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AI ACT

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ACEA'S RESPONSE TO COMMISSION'S PUBLIC CONSULTATION



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EXECUTIVE SUMMARY

The European Automobile Manufacturers' Association (ACEA) welcomes the European Commission's initiative on Artificial Intelligence and its overarching goal to develop a European ecosystem of excellence and trust around AI.

The present response is structured in 4 main sections presenting the industry's remarks on the current Proposal and questions to be clarified.

- (I) The first section addresses our general remarks and questions on the notion of provider and user, their obligations and the scope of the AI Act.

While the risk-based approach laid down in the Proposal is relevant and proportionate, we note that the obligations placed on providers and users of high-risk AI systems could be burdensome and difficult to fulfil, especially in the light of the complex value-chain that characterises AI systems from their development stage to their placing on the market. Vehicle manufacturers are both developing AI solutions internally and deploying systems developed and provided by third parties. Problems could well arise whenever AI technology is purchased from suppliers by auto makers and used under their own names, becoming as such 'new' provider of the AI systems according to the AI Act. In this case, proving compliance with the legislation would be challenging as the current Proposal does not clarify third parties' obligations towards the 'new' provider. Overall, the extensive requirements set forth within this Proposal, alongside the provisions dictated in the General Data Protection Regulation (GDPR), could discourage companies from adopting AI in certain areas, especially given the unclear interaction between AI requirements on data and record keeping and deletion / data minimisation requirements. The broad territorial scope of the AI Act can be problematic in cases where the AI output of a system developed / produced outside the EU is used in the Union. Also, the definition of AI systems provided under Article 3(1) and in Annex I of the AI Act should be narrower: these include software generally, while the proposed legislation focuses on the challenges stemming from learning based approaches.

- (II) The second section includes our comments and requests for clarification as regard to motor vehicles and their safety components.

While we support Commission's aim to develop a coherent legal framework, one consistent with the existing sectoral legislation and certification requirements in place for the automotive products, we note a lack of clarity with respect to the interaction of the technical mandatory requirements for high-risk AI systems in the AI Act with the Type Approval. The integration of the technical requirements into the Type Approval, as stipulated under Article 80 of the AI Act, should be carried out in a way that fit into the sectoral framework and follow a targeted approach. No blank transposition of the AI requirements would be appropriate for vehicles safety components, as only those relevant Type Approval regulations should be amended to include AI provisions, where

gaps in relation to AI exist. Also, a clear specification of the timeline for the application of the requirements to motor vehicles is required: this should take into account the development cycle length of automotive products and provide automobile manufacturers with the necessary lead-time to make new and all vehicles types compliant with new requirements. In order to understand which in-vehicles applications could fall in the scope of the AI Act because not type approved, it is crucial to clearly define what a (high-risk) safety component is and which systems can be deemed as such in the context of motor vehicles. In the definition, it should be acknowledged that safety critical components and systems for the primary functionality of a vehicle are covered by the General Safety Regulation (GSR), whereas all other component and system intended for the primary functionality of a vehicle, yet not included in the GSR, should not fall under AI Act.

- (III) The third section presents the remarks concerning all other AI systems falling within the direct scope of the AI Act and with relevance for automakers.

We encourage the Commission and co-legislators to clarify some of the wording used under ‘prohibited AI’ systems, such as the legal meaning of ‘subliminal techniques’ and ‘psychological harm’ and what these consist of. With regards to high-risk AI systems listed in Annex III, the process and transition period for adding a new high-risk AI system to the list is vaguely defined, especially in terms of lead-time necessary to providers to comply with the legislation. The scope of the application area described under ‘Employment, workers management and access to self-employment’ is quite extensive and risks invalidating the use of AI in this field. The application area of ‘Access to and enjoyment of essential private services and public services and benefits’ would benefit from clarification as for the meaning of ‘essential private services’ and what they encompass. Finally, the identification of in-vehicles systems potentially falling in the scope of Article 52 on the limited-risk AI systems, is key to avoid legal uncertainty and ‘grey’ areas where the applicability of the AI Act is unclear.

- (IV) The fourth and final section addresses important questions on the mandatory technical requirements for high-risk AI systems and other provisions, in view of clarifying ambiguous aspects and improving the current regulatory text.

