

FACTSHEET

Regulating Artificial Intelligence

What is AI and what are the risks for consumers?

Artificial intelligence (AI) is a computer system that uses data to make inferences, predictions, recommendations or decisions through logic-based approaches or machine learning.

AI could yield huge benefits in areas like health, where it could be deployed to detect illnesses, or it could soon drive our cars.

However, there are also significant risks for consumers. The power of AI can make it easy to manipulate a consumer's decisions and discriminate against consumers based, for example, on their financial situation, gender or health. It is also troubling if an AI system takes advantage of a vulnerability, for example someone who has a gambling addiction or who is struggling emotionally.

Some worrying examples of AI for consumers

SOCIAL SCORING PATENT

Rental accommodation app Airbnb [patented](#) AI software that digs through people's online history to predict their behaviour, personality, and to test their trustworthiness.

PERSONALISED PRICING

Dutch consumer group Consumentenbond worked with Consumers International to uncover popular dating app Tinder was using AI to [personalise prices](#), making its older subscribers pay more.

EMOTION RECOGNITION

Spotify [patented](#) technology to analyse consumers' voices and suggest songs based on their "emotional state, gender, age, or accent". Meta is considering how to monetise people's emotions by analysing their eye or body movements.

SOCIAL MEDIA ALGORITHMS

Instagram's algorithms can cause physical and psychological [harm](#) to teenagers by forming addictions and distorting their reality. TikTok is being investigated in the US on similar grounds.

What do consumers think of AI?

BEUC members conducted a [survey](#) across nine EU countries in 2020. Respondents were concerned about the technology's risks and the lack of adequate regulation:

- In Belgium, Italy, Portugal and Spain, most respondents (64%) agreed that companies are using AI to manipulate consumer decisions.
- More than half of the respondents in all countries – with peaks of 70% in Belgium – have low trust in their authorities exerting effective control over AI.

What is the EU doing? The AI Act

The EU is attempting to be the first jurisdiction in the world to introduce specific legislation on AI.

In April 2021, the Commission proposed the AI Act (AIA). It would ban AI which presents unacceptable risk, such as social scoring by governments, or systems which manipulate a human being's behaviour in a way that causes them harm, and set rules for



AI classified as 'high-risk'. AI systems presenting only 'limited risk' would be subject to very light transparency obligations and self-regulatory measures.

Is it enough? What now needs to happen?

Although we welcome the AI Act, we are very concerned that the proposal is not sufficiently addressing the downsides of AI.

1. ALL AI TECHNOLOGY SHOULD BE FAIR, TRANSPARENT AND ACCOUNTABLE.

The proposal focuses mostly on 'high-risk AI systems'. Bar light transparency measures, the proposal relies on self-regulation by the industry and does not set binding measures for other types of AI, such as virtual assistants, connected toys, AI used to determine insurance premiums, or for content recommender systems on social media.

The principles of transparency, fairness and accountability should be embedded in the DNA of all AI, not just high-risk systems. For example, all AI systems that set a price or decide on access to a service should be transparent about their functioning and be able to provide explanations about how they reached their decisions.

It is also crucial that AI never discriminates against consumers based on the size of their bank account, their past purchases and decisions, health, sexual orientation, or other criteria. And all AI providers should regularly monitor their AI system and assess if it respects the obligations set out in the AIA.

2. MORE HARMFUL AI PRACTICES SHOULD BE BANNED OUTRIGHT.

The proposed list of banned AI systems is too lenient. The list should be extended to include more systems which carry unacceptable risk, either because their potential to cause harm is too high, or because they undermine the fabric of our societies. These include practices like social scoring or facial recognition in public places by companies.

The EU should also ban AI applications which can manipulate consumers and cause economic harm, like price optimisation techniques where insurance or other firms target price increases to those perceived as less likely to switch and/or likely to pay more. AI which exploits a consumer's vulnerability, like their inclination to overspend or to gamble, should also be forbidden.

3. CONSUMERS MUST HAVE STRONG RIGHTS TO REDRESS THEY CAN RELY ON WHEN AN AI HARMS THEM.

A technology of this complexity and reach cannot be rolled out without giving rights to the people who will be affected by it.

Consumers need to be able to:

- object to algorithmic decision-making and request human intervention whenever a decision can have a significant impact on them;
- submit complaints to their national authority or launch legal action in court when an AI system breaks the law;
- be represented by civil society groups when exercising their rights. These organisations must also be able to launch complaints and legal actions, including injunctions, in defence of the general interest;
- receive compensation for damages suffered, including through collective redress mechanisms in EU and national law.

4. THERE NEEDS TO BE A CLEAR AND ROBUST ENFORCEMENT SYSTEM TO SUPPORT THE AIA.

Given the power, complexity and risks of AI, anything less than top class enforcement will be inadequate. The enforcement mechanism needs to be improved by:

- setting up a body of specialists designated by the Commission that can assist national authorities in their investigations;
- allowing the Commission to step in when there are inconsistent or ineffective decisions reached, or in case of inaction by the competent national authorities.

The Commission proposal assumes that if an AI system complies with yet-to-be-drawn-up harmonised technical standards, it will comply with the AIA. But standards should not be used to define or apply legal principles or fundamental rights, and should never be used to replace normal democratic procedure.