

AI EU ACT: Main issues identified by Intel and recommended corrections

Intel appreciates that the proposed Regulation takes a risk-based approach to Artificial Intelligence (AI). However, the complexity of the AI value chain and the fact that some key definitions leave room for interpretation may result in uncertainty in determining which entities are considered providers of AI systems and which AI systems are high risk. To address these concerns, we offer the following comments to clarify which entities and products are in scope of the draft Regulation.

AI system – We recognize the difficulty of unambiguously defining AI and understand that the proposed definition of an AI System in the draft Regulation is drawn from the OECD. As this definition is overly broad, we support the approach to further qualify it by specifying the techniques used to develop AI systems. However, while the techniques listed in Annex I (a) *“machine learning”* and (b) *“knowledge based”* are intrinsically identified with AI, the ones listed in (c) *“statistical approaches, Bayesian estimation, search and optimization methods”* are techniques that are either not unequivocally related to AI or just support other AI techniques. The designation *“statistical approaches”* lacks precision, *“Bayesian estimation”* is frequently used outside machine learning, and *“search and optimization methods”* have been used for decades to perform various types of search, training, and optimization (e.g. statistical estimation was used in 2G cellular systems). Not every search algorithm, optimization problem, or statistical calculation is an AI problem. For this reason, we recommend removing point (c) of Annex I, thereby focusing only on AI approaches and techniques listed in points (a) and (b) of Annex I.

AI value chain – Recital 60 recognises the complexity of the AI value chain, made of “relevant third parties, notably the ones involved in the sale and the supply of software, software tools and components, pre-trained models and data, or providers of network services”. The broad definition of “AI system” described above and subsequently of a “provider” poses serious challenges in determining which AI systems and “providers” are in scope of the proposed Regulation. Therefore, we suggest clarifying the proposed Regulation to differentiate roles in the AI value chain, such that entities developing toolkits, software libraries, etc. are not considered “providers” by stating that *“these relevant third parties, inter alia, providers of general purpose AI systems intended to be incorporated or refined into a final product, are not considered providers of AI systems in the proposed Regulation”*.

Safety component – the draft Regulation utilises the concept of “safety component” in the determination of the level of risk of an AI system. The proposed definition of what constitutes a “safety component” is open to interpretation and remains a source of uncertainty for the qualification of high-risk AI systems. To reduce this ambiguity, we believe it is important that references to “safety component” leverage EU harmonised legislation to align with any relevant essential requirements. In other words, when assessing an AI system for the purposes of paragraph 1 of Article 6, a safety component is assessed based on the relevant EU harmonisation legislation listed in Annex II.

Management and operation of critical infrastructure – the draft Regulation states that AI systems intended to be used as safety components in the management and operation of road traffic and the

supply of water, gas, heating and electricity are high-risk. This causes uncertainty in determining a safety component (e.g. what exactly constitutes road traffic management and operation?). Annex III would gain clarity by amending it to limit its scope to AI systems which are developed with a clearly safety-related intended use. Further, only those AI systems developed with a safety-related intended use to operate road infrastructure components should be in scope, therefore excluding those which are integrated in vehicles; otherwise these would conflict with Regulation (EU) 2018/858 and Article 2.2.