In Chapter 2, Title III, we note a rather unspecified use of adjectives such as ‘appropriate levels’, ‘adequate’ or ‘relevant’ which are not legally defined and could lead to uncertain interpretations. Clear references to standards for each of these parameters should be made. Some of the requirements set out in the Regulation, as currently phrased, will be extremely arduous or impossible to meet in practice (e.g. Art. 10(3): Dataset typically cannot be guaranteed to be ‘*free of errors*’ and ‘*complete*’ and the validation of such is not practicable. Art 12(2): keeping logs throughout the lifecycle of an AI systems would have huge costs for data storage and energy consumption.

Art. 14: human oversight measures introduced thereunder are neither applicable to automated shuttle services, robotaxis, and vehicles nor consistent with the draft Implementing Regulation for the EU approval of driverless vehicles). We agree with the intent of the requirements, but these should be drafted in a way that reflects practical, state-of-the-art standards.

INTRODUCTION: AI IN THE AUTOMOBILE INDUSTRY

ACEA is thankful for the opportunity provided by the Commission to comment on the draft AI Act, adopted on 21 April 2021. This current paper builds further on ACEA's previous contributions to: [Commission's White Paper](#) (12 June 2020, document No. F530044) [Commission's inception impact assessment](#) (9 September 2020).

To complement this, ACEA's perspectives on AI and main policy recommendations are extensively elaborated in a [position paper on the approach of EU automobile manufacturers to Artificial Intelligence](#).

In the automobile industry, Artificial Intelligence (AI) holds enormous potential when deployed in production and manufacturing processes, and especially when embedded in automotive technology and products such as motor vehicles. In-vehicle AI applications for Cooperative, Connected and Automated Mobility (CCAM) will play a crucial role in taking automated driving to the next level. Besides automated driving, AI also has an important role to play in a wide variety of other applications, including connectivity systems, infotainment systems, comfort functions and, more importantly, safety features for vehicles.

The partially automated vehicles that are already available are equipped with safety systems – from basic ones that give drivers additional sensorial perception (such as blind spot detection) to advanced active safety systems (e.g. advanced driver assistance systems, advanced emergency braking systems or lane keeping systems) – that intervene automatically, and in a faster and more reliable way than a human being. Driver monitoring systems will enhance the safety of users by detecting distraction or drowsiness, alerting the driver of other hazards. AI technology will increase the level of safety for vehicles, drivers, passengers, and roads.

We believe that a flexible and balanced regulatory framework for AI will promote its widespread deployment in vehicles, contributing to cleaner, more efficient and safer mobility in Europe. We stand ready to work further with the EU policymakers throughout the adoption process of this initiative.

1. GENERAL REMARKS

A coherent legal framework is crucial for accelerating AI deployment in motor vehicles. We stress our support to the approach taken by the Commission, as this will ensure consistency with the existing sectoral regulatory frameworks and certification requirements in place for the automotive products and will avoid legal uncertainty, duplications and additional burdens.

ACEA supports the logic behind the risk-based approach laid down in the Proposal: this should ensure that the requirements set out in the Regulation are proportionate to the risk level of the AI applications, and are not too burdensome for businesses across Europe.

However, we note that Original Equipment Manufacturers (OEMs) are captured by this Proposal for Regulation as both providers of AI solutions developed internally, and as users of AI systems developed by third parties / suppliers. Hence, vehicle manufacturers, who use AI quite extensively in different areas and business processes today, will be faced with double obligations that could ultimately hinder AI adoption in certain fields.

The obligations on the provider of an AI system are onerous, especially if a user (purchaser of AI technology) becomes a provider by using the purchased AI technology under its own name. As many large companies work with SMEs and other third parties to contract these technologies, this obligation could negatively affect business relationship with SMEs.

Furthermore, whenever AI systems are provided by a third party, it can be difficult for the 'new' provider to prove that the AI system is compliant with the legislation: in the current Proposal it is unclear how this will practically work and whether the third party would need to provide the 'new' provider with all necessary testing/training data, source code or documentation to ensure compliance.

