



An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act): Submissions received

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Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

**Response from the American Chamber of Commerce Ireland
(AmCham) to the Department of Enterprise, Trade, and
Employment's Public Consultation.**

July 2024

The American Chamber of Commerce Ireland The Voice of US-Ireland Business

The American Chamber of Commerce Ireland (AmCham) is the collective voice of US companies in Ireland and the leading international business organisation supporting the Transatlantic business relationship. Our members are the Irish operations of all the major US companies in every sector present here, Irish companies with operations in the United States and organisations with close linkages to US-Ireland trade and investment.

Question 1- What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

The introduction of the AI Act will have a considerable impact across industry and wider society, AmCham therefore appreciates Government's consultative approach to the implementation of the Act. Ireland has a significant presence of companies that are leading innovation in AI, indeed many of these companies have their EMEA HQs or significant operations here. According to AmCham's latest leadership survey, 44% of members that are carrying out research projects are doing so in the area of AI, and 44% of all members expect developments in AI to enhance their investment in Ireland in the next 5 years. Ireland therefore has significant potential to be a centre of excellence for AI within the EU and should capitalise on this opportunity and showcase its commitment to regulating the sector in a thoughtful and balanced manner that mitigates potential risks, while supporting responsible AI innovation. As the transatlantic gateway between the US and the EU, and given the presence of 970 US MNCs in Ireland, there is vast industry expertise available to ensure Ireland takes a proactive and informed approach to implementation of the AI Act in a manner that fosters responsible innovation and continues to attract investment and accelerate economic growth.

AmCham notes that there are advantages and tradeoffs to each of the potential compositions of the national competent authorities. A centralised approach could mean more limited sectoral expertise and may take considerable time and resources to establish. A decentralised approach, whilst having a greater amount of sectoral expertise, requires stronger efforts at coordination, transparency, and legal clarity. One solution to this may be to examine the potential of utilising a hybrid hub-and-spoke approach. In such a scenario there would be one market surveillance authority, with this authority consulting with sector specific bodies to enhance its sectoral expertise. The same approach would apply to the national notifying authority.

Regardless of the configuration of the national competent authorities for implementation of the Act, AmCham would stress the importance of ensuring any future regulators are empowered to build a workforce with the necessary technical skills and appropriate resources. Article 70 of the Act stipulates that member states "*shall ensure that their national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively under this Regulation.*"¹ It is therefore of the utmost importance that expertise is prioritised in the establishment of the national competent authorities. Resourcing in terms of funding is key and Government must invest and earmark appropriate funds, with transparency on

¹ <https://www.euaiact.com/article/70>.

the allocation of funding. The relevant resources must be provided to ensure highly skilled personnel are attracted to work for these authorities, and that they are provided with the necessary tools and ongoing training to fulfil their role to a high standard and in line with market developments. Steps must be taken to ensure that the requirement for personnel with an *“in-depth understanding of AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks and knowledge of existing standards and legal requirements”*² is adhered to. This will require a concerted effort from Government, in collaboration with industry and academia, to examine how best to ensure that Ireland has the capacity and the skills base to fulfil its regulatory functions in AI and beyond.

Indeed, with digitalisation and use of AI across all sectors, it is of intrinsic importance that all of our regulatory bodies are digitally ‘savvy’. This will be crucial if a sectoral approach to the competent authorities is adopted and is important even if this is not the case. Resourcing of regulators across the board with skills and training to cater for both current and future digital innovation will further enhance Ireland by providing the capability for its regulatory framework to be both reactive and proactive. It is essential that the regulatory environment does not hinder responsible innovation, but rather enables it in a manner that is ethical and focused on consumer empowerment and protection. To make this a reality, there must be a focus on ensuring all regulatory bodies (including those who may not traditionally have been digital focused) have the necessary skills at a sufficient level to adequately engage with new digital innovations within their area of remit.

Regulators need to have the capacity and appropriate statutory regime to facilitate a comprehensive approach to AI regulation which strikes a balance between fundamental rights and the promotion of innovation and economic growth. Regulators must have an in-depth understanding of the relationship between various policy objectives and should adopt an approach that champions balance in the interests of society at large. The regulatory footing on the national competent authorities must promote responsible innovation in accordance with the EU Data Strategy, adhering to the balance test required under the EU Charter of Fundamental Rights and Freedoms.

The Act notes that *“National competent authorities shall take appropriate measures to ensure an adequate level of cybersecurity.”*³ As such, the national competent authorities should align with the work of the National Cyber Security Centre (NCSC), and Government should enhance efforts to ensure that Ireland has resilient cybersecurity

² Ibid.

³ Ibid.

systems in place. National competent authorities should further align the Department of Environment, Climate and Communications, the Garda National Cyber Crime Bureau, the relevant educational and research institutions, and other relevant bodies accordingly. Significant investments in enhancing cybersecurity infrastructure in Ireland will support the growth of both AI opportunities and the wider digital ecosystem. Development in all digital areas needs to be underpinned with resilient cybersecurity. In this regard, AmCham welcomes the Department's recent consultation on its Cybersecurity Industrial Strategy. Again, a focus on skills will be key going forward and as such should be given a renewed focus.

Regulators should seek to establish trust and to protect the public. The national competent authorities therefore need to be well structured and rigorous in their work to ensure that current and evolving areas of concern and risk are appropriately identified and addressed. It is key that clear and streamlined procedures are established in order to enhance certainty for industry and minimise delays. Core principles such as the maintenance of confidentiality, non-duplication of requests, measures of last resort, and requests to be proportionate, should be adhered to. Best practice can further be ensured by establishing a review process in terms of how Ireland implements the Act.

Progress in AI is happening at a rapid rate and requires frameworks with the ability to adapt accordingly to mirror the fast-changing landscape and the development of best practices in terms of technology and international standards. It will be crucial that Ireland aligns itself with international standards and best practice and is outward looking in its approach to AI. International cooperation will be key, and Ireland should leverage its strong relationships with international partners, such as the US and the UK. For example, Ireland should further promote collaboration and acknowledgement between UK and US Safety Institutes and the EU's AI Office. This will be important for a number of reasons, in particular, so that a patchwork of regulations is avoided and to ensure that there is mutual agreement and understanding regarding risks and risk assessments going forward.

Question 2- Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

As noted above, a balance between regulation and innovation is key. There is a considerable amount of EU Regulation in place and coming down the line that applies to AI and related technologies. There are also already many sectoral regulations that apply to AI (e.g. product liability, consumer protection, privacy etc.) As a result, companies are already implementing a risk-based approach to their work with AI. Given the considerable

amount of EU Regulation that has been introduced (for instance DSA/NIS2/Data Act), there is a need to let existing and new regulation bed down, determine how it should apply to relevant AI use cases, and to take stock. In this regard AmCham would welcome a phase of reflection in terms of the digital regulatory landscape.

AmCham would particularly highlight the interplay between the AI Act and GDPR. Clarity is needed regarding the procedures that will be put in place to ensure consistency and alignment between AI regulators and data protection regulators in terms of the processing of data for the development and deployment of AI. Indeed, the relationship between AI and data protection is recognised in the AI Act.

Government must also consider the AI Liability Directive in the context of the AI Act, given that the expansion of operators potentially liable may have a disincentivising impact on innovation in Ireland. As such, this should be taken into account in the transposition of the Directive. As referred to above, the DSA must also be considered, with Coimisiún na Meán acting as the designated lead competent authority for Ireland here. The Competition and Consumer Protection Commission (CCPC) also acts as a designated competent authority under the DSA, with responsibility for online marketplaces. The CCPC will be a key part of any overall regulatory Memorandum of Understanding and should have a prominent role in working with the national competent authorities.

The Digital Operational Resilience Act (DORA) will also be important in terms of cybersecurity, and national competent authorities should work closely with the Central Bank of Ireland in this context.

There is, in particular, a need for regulatory coherence and AmCham would highlight the importance of consistency across all regulators. There has been a sizeable increase in the volume of EU regulation over the last 5 years, and this has led to an increased administrative, compliance and financial burden for business in the EU and Ireland. Clarity is needed from the regulatory bodies in terms of their guidance, how they will work together, how they will engage with industry, and how they will communicate their work publicly.

To the greatest extent possible processes should be streamlined and legal overlaps should be avoided. This can be achieved in several ways. For example, Government should promote enhanced cooperation between the authorities enforcing EU AI and digital legislation. The establishment of a group between the relevant authorities to facilitate this cooperation in order to minimise regulatory complexity would be beneficial. Government should further consider completing a comprehensive assessment on the various different pieces of digital legislation in order to produce a clear idea of any legal

overlaps or potential conflict areas. Indeed, calls should be made for greater clarity from the European Commission with regard to possible overlaps in current and future legislation.

The opportunity exists alongside the introduction of the AI Act for Government to provide all regulatory bodies with core statutory duties focused on competitiveness, growth, and innovation. Government should provide guidance to regulatory bodies, to support companies in ensuring compliance in advance of any enforcement actions following the provision of clear standards and guidance from the regulators to industry.

Question 3- How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

It is key that the AI Act is introduced in a way that maintains Ireland’s pro-innovation outlook. There is a need for a regulatory framework that allows for responsible R&D and one that is responsive, risk based, and technology neutral. The regulatory regime needs to be proportionate and coincide with the actual risk and use case, for example there should be a different approach adopted to General Purpose AI than that towards High-Risk AI.

