

LinkedIn Supplemental Briefing on the AI Act

LinkedIn joins Microsoft, our parent company, in welcoming the opportunity to comment on the European Commission's proposed Regulation for harmonised rules on AI (the "[AI Act](#)" or the "Act") and the New Coordinated Plan on AI. We are providing the following brief supplement to Microsoft's submission to share comments specifically concerning the draft AI Act's positioning with respect to AI systems used in recruiting and workforce management.

LinkedIn is a social network that connects a global community of over 774 million professionals worldwide. Our vision is to create economic opportunity for every member of the global workforce and our mission is to connect the world's professionals to make them more productive and successful. Our platform is part of an online ecosystem helping Europeans find jobs and build the skills and relationships that will further develop their careers. LinkedIn likewise helps employers reach job seekers and support their career journeys through learning opportunities, professional content, and workforce engagement tools. As a result, LinkedIn is a trusted hiring partner for tens of thousands of European employers, processing job applications across millions of job listings each year in Europe. We use AI systems to provide safe and effective services for our members and customers—such as job recommendations, candidate searches, scam and abuse prevention—and, like Microsoft, we are committed to ensuring responsible AI practices across all services and all stages of our product development.

Our brief submission pertains to the broad inclusion of *all AI systems* used in recruitment as "high risk" systems under Article 6(2), Annex III. While we fully support the risk-based framework the AI Act adopts, and we agree that systems "with mainly fundamental rights implications" are appropriately considered high-risk, we believe the AI Act would benefit from greater specificity as to which types of systems within the wide-ranging recruiting and talent management ecosystems fall within the scope of the Annex III definition. In keeping with the risk-based framework, we suggest that the definition address systems *facilitating decisions on hiring, advancement or adverse workplace outcomes*.

As currently drafted, the Annex definition could be read to encompass not only AI systems used to support hiring decisions about individual candidates, but any system used at any stage of an organisation's planning for new hiring or sourcing for open roles, or indeed for gathering aggregated workforce insights on employee engagement or career goals. We believe this approach would encompass a range of activities that do not pose a risk to fundamental rights, do not satisfy the proportionality principle and could deny European citizens access to some of the fundamental tools and services necessary for navigating and advancing in today's fast-changing, dynamic labour market. It could also have unintended consequences. Organisations may feel restricted from using AI systems to broaden their sourcing of candidates or loosening job eligibility criteria if doing so would subject them to heightened legal obligations. For example, services provided by LinkedIn in an effort to add transparency for job seekers in the recruitment process, such as providing salary insights, would be subject to the same requirements as 'high-risk' systems that directly impact the hiring or adverse workplace outcomes of individuals. Likewise, an overbroad definition may negatively impact the ability of individual job seekers to find and apply for job opportunities. For example, AI systems helping individuals search for relevant job opportunities through LinkedIn's job search tools could be classified as high-risk under the current definition and subject to heightened obligations, the cost of which may be significant for job websites and recruiting organisations operating in Europe at any scale. In addition, the definition may inadvertently burden organisations, such as LinkedIn, that use AI systems to prevent discrimination and abusive behaviour (such as scams and fake jobs) in the hiring process.

There are, no doubt, activities in the recruiting and workforce management space that present significant risks to fundamental rights. We propose that the Annex III definition more clearly address such systems by limiting the definition to systems facilitating decisions with respect to hiring, advancement, or adverse workplace outcomes, including those based on workplace or performance monitoring. Absent that, the Regulation risks categorising as high-risk an entire sector with numerous functions and services--the vast majority of which do not present risks to fundamental rights and have become the routine means by which job-seekers and employers access, navigate and advance in today's labour market. We believe that applying heightened obligations to the entire sector may not be the most effective mechanism to protect fundamental rights and freedoms and instead may negatively impact innovation by creating significant compliance challenges, particularly for smaller organisations (which in turn may limit the availability of the tools and services European job seekers need in today's work environment).

We look forward to further engagement on the draft AI Act, and we would welcome the opportunity to share our insights and experience concerning the recruiting and workplace management ecosystem in Europe.