In addition, with the extensive and high requirements set forth within this Proposal, in combination with other existing legislation, such as General Data Protection Regulation (GDPR), data minimisation principle, data protection bonds laid down in Regulation (EU) No. 2018/1725, record keeping requirements, there is a risk that in some cases companies will refrain from deploying AI, thus losing the positive effects, both for the user and the person 'exposed' to AI. This could negatively affect the competitiveness and attractiveness of the EU automobile manufacturers, supply chain and industry at large.

As regards to the scope of the AI Act, we note that it is broad both in its territorial scope as well as in its definition of AI. Regarding the former, it is worrisome that the AI Act would apply in cases where it is the output produced by an AI system to be used in the EU. The AI output might well be a result or analysis from the AI system produced by

players located elsewhere outside the Union – which if then is ‘used’ in the EU would be subject to the AI Act.

The broad definition of AI as laid down both in Article 3(1) and Annex I remains too broad, as it includes almost all software and it may cover traditional control algorithms as well as any piece of software which is based on statistical approaches. This does not match the objective of the proposed Regulation, which is to focus on the challenges stemming from learning-based approaches. Instead, the definition of AI systems currently includes software generally. We therefore encourage the co-legislators to consider a narrower definition of Artificial Intelligence, so to avoid a general ‘software’ regulation. As pointed out in previous contributions, this risks to capture in the regulation also traditional software systems that are also able receive data from their surroundings, process this data and use it to take a decision or perform a certain action. These systems are already rigorously tested and covered by current legislation.

The power assigned to market surveillance authorities, according to Article 67 of the AI Act, to require the withdrawal or recall of an AI system that is compliant with this Regulation, is disproportionate and contradicts the main goal of this Proposal, i.e. to provide legal certainty. If a market surveillance authority can *ad hoc* remove from the market an AI system that is compliant with the AI Act, this defeats the purpose of having the various compliance sections and processes in the framework.

Furthermore, the AI Act does not mention the regulatory work carried out at the UNECE level. It is unclear how any AI-related output in that forum will interface with the AI Act and relevant EU sectoral regulations. We remind that, in order to accommodate the compliance of a global automotive industry, it is of uttermost importance that the AI requirements for automotive products are harmonised as much as possible worldwide, at UNECE level.

2. REMARKS ON MOTOR VEHICLES

With respect to motor vehicles, the approach taken by the Commission will guarantee that automotive products remain regulated primarily through their sector-specific framework.

In order to avoid duplicating the existing governance mechanisms, ex ante conformity assessment procedures, and the monitoring and market surveillance in place for motor vehicles and their safety components, it is essential that the technical requirements for automotive products are integrated into the existing vehicle Type Approval framework. We trust that this approach will be further supported by the co-legislators (the European Parliament and Council) throughout the ordinary legislative procedure.

However, the following aspects under the current AI Act would benefit from further clarification on Commission side (DG CNECT and GROW):

- **Interaction of the technical mandatory requirements for high-risk AI systems in the AI Act with Type Approval**

With reference to Article 80 in the AI Act (Amendment to Regulation (EU) 2018/858):

*In Article 5 of Regulation (EU) 2018/858 the following paragraph is added: ‘4. When adopting delegated acts pursuant to paragraph 3 concerning Artificial Intelligence systems which are safety components in the meaning of Regulation (EU) YYYY/XX [on Artificial Intelligence] of the European Parliament and of the Council *, the requirements set out in Title III, Chapter 2 of that Regulation shall be taken into account.’*

, We note that the ‘shall be taken into account’ phrasing leaves much leeway to EC on how to accomplish that. It is unclear whether the requirements set out in the AI Regulation will be adapted to the specific situation of motor vehicles or if a simple reference to the requirements in Chapter 2 Title III will be made when adopting *any* future delegated acts under the Type Approval.

In this regard, we stress that only those few Type Approval regulations that are relevant for AI should include AI provisions when amended. This should be limited to a minimum of safety-critical regulations and not include e.g. mechanical requirements, emissions and noise.

A gap analysis to assess existing legislation in the automotive sector and potential gaps relating to AI is encouraged. This should be carried out within the remits of DG GROW and the industry should partake in this process.

- **Timeline for the application of the requirements to motor vehicles**

When Regulation (EU) No. 2018/858 (Type Approval) will be amended and future delegated act thereunder adopted, the application of the new AI requirements should consider the development cycle length of automotive products. Vehicles with automated functions that will be on the roads in the next few years are already being trained now.

