We believe that Europe has a chance to take the role of an international leader in the field of artificial intelligence (AI). We support the initiative to create a European approach to the global AI race. In this context, the most important thing will be to create conditions that allow entities to conduct world-class research and testing and to acquire a qualified workforce. At the same time, we fully support the European Commission's goals regarding the need to provide citizens with confidence in this technology, as well as appropriate guidance on how to use this emerging technology.

Excellent ecosystem

In our opinion, thanks to a thriving development community and world-class universities, Europe has a chance to play a leading role in the research and application of AI. In the White Paper, the European Commission rightly pointed to the need to focus on investing and implementing artificial intelligence in order to ensure a continuous increase in its benefits, especially in the context of future economic recovery.
Therefore, we postulate that, as part of its work on AI, the Commission should focus its efforts primarily on: supporting the research and innovation community in the development of AI, focusing on improvement of skills required on the job market of the future, helping the SMEs to incorporate the AI applications in their activities and promoting the adoption of AI applications by the public sector.

Trustworthy ecosystem

Public confidence and responsible use of artificial intelligence hugely depends on right public policies. Societies should be confident that AI applications are safe to use and do not undermine our legal order in terms of e.g. data protections. It is important, however, to adopt a proportionate risk-based approach - balancing potential harm with the social and economic benefits that artificial intelligence will create. Any regulatory framework should be flexible enough to evolve through this dynamic technological space. We believe that it is useful to focus not on risks but rather on innovation and creativity. Prior to adoption of new regulatory measures, it is better to examine the existing legal framework and assess whether it is fit for the AI applications.

Narrow definition of Artificial Intelligence

A clear and narrowly defined definition of AI will be key to the effectiveness of any future regulatory framework. The White Paper describes the main elements that make up AI as data and algorithms. Such a broad framework effectively covers all modern applications and could easily render it impractical. We believe that a narrower definition is needed to avoid over-regulation, especially in the field of sensitive applications of AI the legislative intervention, aiming to provide clarity would be welcome.

High-risk applications

We support the Commission's approach not to use "one size fits all" logic in countless AI applications. With this in mind, a number of adjustments should be made to ensure that any potential regulation is targeted at the right use cases, increases legal certainty and does not discourage the development and dissemination of AI. It's vital that any risk assessment takes a holistic view, reflecting not only potential harms but also societal opportunities. AI is a set of technologies capable of learning, reasoning, customizing and performing tasks in a way inspired by the human mind. This technology is constantly evolving and improving. The potential benefits of AI development are enormous. Regulations should take into account the rapid pace of technological progress.

The Commission should remember that risk assessments must reflect the probability of harm and not just the possible severity of the harm. It should also take account of the wider operational context when assessing risk, since the same AI application used for the same purpose will pose different risks depending on the way it is integrated into business operations.

It is crucial to avoid open-ended statements that create legal uncertainty. The combined criteria is essentially a feasible approach. However, the "exceptional cases" clause, which goes beyond the aggregate criteria, is too open and creates legal uncertainty.

EU legislators need to remember that the law does not recognise the concept of “immaterial damages” in the risk definition. Unfortunately, this definition can mean anything, from economic losses to painful emotions, and can lead to legal uncertainty, discouraging investment and innovation.

The future regulations should also be reasonable in the performance standards imposed on AI. There is a risk that innovative uses of AI could be precluded by demanding regulatory standards for AI systems far exceeding that required of non-AI approaches. While it is important to seek to minimise mistakes, no system, whether human or AI powered, will ever be perfect, and in some situations a lower level of accuracy may be acceptable.

Ex-ante regulation of high-risk AI applications

We believe that the suggested list of mandatory legal requirements can significantly impede the development and dissemination of beneficial uses of AI. Instead of literal interpretation of law, we would recommend establishing close working relations with companies and experts working on AI applications to develop rules that are technically feasible.

We recommend that storage of datasets should not be mandatory. The potential obligation to store data would be in conflict with the provisions of the GDPR, which require the deletion of personal data.
Paradoxically, this approach could limit privacy as it would lead to necessity collecting and storing data centrally. It would prevent the use of off-the-shelf, open-source models, since developers will generally have no access to the data used to train them.

Future regulations should not take a literal approach to 'reproducibility'. The White Paper proposes 'requirements to ensure repeatability of results'. An overly literal interpretation of reproducibility would not be possible because many AI systems have built-in randomness, which makes it impossible to guarantee identical performance every time, even if the input data is the same. To be feasible, it will be necessary to create broad concepts of "scale predictability" that do not require exact matching.

Enforcement

Ideas for new ex ante compliance assessments that include independent auditing and public testing authorities should carefully consider to ensure that high-risk AI applications comply with EU legislation the practicality and added value of such an approach. A combination of ex-ante risk self-assessment and ex-post enforcement for high risk AI applications would likely achieve similar results within much faster timeframes and without risking unduly stopping innovation and creating unnecessary burdens. For example prior to any launch, for AI applications deemed to be high-risk, organisations could be mandated to carry out and document risk assessments based on articulated principles. It is a model similar to the one used in the provisions of the GDPR.

Safety and liability frameworks

Safety and liability framework should provide sufficient protection to AI application users. We believe that the current liability framework remains fit for purpose and any review of EU safety regulation should focus exclusively on areas where the unique properties of AI creates a risk to the health and safety of consumers. There is no need for regulatory intervention related to general consumer devices where a security threat does not directly entail a safety issue.

The current regulations are sufficient and adequate to the purpose and there is no need to change them and introduce the risk of unintended consequences. We believe that AI can improve human decisions in many areas, but requiring that algorithms never make a mistake would deter any development of new algorithms.

In addition, digital products are developed through a trial and error process aimed at constantly improving products and services, including their safety and security, even after they are made available to the public. If a vulnerability or a harmful exploit is detected in a product or service in the market, developers send out patches to mitigate such risks, giving a new dynamic to the liability framework as users can choose not to install patches, raising questions around responsibilities between producer and user. In that sense, applying the exact same rules to AI as for other types of products might be hard. That is why the EC should be wary of expanding the scope of the existing liability framework to cover AI software and services. Such expansion would mean that anyone involved in making an AI system could be held liable for problems they had no awareness of or influence over.

Burdening the AI system developers with new legal duties would have a significant chilling effect on innovation and competition, one that would most likely disproportionately fall on European SMEs.