Government should pay particular attention to aspects of the Act which encourage innovation. For example, the Act notes that “*Member States shall ensure that their competent authorities establish at least one AI regulatory sandbox at national level.*”⁴ The establishment of sandboxes will be crucial in placing Ireland as a European leader in AI into the future, and Ireland should adopt an ambitious approach in terms of the amount and scale of sandboxes established. They should not discriminate against size or sector if they deliver on the aims as envisaged in the Act. AmCham further suggests that efforts are made to ensure that regulatory sandboxes are established prior to the 2-year deadline. Continuous engagement with key stakeholders will be key if Ireland’s sandboxes are to advance innovation at a competitive rate. Further, financially incentivising the creation of sandboxes through grants or tax incentives would be beneficial in supporting and furthering innovation in Ireland.

Ireland needs to have the appropriate digital infrastructure in place if it is to reach its potential in AI. This will require investment in data, cloud infrastructure, and compute capacity. As such, Government should implement measures to facilitate the conversion of research and ideas into feasible services and products. In order to achieve this,

⁴ Ibid.

Government must work closely with industry and academia to establish areas for collaboration.

The National Training Fund could be utilised to facilitate the development of the necessary technical expertise to support AI developments into the future, as part of its mandate is the funding of research to cater for the likely future skills needs of the economy.

As noted above, collaboration with international partners will be crucial to the success of Ireland's AI future. Ireland and Europe should look to reach international agreements on trade and investment policies that enable cooperation and information sharing on AI with trusted partners. This can be achieved through mechanisms such as the Trade and Technology Council (TTC), which has a dedicated AI subgroup, taking account of the opportunities which exist for the EU, the US and the transatlantic relationship.

Question 4- How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

There are several different ways that the implementation of the AI Act can drive, support and accelerate progress in Ireland's position as a leader in AI. For example, it is important that AI is 'democratised' so that all of Ireland's society and economy experience the benefits that it can offer. The democratisation of AI will require a focus on digital skills development for people of all ages and from all backgrounds/career paths. AmCham suggests the provision of multi-annual funding to accelerate the delivery of the National Digital Strategy, with ringfenced funding in place. Significant opportunity exists in this context to make a substantial impact, with a focus on AI but also on cybersecurity, digital literacy, and immersive technology. A focus on skills development serves to enhance the opportunities that exist for Ireland in terms of AI innovation, in creating new jobs, and in attracting further investment to Ireland in this area.

AmCham further suggests that Government launch a widespread communications campaign, in order to ensure that the general public are informed of the realities of the benefits of AI, to build trust in its utilisation, to educate and promote foundational AI literacy, and to counter any misinformation that has accompanied its recent rise in public consciousness. It will be beneficial for individuals and businesses, particularly SMEs, to have a greater understanding of what the AI Act will mean for them in reality, how it offers protection and opportunities, and how Ireland will strive to be a European leader in AI. Industry is happy to engage and collaborate with Government on a public awareness

campaign. AmCham recommends an open approach to keeping all stakeholders informed, as continuous engagement will help to drive support for Ireland's AI aims.

It is important that Ireland plays its part in influencing the AI Office and AI Board at EU level. In particular, greater clarity is needed for industry regarding how the EU's AI Board will operate, and the extent and format of industry engagement with it. Addressing this communications challenge at EU level would be beneficial.

Additionally, given the fact that many global leaders in AI have significant operations here, it is important that Ireland works closely with other EU Member States and international partners (the US and UK in particular) to ensure a smooth harmonisation on the implementation of the AI Act, as this will drive support and accelerate progress for Ireland's AI strategy.

Finally, it is key that there are concrete roadmaps with clearly defined deliverables in place across the numerous regulatory and governmental bodies that will play a role in the success of Ireland's AI future. This will be important in ensuring that roles are sharply defined, that Ireland is able to measure progress, and that industry is able to continue to engage on this topic in a meaningful way.

Email Submission from Eamonn Boyle

From: Eamonn Boyle <Email address redacted>
Sent: 03 June 2024 09:19
To: ConsAI Regulation
Subject: AI

EXTERNAL MAIL

Do not click links or open attachments unless you recognise the sender and know the content is safe or expected. Contact ICT Helpdesk if unsure

To whom it may concern

The main worry that I have with AI is the possible damage that it would do to jobs .

Thanks
Eamonn

Response by Brightbeam AI Ltd to the Public Consultation on National Implementation of the EU AI Act

Brightbeam is focused on the world of artificial intelligence, specialising in transforming enterprises by embedding AI into every product, process and service. We help our clients deliver superior experiences, leverage their data for innovation & differentiation and achieve significant productivity gains. A team of sense-makers, helpers and doers, Brightbeam understands what it takes to design and engineer enterprise-grade solutions at speed. With a commitment to excellence, security, and proactive collaboration, Brightbeam is dedicated to pioneering advancements in the world of human and AI collaboration in the Enterprise.

Question 1:

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Answer

In addressing the optimal configuration of national competent authorities for the implementation of the AI Act, it is essential to establish a centralised authority. This central body should be responsible for overarching supervision and enforcement, ensuring uniform adherence to the Act's stipulations and facilitating coherent communication strategies across all sectors.

While maintaining a centralised management structure, it is vital that this authority not operate in isolation. It should actively engage with sector-based groups such as IBEC, ISME and representatives from specialised industries like Medtech, Biopharma, Renewables, etc... These groups would provide crucial input, enabling effective benchmarking and informed decision-making, and ensuring that the unique needs and expertise of different sectors are accurately integrated into the regulatory framework.

The centralised model should also be designed to address the specialised needs of industries dealing with sensitive data, like GXP in pharmaceuticals or Personal Health Information in healthcare. These sectors require tailored approaches to ensure that their specific data handling complies with the overarching goals of the AI Act, without compromising the uniform enforcement across other sectors.

Moreover, it is paramount to ensure that the authority's configuration promotes accessibility and responsiveness, particularly for SMEs and startups. This involves providing clear and



direct channels for regulatory navigation and being agile enough to respond to rapid developments in AI technologies.

Effective coordination and robust information-sharing mechanisms are crucial, regardless of the structural model. These mechanisms will facilitate the exchange of best practices, pooling of resources, and the development of a coherent national strategy for AI regulation. Such systems will aid in maintaining consistency in the application of the AI Act and reduce the risk of fragmented enforcement.

The authorities must possess multidisciplinary expertise—not only in technical fields but also in legal and ethical domains—to manage the compliance of diverse AI systems effectively. Continuous investment in training and capacity building will be essential to keep pace with the rapidly evolving landscape of AI technologies.

Lastly, the transparency and accountability of the roles, responsibilities, and decision-making processes within these authorities are crucial. Clearly defining these elements and implementing robust mechanisms for stakeholder engagement and public reporting will ensure that the implementation of the AI Act is effective, equitable, and aligned with societal expectations.

In conclusion, while the authority should centralise its management structure, it must remain flexible and inclusive of sector-specific inputs. This dual approach will ensure that the AI Act is uniformly enforced while also respecting and addressing the diverse needs and challenges of various sectors, thereby supporting a balanced and effective national implementation.



Question 2:

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Answer

The potential for synergies between the AI Act and existing EU regulations is significant, particularly as they impact digital markets, services, and infrastructure. These regulations, which include consumer protection, cybercrime, anti-fraud measures, and anti-money laundering within the financial sector, are intrinsically linked to the AI Act. They contribute to a more harmonised regulatory environment that enhances the Digital Single Market, making it crucial to consider them as part of a holistic AI implementation strategy.

The General Data Protection Regulation (GDPR), Digital Markets Act, and Digital Services Act are prime examples of how integrated regulatory approaches can enhance consumer trust and facilitate the ethical deployment of AI technologies. These laws underscore the necessity for stringent data protection and cybersecurity measures which are pivotal for developing AI systems that meet the AI Act's requirements for trustworthy, human-centric AI.

In practice, to ensure seamless integration and manageability, especially for SMEs, the implementation strategy should include roles similar to the GDPR's Data Protection Officer — possibly extending to AI specialists who can manage compliance across this complex regulatory landscape. This approach not only ensures compliance but also supports innovation and maintains Europe's competitive edge in digital technologies.

Furthermore, the implementation must ensure that all digital regulations are coherent and comprehensive, covering all bases to prevent compliance gaps. Technology will play a crucial role in ensuring that businesses adhere to these standards and maintain well-documented processes.

Looking ahead, as AI technology and its applications evolve, so too will the need to update these interconnected regulations. While our focus currently is on aligning and complying with existing laws, we must also prepare for future amendments to ensure that the regulatory framework remains effective and relevant.



In conclusion, the implementation of the AI Act, aligned with the objectives of the Digital Markets Act, Digital Services Act, Data Governance Act, and the Data Act, presents an opportunity not only to enhance the Digital Single Market but also to promote responsible innovation, protect fundamental rights, and position the EU as a leader in digital innovation and trustworthy AI. Coordinated enforcement and guidance will be key to realising these synergies and ensuring that AI systems respect EU values and rights across the digital ecosystem.



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Question 3:

“Harnessing Digital - The Digital Ireland Framework” establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ireland's implementation of the AI Act presents a pivotal opportunity to solidify its standing as a leading digital economy, enhance its regulatory framework, and spur innovation, particularly for SMEs and startups. By developing a supportive and transparent regulatory environment, Ireland can foster an ecosystem that promotes the equitable and responsible deployment of AI technologies.

Promoting Ireland as a Center for Trustworthy AI

By establishing a robust and clear regulatory framework, Ireland can become a globally recognised hub for trustworthy, human-centric AI. This strategic positioning upholds European values and attracts international AI firms seeking a stable, innovation-friendly environment. Ireland can enhance its appeal to global investors and developers by ensuring transparency and adherence to high ethical standards.

Supporting SMEs and Startups

To prevent regulatory capture by larger corporations and reduce barriers for SMEs, Ireland can provide tailored support through document and technology toolkits that help these businesses integrate AI into their operations efficiently. Targeted support programs and regulatory sandboxes, which consider the specific needs of SMEs and startups, will enable local innovators to scale up and compete internationally.

