Comments of Twilio on a European Approach to AI

Twilio thanks the European Commission for the opportunity to respond to its *White Paper on Artificial Intelligence – A European Approach*.

Companies large and small across the European Union – Twilio included – are both developing and deploying applications of Artificial Intelligence in order to improve their businesses and how they serve their customers. While we see much exciting potential in AI for our business, our customers, and our partners, we acknowledge concerns with the new technology and certain uses of this technology, along with the need for a policy framework to guide its development in a trustworthy manner.

We welcome these important discussions and offer these comments in the hopes that Twilio's experiences and perspectives can constructively contribute to the European dialogue.

Who We Are

Twilio is the world's leading Communications Platform as a Service (CPaaS) provider. Twilio provides services to more than 190,000 businesses globally and powers 800 billion interactions between them and their consumers every year.

Using Twilio software, companies have added communications capacity into applications across a range of industries, from financial services and retail to healthcare and the non-profit sector. Twilio's technology customers add Twilio's communications services to the software solutions they sell to other businesses to support delivery of their applications.

Twilio's products are used in many different ways and underpin a wide range of services. A few examples include:

- *Alerts and Notifications*. Business customers use Twilio services to alert consumers that an event has occurred, such as when a restaurant table is ready, an airline flight is delayed, a package is shipped, or a banking transaction has been completed.
- *Privacy Protective Communications*. Twilio's software is used to enable users to have a trusted means of communication where they prefer not to share private information like their telephone numbers. Examples include legitimately masking displayed telephone numbers in conversations between drivers and riders on ridesharing apps, text messages exchanged after individuals meet through a dating website, and messages from health counseling services to home phone numbers.
- *Customer Contact Centers*. With Twilio's services, customer care teams can have voice, messaging, email, and video capabilities seamlessly put together into one system with little infrastructure spend. This allows legacy systems such as switchboard-based operations to be replaced with better and more efficient systems that create new channels of communications.

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- *User Security*. Twilio's services are used to verify user identity through two-factor authentication prior to log-in or through validating transactions within an application's workflow. This adds an additional layer of security to any application.

Using these services provides companies flexibility and scalability in terms of how they connect with consumers. Companies get value for money, don't have to pay for things they don't use, and can quickly add new services for their consumers. Consumers get more accessible and responsive mechanisms for interacting with companies.

Twilio has also helped enterprises respond to the Covid 19 pandemic and its economic consequences.

For instance, Twilio is working with **New York City** to deliver communications for its contact tracing initiative. Twilio is powering a cloud contact center to enable city officials to communicate with COVID-19 patients, educate them on the virus, and identify their close contacts through self-reporting. The platform also provides messaging-based alerts using Twilio Voice, SMS, email or WhatsApp that prompt patients to fill out secure surveys on their symptoms.

With respect to business continuity, QVC Italia built a remote contact center in just four days working with Twilio, ensuring that all employees could work from home.

How Twilio Uses AI

Twilio leverages artificial intelligence (AI) because it supports our core mission: enhancing communications. We use AI and high-quality data training sets to create products that help companies build better relationships with their consumers, help stop and prevent fraud, and better detect unauthorized log-ins. These products empower innovative companies with AI tools that drive efficiency, responsiveness, and customer satisfaction.

Twilio's AI solutions include:

- *Twilio Flex*, a programmable cloud contact center platform that now supports integrations with Google Cloud Contact Center AI. Twilio Flex allows customers to easily use a virtual agent that can resolve a variety of customer issues and, if required, transfer customers to a live agent who will receive suggested responses based on previous interactions.
- *Twilio Autopilot*, an AI interface that bridges the gap between human agents and self-service bots. Autopilot allows developers to build intelligent IVRs, bots, and Alexa apps that are powered by Twilio-built Natural Language Understanding and Machine Learning frameworks. It turns nested phone trees into simple "what can I help you with" voice prompts and allows customers to use voice search to access a knowledge base.
- *Twilio Understand***,** which is transforming how companies interact with customers by using apps that convert intent into smarter IVRs or bots. It uses natural language to determine the intent of what someone is saying or texting, which allows developers to build more intuitive phone trees or smarter messaging bots. It turns speech into structured data objects and

analyzes text from any communications channel (voice, video, text, Facebook messenger, home assistants like Alexa) with a single natural language understanding model.