Hence, vehicle manufacturers need to be given a suitable timeframe to comply with any new requirements: at least for the first amended Type Approval regulation that include AI, a prolonged timeframe will be required. A phased implementation / lead time is needed for new vehicle and all vehicle types to comply with the requirements.

- **Definition of safety component**

In this regard, we ask clarification on the following aspects:

- Which AI systems can be considered high-risk safety components in motor vehicles and which ones are not?
- Which are the AI components that are not type approved and that would fall in the scope of the AI Act?
- How is a safety component characterised? A module embedded in a safety critical chain does not necessarily bears safety requirement.

ACEA encourages DG GROW to provide a precise definition and determine potential use-cases in the automotive area.

Such definition should as a base assume that all safety critical components and systems for the primary functionality of a vehicle are covered by the General Safety Regulation. Hence, any other component and system intended for the primary functionality of a vehicle, yet not included in the General Safety Regulation (GSR), should not fall under the AI Act.

It is reasonable to assume since e.g. an adaptive cruise control is not under Type Approval and included in the GSR, except for its braking capabilities that is indirectly regulated under ECE R13, the legislator has not considered it to be a safety critical system. Hence, it would be inconsistent with the GSR if this system becomes deemed as safety critical under the AI Act. Conversely, if a face recognition system is placed inside the vehicle for any other purpose than a primary functionality (i.e. transporting people and goods), this system should fall under AI Act on the same principles as if it was included in an app on a tablet or a smartphone.

- **CE marking / DOC principles**

As regards to CE marking/DOC principles, motor vehicles and components should be exempted as they are already covered by Regulation (EU) No. 2018/858 and Regulation (EU) No. 2019/2144.

A clarification is required on whether other high-risk AI systems that fall in the scope of the AI Act and will potentially be deployed in-vehicles (not type approved) would need to affix CE marking. If this is the case, a clarification is needed on how the process will practically work.

3. REMARKS ON OTHER USE-CASES

Other OEMs' business processes as well as in-vehicles applications (not type approved) can be directly impacted by the Regulation. The requirements put forward in the AI Act would apply to some 'high-risk' AI systems and other 'limited-risk' AI systems, that are relevant to OEMs.

We would like to get clarifications on the following aspects:

- **Prohibited AI systems in scope of AI Act – Title II**

The description of what 'prohibited AI' consists of is vague. As the highest penalties are tied to these sections, there is no room for free interpretation.

In Article 5(1) of the AI Act it is stated that:

a) the placing on the market, putting into service or use of an AI system that deploys subliminal techniques beyond a person's consciousness in order to materially distort a person's behaviour in a manner that causes or is likely to cause that person or another person physical or psychological harm;

- Clarification is urgently needed as regard to the legal meaning of 'subliminal techniques', which are prohibited under the AI Act.
- The wording 'is likely to cause another person psychological harm' is very broad as to what and how psychological harm can be proven (e.g. a doctor's visit?).

- **High-risk AI systems in scope of AI Act – Annex III (subject to mandatory requirements)**

The list in Annex III can be expanded by the Commission once a year. However, the current Proposal does not provide clarity in terms of process and transition period whenever a new high-risk AI system is added to this Annex: in this case, a lead time should allow providers to comply with the legislation.

Among others, Annex III includes:

'Management and operation of critical infrastructure':

'AI systems intended to be used as safety components in the management and operation of road traffic.'

- It is unclear whether this might extend to the OEM's vehicle backend infrastructure or if this will be limited to roadside infrastructure.

'Employment, workers management and access to self-employment':

‘(a) AI systems intended to be used for recruitment or selection of natural persons, notably for advertising vacancies, screening or filtering applications, evaluating candidates in the course of interviews or tests;

(b) AI intended to be used for making decisions on promotion and termination of work-related contractual relationships, for task allocation and for monitoring and evaluating performance and behavior of persons in such relationships.’

- AI is largely used by OEMs in recruitment to streamline the process, and as a tool for managing bias. It is well established that manual selection in recruitment or promotion suffers from bias to a greater or lesser extent. AI therefore becomes an important tool for reducing bias and recruiting the right actual competence. With the extensive and high requirements set in the Proposal, in combination with other legislation that already exists, such as GDPR, there is a risk that in some cases companies will avoid using AI and thus lose the positive effects, both for the user and the person ‘exposed’ to AI. To minimise this consequence, a narrower scope of this application area should be considered.

