European Commission Consultation
on the *White Paper on Artificial Intelligence - A European Approach*

Comments from the Coalition of Services Industries
June 14, 2020

The Coalition of Services Industries (CSI) appreciates the opportunity to provide comments on the EC's *White Paper on Artificial Intelligence*. CSI is the leading U.S. industry association devoted to promoting the international objectives of the services sector. Our members include companies that provide information and communication technology services, financial services, express delivery and logistics, media and entertainment, distribution, and professional services.

Importance of risk-based approach to regulation. We agree with the fundamental principle that the Commission must balance competing interests in considering whether and how to regulate AI. The determination that any new regulatory framework for AI should take a risk-based approach and be tailored to the sector and the use for which AI applications are deployed is constructive. Many promising uses of AI relate to the improvement of business processes and operations, presenting a low risk of harm to individuals.

Promotion of interoperability and harmonization of EU member state rules. We also welcome the Commission's aim to ensure that any rules for AI are interoperable across the Union. A patchwork of incompatible requirements would quickly impede innovation and progress. For the same reason, we encourage the Commission to prioritize harmonization of EU rules with those under development in different jurisdictions and to look for opportunities to work with important jurisdictions and experts on this topic, such as the OECD.

Need to distinguish among different high-risk AI applications. As presented in the White Paper, the list of mandatory requirements for high-risk AI applications is presented as a set of one-size-fits-all requirements that apply equally to such applications (with exceptions for data retention and human oversight). This ignores the distinctions between the types of risk presented by different high-risk applications: some may present a high level of risk to individuals' privacy, while others may present a safety risk. Imposing the same requirements on AI applications in the transportation sector and in the advertising or human resources sector would be inconsistent with the Commission's goal of a flexible approach which seeks to balance interests.

Similarly, the Commission proposes to require prior conformity assessments for all high-risk AI applications. Such a rigorous process would not be necessary for every application.

Lack of broadly accepted AI standards. Several proposed requirements appear premature. At present, there are no clear or widely accepted standards against which some of these requirements might be measured. There is currently no broadly accepted method or tool for addressing bias or explainability in AI applications, despite significant and ongoing efforts by the private sector and academics to develop them.

While risk assessments for AI applications are generally good practice, requiring a prior conformity assessment for each high-risk application is inconsistent with the Commission's stated goal of taking a flexible approach and balancing interests.

Where prior conformity assessments are required, they could be considered as relevant evidence in enforcement decisions made by competent authorities. The fact that an AI application has passed a conformity assessment should be given proper weight in any determination of liability.

Value of flexibility with low-risk AI applications. The imposition of mandatory requirements on non high-risk AI applications via a voluntary labeling regime is too prescriptive. Any quality label for low-risk applications should be flexible and less stringent. If a low-risk application is found to meet the mandatory requirements, it should receive an upgraded quality label.

Recognition of voluntary, consensus-based standards. The White Paper does not recognize that the development of voluntary consensus standards is a good practice that is relevant to its task. The Commission and other EU institutions should encourage and defer to such standards.

Voluntary standards developed by experts, and, where appropriate, in conjunction with governments, are preferable to a prescribed labeling regime. A co-regulatory approach to developing standards can be more fit for purpose, will account for technological advances, and inspire confidence in the parties who must implement them.

Thank you for the opportunity to provide comments.