

The Consumer Voice in Europe

Feedback to third draft of the AI Act's Code of Practice for General-Purpose AI



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Why it matters to consumers

AI products and services, such as virtual assistants or ChatGPT, are already changing consumer markets and our societies. These technologies carry hope that they will improve and make consumers' lives more convenient. But the use of AI also comes with great risks. It has major implications for consumers' autonomy, self-determination, privacy, safety and security. It also raises questions about who should be held responsible if the output of an AI system has a detrimental effect on consumers. The implementation of the AI Act must ensure a high level of consumer protection and respect fundamental rights.

The AI Act establishes certain obligations for providers of General-Purpose AI (GP-AI) models and those with systemic risks. To facilitate the application of these rules, which will become applicable as of August 2025, the AI Act started the process of setting up a GP-AI Code of Practice.

Since September 2024, BEUC has been involved in providing input to this Code of Practice. The third draft of the code was published on 11 March and stakeholders were given until 30 March to provide comments.

BEUC welcomes the openness and constructive approach of the chairs and vice-chairs throughout the process to welcome input from stakeholders. For instance, we were grateful for the organisation of a workshop with civil society organizations on 24 March 2025. However, despite certain improvements to the third draft (e.g. the Model Form has to be kept for a period of ten years after the model has been withdrawn), the code still contains significant shortcomings which will negatively impact consumers when using GP-AI systems. Even if we acknowledge that the code is limited by the AI Act's provisions, the law left ample margin for the code to ensure a higher level of consumer protection than in the current version.

Building on our responses to previous drafts, and acknowledging the limited scope for the final version to have substantial changes, our feedback to the third version focuses on two main points: transparency and systemic risk taxonomy requirements.

Transparency

Article 53(1) a) and b) of the AI Act requires that providers of GP-AI AI models draw up and keep technical documentation up to date. It also requires them to share this documentation with downstream providers and, upon request, with the AI Office and national competent authorities. To help companies comply with this obligation, the Code of Practice set up a model form.

Despite our previous requests, we are concerned that the model form continues to ignore the importance of GP-AI model providers sharing key information on how they respect EU data protection and privacy rules, such as proof of compliance with the General Data Protection Regulation (GDPR), with the AI Office, national authorities and downstream providers.

First, the AI Act allows for the introduction of more information than the one mentioned in the annexes of Article 53 (1) a) and b). Both these provisions establish that the providers of GP-AI

should provide "at a minimum" the information mentioned in Annex XI and XII. In other words, the Code of Practice could require more information than that listed in annexes XI and XII to be provided by developers.

Second, when it comes to the downstream provider, the GDPR accountability principle is particularly relevant as it requires the data controller (i.e., downstream provider) to be responsible and to demonstrate compliance with the GDPR. This point is also highlighted in the recent [EDPB Opinion 28/2024](#) on certain data protection aspects related to the processing of personal data in the context of AI models. Including this information in the model form is important as it will facilitate the downstream provider's task to show compliance with the GDPR. This can also contribute to ensuring consistent application of both the AI Act and the GDPR.

Third, it has been argued that information showing compliance with the GDPR is not necessary in the model form as it will be included in the detailed summary mentioned in Article 53 (1) d).¹ It is important to bear in mind that the information included in the detailed summary should not be perceived as replacing the information in the model form and vice-versa. The summary and the model form are complementary, not mutually exclusive. Not only are the recipients of the information in both cases different (the model form is for authorities and downstream providers while the detailed summary is for people who want to exercise their rights), but the level of information and detail should also be different. For example, the downstream provider is interested in understanding whether the GP-AI model is compliant with the GDPR, while the consumer is interested in knowing whether and how their personal data has been used to train the GP-AI model and, if so, how they have done so in line with data protection law.

BEUC recommendation: The model form should include information to show proof of compliance of the GP-AI model provider with the GDPR.

Systemic risk taxonomy

According to Article 51 (1) of the AI Act, GP-AI models with systemic risk are those with high-impact capabilities or those designated by the Commission on a case-by-case basis after considering certain criteria, such as the impact on the internal market and the number of end-users. The code of conduct should specify which risks have to be mitigated by GP-AI models and the taxonomy used therein is important in this respect. Appendix 1.1. of the code lists the risks that are to be assessed as systemic. Appendix 1.2. lists the risks that may be assessed as systemic.

Regarding the systemic risk taxonomy, BEUC is very concerned that the risks to fundamental rights (including risks to non-discrimination and to privacy and data protection) are included under *Appendix 1.2 - Other types of risks for potential considerations in the selection of systemic risks*. The appendix's title suggests that their consideration is optional. This means that providers of general-purpose AI models with systemic risks may not have to take in consideration risks to fundamental rights when carrying out a risk assessment and considering mitigation measures.

¹ According to Article 53 (1) d), providers of general-purpose AI models shall draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office. Recital 107 clarifies that this this summary should be generally comprehensive in its scope instead of technically detailed to facilitate parties with legitimate interests, including copyright holders, to exercise and enforce their rights under Union law.

This is regrettable, and the main consequence is that consumers will be exposed to all types of harmful risks to fundamental rights when using GP-AI models with systemic risks, as these will not have been carefully assessed and mitigated. A [report](#) from BEUC's Norwegian member Forbrukerrådet has explained in detail how GP-AIs are too often discriminatory, not respectful of people's privacy and therefore dangerous to consumers. To make the assessment and any mitigation of these risks optional for GP-AI model providers opens the door to harms continuing and puts consumers at risk.

It's important to highlight as well that to render fundamental rights as an optional category is contrary to the AI Act's objective to protect "*health, safety, fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, including democracy, the rule of law and environmental protection*" (Article 1). Recital 110 also clearly stipulates that systemic risks include risks "to public health, safety, public security, fundamental rights, or the society as a whole".

In a recent letter², many of the co-legislators who negotiated the AI Act made similar points and called on the European Commission Executive Vice-President Virkkunen to ensure that risks to fundamental rights have to be assessed and mitigated by the most impactful GP-AI providers. We fully agree with this statement and call on the chairs as well as on the AI Office to ensure that all risks to fundamental rights, in particular those of non-discrimination and privacy, are included in Appendix 1.1. as types of systemic risks that GP-AI providers have to assess and mitigate.

BEUC recommendation: the assessment and mitigation of risks to fundamental rights, including discrimination and privacy, by the GP-AI model provider should be mandatory. For this to happen, risks to fundamental rights should be introduced in Appendix 1 of the Safety and Security section of the Code of Practice.

² Mlex, *AI model providers see EU legislators raise 'great concern' on code of practice*, 25 March 2025