Fostering Public-Private Collaboration

Enhancing stakeholder engagement across industry, academia, and civil society is crucial. Collaborative efforts can improve transparency, build public trust, and ensure that the



regulatory framework keeps pace with technological advancements. This model will facilitate a dynamic AI ecosystem that supports continuous innovation and adaptation.

Aligning with National AI Strategy

The implementation should be closely coordinated with the "AI - Here for Good" National Artificial Intelligence Strategy to drive synergies across economic, social, and ethical dimensions of AI development. This alignment showcases a holistic, people-centric approach to AI regulation and highlights Ireland's commitment to responsible innovation.

Strengthening International Cooperation

As a member of the D9+ group, Ireland is in a strategic position to influence the EU's digital agenda and share best practices in AI regulation. This proactive engagement in international forums can further enhance Ireland's stature as a regulatory leader and an attractive destination for AI investments and talent.

Enhancing Public Services Through AI

Integrating AI to transform public services can significantly improve efficiencies and citizen satisfaction. By automating routine processes in sectors like social welfare, health, and law enforcement, Ireland can reduce administrative burdens and enhance service delivery, allowing professionals to focus more on their core responsibilities.

Balancing Productivity and Employment

While leveraging AI for productivity gains, it is essential to maintain a balance with job security and workforce development. The AI implementations should augment rather than replace human capabilities, improving work conditions and overall job satisfaction.

By thoughtfully implementing the AI Act, Ireland can enhance its digital economy and set a benchmark for innovation and regulatory excellence. The focus should be on creating a supportive ecosystem that promotes growth, ensures equitable AI deployment, and enhances public services, thereby securing a competitive edge in the global digital landscape.

Question 4:

"AI - Here for Good: National Artificial Intelligence Strategy for Ireland" sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In



recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

The implementation of the AI Act in Ireland provides a strategic opportunity to bolster its status as a global leader in AI, leveraging the technology for substantial economic and societal gains. Aligning this implementation with Ireland's "AI - Here for Good: National Artificial Intelligence Strategy" ensures a people-centered, ethical approach to AI that meets and exceeds regulatory obligations, setting an international benchmark for responsible AI usage.

Framing AI Positively

- **Public Perception:** It's essential to portray AI as a positive force for advancement, akin to historic breakthroughs, rather than a threat. By highlighting AI's potential to significantly improve the quality of life and introducing it with supportive government messaging, public resistance can be minimised.
- **Regulatory Alignment:** Regulations must protect against potential AI risks while emphasising the benefits such as enhanced efficiency and improved decision-making in sectors like healthcare and transportation, thus aligning with broader economic and societal goals.

Incremental Implementation

- **Avoiding Big Pitfalls:** To prevent the setbacks seen in large-scale AI projects, Ireland should adopt a phased approach, starting with small pilot projects that can be expanded based on success and learnings.
- **Engaging SMEs and Experts:** Incorporating input from SMEs and AI experts ensures diverse insights and fosters innovation, preventing market dominance by large corporations and ensuring comprehensive stakeholder involvement

Building Trust in AI

- **Quick Value Delivery:** Rapid delivery of tangible benefits is crucial for building and maintaining public trust in AI technologies. Initiatives that quickly improve daily life, such as enhancing public service delivery or educational tools, can help solidify support for AI.



- **Transparency and Oversight:** Implementing stringent safeguards and providing transparent reporting on AI assessments and enforcement actions are essential to build trust. These measures should clearly communicate the ethical use of AI and the protections in place against misuse.
- **Evidence and Advocacy:** Ireland should be vigilant against the undue influence of large corporations in AI policymaking. Ensuring that AI policy is balanced and that government spending on AI is fairly distributed will help maintain a balanced approach to AI governance.

Leveraging AI for Economic and Societal Benefit

- **Strategic Alignment with National Goals:** Ensuring that the AI Act's implementation supports Ireland's goals for AI-driven innovation will help harness AI for enhancing key industries and societal functions.
- **Support for SMEs and Startups:** By providing targeted support and regulatory sandboxes, Ireland can facilitate the rapid adoption of AI across various sectors, promoting economic growth and innovation.

Enablers for AI

- **Investment and Collaboration:** Encouraging investment in AI research, skills development, and infrastructure is crucial. Collaboration with industry, academia, and civil society will help refine regulatory measures and support innovation, adhering to the ethical standards set by the AI Act.
- **Regulatory Adaptability:** Agile regulatory practices are necessary to keep up with the pace of AI advancements. Competent authorities must ensure consistent enforcement across sectors and provide clear, actionable guidance to AI providers and users.

Conclusion Through thoughtful framing, careful incremental implementation, robust trust-building measures, and strategic national alignment, Ireland can fully harness the potential of AI to enhance its economy and society. This comprehensive approach ensures not only compliance with the AI Act but also positions Ireland as a beacon of responsible and innovative AI use globally. The AI Act's implementation will demonstrate how technology can be a force for good, benefiting all sectors of society and setting a global standard for ethical AI practices.





Submission in response to the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

CeADAR is Ireland's national centre for AI and the designated European Digital Innovation Hub (EDIH) for AI in Ireland. We are an Enterprise Ireland and IDA funded technology centre established to support businesses and organisations in Ireland understand, adopt and leverage the benefits and value of AI in a constantly advancing and evolving environment.

As a not-for-profit centre of innovation and applied R&D in AI, we work with a range of organisations, including startups and SMEs, established businesses, government and public sector, research and academia, spanning every industry vertical, enabling them to adopt and leverage the value of AI.

The centre sits as the bridge between the worlds of applied research in AI and its commercial deployment. CeADAR was established in 2013 and is based within University College Dublin but also has national and international reach.

CeADAR is one of only 9 Gold i-spaces in the EU and has won national awards for contributions to the development and implementation of AI strategy to businesses in Ireland. The Centre contributes on various task forces in the OECD, the EU, the Department of Enterprise, Trade and Employment, National Standards Bodies and business representative groups.

Responses to Section 4 Consultation Questions

1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Given CeADAR has extensive experience of sector-specific AI adoption challenges, the Department should consider the role CeADAR can play in overcoming any coordination challenges arising from adopting a more distributed approach.

3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ireland's thriving tech sector presents an opportunity for Ireland to become a leader in regulatory sandboxing in relation to the AI Act. Through its extensive European networks, CeADAR is part of a community of experts on AI regulatory sandboxes which serves as a dynamic platform for exchanging ideas, best practices, and solutions to common challenges encountered in respective European jurisdictions. The aim of this community is to identify practical solutions for establishing and managing AI regulatory sandboxes within both national and EU/international contexts. As an active participant, CeADAR can leverage this affiliation to support Ireland in becoming a leader in AI regulatory sandboxing.

4. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Further to becoming a leader in AI regulatory sandboxing, Ireland is well placed to develop and adopt guidelines, standards and frameworks that govern the ethical use of AI. To support this, CeADAR has experts who sit on the NSAI AI subcommittee contributing to AI standards development, which is helping inform best practice in relation to adopting AI systems that comply with the AI Act. CeADAR can support the development and deployment of trustworthy AI solutions that adhere to the highest ethical standards, focusing on transparency, fairness, and accountability. Furthermore, these trustworthy AI solutions can be leveraged to address critical challenges in areas such as healthcare, education and sustainability. Moreover, CeADAR can support Ireland in its development of top AI talent through its education and training programmes which are informed by its programme of work, some of which is outlined in this submission.

The establishment of CeADAR as the national AI Innovation Hub and Ireland's European Digital Innovation Hub in AI underpins Ireland's holistic approach to creating an enabling ecosystem for trustworthy AI innovation. As such, CeADAR stands ready to support Ireland's implementation of the EU AI Act.



Q1- What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

This question considers different approaches to the designation of competent authorities, ranging from a centralised model to a more distributed, sector-based approach. By national competent authority, the AI Act means (i) Market Surveillance Authority (MSA) or (ii) notifying authority.

The AI Act is complex and while it is new, it will need to align with existing regulations, powers, practices and mandates at national and EU authorities. The AI Act is wide-ranging providing a framework for the development, deployment and the use of AI systems. At the same time, mitigating various types of risks to health and safety and breaches of fundamental rights across many sectors – including financial services – means that vastly different AI systems in very different industries are covered by one EU regulation.

As such, AI systems use and risk is context-dependent. Within financial services, there is a significant body of existing regulations and standards covering the types of activity identified under the AI Act as high-risk. Therefore, there are inherent links with the role of sectoral and any horizontal supervisory authorities (domestic or EU level).

In a sector-based model the co-ordination, and the roles and responsibilities of the national competent authorities should be clear and transparent, with an understanding of how they fit within each other's existing remit. For example, there needs to be clear distinctions between co-ordination at national and EU level and supervision as per the AI Act, the former should not affect the latter as the overall accountability for supervisory tasks remain with the relevant supervisor. Coordinating authorities will need to take this into account both at a national and EU level.

The Central Bank regulates financial institutions and markets through risk-based supervision, which is underpinned by credible enforcement deterrents. The Central Bank is part of the European System of Financial Supervision, and the ECB Single Supervisory Mechanism for supervising large banks (significant institutions). These provide mechanisms to co-ordinate on implementation at EU level within financial services.



The Department may wish to consider how to best organise co-ordination at a national level. As part of this co-ordination, the Department may wish to consider how information would flow between sector specific national MSAs. This includes adequate information ‘gateways’ to exchange information, that takes into account existing sector or MSA/institution specific legislative requirements regarding confidentiality, and ensures the effective implementation of the AI Act and facilitates the sharing of supervisory intelligence and information related to incident reporting as envisaged under the AI Act.

