AI AUSTRIA
AUSTRIAN SOCIETY FOR ARTIFICIAL INTELLIGENCE

AI Austria commends the European Commission for the extensive consultative process that led to the publication of the globally first attempt to lay down a comprehensive legislative framework for the development and use of artificial intelligence systems (Artificial Intelligence Act). We support the European Commission's stated objectives of creating an ecosystem of trust and excellence to promote the European Union's research, development and initiatives of trustworthy AI. We highly appreciate having the opportunity to provide our perspective on this important legislation and would like to share and address the following observations.

**SAME EFFECT SAME REGULATION TO PREVENT CIRCUMVENTION.**

The Artificial Intelligence Act relies on a technology-based definition of artificial intelligence (AI), which is determined by the use of certain techniques (Annex I). Systems applying these techniques are "AI Systems" and subject to the Artificial Intelligence Act as well as the prohibitions and requirements of the respective risk categories. We believe that the prohibitions and obligations of the Artificial Intelligence Act should **not only be triggered by any specific type of technology defined as AI, but also consider measures having equivalent effect**. Currently, use cases identified as prohibited or high risk may be realized without applying the technologies specifically defined as AI, allowing circumvention of the framework of trust to be created by the Artificial Intelligence Act.

FIRM PROHIBITION OF BIOMETRIC MASS SURVEILLANCE.

The Artificial Intelligence Act prohibits "real time" remote biometric identification systems in public spaces for law enforcement purposes (Article 5) with several worrisome exceptions. We believe the scope of the current provision **does not sufficiently prevent the risk of indiscriminate mass surveillance** and the full threat such use case poses to fundamental principles of democratic societies. In our view, the prohibition should extend to (i) **systems having equivalent effect**, irrespective of the technology, (i) **public authorities and private actors** acting on their behalf, (ii) **'post' biometric identification systems** subsequently applied and not provide for any exemptions based on the criminal offence.

CREATING EFFECTIVE SANDBOX SUPPORT TO FOSTER INNOVATION.
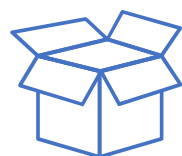
The Artificial Intelligence Act provides for the establishment of AI Sandboxes, where small and medium enterprises (SMEs) and startups shall have preferential admission. However, further specifications of AI sandboxes are still open and yet to be determined. We believe that from a technology point of view, **developing modern AI techniques require the following three pillars: (i) data access, (ii) heuristic knowledge and (iii) computing power.** Therefore, the framework for the creation of AI sandboxes should provide active support in these three vital areas to foster the development of trustworthy European AI and excellence center.

USING DATA SOURCES ALREADY AVAILABLE EFFECTIVELY AND SECURELY.
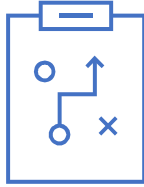
The Artificial Intelligence Act contains regulations on data and its governance for high risk AI systems (Article 10). Data sets shall in particular be relevant, representative, free of errors and complete. Even tough **huge amounts of data are created and collected daily, such data and its potential remains untapped** in data silos and the Artificial Intelligence Act does not create a basis for data sharing (of course subject to appropriate safeguards). Acknowledging the fundamental importance of data privacy and individuals' rights to data, we believe that data available and gathered already (e.g. by institutions, authorities, etc) should be made available subject to safeguards imposed for the rights of individuals under the GDPR and privacy acts.

PROVIDING GUIDANCE AND ENSURING EFFECTIVE OVERSIGHT.

We support the European Commission for recognizing the instrumental value of transparency and creating an incentive of compliance-by-design by including obligations for providers, operators and importers of AI systems in terms of transparency and risk assessment. In most cases providers will be conducting the assessment to determine if their AI system is in line with the Artificial Intelligence Act on their own. In order to do so correctly, we believe **compliance standards on a more granular level should be provided to ensure clarity of the obligations** and requirements. Simultaneously, the Artificial Intelligence Act contains a wide array of involved authorities and bodies. In this regard, we advocate that the roles of the **entities involved should be clarified** and such entities shall be sufficiently and adequately **equipped with the relevant resources and expertise for effective oversight**.