

## Onfido's response to the European Commission's proposal on a regulatory framework for Artificial Intelligence

### **About Onfido**

Onfido is the global remote identity verification provider that partners with 1,600 organisations worldwide, including many EU fintechs such as Adyen, Bunq, Getaround, Nickel, Revolut, Wise and Monese. Our leading biometric and AI technology enables clients to prove that their customers are who they claim to be, enabling them to comply with regulatory obligations including AML and KYC requirements in the EU. We use a hybrid model that combines machine learning with human expert oversight, which delivers best-in-class speed, consistency and accuracy.

Started just nine years ago, we have scaled rapidly, and now employ over 100 people across the EU and more than 4500 worldwide, with offices in Paris, Lisbon, London and Berlin as well as the US, Singapore and India. We are continuing to invest and grow our EU presence to meet increasing customer demand in both the fintech space and other verticals.

We are thought leaders in AI bias, ethics, fraud, security and privacy. We were winners of the 2020 CogX Award for "Best Innovation in Algorithmic Bias Mitigation" and "Outstanding Leader in Accessibility" and were "Highly Commended" in the SC Europe Awards 2020 for "Best Use of Machine Learning".<sup>1</sup> We work with Interpol to develop leading practice in fraud prevention and publish a widely-acclaimed annual Fraud Report considering the state of the market.<sup>2</sup> Onfido is a founding member of the Better Identity Coalition in the US and a member of the FIDO alliance dedicated to best-in-class global authentication standards.

Onfido embraces the opportunity to share our expertise and experience to help develop regulatory reforms to foster innovation, accessibility and financial inclusion for all across national borders. We would be delighted to expand further on any of the detail below.

### **European Commission proposal laying down harmonised rules on AI**

In its proposal from April this year, the European Commission sets out new rules that seek to increase trust in AI, with the main objective to guarantee the safety and fundamental rights of EU citizens while improving AI technology in the EU. The Commission proposal states that addressing the opacity, complexity, bias, unpredictability and partially autonomous behaviour of AI, as well as the necessary compatibility of AI with fundamental rights and

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<sup>1</sup> <https://onfido.com/resources/blog/onfido-wins-best-innovation-in-algorithmic-bias-mitigation-outstanding-leader-in-accessibility-at-cogx-2020>

<sup>2</sup> <https://onfido.com/landing/fraud-report-2020/>

enforcement of legal rules are key priorities. Onfido supports the introduction of a clear and proportionate legal framework around the use of AI. Fostering trust among citizens and certainty for businesses is critical.

The risk-based approach proposed by the European Commission rightfully recognises the need to balance the protection of fundamental rights with the need to foster innovation in AI, which is crucial to ensuring the EU remains competitive in the global AI space.

### Definitions and consistency

However, we are concerned that currently there is a lack of clarity on key terms and definitions within the proposals and a lack of consistency across other documents. It is vital that going forward all stakeholders have the same understanding of these terms and the scope of definitions used.

In particular there needs to be a clear understanding of the risks and human rights implications of different AI systems with reference to the definitions used. The February 2020 White Paper makes reference to “Remote biometric identification” and defines this as “when the identities of multiple persons are established with the help of biometric identifiers (fingerprints, facial image, iris, vascular patterns, etc.) at a distance, in a public space and in a continuous or ongoing manner by checking them against data stored in a database.”<sup>3</sup>

The White Paper seeks to make a distinction between such identification systems and “authentication”. It describes the latter as “a security process that relies on the unique biological characteristics of an individual to verify they are who they say they are”.<sup>4</sup> It also suggests that “Authentication (or verification) [...] is often referred to as one-to-one matching. It enables the comparison of two biometric templates, usually assumed to belong to the same individual. Two biometric templates are compared to determine if the person shown on the two images is the same person.”<sup>5</sup>

Yet in the AI proposal, a “remote biometric identification system” is defined differently, and “authentication” is not defined at all. We would urge the Commission to take the time to ensure consistency of definitions and terminology. If not, there is a risk that AI solutions and services posing a relatively low level of risk are nonetheless captured by definitions deeming them to be high risk or even prohibited. This would undermine the risk-based approach and the credibility of the proposals.

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<sup>3</sup> [https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf) (footnote 52, p18).

<sup>4</sup> [https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf) (footnote 52, p18)

<sup>5</sup> [https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf) (footnote 56, p21)

We consider that the definition of “remote biometric identification” used in the White Paper is appropriate and should be carried through to the AI proposals.

### Measures to encourage innovation

It is vital that the AI Act is balanced in terms of protecting users and encouraging trust on the one hand, and promoting innovation and investment on the other. To that end we consider that it should promote the use of industry-driven standards which are flexible and outcomes-based.

Even in high-risk areas, we need to ensure that we are not shutting down innovation and we are promoting responsible use of AI. To that end we strongly support the encouragement of sandboxes as a means to experiment in a safe environment, and this needs to be more than just a token gesture. It needs to be part of a wider push to stimulate dynamic innovative firms and encourage investors to back them. As well as setting rules we see the Regulation as creating the potential to unlock new services which are hugely beneficial to users and business. We would urge that this opportunity is not lost or diluted and would strongly welcome the opportunity to outline our thoughts on this.