

European Commission

Comments by the Swedish Consumer Agency on the White Paper on Artificial Intelligence

General comments

The Swedish Consumer Agency (SCA) welcomes the initiative to foster a European ecosystem of excellence and trust in AI. Consumers should be guaranteed their rights and their safety regardless if a product or a service relies on AI or not. Such guarantee requires an effective application and enforcement of existing and future EU legislation. This is crucial to achieve a system of trust in AI. Furthermore, the SCA fully supports the Commission's initiative to avoid fragmentation of the Single Market. EU Member States need to work together to effectively address the challenges and reap the benefits related to AI. On the same note, the SCA agrees with the Commission that international cooperation is highly important to take on all aspects of AI. Among all the important elements of AI which have been highlighted in the White Paper and the accompanying Report on Liability and Product Safety, the SCA is welcoming efforts to achieve gender equality also in the world of AI.

Comments related to section 5B: Possible adjustments to existing EU legislative framework relating to AI

In general, the SCA agrees with the Commission that existing EU legislation and national legislation might need an update to ensure an effective application and enforcement of e.g. consumer protection rules.

As regards the legal uncertainties, described in the accompanying report, the SCA would like to stress the importance of having clear concepts and definitions of key terms such as *safety*. Extending the concept of *safety* according to the General Product Safety Directive requires careful consideration and further analyses. The SCA fully supports the Commission's intention of clarifying liability for e.g. software which is not incorporated into a product or a service. However, at this stage and without further analyses, the SCA is not convinced that an extended scope of the term *safety* according to the

General Product Safety Directive is the right solution. Furthermore, the SCA finds it highly important that the new AI regulatory framework and the revision of the General Product Safety Directive goes hand in hand to avoid fragmentation between the two legal acts.

As regards the consumer protection legislation, the SCA agrees with the Commission that there might be challenges in terms of an effective application and enforcement of the legislation. The SCA is already facing enforcement challenges related to personalised marketing and offers, sometimes created through AI systems. Introducing transparency requirements could improve the situation but would probably not be enough to ensure an effective enforcement. The SCA is convinced that AI will bring a lot of opportunities for consumers, but it is equally important to recognise the challenges for both consumers and national enforcement bodies. It will, most likely, be difficult for consumers to fully understand the complex systems and the automatic decisions based on personal data collected from the consumer. The link between collected personal data and offers provided to consumers is often not clear. Furthermore, what pre-contractual information could be given to a consumer about a product which is constantly developing depending on the data it is fed with? Is there a risk that AI systems are limiting offers and options for consumers available at the Single Market? These are all questions which require further analysis. Therefore, the SCA encourages the Commission to make an in-depth assessment of the consumer acquis, to ensure that it is fit for the digital age including an increased use of AI systems and how an effective enforcement could be achieved.

Comments related to section 5C: Scope of a future EU regulatory framework

The SCA supports the idea of a risk-based approach where high-risk products and services are subject to a stricter regulation, and welcome the specific references to protection of safety, consumer rights and fundamental rights. At this stage, the Agency has no further comments.