‘Access to and enjoyment of essential private services and public services and benefits’:

‘(b) AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score, with the exception of AI systems put into service by small scale providers for their own use.’

- In this context, essential private services should be focused exclusively on basic goods, like housing, as certain luxury items (such as luxury vehicles) seem to be further away from the intent of the proposal. We therefore suggest narrowing the scope of the evaluation of creditworthiness to basic goods only (e.g. housing, etc.) and to define what ‘essential private services’ comprehend.

- **Limited-risk AI systems in scope of AI Act – Article 52, Title IV (subject to a set of transparency obligations vis-à-vis end user)**

‘AI systems intended to interact with natural persons’: aka voice AIs / chat bots, can be used e.g. for voice recognition / activation systems.

‘Emotion recognition systems’: can be used e.g. to detect driver drowsiness in the future.

‘Biometric categorisation systems’: can be used e.g. for accident recording in the future.

Here, it is crucial to identify which systems potentially deployed in-vehicles and not covered by Type Approval would fall in the scope of Article 52 (see comment on the definition of safety component p. 7).

Concerning the transparency requirements set out in Article 52(1):

- 1) *Providers shall ensure that AI systems intended to interact with natural persons are designed and developed in such a way that natural persons are informed that they are interacting with an AI system, unless this is obvious from the circumstances and the context of use.*

, We encourage the legislator to clarify what constitutes ‘obvious’ ‘circumstances’, as the current wording is open to misinterpretation.

4. REMARKS ON TECHNICAL REQUIREMENTS FOR HIGH-RISK AI SYSTEMS AND OTHER PROVISIONS

The following paragraphs and subparagraphs seek to address the most relevant provisions in the draft AI Act and present the perspectives of vehicle manufacturers on how the current regulatory text could be improved.

REQUIREMENTS FOR HIGH-RISK AI SYSTEMS

Overall, in Chapter 2, Title III, we note a vague and unspecified use of adjectives such as ‘appropriate levels’, ‘adequate’ or ‘relevant’ which are not legally defined and are a major factor of uncertainty. Clear references to standards for each of these parameters should be made. The Commission should therefore clarify whether the development of harmonised standards mentioned in the AI Act will play a role.

Moreover, as far as data collection and record keeping are concerned, it is unclear how the requirements hereunder will interact with GDPR. This should be further specified in this Chapter.

We also stress that the voluntary application of the Chapter 2 requirements to non-high-risk applications as proposed by the Commission is very burdensome. Instead of putting pressure on minimal-risk use-cases to try to fulfil them, the Commission should provide best practice or guidance.

- **Article 9 – Risk management**

- 1) *The risk management system shall consist of a continuous iterative process run throughout the entire lifecycle of a high-risk AI system, requiring regular systematic updating. It shall comprise the following steps:*

(a) identification and analysis of the known and foreseeable risks associated with each high-risk AI system.

- More details are needed as to how broad and deep this analysis should go. What kind of risks should be assessed, technical risks or societal impact risks? The focus should shift towards the impacts, e.g. human rights impact assessment as proposed by the High Level Expert Group.
- How would the risk management system work whenever the same AI system is being used in different countries – would each one need a separate risk management system?

3) The risk management measures referred to in paragraph 2, point (d) shall give due consideration to the effects and possible interactions resulting from the combined application of the requirements set out in this Chapter 2. They shall take into account the generally acknowledged state of the art, including as reflected in relevant harmonised standards or common specifications.

- In case of extension to in-vehicle applications, ISO26262 and ISO21448 (SOTIF) standard compliance should suffice.

- **Article 10 – Data and data governance**

1) High-risk AI systems which make use of techniques involving the training of models with data shall be developed on the basis of training, validation and testing data sets that meet the quality criteria referred to in paragraphs 2 to 5.

- Article 10(1): The concept of ‘*validation and testing*’ data sets spelled out here is not sensible for each parameter adaptation methodology. The text requires to be adjusted by adding that this should be accomplished ‘where applicable’ or ‘where deemed appropriate by the provider’.
- Article 10(2): the practices of data governance / management indicated might be impractical due to huge costs, best practices confidentiality, indemonstrable relation with the final AI performance. The current AI Regulation should focus on the performance itself rather than on the development process.