Regarding the MSA for the financial sector, according to recital 158¹ of the AI Act, the Central Bank should be designated as competent authority for the purpose of supervising the implementation of the AI Act, unless this is designated to another authority. This description in the AI Act implies a sector-based approach when it comes to the supervision of the financial sector. Accordingly, we support the designation of the Central Bank as MSA for the financial sector. We highlight the importance of designating the Market Surveillance Authorities as soon as possible given the provisions of the AI Act on Prohibited AI Practices come into effect in February 2025.

Q2 - Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

In 2020, the European Commission’s (Commission) digital finance package set out its strategy and legislative proposals for a competitive EU financial sector that would give consumers access to innovative financial products, while ensuring consumer protection and financial stability. As a result, the Markets in Crypto Assets Regulation (MiCA), the Digital Operational Resilience Act (DORA) framework and the Distributed Ledger Technology (DLT) pilot regime have been finalised and are in the process of being implemented. In broad terms, these are examples of where new regulations aim to provide an environment where new technologies can be applied safely and at a high standard. That being said, the scope of the regulations mentioned above cover specific sectors/activities within financial services and are framed differently to the AI Act. Therefore,

¹ Recital 158: (...) the competent authorities for the supervision and enforcement of those legal acts, in particular (...), should be designated, within their respective competences, as competent authorities for the purpose of supervising the implementation of this Regulation, including for market surveillance activities, as regards AI systems provided or used by regulated and supervised financial institutions unless Member States decide to designate another authority to fulfil these market surveillance tasks. (...)



synergies regarding implementation and guidance based on previous sector specific regulations are somewhat limited in comparison to the cross-sector product-safety approach under the AI Act.

Q3 How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

The AI Act can support Ireland's position in being a leading digital economy by providing a clear system of outcomes-focused regulation and supervision that is proportionate, transparent and predictable and with innovation approached as a key aspect of a well-functioning economy and subject to an appropriately risk-based regulatory framework. This includes clarifying the scope and organising the national and EU co-ordination across sectors.

This includes identification of relevant stakeholders to provide further guidance/clarification on some of the scope and cross-cutting issues mentioned in the Annex to this letter. In particular, being clear about the scope of the regulation (what AI is covered by the AI Act), and why there are particular exclusions. There are several cross-cutting issues that remain to be clarified by the Commission/AI Office or other authorities, and have remained unclear for the past number of years while the AI Act was being drafted.

In terms of organisation, this includes how best to give effect to regulation. From the perspective of the Central Bank as a potential MSA, it is important to be clear about how supervision of high-risk use cases and of the use of prohibited AI practices will be organised nationally and at EU level, including how authorities responsible for cross-cutting implementation issues and issues related to protecting fundamental rights will be identified.

In the AI Act implementation, the Commission has a role to develop guidelines regarding implementation taking into account existing financial services regulation (as part of existing Union law). The European Supervisory Authorities (ESAs) have commenced plans to explore gaps and overlaps between the AI Act and existing sectoral legislations. However, it is unclear at present what the Commission or other EU bodies (ESAs, ENISA) will be taking forward and what will be left to Member States, and within Member States what will fall to central banks and regulatory authorities.



We need clarity on how the requirements of the AI Act will apply with existing regulations such as the DORA framework. For example, there are specific links to DORA, operational resilience and oversight of outsourcing including providers of AI systems and their end use by financial services firms. It is unclear, at present, where oversight of third party providers to financial services firms sits between the AI Act and DORA, including if providers are critical third party providers as there are additional supervisory requirements under DORA. There are requirements related to General-purpose AI models (GPAIs; Chapter V), where it is the AI Office that may be directly responsible. However, further clarity would be welcomed on the role of MSAs in relation to the requirements on GPAIs, including their application within financial services.

The Central Bank has actively contributed to the work of EIOPA and the International Association of Insurance Supervisors (IAIS) in the areas of digitalisation, innovation and AI. EIOPA has published a report² on digital ethics setting out AI governance principles for ethical and trustworthy AI in the European insurance sector. In 2020, the Central Bank co-chaired the EBA Task Force that produced the main [EU Loan Origination Guidelines](#) on credit risk and credit worthiness assessment, covering some key aspects of the high-risk use case related to credit worthiness assessment under the AI Act.

At the national level, in the context of AI and the AI Act, we have provided technical observations to the Department of Enterprise, Trade and Employment (DETE) throughout the AI Act's development at technical/working level. In 2023, the Central Bank undertook a research project, the [Data Ethics Within Insurance Project](#), which aimed to further develop the Central Bank's understanding of the nature and extent of the use of Big Data and Related Technologies generally and across the insurance value chain and the consideration of ethics as part of that.

As stated in the Central Bank's Regulatory and Supervisory Outlook Report³, over 2024/25, the Central Bank will be undertaking policy work and developing its supervisory expectations of regulated entities related to the use of AI in financial services. This includes preparing for the

²https://www.eiopa.europa.eu/eiopa-publishes-report-artificial-intelligence-governance-principles-2021-06-17_en

³<https://www.centralbank.ie/docs/default-source/publications/regulatory-and-supervisory-outlook-reports/regulatory-supervisory-outlook-report-2024.pdf>



implementation of the AI Act. This will build on our previous relevant experience, and we continue to seek clarification on the cross-cutting issues we have identified to foster a proactive implementation of the AI Act.

Q4 How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

The National AI Strategy is founded on three core principles: adopting a human-centric approach to the application of AI; staying open and adaptable to new innovations; and ensuring good governance to build trust and confidence for innovation to flourish. These principles resonate with the Central Bank's approach of supporting innovation in the financial sector.

As mentioned in our response to Q2 and Q3, there are cross-cutting issues that remain to be clarified to ensure that a human-centric approach to AI is followed, as well as appropriate governance that can lead to trustworthy AI, both of which can enable innovation.

The Central Bank has enhanced the functioning of our Innovation Hub which seeks to help innovators to gain a deeper understanding of our regulatory and supervisory expectations by sharing our perspective on innovation – including AI – within financial services including with our subject matter experts.

We are establishing an Innovation Sandbox Programme in Quarter 4, 2024. This new facility will be outcomes-focused, providing regulatory advice and support for participants while adopting a thematic approach in relation to innovative technology, including but not limited to AI. It aims to enhance and support innovative technology outcomes in line with the public interest, to facilitate the mutual understanding and development of new ventures, innovative business models, and new ways of serving customers and potentially expedite the deployment of substantially new technologies, new products, or new services across the ecosystem. We will consider AI solutions where these suit the thematic programme.



Annex – Cross-cutting issues that require further clarification to successfully implement and supervise the EU AI Act

There are several related cross-cutting issues that remain to be clarified by the Commission, EU AI Office, ESAs and domestic authorities/legislators. These relate to scope (application of the definition of AI system), implementation of explicit or implicit concepts under the AI Act (bias, explanations, fairness, robustness) and links with new EU/national regulation like the DORA framework and the Individual Accountability Framework (IAF). These are being shared with DETE to constructively engage with this consultation. These are based on a preliminary identification of potential issues, drawing on the Central Bank's initial assessment and interpretation of the AI Act as well as on relevant research.

Application of the Definition of 'AI System': The scope of the AI Act application in financial services hinges on this definition in Article 3 and recital 12, as it informs the application of the AI Act to high-risk use cases for both banking and insurance. The Commission per Article 96(1) (f) of the AI Act shall develop guidelines on the application of the definition of an "AI system". There is not yet a timeline for when these guidelines will be developed. They are crucial to help clearly delineate the scope of the AI Act for financial services providers and consumers.

AI Bias and Fairness:

- **AI bias** refers to AI systems that produce biased results that are systematic and consistent deviation of an algorithm's output from the true value or from what would be expected in the absence of bias. This can happen in the training data used initially, the algorithm, or the predictions the algorithm produces. **Article 10 (Data and data governance) covers data related bias explicitly.** There are requirements for risk management approaches/systems for high-risk use cases (Article 9, recital 65). The requirements of this and related articles mean – in theory – appropriate feedback loops to minimise biases once deployed.
- **Fairness** is related to bias in that one way it could be defined in general as the absence of bias/discrimination in AI systems. The AI Act has attempted to build-in **prospective fairness**



at data/modelling stage compared to *retrospective individual fairness* in EU non-discrimination law.⁴

However, despite the explicit objective of the AI Act to prevent discrimination, it does not provide a clear standard for determining when unequal treatment is illegal discrimination compared to traditional non-discrimination law. It remains to be seen how this will be implemented in practice, how expectations or relevant decisions by national and EU authorities, including courts, will be taken into account.⁵

Transparency, Explanations, and Interpretability:

These are a group of inter-related issues:

- **Transparency** in provision of information to users (Article 13, recital 171) means affected persons should have the right to obtain an explanation when *a decision is based mainly on the output from certain high-risk systems and significantly affects their health, safety or fundamental rights*.
- **Explanations** are the degree to which a system or a set of governance practices and tools support a person's ability to understand the rationale underlying the behaviour of the system. These are covered in Articles 13, 52 and recital 171 amongst others. Recital 171 deals with the *right to an explanation*. Having a right to an explanation implies for it to be useful, it must be understandable or interpretable by its receiver.
- **Interpretability of an AI system is the ability for human to know how and why a model performed the way it did in a specific context.**⁶ That is, the ability to understand the rationale behind its decision or behaviour, and therefore is related to explanations. While the AI Act does not set specific transparent-by-design models, mandatory use of interpretable AI or explanation tools, providers are free to do so.

