

By email

Ref.: BEUC-X-2024-055

Brussels, 25 June 2024

Subject: Need for independent national market surveillance authorities under the AI Act

Dear Mr Viola,

We are writing on behalf of 34 civil society organisations,¹ regarding the designation of national market surveillance authorities under the Artificial Intelligence (AI) Act.

We welcome the Commission's aim to ensure that the governance mechanisms foreseen in the AI Act will be set up as soon as possible. This includes the Commission's calls to Member States to appoint national authorities to the AI Board.²

Article 70(1) AI Act is very clear and requires that authorities must "*exercise their powers independently, impartially and without bias [...] to safeguard the objectivity of their activities and tasks.*" However, we are deeply concerned to see that some of the first market surveillance authorities to be appointed would fail to meet the independence and impartiality requirements of the AI Act, as they are politically governed or government dependent.³

Governments across the world are striving to become leaders in the field of AI and providing favourable environments for companies involved in AI development. There is significant political pressure to harness the potential of AI in both the private and the public sector. This could lead to insufficient or no action in addressing the harms of these technologies. Political priorities should not undermine the work of independent regulators.

While market surveillance authorities in other EU product safety legislation might be affiliated to a ministry and politically governed, this should not happen with authorities under the AI Act. AI holds the potential to improve individuals' lives, but only if it is developed and deployed with consumers and fundamental rights in mind. The unprecedented reach and power of this technology into all facets of our lives, including its potential risks and harms to consumers and society, requires regulators to tackle the technology's possible excesses. It is therefore

¹ Please see the full list at the end of the letter.

² <https://www.euronews.com/next/2024/04/03/commission-presses-governments-to-appoint-ai-regulators>.

³ See for example the newly appointed Danish authority 'Agency for Digital Government', which, among other things, is "*in charge of implementing the Danish Government's policies for developing the digital public sector*", <https://en.digst.dk/about-us/>. Another illustration is the Italian authorities AGID – Agency for Digital Italy, and the Italian National Cybersecurity Agency. The head of the National Cybersecurity Agency was recently depicted at a rally for the governing political party in Italy: <https://www.linkedin.com/feed/update/urn:li:activity:7191017890517569536/>.

crucial that regulators are able to work independently and impartially as requested by the AI Act and without undue influence from governments or private companies.

We therefore call on the Commission to issue a clarifying statement for all Member States: Any market surveillance authority appointed to enforce the AI Act, including the single point of contact, must be an independent authority that cannot be instructed by the government, and that is free from political or corporate pressure.

Yours sincerely,

Agustin Reyna

Director General of BEUC

List of signatories:

Access Now,

BEUC – The European Consumer Organisation

Hermes Center

Amnesty International

Alternatif Bilisim (Alternative Informatics Association)

Altroconsumo

ARTICLE 19

Asociația pentru Tehnologie și Internet (ApTI)

Bits of Freedom

Center for AI & Digital Policy Europe - CAIDP Europe

Centre for Democracy and Technology Europe

Citizen D / Državljan D

DECO

Digitalcourage

EDRi

Electronic Privacy Information Center (EPIC)

EKPIZO

European Center for Not-for-Profit Law Stichting (ECNL)

Federación de Consumidores y Usuarios CECU

Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv)

Forbrugerrådet Tænk

Gong

Homo Digitalis

IT-Pol Denmark

Iuridicum Remedium

KEPKA

Norwegian Consumer Council

Organización de Consumidores y Usuarios (OCU)

Politiscope

Privacy Network

Share Foundation

Spoločnosť ochrany spotrebiteľov

StraLi for Strategic Litigation

The Good Lobby