3) Training, validation and testing data sets shall be relevant, representative, free of errors and complete. They shall have the appropriate statistical properties, including, where applicable, as regards the persons or groups of persons on which the high-risk AI system is intended to be used.

- Article 10(3): Data set typically and in practice cannot be guaranteed to be ‘free of errors’ and ‘complete’ and the validation of such is not practicable. This requirement should be rephrased by putting more emphasis on demonstrating that reasonable steps have been taken to ensure the data does not contain preventable errors. It should be further specified that this requirement has to be operationalised according to the state-of-the-art standards.
- Ensuring representativeness of data may not be always an ideal goal: sometimes an AI system may well be tested using unrepresentative data set to see how it deals with e.g. marginalised groups.
- The paragraph could be rephrased as following: ‘Errors in the data set shall be statistically negligible for the models that use these data sets. The statistical properties of the AI methods trained with the data sets have the appropriate statistical properties, including, where applicable, as regards the persons or groups of persons on which the high-risk AI system is intended to be used.’

5) To the extent that it is strictly necessary for the purposes of ensuring bias monitoring, detection and correction in relation to the high-risk AI systems, the providers of such systems may process special categories of personal data referred to subject to appropriate safeguards for the fundamental rights and freedoms of natural persons, including technical limitations on the re-use and use of state-of-the-art security and privacy-preserving measures, such as pseudonymisation, or encryption where anonymisation may significantly affect the purpose pursued.

- Article 10(5): Specification / regulation on data encryption with respect to data anonymisation for AI development is to be welcomed, as it would contribute to a more competitive environment for AI.
- A definition of bias should be provided in the Proposal as well as a clarification on whether bias monitoring should apply only to data or to the AI system as a whole.

6) Appropriate data governance and management practices shall apply for the development of high-risk AI systems other than those which make use of techniques involving the training of models in order to ensure that those high-risk AI systems comply with paragraph 2.

- Article 10(6): The implication of ‘appropriate’ data governance and management practices is unclear and would need further specification.

- **Article 12 – Record keeping**

- General comment: a record keeping system would be very useful for keeping track of deployed AI performance and for its further development. However, this would be feasible only if data is encrypted so to preserve both identification of the natural persons involved in the verification of the results (Art. 5(4).d AI Act) and the quality of further development.

2) The logging capabilities shall ensure a level of traceability of the AI system's functioning throughout its lifecycle that is appropriate to the intended purpose of the system.

- Article 12(2): As currently phrased, this requirement is not feasible in practice. It must be considered that keeping logs for a protracted time could have huge implications in terms of increased costs of data storage that will be reflected on the customer and also increased energy consumption due to the required storage capacity. Overall, this would be highly inconsistent with the goals of climate neutrality set in the European Green Deal.
- A clarification is needed on whether logs need to be kept for all vehicles throughout their entire lifetime and what exactly needs to be logged – all data or only in certain situations (e.g. low certainties or denials). Additionally, how does this logging work with deletion and data minimisation requirements under the GDPR?
- Moreover, a record keeping system throughout the entire lifetime of the vehicle is not necessary – and would represent a disproportionate burden. Event data recorders and other vehicle systems must be already installed e.g. for liability purposes to understand the dynamic of an incident, etc.

- **Article 14 – Human oversight**

- General comment with regard to motor vehicles: Automated Driving Systems of vehicles today already provide for mechanisms that allow the user to intervene and deactivate / override the ADS in a simple manner (UNECE R157 on ALKS for SAE level 3 vehicles). Other forms of human oversight are being discussed under the draft Implementing Regulation for the EU approval of driverless vehicles (SAE level 4 / 5), equivalent to air traffic control in aviation.
- The notion of human oversight is vague: what does it consist of and what is the frequency of the oversight?

- The notions of monitor and control need to be clarified/defined: these could be at stake if the high-risk system is used outside the EU, where there may be no possibility to control the system.

1) High-risk AI systems shall be designed and developed in such a way, including with appropriate human-machine interface tools, that they can be effectively overseen by natural persons during the period in which the AI system is in use.