⁴ See Colmenarejo et al. (2022), Fairness in Agreement With European Values: An Interdisciplinary Perspective on AI Regulation; Panguitti et al. (2023), [The Role of Explainable AI in the Context of the EU AI Act](#).

⁵ See EDPS (2023) for various perspectives across sectors and link [between these topics, fundamental rights, and data protection](#). There are a range of [perspectives](#) about how this can be implemented in practice.

⁶ As it relates to this submission, depending on the field (computer science, law, psychology), the term 'comprehensibility' or 'explainability' are often used interchangeably with interpretability. This is the reason why we have defined the terms we use in the main text of this submission.



Practical implementation of transparency, interpretability, and explainability will require an approach for implementing these related concepts. To note, there are [various policy proposals](#) that illustrate what such an approach could consist of. It is important to have consistent standards for similar contexts, particularly for high-risk use cases including those in financial services.

Robustness of AI systems, their security, and outsourced providers oversight:

Robustness means AI performs consistently through an operationally resilient life-cycle. There are requirements for appropriate cybersecurity measures and standards in place (Article 15 and recitals 76 and 77). These include mitigation of the specific ways that AI can be attacked that are different to standard cyber risk such as data, algorithm poisoning, adversarial input and privacy attacks. There are specific requirements for security and management of outsourcing risks including in Article 25 (Responsibilities along the AI value chain).

There are parallels with requirements under DORA, national authorities Operational Resilience Frameworks including oversight of outsourcing. It is unclear at present, where responsibility for oversight of third party providers to financial services firms falls between the AI Act and DORA, including in relation to the provision of critical services. Finally, there are links to the IAF via responsible persons for provision/deployment of AI along the AI value chain (Article 25, recital 66, 79).

While some of the work may be carried out at EU level, it is unclear at the stage what the Commission or other EU bodies (ESAs, ENISA etc.) will be taking forward and what will be left to Member States, and between Member States what will fall to central banks and regulatory authorities. Clarifying timelines and allocation of responsibilities would be a productive step for the AI Board and Commission to take in the near future.

Other issues

Timeline for the Guidelines from the Commission: Apart from issuing the Guidelines on the high-risk AI systems (within 18 months), the AI Act does not provide a timeline for the other six guidelines in Article 96. It would be useful to have the associated expected time frames for delivery of these. **In particular, on Prohibited AI Practices (Article 5),** it is unclear when the Commission's Guidelines can be expected, given the short period by when these requirements apply (February 2025).

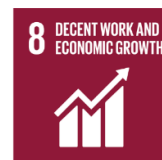


Union Financial Services Law Relationship with AI Act: the term “Union financial services law” is mentioned multiple times in the AI Act. Earlier iterations of the AI Act proposal made specific references to the Capital Requirements Directive (CRD) but, with the exception of in recital 158, no references to specific pieces of Union financial services law are included in the published AI Act. Article 74(6) refers to “high-risk AI systems placed on the market, put into service, or used by financial institutions regulated by Union financial services law” but the scope of the application of this term is unclear. The Commission per Article 96(1) (e) are to provide guidelines to explain the relationship between the AI Act and relevant Union law, including as regards consistency in their enforcement. It is unclear whether this will include details of what is meant by the term “Union financial services law” and if so it would be useful to have a timeline from the Commission on the delivery of these guidelines.

AI literacy requirements (Article 4): these requirements apply by February 2025 for providers and deployers of AI systems. It is not clear what sufficient level of AI literacy means in practice or how that would be reasonably demonstrated.



**Chambers
Ireland**
Advancing business together



Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Submission by Chambers Ireland

July 2024

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Key Points

- Where possible within the limits of the AI Act, the State should seek to be proportionate, non-interventionist and non-industry specific in its regulation of AI.
- The Government should create tailored awareness campaigns about the opportunities as well as lay out the legal obligations associated with the use of AI tools for businesses, particularly in relation to SMEs.
- An AI regulatory sandbox should be created without delay to create special conditions for SMEs to test out certain ideas in an innovation-friendly environment.
- A national AI Lead should be appointed to support Irish businesses in the adoption of emerging AI technologies.
- Skills, along with talent attraction and retention should remain a core pillar of the national AI Strategy. A voucher model should be made available for funding future-proofed skills development courses targeted at SMEs in relation to AI and National Training Fund resources should be directed towards such initiatives.
- The SME “think-small-first” test must be applied to all relevant legislation, to help increase the level of engagement with AI tools by SMEs.
- Compliance costs should be kept low, having clear and easily applicable rules, and ensuring low complexity for businesses.
- Ireland, together with the EU Commission, should keep AI legislation and developments in other jurisdictions under constant review to ensure the EU remains competitive.
- A proactive, adequately-resourced and well-skilled national competent authority will be key to implementation.

- Create co-funding initiatives where the State and companies jointly fund AI projects, sharing both risks and rewards.

About Chambers Ireland

Chambers Ireland is an all-island business organisation with a unique geographical reach. Our members are the 37 affiliated Chambers of Commerce in the cities and towns throughout the country – active in every constituency. Each of our member Chambers is central to their local business community and all seek to promote thriving local economies that can support sustainable cities and communities.

Key observations

General

While many of the discussions that surround the AI industry focus on a fear of automation as a threat to certain industries, our perspective is grounded in the reality that AI offers a vast array of opportunities for both the State and businesses which if navigated appropriately will ultimately strengthen our competitiveness. In our view, the State ought to build on the National AI Strategy to create an environment that: engages and develops indigenous businesses; retains and attracts Foreign Direct Investment in AI; and positions Ireland as a global leader in AI innovation and development.

Core to Government messaging should be an emphasis on the numerous opportunities for businesses. AI tools will increasingly be used to automate tasks that people already do, aiding productivity and helping them focus on the important elements of their work. In addition, there should also be an emphasis on making it as easy as possible for businesses to comply with their requirements.¹ We are of the view that the State should avail of the options under EU law to:

- (a) ensure that Ireland is equipped to become the leading EU Member State that facilitates the responsible use of AI;
- (b) ensure that businesses of all sizes can take advantage of the productivity gains associated with AI;
- (c) employ a regulatory regime that adheres to our obligations under EU Law while not being overly burdensome on businesses;
- (d) engage and further develop existing businesses;
- (e) retain and attract Foreign Direct Investment; and
- (f) encourage innovation and investment.

¹ This point is consistent with our position on AI and liability in our submission concerning the AI Liability Directive: <https://chambers.ie/wp-content/uploads/2023/03/Consultation-on-the-AI-Liability-Directive.pdf>

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Responsible use of AI and compliance

While we favour a non-interventionist approach to AI regulation, we equally accept that people must be responsible for their use of AI. Our position regarding liability is that any regulatory framework regarding AI should not absolve actors of their responsibilities to apply these tools appropriately. Though it will never be possible to cover all areas of application, we hope that the AI Act will create greater planning reliability for companies' AI strategies while also promoting ethical and responsible use of AI.

Equally, while liability and access to remedy are necessary requirements, this should not come at the expense of stifling innovation or discouraging investment. Companies must be empowered to comply with the requirements which apply to them under the legislation. Those operating in the EU have been increasingly subject to more and more regulation, not only with legislation like the AI Act but also reporting legislation like the Corporate Sustainability Reporting Directive. While their cumulative effect on businesses has been acknowledged via the European Commission's commitment to reducing burdens associated with reporting requirements by 25%, the requirements they place on businesses translate into a considerable workload which negatively affects their capacities, in terms of their administrative and financial resources. The overall effect of overregulation will discourage companies from setting up in the EU and establishing in another jurisdiction that favours innovation.

Balance is therefore key; overregulation will only disempower businesses to use AI efficiently while the associated liability regime ought to have an emphasis on use and environment; not just the AI system itself when assigning liability in scenarios where misuse has occurred.

AI for SMEs

The use cases for AI are ever-expanding and facilitating widened use of AI for companies of all sizes will be critical to increasing efficiencies. For example, in the context of trade documentation, AI algorithms can analyse vast amounts of trade data, identify patterns, or predict market trends. For businesses of all sizes – not just larger companies – this will help them to optimise their supply chains and identify new trade opportunities. AI-driven technologies and data analytics will aid them in utilising trade-related data and enable businesses to make better strategic decisions which will help them stay competitive.

For SMEs especially, there will be a plethora of efficiencies to take advantage of which they previously would not be able to make use of due to capacity constraints. However, empowering businesses – SMEs in particular - to use AI is critical and this is tied acutely to our point elsewhere in our submission regarding skills.

Relatedly, while AI holds much promise to advance competitiveness and efficiencies, mitigating the unintended misuse of AI should be a priority. In this context, it is well-established² that the misuse of AI and automated decision-making systems in employment, the provision of goods and services in both the public and private sectors pose risks regarding equality and non-discrimination especially. The Department should create tailored awareness campaigns about the legal obligations associated with the use of AI tools for businesses - particularly in relation to SMEs – so that such misuse is prevented. An example of a risk area for businesses which should be given focus is recruitment; particularly regarding unlawful bias.³

² <https://rm.coe.int/discrimination-artificial-intelligence-and-algorithmic-decision-making/1680925d73>; see recruitment as an example: <https://www.nature.com/articles/s41599-023-02079-x>

³ Regarding recruitment, one way of ensuring responsible use is to require the user of an AI tool to demonstrate the efforts they took to compensate for unlawful bias, and the consequent mitigating efforts they took upon establishing that discrimination had occurred.

