How's Generative AI regulated in China?

CHINA

I. BACKGROUND

It is undeniable that generative AI (relevant products such as ChatGPT) has been the star of the tech scene this year.

In 2022 and 2023, AIGC development experienced significant progress both globally and in China. Globally, there was a continued surge in research and development efforts focused on improving the capabilities and applications of generative AI models. Researchers made notable progress in areas such as natural language processing and creative content generation. In particular, there were breakthroughs in language models, leading to more sophisticated and context-aware text generation.

China also witnessed a rapid growth of research institutions and technology companies dedicated to advancing AI technologies. China's focus on AI development, backed by substantial investment and government support, propelled the country to the forefront of generative AI research. Chinese researchers and companies contributed to significant breakthroughs in several areas, including machine translation, speech synthesis, and image generation. In addition, China emphasized the integration of generative AI technologies into various industries, such as healthcare, finance, and e-commerce, promoting innovation and practical applications.

II. LEGAL RISKS LIE IN AIGC

While technology itself is not inherently guilty, its applications can be used to commit crimes and perpetuate malicious activities. Advanced technologies such as AI face-swapping, voice simulation, and video generation have the potential to create and disseminate false information with malicious intent. These tools can be misused to deceive, manipulate, or defraud individuals and organizations.

The ease of creating convincing synthetic media raises concerns about the potential for identity theft, fake news, and deep fake content. Criminals can use these technologies to impersonate others, fabricate evidence, or spread harmful misinformation. This poses risks to privacy, reputation, and the integrity of digital content.

As technology evolves, many countries and regions have already recognized the importance of addressing the ethical and legal implications of its misuse. Organizations, governments, and technology developers must work together to develop robust safeguards, regulations, and detection methods to mitigate the risks associated with these malicious applications. Some experts are even calling for a pause in research into more advanced AI technologies. In the meantime, educating the public about the existence and potential dangers of fake media can also help individuals exercise caution and critical thinking when consuming digital content. Ultimately, responsible use and ethical considerations are essential to minimizing the negative impact of these AI technologies.

III. CHINESE REGULATION ON GENERATIVE AI

Although China does not yet have a specific law governing AI, there are provisions restricting the application of AI scattered throughout various laws, regulations, and policies. These provisions require AI technologies to comply with ethical standards, personal data protection requirements and national security, and to ensure transparency and accountability. There are also restrictions on the export of certain types of AI technologies outside of China.

Like many other countries recognizing the risks of AI technology, China also issued a regulation on generative AI recently, which will take effect on August 15, 2023.

The Regulation is called the Interim Measures for the Management of Generative Artificial Intelligence Services. It includes provisions on AI technology, generated content, legal responsibility, data sources, and data processing. The Regulation treats generative AI as a product and applies product liability under civil law to address damages that may be caused by AIGC. Below are some highlights of the Regulation.

- *What is legally considered Generative AI Technology?*

  «Generative AI Technology» refers to models and related technologies that have the ability to generate text, images, audio, video, or other content.

- *Who is affected by this Regulation?*

  Providers and users of generative AI services are all affected.

  Service providers (including organizations and individuals) that develop and use generative AI products to provide services to the public in China shall comply with this Regulation. «Generative AI service provider» means any organization or individual that uses generative AI technology to provide generative AI services (including providing such services by providing a programmable interface or other means). This includes service providers outside of China. Where generative AI services provided from outside China do not comply with applicable Chinese laws or regulations, the Cyberspace Administration of China shall notify the relevant authorities to take technical measures and other necessary measures to deal with the matter.

  The Regulation does not apply to industrial organizations, enterprises, educational and scientific research institutions, public cultural institutions, relevant professional institutions, etc. that research, develop or apply generative AI technology but do not provide generative AI services to the public in China.

- *How does this Regulation protect personal data and privacy?*

  AI service providers must also comply with the laws and regulations applicable to personal data in China, especially the mandatory obligations for data controllers, if their service involves the processing of personal data. In addition, service providers are required to protect user input information and user records. It is not allowed to illegally store input information that can infer the user's identity, create a portrait based on the user's input information and user behavior, or disclose the user's input information to others. It is also prohibited to generate discriminatory content based on the user's race, nationality, gender, etc.

- *Is there any compliance formality as a condition precedent before providing AIGC service to the public?*

  Yes, service providers must apply to the Cyberspace Administration of China for a security assessment and submit the relevant algorithm to the authority (according to the Provisions on Security Assessment for Internet-based Information Services Capable of Creating Public Opinion or Social Mobilization and the Administrative Provisions on Recommendation Algorithms in Internet-based Information Services).

- *Is there any requirement for the data used to «feed» (train) the AI?*

  Sure. Service providers shall undertake that the data shall be processed lawfully in accordance with the Cybersecurity Law and other applicable laws and regulations. In particular, the data shall not infringe on the rights or interests of third parties, shall not violate the requirements of personal data protection, and the data shall be authentic, accurate, objective and diversified.

IV. WHAT COULD BE THE IMPACTS FOR APPLICATION OF AI TOOLS LIKE CHATGPT FOR INDIVIDUALS, ORGANIZATIONS AND THE SOCIETY?

The development and application of AI, such as ChatGPT, could be a revolutionary product in the coming years, but it raises several concerns and risks for businesses, society, and even humanity. One of the main concerns is the potential for AI to perpetuate and amplify existing biases and discrimination. AI systems are trained on large data sets that may contain biased or discriminatory information, which can lead to discriminatory outcomes. Another concern is the potential for AI to automate jobs and displace workers, particularly in low-skilled industries. In addition, the use of AI in areas such as criminal justice and health care raises concerns about the potential for error and bias in decision-making. There are also concerns about the use of AI in the creation of deep fakes and the spread of misinformation and fake news.

Not to mention the risks related to trade secrets, data protection and privacy, and intellectual property. From a legal perspective, it is almost impossible to list all the risks and concerns that ChatGPT-like AI tools may bring, because what we have seen in recent months could be just the tip of an iceberg. When using AI tools, it is advisable to consider the potential impact in advance, rather than analyzing the risks after the tools have already been fed with data. For companies and individuals already over-reliant on AI technology, it could lead to a loss of critical skills and knowledge among human workers, making societies more vulnerable to disruptions or failures in AI systems.

V. RECOMMENDATIONS:

To address the concerns and risks associated with the development and deployment of AI, there are several key recommendations. These include:

1. Promote transparency in the development and operation of AI systems, including clear explanations of how they work and how they make decisions.

2. Ensure fairness and equity in AI decision-making, including avoiding bias and discrimination and promoting diversity and inclusion.

3. Protecting privacy and security in the use of AI, including strong safeguards for data privacy and security.

4. Enabling human oversight and control over critical decisions, including maintaining human oversight in AI decision-making.

5. Promoting collaboration and diversity in the development and use of AI, including engaging a wide range of stakeholders in the development and application of AI technology.

Overall, the responsible development and deployment of AI technology requires a collaborative and interdisciplinary approach that considers the ethical, social, and economic implications of AI for all stakeholders. By following these recommendations, businesses and society can reap the benefits of AI while minimizing its risks and challenges.

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