

European Tech Alliance Feedback on The European Commission's Inception Impact Assessment "Artificial intelligence - ethical and legal requirements"

September 2020

In February 2020, members of the European Tech Alliance (EUTA) joined forces to publish the EUTA High Level Principles on AI ahead of the publication of the European Commission's White Paper on AI.

EUTA members strongly believe the EU has the potential to become a world leader in AI. Europe benefits from a vibrant ecosystem of top academic talent, leading AI research labs and an ever growing number of AI-driven start-ups. This fruitful ecosystem is supported by industry best practices and the strong fundamentals of the EU's regulatory architecture.

Against this backdrop and our contribution to the public consultation on the AI White Paper last Spring, we welcome the opportunity to share the following comments on the European Commission's inception impact assessment "Artificial Intelligence – Ethical and Legal requirements"


Our key recommendations

We advocate for a soft-law policy response combined with a targeted, risk-based regulatory framework focused on clearly defined “high-risk” applications. We agree with the Commission that any new rules governing AI should not impede on the freedom to conduct a business, right to property or freedom of science on concerned entities.

We agree with the Commission’s assessment that mandatory requirements would entail some costs depending on the nature of the requirements, both in terms of changed business practices and ex-ante or ex-post compliance. We have strong reservations about extending legal requirements to all AI applications, including low-risk applications, as this could over-regulate and harm innovation and investment into AI technologies. We urge the EU institutions to refrain from regulation of low-risk AI. High-risk AI applications should be clearly and narrowly defined by legal standards based on an impartial, regulated and external assessment.

Regarding the possibility of a requirement on businesses to conduct a new risk assessment to define whether they are using low- or high-risk AI applications, we support self-regulatory principles for accountability and transparency to help businesses tread market opportunities and the possibility for unfair bias and discrimination.

We share the Commission’s concerns about significant knock-on effects on SMEs if heavy AI requirements were introduced. We call on the Commission to provide a proportionate legal framework that is nurturing for scale-ups. Imposing a one-size-fits-all regulation on all businesses would seriously endanger innovation and European competitiveness in this field, especially for low-risk AI applications where development costs would become prohibitive.




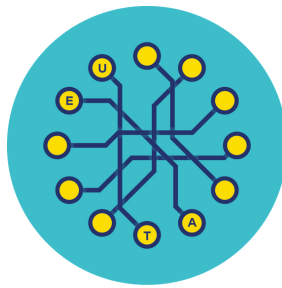
The EU is well-placed to lead on AI by providing EU-wide coordination and guidance. A harmonised, well-targeted EU framework would reduce compliance costs for businesses operating across the EU and avoid a plethora of divergent AI rules at the national level (for instance, the recent French CNIL Algorithm report included some proposals around AI ethical requirements which could conflict with GDPR rules and cover both high-risk and low-risk applications). We also need to ensure that the future EU framework is sufficiently flexible so that it is not outdated in a short span of time

We disagree with the Commission's assessment that the social impact of the future AI framework will

be limited: not all algorithms are created equally, with many bringing tangible social benefits to consumers and citizens. In addition, human developers will always develop algorithms with some degree of bias. Therefore, we suggest that the EU encourages self-regulation to mitigate negative algorithmic bias, with businesses maintaining the flexibility to choose measures that will deliver the best outcomes.

We agree to some extent with the Commission's initial assessment that no direct significant environmental impacts are expected from the proposed AI measures. Yet it is important to flag that any additional requirements to control bias or risk could lead to additional data being collected, requiring further storage and energy consumption from our data centers - expanding CO2 emission levels. At the same time, the potential for significant positive effects environmentally and socially should not be discounted, especially as part of the Commission's Impact Assessment underpinning legislation.





European Tech Alliance

The European Tech Alliance (EUTA) brings together and gives a voice to the major European digital champions, scaleups and leading startups. We believe that Europe is good at tech and our sector is driving jobs and growth across the continent. With an overarching goal of fostering innovation in Europe, EUTA members are keen to provide expert insights to the EU institutions and promote the EU competitiveness in the global tech space.

This paper has been developed at a preliminary stage in the policy discussions in order to share our members' expertise and inform the debate. It is not directly attributable to any individual member and we invite you to contact our members, should you like to better understand their specific situation.