Data protection, privacy and cybersecurity

Cybersecurity remains a risk for every Irish business. This is relevant not only for businesses who are developing AI tools, but those who will use them as well. Hence consistent with our position in 2020,⁴ resourcing will be key to ensuring that the data they use in the course of their operations is adequately protected. We firmly believe that state bodies should be responsible for cybersecurity and data protection should be strengthened through appropriate investment, particularly as those risks are ever-increasing not just in Ireland⁵, but across the globe as well.⁶

As increasing numbers of AI tools and services are developed, a mammoth effort by the State to ensure effective and secure digital structures for these companies and entrepreneurs to work within. The companies based here who contribute substantial Corporate Tax receipts to the State need their AI tech to be secure. Failure to account for this fact also runs the risk of harming our attractiveness for FDI. Furthermore, many of these firms are headquartered here and report to the Irish Data Protection Commissioner (DPC) regarding their data privacy and GDPR obligations. Considering the substantial amount of data housed within the State, it is vital that the data we are entrusted with remains secure. Irish security threats and vulnerabilities risk becoming security threats for other countries which could hurt Ireland's standing as a safe base for such countries. Ultimately, the long-term presence of those data-intensive companies depends on the capacity of our public sector to respond to cyberattack threats.

A body, such as the CSO, should become the state body which holds all non-personalised public data, providing data services to all departments and state bodies, ensuring that local departmental

⁴ <https://chambers.ie/press-releases/new-european-digital-strategies-will-boost-competitiveness-says-chambers-ireland/>; <https://chambers.ie/wp-content/uploads/2024/01/Manifesto-for-Europe-2024.pdf> page 17;

⁵ A Grant Thornton report showing that over half of Irish businesses faced cyber attacks last year: <https://www.grantthornton.ie/news-centre/over-half-of-irish-businesses-report-experiencing-cyber-attack-in-past-year/>

⁶ According to a 2023 report, 66% of organisations globally suffered ransomware attacks in the last year, with attackers encrypting data in over three-quarters (76%) of attacks: <https://assets.sophos.com/X24WTUEQ/at/c949g7693gsnjh9rb9gr8/sophos-state-of-ransomware-2023-wp.pdf>

data structure idiosyncrasies do not inadvertently create data silos. Consistent with our point regarding responsible use, where AI tools, products or services used by state bodies then a risk assessment, a bias mitigation plan, and independent verification should all be undertaken.

AI and Intellectual Property

As with any sector, businesses require reassurance that their intellectual property is protected. Especially in the context of AI, the State must foster a reputation as a jurisdiction for businesses where they can be assured that the unique aspects of their product are protected in-full.⁷ Adequate IP protection will ensure that companies can reap the benefits of their investments in AI research and development. A focus on IP protection should therefore form part of any informational campaign to ensure that innovators, businesses, and legal professionals are well-informed and compliant. This will help prevent any unauthorised use and replication of AI technologies, and foster a competitive market in Ireland that drives continuous improvement and breakthroughs.

Skills for AI

In the context of AI attracting and retaining the talent with the appropriate skillset will be critical if we are to seize the opportunities that AI offers. Granted, this has already been recognised in the Government's National AI Strategy,⁸ which aims to expand access to courses that educate the public about AI along with providing AI upskilling and reskilling opportunities. However if we are to realise the objective of achieving a 75% use rate of businesses using AI by 2030, then accelerating this particular strand of the AI Strategy and ensuring it remains a core piece of the Strategy will be pivotal. To that end, training schemes ought to be made available for those who are currently in work, while in-work training schemes and tailored transition educational options

⁷ For these reasons Chambers Ireland were disappointed to see the postponement of the Unified Patent Court Referendum <https://chambers.ie/press-releases/chambers-ireland-responds-to-the-postponement-of-the-unified-patent-court-referendum/>

⁸ <https://enterprise.gov.ie/en/publications/publication-files/progress-report-national-ai-strategy-ai-here-for-good.pdf>

need to be developed. In addition, National Training Fund resources should be directed towards people who are currently working in tech and other related industries so that they can upskill and retrain. For SMEs, more AI-related in-job training for employees in SMEs should also be supported by the National Training Fund. A voucher model could be made available via the NTF for funding future-proofed skills development courses targeted at SMEs in relation to AI.

The Chamber Network has consistently emphasised the fact that recruitment and retention of staff is a perennial problem for businesses across Ireland. This problem is not sector-specific and the problem exists across numerous sectors and affects businesses of all sizes.⁹ In 2023, the Chambers Ireland SME Skills Gap survey¹⁰ found that almost 90% of respondents are facing significant challenges recruiting essential employees with sufficient skills and qualifications.

This ties in with our point that talent generation and retention is likely to be extremely challenging for professionals such as Computer Security Incident Response Teams. Given our role as a hub for international software-as-a-service companies, our state bodies are competing with private sector firms for the same small pool of talent. Moreover, anyone mission motivated for a role with the State is likely to see their skills rapidly atrophy in the absence of the form of persistent threats that are experienced by those active on the ground.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

A proactive, well-skilled and adequately-resourced competent authority will be key to implementation. The Department should allocate an appropriate budget for recruiting qualified

⁹ <https://chambers.ie/press-releases/smes-struggle-to-find-talent-with-skills-gaps-across-many-operational-areas/>

¹⁰ https://chambers.ie/wp-content/uploads/2023/08/Chambers-Ireland-SME-Skills-Deficit-Survey-Results_PDF.pdf

personnel to ensure the efficacy of a national competent authority. Our position is consistent with our concerns highlighted elsewhere regarding skills; proper funding is critical for attracting top talent with the expertise and skills necessary to implement policies and regulations effectively. Adequate investment in human resources will enhance the authority's capability to uphold standards, maintain compliance, and respond adeptly to challenges. The national competent authority should also have a focus on proactively engaging with businesses and provide regulatory certainty where necessary.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Greater clarity is required regarding the relationship between the AI Act and the Digital Services Act. While both legislative instruments in principle cover separate areas of technology regulation, efforts should be made to clarify any confusion for businesses, particularly in the field of generative AI which accounts for a disproportionate number of the AI systems in use globally.

Unfortunately both platform regulation and the use of AI systems are becoming increasingly intertwined and therefore complex¹¹. To that end, detailed guidance should be issued by the European Commission clarifying exactly what their obligations are in relation to risk under both legislative instruments. This is especially relevant regarding the implications for the liability regime in cases where original users' content is significantly modified by an integrated AI tool, which is a specific matter that the Digital Services Act does not account for.

¹¹ Acknowledged in the preamble of the AI Act: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401689

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

As the European Union is the only jurisdiction that regulates Artificial Intelligence to the extent it has, the State must seek to become the most attractive place for AI technology among all Member States. 'Excellence in AI' should therefore be focused on communicating the vast opportunities for businesses, supporting research, clarifying the legal environment for companies, and skills for AI.

Critical to encouraging companies to use AI not just as a core part of their service offering, but in their daily operations will be to ensure they can navigate the associated regulation. To that end, proactive engagement with businesses will be crucial. We have recommended steps which can be taken to create regulatory certainty, open up AI to smaller businesses, foster research and development, and facilitate collaboration.

AI and Foreign Direct Investment

As the AI market is expected to grow by over 28% annually, it represents a great opportunity for investment to attract companies to set up in Ireland. Failing to create regulatory certainty and ensure a facilitative regulatory environment will mean we fail to capitalise on the opportunity, meaning this investment will go elsewhere.¹² This is not only relevant for countries not subject to EU regulation under the AI Act; we will also risk falling behind countries within the EU such as Estonia,¹³ who are exemplars in attracting, retaining and encouraging AI companies to set up there¹⁴. Estonia boasts the most AI startups per million people, and a coherent strategy has been implemented focusing on (a) providing direct support to research in AI; (b) increasing the relevant

¹² <https://www.statista.com/outlook/tmo/artificial-intelligence/worldwide> \$184 billion by the end of 2024.

¹³ https://ai-watch.ec.europa.eu/countries/estonia/estonia-ai-strategy-report_en

¹⁴ <https://sifted.eu/articles/which-european-countries-have-the-most-ai-startups>

skills and competencies to do so; and (c) developing a legal environment to facilitate the uptake of AI. This provides a template comprising of three main pillars of what the State can do as a small country to attract FDI in relation to all strands of AI.

Regulatory Sandbox

One of our core asks is to rapidly introduce a regulatory sandbox to foster innovation in AI. While we acknowledge this is a requirement under the Act, in our view a sandbox ought to be introduced without delay to foster growth in AI technologies. This would involve bringing together innovators and regulators that will help support the transition from initial idea to marketable product in the AI space. Importantly, it will also ensure that when EU legislation starts to be introduced, a clear national picture of the regulatory environment will be available to businesses. This is particularly relevant to our point regarding liability and responsible use of AI.

AI Innovation Hubs and Research Centres

The Department should expand the research and innovation ecosystem referenced in the National AI Strategy. The research and innovation ecosystem is aimed at fostering connections between industry, research, and academia to ensure that businesses and entrepreneurs developing AI have access to the necessary support systems to utilise AI. This can be done by developing AI innovation hubs and research centres that bring together researchers, startups, and established companies to collaborate on cutting-edge projects.

As the third biggest AI market after the USA and China,¹⁵ the UK is using collaboration effectively to expand its AI market even further. Collaborative initiatives include so-called ‘Catapult

¹⁵ <https://www.trade.gov/market-intelligence/united-kingdom-artificial-intelligence-market-2023>

Centres'¹⁶ that comprise of a network of world-leading facilities and expertise which are set up by the UK government. These aim to transform the UK's capability for innovation in specific areas and ultimately help drive future economic growth. Businesses are connected with scientists, and engineers to work on late-stage research and development, with the objective of transforming high-potential ideas into new products and services. This is an example of the kind of collaboration which should be facilitated to further R&D in AI in Ireland and has the potential to provide an effective transition of novel research to commercial use.

