European startup and AI associations call for an AI Act that does not hinder innovation in the EU

Presented by the European Commission in April 2021, the Artificial Intelligence Act (AI Act) has sparked a heated debate among policymakers, civil society and the business community. The rise of certain AI techniques and concepts, like General Purpose AI (GPAI) and generative AI (e.g. ChatGPT) have added further complexity to the discussion.

In this context, European startup and AI associations take the opportunity to remind policymakers the fundamental elements that should be included in the AI Act to preserve the innovation capacity of European actors - and ideally, to boost it further:

1. **A pragmatic and proportional approach to define high-risk AI systems.** AI systems should only be considered high risk if they meet two cumulative criteria: (I) they are deployed in a high-risk sector (II) they have a high-risk use case. When looking at the use case, the proportionality principle should apply: in a high-risk sector like justice, for example, the level of risk posed by a search engine that helps lawyers find judicial decisions is much lower than that of a virtual assistant suggesting a judge the length of a prison sentence.

2. **Sandboxes fit for startups and other innovative companies.** To maximize their usefulness and their take up by innovators, sandboxes should have certain features: (I) they should be permanent, rather than project-based; (II) they should be run by authorities with an adequate level of technical and market expertise; (III) they should lead to a presumption of conformity with the AI Act for participants who successfully complete the tests; (IV) they should be accessible on clear and harmonized conditions of application, use and termination; (V) they should be adapted to the needs and resources of startups and SMEs.

3. **A governance model that really involves stakeholders.** The creation of an AI Office with an Advisory Forum gathering representatives from civil society, business and academia is key to a dynamic and collaborative implementation of the AI Act. To avoid any conflict of interest and have real impact, the Advisory Forum should be appointed by an independent committee and there should be an obligation for the AI Office to discuss the opinions of the Advisory Forum.

4. **Future-proof requirements and obligations.** Policymakers should, where possible, avoid adding provisions for every new AI application that stirs up public attention. With the pace of development of AI, it is key to focus on provisions that are universal enough to be valid at least until the first revision of the AI Act. ChatGPT is a case in point. As the Commission’s proposal already contained obligations for generative AI, policymakers should build on such provisions, rather than creating new ones, regulating in line with the risk-based approach applied throughout the text.

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