AI Act Position – Digital Poland Association

As Digital Poland Association, an industry organization which brings together the largest companies in the modern technology industry, we hereby present our recommendations for the upcoming interinstitutional trilogue negotiations concerning the Regulation of the European Parliament and of the Council laying down harmonized rules on Artificial Intelligence (AI Act).

We would like to emphasize that we share the Commission's approach to AI technology, aiming to boost research and industrial capacity while ensuring safety and fundamental rights for the European citizens. We also welcome the progress made so far during the trilogue negotiations, however we would like to make a few recommendations to ensure that the regulatory framework would not stifle further innovation. The AI Act, which is poised to become the world's first comprehensive AI law, will have a significant impact, extending beyond Europe's borders. We therefore advocate for better alignment between requirements, risks, and promoting innovation also at the global level, through international bodies such as the OECD, the G7, and the EU-US TTC.

AI will undoubtedly be used to solve some of society's biggest problems e.g. in fighting climate change or ensuring energy security. That is why we need to focus on safeguards that do not hinder AI's beneficial uses. Similarly, to other technologies, the biggest risks associated with AI come from how it is used, not from the technology itself. For that reason, we are in favor of AI regulation that is risk-based and technology neutral. This way we will regulate the uses of the technology, rather than the technology itself. To make sure that EU citizens and industry can reap the socio-economic benefits AI can bring and at the same time protect our citizens, we propose the following:

The AI Act should maintain the risk-based approach: Like other AI systems, foundation models do not inherently pose risks, the risks depend on how and where the systems are used. The EU should uphold its risk-based, technology-neutral approach by regulating foundation models only when they are used in a high-risk use case (which should be clearly defined). The same principle shall apply to General Purpose AI. Otherwise, the industry will face legal uncertainty. The AI Act has to encourage innovation in Europe. In the coming years, foundation models will be essential for AI research, development, and adoption, therefore, the AI Act should facilitate accessing and innovating with foundation models. We argue that this is the most proportionate approach, aligned with the idea of a risk-based framework of the wider AI Act.

Związek Importerów i Producentów Sprzętu Elektrycznego i Elektronicznego - ZIPSEE Cyfrowa Polska

www.zipsee.pl

Związek Cyfrowa Polska
ul. Ogrodowa 58
00-876 Warszawa

Tel. +48 (22) 666 22 46   KRS: 0000250359
Fax: +48 (22) 666 22 47   NIP. 522-280-25-18
biuro@zipsee.pl   REGON 140463214

The AI Act should avoid overlapping and duplicating other EU laws: Overtime the AI Act has grown broader than the Commission's original proposal. This has led to some provisions that overlap with other EU laws, which could cause confusion and conflict with other regulations. This includes e.g. the provisions regarding recommender systems (DSA), systems influencing the outcome of an election (DSA and planned Political Ads Regulation), labelling (DSA) and copyright (Copyright Directive).

AI use cases that are not risky need to be filtered out: Policymakers should support the Parliament's proposed exemption of AI that does not impose a significant risk of harm as well as the Council's proposal to exempt accessory AI. The Commission proposal for compromise misses to define "harm" as criteria and goes too far by including an AI considered to do "profiling" as high-risk without providing a clear and targeted definition of this term.

EPs proposal regarding Large Social Media recommenders should be rejected (Annex III): The Parliament proposes to define AI used in recommender systems and that are deployed by very large social media platforms as high-risk. The Digital Services Act already requires "very large online platforms" to perform comprehensive risk assessments and mitigation measures, including AI used in recommenders and including potential harm of fundamental rights. Additional risk assessments in the AIA would result in inconsistency and unjustified additional burdens. In addition, the proposed focus only on "very large online platforms" is a misleading and unfair approach in the scope of a horizontal regulation.

Exclude use cases that do not track individual traits from the high-risk category of "monitoring and evaluating of performance and behavior" (Annex III): The vast majority of AI in the workplace does not cause harm, on the contrary it enhances safety and drives efficiency. For the most part, AI used in the workplace focuses not on individuals but on general workplace processes. AI at the workplace may also be used to improve customer experience. "Personal traits" may be used by an AI system to match a customer service agent with a specific customer demand (e.g. considering language skills). Defining all these AI uses as high-risk would impede beneficial use cases.

The extension to biometric-based data and AI that makes inferences should be rejected: The proposed exclusion of biometric identification (BID) that is used for verification is reasonable and should also include systems used by several individuals. The vast majority of AI in BID is not deployed in sensitive areas but enables routine provision of services that make life easier or that entertain. The Parliament proposal to also include "biometric-based systems" and "inferences about personal characteristics" would expand to any use cases that may somehow indirectly link to biometric data, including non-personal data. Most of these use cases are not relevant for potential discrimination (e.g. BID used for entertainment or in smart home applications. The proposed exemption of "one-to-one" verification could not cover BID used by several customers (e.g. several family members).

Any prohibitions should be rigorously limited to specific use cases: Introduction of blanket bans can unintentionally affect the usefulness of AI technology. For example, a general prohibition imposed on biometric identification would impede helpful uses of AI technology e.g. in identifying harmful content online or in providing features improving accessibility of

products for users with disabilities. The prohibition of biometric identification should be limited to specific biometric-identification used by the public institutions. AI requiring user-interaction should not be included as it is not intended for surveillance, and the exemption for verification should not be limited to one-to-one verification but should include use cases where several people use the same device, e.g., family members. Also, emotion recognition at the workplace should not be generally prohibited as this would deter many positive use cases such as used for traffic safety.

As Digital Poland Association we sincerely hope that the negotiations between the co-legislators will result in creating a coherent legal framework for artificial intelligence in Europe which will allow for further development of innovative AI technology. We believe that such a framework is essential to ensure that Europe can be a leader in AI research and development, and that we can reap the full benefits of this transformative technology.