AI Lead

In order to ensure a just transition, smaller businesses especially require supports and guidance on what they can do to adopt new technologies to enhance their operations. To support them, a national AI Lead should be appointed to support Irish businesses in the adoption of emerging AI technologies. Adopting developing and emerging technologies, particularly in the field of AI, offers many potential benefits and opportunities for Irish businesses of all sizes. Related to our point elsewhere in our submission, it is traditionally bigger enterprises that have the resources to capitalise on these opportunities first and an AI lead could help open up adopting AI technologies to those businesses. This is an issue which will likely increase over the coming years due to more regulation being rolled out from an EU level.

¹⁶ <https://catapult.org.uk/about-us/why-the-catapult-network/>

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16 July 2024

By email to:

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Response to the Public Consultation on the National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

To whom it may concern

I am writing on behalf of Chartered Accountants Ireland, the largest professional organisation in the State, in relation to the Department's call for submissions to its public consultation on the implementation of the EU Artificial Intelligence (A.I.) Act. Chartered Accountants Ireland welcomes the advancement of A.I. and sees it as a huge opportunity for both the accounting profession and businesses more generally.

Below we have set out our responses to questions 1 and 3 of the consultation.

Q1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

We note that Member States will be required to provide for supervision and enforcement of the Act at local level. Therefore, implementing the requirements of the A.I. Act will require a significant investment of resources by the State. Although ultimate responsibility for developing guidance for businesses will rest with the new European A.I. Office, any domestic competent authority tasked with overseeing the enforcement of the Act's provisions will concurrently need to ensure such guidance is adequately promoted to domestic businesses, particularly SME's, that may lack the resources necessary to navigate what's expected of them under the new framework. For this reason, we believe that a single new authority, one in which the requisite A.I. expertise to assess compliance and issue guidance can be centralised, is the best option for businesses.

A.I. systems are evolving at a rapid pace and businesses need clear, accessible guidance and a clearly designated point of contact with whom they can liaise on compliance issues as they emerge. The new authority, although centralised, should take account of industry differences in the application of A.I. and reflect these sectoral nuances in its approach to enforcement.

A centralised approach was taken with the establishment of the Data Protection Commission in 2018. Tasked with monitoring the application of the General Data Protection Regulation (GDPR), its centralised model has proven successful in safeguarding data protection rights by driving compliance through guidance, supervision and enforcement.

Q3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



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Article 8 of the A.I. Act sets out the need for rules that are both “robust in protecting fundamental rights” as well as supportive “of innovation with a particular focus on small and medium enterprises”. However, according to the impact assessment included in the proposal of the Act provided to the European Parliament, businesses will face additional costs of between €6,000 and €7,000 to comply with specific requirements and obligations associated with the use of an average high-risk A.I. system. This is in addition to estimated annual compliance costs of between €5,000 and €8,000. In the case of businesses who use A.I. applications that are not classified as high risk, the impact assessment concedes such costs could still be “as high as for high-risk A.I. systems”, though it estimates probably lower.

These are significant additional overheads for SME’s or start-ups who come within the scope of the Act. While such costs may be considered a reasonable investment for larger entities, outgoings of this nature can present a barrier and competitive disadvantage to smaller entities seeking to access the opportunities and benefits presented by A.I. systems. If Ireland is to truly accelerate innovation in A.I. by businesses of all sizes, it will be essential that any new regulatory framework seeks to minimise these costs and introduce supports to assist smaller entities in meeting their obligations under the Act. Such supports could include:

- Providing businesses with access to guidance, illustrative examples of policies and procedures, codes of conduct templates, and case studies to govern the use of A.I. in their operations
- Launching state-sponsored grant assistance for start-ups and SME’s seeking to adopt new A.I. systems
- Sponsoring educational supports to assist staff’s learning and understanding of A.I. systems, as well as their risks and impacts
- Supporting access to affordable expert advice for businesses seeking to meet their statutory obligations under the Act
- Maintaining a centralised and accessible list of A.I. systems, including by brand and product name, classified as high risk.

Ultimately, domestic enforcement of the new regulations set out by the A.I. Act must be structured in such a way as to not unjustly preclude smaller businesses from capitalising on the commercial opportunities that A.I. systems offer. Enforcement of the regulations should not go over and above what is prescribed by the Act. Moreover, it is imperative when applying the new regulations that the Department’s recent commitment to strictly apply an enhanced ‘SME Test’ to all new legislation affecting smaller companies is meaningfully adhered to if prohibitive costs and excessive administration is to be avoided.

We appreciate the opportunity to provide feedback on this important issue and would be happy to engage further with the Department as it maps the way forward in developing Ireland’s approach to implementing the A.I. Act.

Kind regards



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16 July 2024

**Public Consultation on National Implementation of EU Harmonised Rules on
Artificial Intelligence (AI Act)**

Thank you for the opportunity to contribute to the consultation on the EU Artificial Intelligence (AI) Act 2024.

As the CIPD, the professional body for HR and L&D, we would like to contribute a perspective on the people and business implications of the EU Artificial Intelligence (AI) Act 2024. We see a lot of added value for regulation that will regulate and

“promote the uptake of human centric and trustworthy artificial intelligence while ensuring a high level of protection of health, safety, fundamental rights as enshrined in the Charter of fundamental rights of the European Union...”

It is important that national legislation delivers on the commitment to being human-centred, trustworthy and protective of human rights, and puts human decision making into the heart of operating decisions.

We recognise that there is a significant opportunity for AI and the digital economy to continue to contribute to economic growth and societal improvement in Ireland. However we have observed that there is very limited debate about how we adopt a human centric approach to AI use in the workplace and impact on employees. This is where we have put the CIPD focus.

CIPD produces ongoing [research and guidance on AI](#), targeted at the people profession, along with consultation with members. There is a definitive need to ‘lean in’ to the technology by both individuals and organisations.

We note that much of the debate does not reflect the people risks and how to build good practice that will enhance working conditions, access to work and the quality of work. Our research reinforce workplace issues of a tight labour market, low engagement with learning, increasing hazards of poor wellbeing and high levels of stress in jobs and the workplace. Addressing these risks will be central to remaining competitive, having a healthy workforce and sustaining labour productivity and economic growth.

AI in and of itself won’t solve these problems. Indeed, there is a risk that AI could result in some of these issues worsening, such as job displacement and leaving people behind who

don't have the capabilities or support to adapt, or where technology reduces human decision making, autonomy and control.

The context

It is increasingly clear that AI can provide great opportunities to drive outcomes such as improved productivity and innovation which is important to every organisation and the Irish economy as a whole. Used responsibly, it can also help to create better jobs that utilise people's skills more effectively, support their wellbeing and engagement, give people opportunity for meaningful work and support greater inclusion, all of which in turn enable outcomes like productivity, innovation and social inclusion.

But while AI development is moving fast, uptake, rationale and results from deployment across sectors and organisations is patchy. Many businesses are unsure how to proceed or when to jump on to a fast-moving train. Commentators talk of [\\$200bn+](#) being invested by 2025 by the big four technology companies - MS, Facebook, Amazon, Google. Some recent estimates of the generative AI market are that it may reach \$1.3 trillion by 2032 and compound annual growth (CAG) expectations of 40%+.

There is widespread optimism about AI's potential to support growth and other beneficial outcomes at work but as yet this is not matched with knowledge or confidence about best practice. Understanding the risks, opportunities and choices through the process of procurement, development, adoption, adaption and ongoing monitoring is what will drive the best outcomes for firms and people alike (Pissarides et al, 2024). CIPD's recent exploratory roundtables with AI leaders, HR and business leaders has confirmed this assessment, and highlights the need for practical tools and guidance.

EU Artificial Intelligence (AI) Act 2024 ad National Strategy

The [EU Artificial Intelligence \(AI\) Act 2024](#) is the first-ever comprehensive legal framework on AI worldwide. The aim of the new rules is to foster trustworthy AI in Europe and beyond, by ensuring that AI systems respect fundamental rights, safety, and ethical principles and by addressing risks of very powerful and impactful AI models.

The AI Act ensures that Europeans can trust what AI has to offer. While many AI systems pose limited to no risk and can contribute to solving many societal challenges, certain AI systems create risks that we must address to avoid undesirable outcomes.

The proposed rules and risk based approach will impact the people profession, as much of the data set that the profession manages include personal details and may be labelled high risk. The rules aim to:

- address risks specifically created by AI applications;
- prohibit AI practices that pose unacceptable risks;
- determine a list of high-risk applications;
- set clear requirements for AI systems for high-risk applications;
- define specific obligations deployers and providers of high-risk AI applications;
- require a conformity assessment before a given AI system is put into service or placed on the market;
- put enforcement in place after a given AI system is placed into the market;
- establish a governance structure at [European](#) and national level.

Understanding what these mean and their implications in practice will require significant investment in education and informational campaigns.

High risk

AI systems identified as high-risk include AI technology used in:

- educational or vocational training that may determine the access to education and professional course of someone's life (e.g. scoring of exams);
- safety components of products (e.g. AI application in robot-assisted surgery);
- employment, management of workers and access to self-employment (e.g. CV-sorting software for recruitment procedures);
- migration, asylum (e.g. automated examination around visas);
- administration of justice and democratic processes (e.g. the implications for disciplinary procedures which could result in a person could losing their job or having their pay reduced).
- The rules around biometric identification systems will need considerable clarity as many organisations and individuals use such tools on a daily basis.

The definition and monitoring of AI systems to ensure they are correctly classified will be critical to success. Fears have been expressed by members about the effort needed to manage high risk systems in the workplace, conduct test and model evaluations, as well as cybersecurity requirements or whether the mitigation measures required will be too overwhelming and too expensive to allow for usage.

