspection of deep synthesis service providers proceedings.*

Article 21 of the DSMP enables all levels’ cybersecurity and informatization departments to conduct supervision and inspection of deep synthesis information service providers, gain access to their data and request for other assistance. However, the DSMP is silent on the extent of the government’s power in doing so. We suggest (1) incorporating thresholds and limits to the government’s information access, and (2) establishing an independent authority that will supervise the procedure. As an exchange, the government can effectively provide its citizens the superlative "administration review" (行政复议权) under the administration law.

9. *We recommend defining a fixed term in addressing user complaints be considered in the succeeding regulatory documents (其他规范性文件).*

Pursuant to Article 18 of the DSMP, deep synthesis service providers are required to address user appeals. We propose a fixed term so that service providers are obliged to act within a reasonable time period.

10. *We recommend independent, impartial, and inclusive oversight boards over this regulation.*

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<sup>14</sup> UNESCO AI Recommendation, par. 53.

As mentioned in the UNESCO recommendations on ethics of AI, inclusive public oversight is appropriate to promote human oversight over AI systems. This is to ensure robust mechanisms to guarantee fairness, accountability, and transparency in all deep synthesis systems.

*Moreover, we urge the Government of the PRC to focus on privacy, fairness, transparency, and accountability not just for deep synthesis services, but for all AI systems.* We note that some of these principles are already mentioned in the PRC’s Internet Information Service Algorithmic Recommendation Management Provisions (互联网信息服务算法推荐管理规. In addition, UNESCO’s Recommendation on the Ethics of Artificial Intelligence calls on members to respect and promote these principles.<sup>15</sup>

Thank you for considering our views.<sup>16</sup> The CAIDP offers assistance to governments for AI and digital policies to promote a better, fairer, and more just and accountable society in which technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law. In this regard, we would be pleased to offer you our advice and expertise. We welcome the opportunity to discuss further and answer any inquiries you may have.

Sincerely,



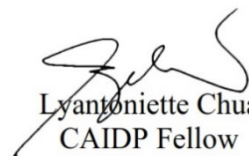
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<sup>15</sup> UNESCO AI Recommendation, pars. 28-30, 32-34, 37-43.

<sup>16</sup> CAIDP acknowledges the significant contributions to this statement of the 2022 CAIDP Research Group, Asia-Pacific Team A, including Tamar Kankava, Jonathan Leslie Kurniawan, Preethika Piliña, Elyse Wanzenried, and Sherry Wu.