- Article 14(1): What constitutes ‘effectively overseen’ and how does that combine with control of complex machines, e.g. in manufacturing?
- For manufacturing, this oversight is more relevant for quality inspection (perception of how the system works) than for machine control (functioning of the system itself).
- In the case of automated driving, it would mean that wheel and pedals could never be removed from the vehicle, which is not consistent with L4 shuttle services or robotaxis and nor with Implementing Regulation currently being drafted by DG GROW in the Motor Vehicle Working Group.

4)(e) be able to intervene on the operation of the high-risk AI system or interrupt the system through a “stop” button or a similar procedure.

- A stop button might not be appropriate to handle situations where it would be even more critical if the operation just stops. The requirement should be rephrased by emphasising that humans can intervene in the operation of an AI system by putting it in a safe position or situation.

- **Article 15** – Accuracy, robustness and cybersecurity

- General comment in regard to motor vehicles: the new cybersecurity Regulation UNECE R155 already covers automotive products (e.g. automated vehicles) and should be effectively enforced so to avoid duplication of cybersecurity requirements only for AI.
- What is the ‘*appropriate level of robustness*’ and how can this be defined? As there are different robustness metrics, clearer criteria should be established here.

QUALITY MANAGEMENT SYSTEM

- **Article 17** – Quality management system

- Article 17(1): Similarly to what mentioned for Article 10, the quality management system should not overburden the development process, rather focus on performance.
- Article 17(2): It would be advisable to make the quality management system proportionate to the complexity cq. impact of the AI system rather than to *'the size of the provider's organisation'*.

REGULATORY SANDBOXES

- **Article 54** – Further processing of personal data for developing certain AI systems in the public interest in the AI regulatory sandbox

1) In the AI regulatory sandbox personal data lawfully collected for other purposes shall be processed for the purposes of developing and testing certain innovative AI systems in the sandbox under the following conditions:

(a) the innovative AI systems shall be developed for safeguarding substantial public interest in one or more of the following areas: (i) ... criminal offences prevention ...; (ii) ... public safety/health; (iii) ... environment protection ...

- Article 54(1): Why is the further use of sandboxed personal data restricted to these areas? Why not e.g. in traffic control systems? It is to be noted that, e.g. tracking vehicle numbers or license plates is GDPR-relevant and R&D in that area suffers from such restrictions.

ACCESS TO DATA AND DOCUMENTATION

- **Article 64** – Access to data and documentation

- General comment: The conditions about data and especially code access should be defined in more details and confined to strictly necessary cases.

1) Access to data and documentation in the context of their activities, the market surveillance authorities shall be granted full access to the training, validation and testing datasets used by the provider, including through application programming interfaces ('API') or other appropriate technical means and tools enabling remote access.

- Article 64(1): This provision would imply full storage of all data, which may lead to prohibitively large data storage capacity.
- Article 64(2): This paragraph stipulates that market surveillance authorities shall be granted access to the source code of the AI system. We note that this could be problematic to achieve in the case where 3rd party pretrained

models are used. For such models, the data may not be available for scrutiny. Does this requirement therefore preclude the inclusion of 3rd party pretrained models?

ENTRY INTO FORCE, APPLICATION AND PENALTIES

A 2 years transition period is foreseen after the entry into force of the final Regulation for the application of the Regulation to the AI systems falling in the scope of the AI Act. However, penalties would apply already after 1 year after coming into force. This provision would benefit from clarification.

Lastly, the AI Act indicates only the maximum amount of the fines that can be paid. Additional clarity is needed regarding the details of the criteria which will be used to assess the exact amount for each specific case.



ABOUT THE EU AUTOMOBILE INDUSTRY

- 14.6 million Europeans work in the auto industry (directly and indirectly), accounting for 6.7% of all EU jobs
- 11.5% of EU manufacturing jobs – some 3.7 million – are in the automotive sector
- Motor vehicles are responsible for €398.4 billion of tax revenue for governments across key European markets
- The automobile industry generates a trade surplus of €74 billion for the European Union
- The turnover generated by the auto industry represents more than 8% of the EU's GDP
- Investing €62 billion in R&D per year, automotive is Europe's largest private contributor to innovation, accounting for 33% of the EU total

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