- *Twilio TaskRouter AP.* This product helps route callers to the proper destination quickly, skipping some – or all – of the traditional phone menu. TaskRouter dynamically assigns messages to the human agents that can best handle them, and can use bots to detect intent sentiment. That means that TaskRouter can leverage the power of artificial intelligence to understand the emotion in the caller, and route the call accordingly. Messages and other types of data can be routed based on the "skills" required and the priority set.

Innovative AI tools such as these enable companies to quickly improve customer relations and create new ways to generate value. These tools are already being used by many of our customers in Europe, including small and medium-sized enterprises (SMEs), to connect with their customers in new ways.

The European Union's Approach to AI

AI tools present the opportunity to improve productivity and future growth, opening paths for European businesses to develop innovative products and enhance the customer experience. At the same time, there is a clear need to ensure the trustworthiness of this new technology and control potential harms. We recommend that the EU work to encourage the adoption of AI as part of Europe's digital transformation, propose new legislation only when necessary to address identified gaps in current law, and produce clear liability frameworks that recognize the role of contract law and established principles for consumer redress.

We encourage policy-makers to maximize the benefits and efficiency gains resulting from the uptake of AI systems, especially in non-tech companies and industries.

Europe's future economic growth depends to a large extent on the ability of European companies to maximize the benefits of digitization and digital transformation. AI applications like those provided by Twilio present important opportunities for companies to leverage digital technologies for growth. This is especially important for SMEs, where access to digital tools helps these companies to rapidly deploy enhanced capabilities in areas such as customer relations that were previously only available to larger companies. Beneficial deployments of AI can also play a role in preventing existing harms, for example by identifying suspicious banking transactions or the use of telecommunications services for fraud or spam.

We encourage European policy-makers to take active steps to facilitate the use of low-risk or safe AI to improve the performance of companies and allow them to innovate, become more productive, and grow more quickly. As part of this, the EU's larger digital strategy should focus on facilitating economical access to and use of the cloud infrastructure that underpins AI for all European companies, as well as an open, dynamic, and competitive space for data-based innovation.

Any Legislation on AI should address identified gaps in the current legal framework.

AI is a new technology, but it is being applied in areas where there are already existing legal regimes – such as data protection, consumer protection, product liability, and anti-discrimination – governing business activities. As the White Paper rightly notes, the existing body of EU law already applies to AI.

In order to ensure predictability for businesses already familiar with these legal regimes, we recommend that regulation, if any, should focus on identified, clear gaps in the existing legal environment. To this end, we support leveraging and ensuring consistency with existing EU rules such as the Product Liability Directive and the Product Safety Directive. AI-specific legislation risks creating overlapping obligations or differential impacts on different types of technology, particularly when it comes to national implementation. This outcome would not provide consumers or businesses with legal certainty when it comes to the use of AI or create an enabling environment for the uptake of AI.

Any new liability rules should focus on the use of AI technologies and proximity to harmed users.

Liability for harms caused by uses of AI systems is rightfully a key consideration in discussions of AI policy. As a general principle, liability should fall on the entity best positioned to mitigate the risk, and the liability framework should consider the intended use of products versus how companies may choose to deploy them. Most of the time, the entity best positioned to mitigate the risk will be the entity deploying an AI system, as it can define the use case for an AI system, foresee risks, and is closest to consumers who may suffer harm, making it easier for consumers to seek redress. Moreover, the risk of selling an AI product in an application not intended by the company that developed the AI should be with the entity making that conscious choice.

The enterprise IT marketplace – including in AI – is a diverse and vibrant ecosystem in which the products and services of many companies are involved in enabling a final service experienced by a customer. Companies and service providers at different points in this stack may have different technical capacities to manage the use of their product by their enterprise customer or the final consumer. In our case, Twilio develops certain AI tools. Twilio customers (enterprises) then take these tools, configure them, and use them, possibly in combination with humans. Harms can enter at multiple stages of this process, most of which are beyond the control of Twilio.

