CCIA response to the European Commission inception impact assessment on Artificial Intelligence

The Computer & Communications Industry Association[1] (CCIA) welcomes this opportunity to respond to the European Commission's inception impact assessment on Artificial Intelligence (AI). We support the Commission's aim to "create trust and incentivise the use of such AI systems by citizens and businesses". We agree that AI "can contribute to a wide array of economic and societal benefits".

Like any other technology, risks lie not in the AI application itself, but in its usage. We therefore support a regulatory focus on "high risk" use cases.

Comments on policy options:

Option 0: No EU policy change:
AI is already subject to EU legislation and we therefore encourage EU lawmakers to ensure that existing law is properly implemented before proposing any new AI-specific regulation.

Option 1: EU "soft law":
We support this approach and agree that it can "facilitate and spur industry-led intervention".

Option 2: EU legislative instrument setting up a voluntary labelling scheme:
While in principle in favor of such voluntary measures, we would caution that any such scheme would have to; remain voluntary; focus only on low risk applications, and; must not place a costly administrative burden nor delay time to market. We must avoid overburdening developers and startups given their minimal resources.

Option 3a: EU legislation limited to a specific category of AI applications only, e.g. remote biometric identification (RBI) systems:
We agree that some use cases of RBI systems could be considered high risk, and therefore warrant mandatory requirements. However, facial recognition technologies can also be used to reduce risks, e.g. a search for missing persons on the Internet or secure login on a smartphone.

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[1] Transparency register number: 15987896534-82

25 Massachusetts Avenue NW, Suite 300C • Washington, DC 20001 • Ph: +1 (202) 783-0070
First Floor • Rue de la Loi 227 • B-1040 Brussels • Belgium • Ph: +32 2 661 2020

www.ccianet.org

We would caution against focusing on regulating a specific technology, given that there is no risk inherent to a technology, and instead recommend a clear emphasis on specific "high risk" use cases to address specific and known risks and harms. The Commission can build on, without duplicating, existing specific vertical legislations that already identify specific risks, e.g. in the areas of medical devices and transportation.

3b: EU legislation limited to "high-risk" AI applications:
We support the Commission's risk-based approach and the distinction between high and low risk AI systems. We would suggest a clear and narrow definition of "high risk" applications, with emphasis on specific (high risk) use cases rather than blanket categories of technologies. Inspiration can be drawn from existing EU sectoral legislation as mentioned above.

3c: EU legislative act covering all AI applications:
We would oppose this option which would be disproportionate, overburdensome, and run counter to stated goals to make the EU a leader in the data economy. This would also ignore the necessary risk-based approach of linked EU policies, e.g. GDPR.
We finally would caution against considering significantly expanding the scope of the future AI regulation to the open ended category of "automated decision making." This would go against the initial, thoughtful direction proposed in the AI White Paper that proposes to focus on the risk-based, double-criterion for sectorial and application/use-based AI technologies.

Option 4: Combination of any of the options above taking into account the different levels of risk:
We support a combination of policy options, notably we favor the main elements of options 0, 1, 3a, and 3b.

Enforcement: Ex ante and/or ex post:
We support a combination of ex ante and ex post enforcement. Ex ante self-assessment and testing procedures should be based on clear due diligence guidance from regulators made against recognised global standards. Authorities can moreover conduct ex post intervention when required and in limited circumstances. We would finally caution against any bureaucratic, lengthy, ex-ante assessments.

Thank you for this opportunity to comment. We stand ready to provide further information.