Technology Industries of Finland

6/12/2020

Technology Industries of Finland Open Comment to the AI White Paper Consultation

Technology Industries of Finland (TIF) represents more than 1,600 companies operating in Finland in various areas of technology. In Finland, the technology industry directly employs more than 300 000 people.

Europe Needs More AI

TIF regards the acceleration of uptake of AI solutions as part of ramping up European data economy as a key project for EU in post-Covid-19 recovery. To this end, we must put lots of emphasis to skills, research, funding and raising awareness especially among SME companies.

AI is a technology among others, it can be used in many ways, but it is always linked to processing of data. Outcomes of AI solutions are heavily dependent on the data used to learning and driving the solution. Therefore, the whole process needs to be considered when discussing how to avoid e.g. discriminatory outcomes. AI will be used in many sectors, but there is no cross-cutting regulatory interest as AI is just one method to process data.

From industries' standpoint AI is a tool. It already is in daily use - in keeping our communications networks running and helping to swiftly process minor insurance claims. Sensitive communications data is best filtered for viruses by using AI rather than humans. Repetitive, limited tasks are carried out by AI in a coherent manner. AI will also play a major role in allowing societies and industries to meet their climate goals. Investments to digital solutions such as AI are of key importance when we are to dramatically enhance energy and material efficiency. To have these investments, we must have a stable and predictable legal environment.

Ecosystem of Trust

Proposed approach to regulate only high-risk use cases is a good starting point. However, stringent regulation combined with proposed mechanical and rigid risk-classification might give ground to work-arounds and encourage to use other technologies – it also puts much weight on the definition of AI. In our view, the proposed model for classifying high-risk use cases seems too rigid and very challenging for legal certainty. Draft for Parliament resolution plainly shows how this model would work: Developers and operators of AI would have to tackle a challenging environment of ever-changing (or expanding) scope of the regulation. Especially the proposed exceptional instances -regime undermines predictability and legal certainty. Good regulation cannot be built on these foundations.

TIF suggests placing emphasis on the use case and to develop a sector-agnostic process for analysing risks - if horizontal approach is to be introduced. Many of the sectors identified being of potentially high-risk areas, are already covered by sector-specific EU regulation. We call for careful analysis of whether there is need for a new horizontal, technology specific regulation or would it be better to use already existing legal instruments on a coordinated manner to tackle concerns by a more pin-pointed approach.

By introducing a new horizontal regulation, the Commission risks creating a maze of cross-cutting legal requirements where coherence might be lost between different pieces of regulation and where the cost of compliance is unproportionally high – especially for SME companies. The risks addressed in the white paper may be relevant, but they are not specific for using AI. When risks are studied further, probability of the harm is an important factor to be considered, as is the cost

Technology Industries of Finland
Eteläranta 10, P.O.Box 10, FI-00131 Helsinki
Telephone +358 9 192 31
www.techind.fi
Business ID: 0215289-2

of not using AI. Furthermore, the protected legal interests call for more thorough and detailed analysis in order to form a solid ground and guiding principles for possible regulation. Finally, as an alternative for creating a completely new regulatory regime, we call for extensive use of regulatory sandboxes in order to develop better understanding on how to apply the existing regulatory regime when new technologies are used.

Combination of onerous regulatory requirements from various legal instruments and mandatory certification schemes may prove troublesome especially for European SME AI companies and stifle European innovation. Furthermore, Europe should not seek to create Europe-specific requirements for use of AI. TIF member companies operate in global markets and it is essential to have uniform policies for data and technologies for all the markets.

On possible areas of requirements, TIF would like to provide following additional remarks:

Data and records

it is important to pay attention to certain aspects of data, e.g. bias contained in datasets in order to avoid discriminatory outcomes, to make sure right types of data is used for the pursued purpose. As AI is one tool to process data, outcomes are to a great extent dictated by the quality of the dataset.

Keeping records of training data and of choices made while developing the AI solution is a good industry standard. However, the documentation requirement should not be stretched to all data flowing through the system. Proportionate documentation forms the basis for accountable use of AI.

Information on Purpose and Nature

It is reasonable to give understandable information on the purpose and nature of AI systems. Furthermore, it might be good for people to know, whether they are interacting with AI or human being.

Robustness and Accuracy

Robustness in terms of cybersecurity is a natural requirement for any automated system, where. However, this does not link to accuracy. Accuracy of AI systems is a question that is best left for market to decide – it is strongly dependent on the purpose and scope of an AI system.

Human oversight

Human oversight is a concept that may carry many connotations. We will need strong human oversight in order to make sure that AI is applied on an accountable manner – human needs to define the purpose and scope for AI systems, define the data to be used, decide what information is provided to users etc. Humans and human organisations carry responsibility that these choices are carefully analysed and documented. This documentation provides the basis for accountable use of AI.

However, it is not reasonable to have a general requirement to add a human in the loop whenever AI is used.

Liability and Safety

Liability rules should be crystal clear and predictable. EU's existing liability regime is technology-neutral, and this should be the case also when using AI. We should analyse the existing sector-specific regulation to find out whether we can cover liability issues by using these pieces of regulation (on a coordinated manner).

From companies' standpoint it is essential that regulation is predictable and possible new legislation is limited to cases where existing liability law and procedural provisions are impracticable for third parties to present claims for possible damages. Issues of redress within contract-chain should not be regulated as these are best settled by contract. In any case, possible new requirements must be limited only to cases where AI is used in a manner that exposes general public to harm and not in any case where AI systems are applied in closed spaces, such as factories. Overstretched general insurance requirements and too rigid and strict liability structures carry a risk of adding unreasonable cost for using AI.

Further Information:

Jussi Mäkinen
Head of Digital Regulation

jussi.makinen@teknologiateollisuus.fi
+358 40 900 3066