Additionally, as with the sale of goods and digital content, consumer rights are most easily enforced against the company directly providing the product or service to the consumer; these businesses are best placed to respond to consumer needs. This means consumers have a clear point of contact to enforce their legal rights in relation to the use of AI. This ultimately maximizes benefits for consumers and AI developers by ensuring responsibility lies with the party best positioned to control harms.

As a result, we recommend that liability issues in a B2B context be primarily governed by contract, so that enterprises deploying AI can establish the capability and intended use of their AI system and take liability for its performance vis-à-vis the final consumer when used as intended or agreed in

contract. In practice, contracts in the context of B2B transactions are sufficient to manage implications of liability issues without the creation of further obligations. B2C companies using AI systems not developed by them should clearly establish the scope and objective of AI systems they use and establish this on a contractual basis with their B2B suppliers. B2B suppliers can then deliver AI systems optimized to the needs of their business customers. Should the technology fail, the deploying entity will be able to seek redress through the enforcement of its contract with its AI developer.

Developers of AI systems should have the responsibility to ensure that the systems are created responsibly and that they are fit for purpose when delivered to their business customers, without being liable for any misuse of that system by the business customer. Since that business customer deploys the AI system, it should then be responsible for the consequences of any unintended or improper use.

We welcome risk-based approaches to AI and encourage policy makers to consider the full context and the purpose of the AI system as they develop approaches to evaluating this risk.

Companies use many types of IT systems for many different purposes. These systems increasingly use AI to optimize their performance and help companies run their businesses more efficiently. However, these do not all present the same risk profile. An EU regulatory framework should account for this diversity of potential applications.

Accordingly, we welcome a regulatory distinction proposed in the White Paper between high risk and low risk applications of AI and support a nuanced approach that supports this distinction, including differentiation not just by sector or type of AI application but by context and use.

AI encompasses a broad set of technologies and use cases. It is difficult to identify objectively "high-risk" applications without considering the context in which they are to be used. While AI-based services in the CPaaS space for example may be used by companies in high-risk sectors for certain customer relations functions, this use may not relate directly to the critical functions provided by that sector and would pose no greater dangers than a similar use in any other non-high risk sector.

Since AI risks will be context-specific, it is best to use existing context-specific legislation rather than omnibus AI regulation, which may struggle to manage the broad range of AI deployment scenarios. When identifying high-risk uses and high-risk sectors for the use of AI, policy-makers should explicitly define the high-risk uses subject to regulation, and apply proportionate measures to maximize benefit and minimize harm. Regardless of sector, when AI is used in back office or administrative functions, where it does not present a high risk to consumers, there is little need to subject it to heightened standards such as conformity assessments or strict oversight.

The White Paper recognizes that there will be low-risk AI systems used in high-risk sectors, which we welcome. Twilio recommends maintaining such a distinction and a context-based approach as more specific regulatory proposals are developed.

A trusted environment depends on the ability of customers to understand possible risks and their rights, and how to enforce them. However, we caution against voluntary labelling schemes, as these may not be the most effective means of ensuring a trusted environment. Labelling, whether voluntary or mandatory, may create confusion for businesses and consumers. Furthermore, premature action may curtail experimentation from a variety of industry groups that are also working to develop approaches to these issues. Policy-makers should allow more development of AI technology and outline clear approaches to effective transparency before creating labelling schemes.

Conclusion

As the leading CPaaS provider and a developer of AI-powered enterprise tools, Twilio wishes to see the development of a trusted ecosystem for AI development and deployment in Europe so that our business customers can easily and confidently adopt AI-powered tools that transform how they connect with consumers. With a well calibrated policy framework, particularly regarding the delicate issues of a risk-management and liability regime for AI deployments, we believe that AI can constitute a key element driving business innovation and economic growth in Europe for years to come.

We welcome discussion of the important issues raised in the White Paper and thank the European Commission for consideration of our views. We look forward to continuing constructive dialogue towards the development of approaches that maximize the economic benefits of AI for European businesses and citizens while minimizing potential harms.