



Open Knowledge Foundation response to the EU AI White Paper

Key points

- The EU's white paper is an interesting first step, emphasising the need for a trustworthy AI framework, respectful of our existing values and rights.
- While trust is a good measure of success, it is not an actionable one. Luckily, there are complementary frameworks which can help guide the debate.
- Rather than legislating around risk levels, which is a narrow concept, we should look at algorithms and AI through the lens of public impact.
- The transparency, accountability, participation and inclusion governance framework is a good one; let's make use of it for future legislation, while making sure that the concept of openness which defines the open data movement also plays a key role in it.

Background

The Open Knowledge Foundation is a global not-for-profit advocating for a fair, free and open future. Since our founding in 2004, we have led the open data revolution, created the Open Definition and developed CKAN, the world's leading open source data platform, used across the world.

Building on our unique perspective as data literacy experts, we have recently created a strand of work on what we call public impact algorithms: algorithms that have a disproportionate impact on citizens and society in general. It is through this lens, which aims for a human-centred approach to artificial intelligence (AI), that we took an interest in the recently published EU AI white paper.

We believe that the EU's approach to AI has the potential to set the global standard yet it is critical that in this process civil society's voice is heard.

Trust

For all AI systems to effectively function, trust has to be at the core, and the EU rightfully emphasises the need for the development of a trustworthy AI framework. From the fundamental purpose of AI systems to their inputs and outputs, a clear

ethical underpinning requires to be embedded due to the direct and indirect impacts on human life.

Fundamental rights of EU citizens are required to be upheld by law. Article 1 and Article 3 of the EU Charter of Fundamental Rights state that 'human dignity is inviolable' and that 'everyone has the right to respect for his or her physical and mental integrity'. Article 22 of the GDPR on automated decision making and an individual's rights also requires to be respected.

But trust, while a valuable measure of success, is not a sufficient concept to chart the path forward.

Public impact

For the EU to succeed in harnessing AI for the betterment of European societies, open practices and principles in AI should form the starting point of any consideration to balance the opportunities with the risks. It would also assist the ambition of having one set of rules across 27 countries rather than the current fragmented approach, thus creating public trust and upholding EU democratic values.

The suggested classification of AI as low and high risk is deceptive, as low risk AI can, through its ubiquity, influence society. Consequently, we believe that all AI, whether used in public or private services, should be reviewed regularly to assess their public impact. We believe that, more than the narrow concept of risk level, it is the concept of public impact which should underpin any future AI and algorithm legal framework.

Much of the AI debate is focused on technical concerns - such as accuracy or explainability - which are easy to address through benchmarks and normative requirements. Yet this leaves little space to discuss other essential concepts such as proportionality or participation, which involve the social aspects of the AI debate: the rationale under which a black box algorithm is implemented in place of another more transparent solution; the arbitration when decisions need to be made about how the law should be interpreted; the literacy, participation, and inclusion needed to create trust and accountability among citizens.

Open principles and practice

In addition to the public impact lens, the commonly-used governance framework of transparency, accountability, participation and inclusion gives us a solid foundation through which a legislative framework can be developed; but we believe that it is also crucial to embed another concept at the core of any legislative initiative: openness.

Where transparency and accountability concern themselves with the institution, openness also brings in the perspective of affected citizens.

As the open data movement has shown, openness leads to a dynamic relationship between citizens, academia, companies and public institutions which leads to effective, rather than performative, transparency and accountability. This allows us to think about AI holistically, as both a technical and a social system.

Openness			
AI as a technical system		AI as a social system	
Transparency	Accountability	Participation	Inclusion
Documentation explainability	Right to contest	External monitoring proportionality assessment	Joint evaluation of social impact

The challenges

The open data movement also shows the difficult path forward for openness in AI: the transition between reactive and proactive disclosure is slow and frustrating for all parties. Since 2018 French law mandates public institutions to systematically inform citizens when a personal decision has been taken through an automated system, among other requirements. Yet those transparency requirements are not expected to be respected across all public institutions for several more years. Without a doubt, the same will happen at the European level. Currently a third of English local authorities use some form of ADM, and AI, using biometric data, is on the rise across Europe due to the Covid crisis. The stakes are currently too high for openness not to be part of the legislative framework from the beginning.

Conclusion

AI is not simply yet another procedure that should be documented. Instead, it is a system that, as it becomes widely used, changes the nature of governance as well as the relationship between citizens and public administrations. We should consequently think about it systematically, lest we fail to rise to the challenges that it poses.

Contact

The Open Knowledge Foundation is a not-for-profit organisation. It is incorporated in England & Wales as a company limited by guarantee, with company number

05133759. Our website is okfn.org and you can reach our team by emailing info@okfn.org.