Overall, our consultation with CIPD members has highlighted how the framing the legislation and guidance to adequately inform practitioners and the public will be a critical:

- Make the legislation accessible by keeping it as simple and straightforward as possible
- Build in human oversight into critical decisions
- Ensure elimination of bias is central to all operating systems This is particularly relevant to decisions about humans, whether it be performance or recruitment - so require that AI has been rigorously trained, is regularly audited to mitigate bias, and that people remain in charge of people decisions.
- Build in the approach that defines human centric and includes a focus on good work, employee protections and employee sustainability not just societal benefits.
- Recognise the dynamic nature of AI, its early stage of maturity, and allow for this in legislation
- Where solutions to converting high risk systems to low risk situations becomes very arduous, be alert that this will serve as a blocker to AI use.

National AI Strategy: AI - Here for Good

The National AI Strategy: AI - Here for Good, was launched in July 2021 and set out the means by which Ireland can be an international leader in the use of artificial intelligence to benefit our economy and society. The strategy is founded on three core principles: adopting a human-centric approach to the application of AI; staying open and adaptable to new innovations; and ensuring good governance to build trust and confidence for innovation to flourish.

1. The 2023 review - AI - [Here for Good Progress Report on the National AI Strategy](#) called out areas where progress has being made but also indicates that the rapid pace of change, the explosion of generative AI based on large language models is

not clearly understood and used in many businesses in Ireland. While funding availability is a positive development, the review makes it clear that this is reaching few businesses in Ireland.

2. Initiatives around AI education, skills and talent are called out, but progress seems more at a policy level. To be more responsive, we believe the government has to move from assuming the interventions connected to AI are operating in a static environment and need to move to much more dynamic approaches, like hackathons, to speedily identify and take action. Overall there was little evidence of commitment to systemic change and mass upskilling to address Ireland's education, skills and talent needs to maximise the benefits of AI
3. Central to the strategy is adopting a human-centric approach to the application of AI, however the gap in covering this in the review document shows that this has got little attention to date, and presumably is not well understood.

Generally references to human-centred AI relate to how AI can benefit society, improve health care outcomes, etc. but regularly avoid examining what is happening in workplaces where AI is being implemented, how it links to good work, sustainable employees and what good practice looks like. This needs further attention and research at both a national and international level. Below we address this in further depth, to ensure it is integrated into the governance of AI use.

Getting serious about human-centric adoption of AI

Outstanding in much discourse is how to take a human-centred approach to AI adoption and implementation. The best outcomes will come from holistic approaches bringing understanding of technology together with people, skills, and processes. And from understand more about the actual use of AI, its workplace impact and outcomes. what is happening to jobs and skills, and what interventions might assist where adoption is lagging. We encourage building a body of knowledge that helps bring this to life, with use cases, guidance frameworks and methodologies that would benefit to policy makers, researchers and business stakeholders

Questions to consider include how skills development and policy should evolve, where existing initiatives could be extended or strengthened. Consideration will need to be given to supporting people who may find themselves displaced or otherwise unable to access good jobs, and the responsibilities of employers as well as government in supporting them in reskilling and finding new jobs. These are elements of what we describe as a 'just transition' - analogous to the use of this term for the changes expected in the energy sector as we move away from fossil fuels to the green economy.

There are currently issues of a tight labour market, low engagement with learning, increasing hazards of poor wellbeing and high levels of stress in jobs and the workplace. Addressing these risks will be central to remaining competitive and sustaining labour productivity and economic growth in the face of AI. Equality and access to employment concerns continue despite 25 years of equality legislation.

AI in and of itself won't solve these problems. Indeed, there is a risk that AI could result in some of these issues worsening, such as job displacement and leaving people behind who don't have the capabilities or support to adapt, inclusion, or where technology reduces human decision making, autonomy and control.

Positive outcomes will be driven by how we understand and apply AI to create better jobs, by understanding impact on skills and how we adapt our organisations and operating models and bring people with us. And by taking holistic approaches to adoption that define the anticipated wider outcomes for all stakeholders.

Our members have commented on the unforeseen impact of current changes driven by technology, expecting this to expand in the near-future. Therefore clear protections need to be put in place to ensure the workforce, at national and individual level, is sustained and protected. Various predictions exist as to the impact of AI on jobs, many identifying an expansion in activities to validate and manage AI systems and outputs. However there is significant risks to people in more traditional roles. Opportunities to upskill at both employer national level will be required.

In examining human-centric adoption of AI, we believe the following deserve mention:

1. Skills and capabilities

While the skills agenda has been strong in recent years in Ireland, it has become increasing more difficult to map changing skills supply or demands, joining the dots between skills shifts and technology investment and for education and learning provision to keep up. The early stage of AI maturity also raises issues. Over 1+ million people added the 'prompt engineering' skill to their LinkedIn profile in the last year or so, but will it be needed in 24 months time after large language systems have further developed. Significant work and investment is required to improve digital literacy across the economy, and work should be carried out and continuously updated on a digital capability framework.

As AI impacts all of our lives employers will need to be confident that their workforce has an understanding of what AI is, and for example, how to use it safely and responsibly. It has become a truism that while AI may not directly take your job, someone who is using AI effectively might, and it might change the nature, environment and quality of your job in significant but sometimes unseen ways.

Much learning content may already be created, and there is an opportunity to promote use of AI to assemble this and convert it into 'on the go' learning. The capacity to manage knowledge content, its ownership, validation and keep up to date is emerging as a key area of responsibility in organisations.

A wider skills base is required in organisations including transversal, analytical and creative thinking skills as well as pivoting skills that help workers to adapt to new influencing situations and disrupted workplaces. Organisations can support employees by allowing space and time for skills development. Interventions to give individuals the space to adapt and upskill will be needed, and support for those who may out of work for periods of time.

These are important skills agendas that also need to link to policy thinking, and for example, funding mechanisms that can encourage and support individuals and employers to understand and build these skills in a fast-paced environment.

2. Work and job design

AI is predicted to augment rather than replace many jobs. We have a pivotal opportunity to influence and educate around how to create and shape good work. A holistic approach to job design is recommended. This can ensure changes have a broader impact than simply task and skill variety but also contribute to improved health and wellbeing using technology. Consideration has to be given to how roles can be redesigned to achieve vertical job enlargement and empowerment through transferring more responsibility and scope for decision making to operational/technical roles.

Role ambiguity can be a source of stress for employees, where a lack of clarity around the tasks associated with their role exists. We are aware that AI is also driving increased standardisation, especially across sites, which has to be balanced with adequate autonomy and control

In (re)designing roles, it's important to be cognisant of the management of psychosocial risk, as part of an occupational health and safety management system to consider what steps can be taken instead to eliminate or mitigate any risks to health and wellbeing. Job design is crucial to creating sustainable work. Eurofound (2022)¹ defines sustainable work as existing when “working and living conditions are such that they support people in engaging and remaining in work throughout an extended working life.” Both working time, and work intensity, are deemed important elements of sustainable work. Accreditations such as ISO 45003 should be encouraged to demonstrate an organisation's commitment to ensuring decent work conditions, health and well-being and affirms sustainability aims through indicating a commitment to creating better designed jobs and thus working lives.

3. People management

Digitalisation has a significant impact on the role of managers, as the skills needed to perform effectively in middle management roles are shifting. Skills such as persuasion, stewardship and conceptualisation are of growing importance to develop in managers along with opportunity to become familiar with the key concepts and language relating to AI and new technologies in their organisation.

Relational skills and people management are also areas of growing importance. Ensuring that jobs still encompass opportunities for human interaction in the context of increased digitalisation will continue to be a key issue for organisations.

From a job design perspective, lack of interaction across core teams can create barriers for knowledge sharing and collaboration across the organisation. Employees need to be supported to develop transversal and pivoting skills such as digital skills, digital literacy, and design thinking.

Our research shows many leaders are unclear how to minimise risks of bias, for example in recruitment. Increasing emphasis is going on keeping people as the decision maker, providing rigorous training for AI, auditing AI and then only using AI if it makes sense as not all judgements can be reduced to a formula that AI requires.

¹ Eurofound (2022) <https://www.eurofound.europa.eu/topic/sustainable-work>

4. Improving wellbeing

Employee wellbeing has to be placed at the heart of job design and we must not lose the opportunity that digitalisation presents to optimise performance and make jobs better. Workload, stress and mental health all emerged as growing concerns in our CIPD HR Practices in Ireland 2024 and consideration of improving wellbeing and reducing stress and workload have to be central to AI implementation strategies.

Engaging with employees from the outset of new AI and digitalisation processes and resulting job redesign is to be encouraged. It allows feedback on the worst aspects of current job roles and suggestions for improvement from an employee perspective. Improvements in physical wellbeing, greater employee control over scheduling of work hours and greater autonomy over work tasks provide benefits from a wellness perspective.

From a physical wellbeing perspective, automation can help to alleviate the more physically demanding or repetitive elements of roles resulting in a positive health and safety impact.

Conclusion

The CIPD as the professional body for HR and people development strongly believes that we are at a critical time and need to use the EU AI Act as way to lay down ethical and trustworthy approaches to AI use. The people profession should be closely involved in working within and across organisations in addressing these issues and working directly on job design, operating model and organisation development strategies, and understanding the skills implications and how to address them. We have already been taking a lead in engaging with a number of organisations, developing initial content, and to understand the different capabilities needed, and the communities that can influence and reach the wide range of stakeholders.

We have identified a pressing need for practical guidance and tools which are specific to the workplace in support of ethical and responsible use and implementation of AI from a business perspective. There is a need for responsible pilots to deepen and share learning, and provide bridges from the best, latest, multi-disciplinary research into an accessible form, empowering HR professionals and business leaders to apply AI principles in human-centred, context-sensitive ways.

The gaps in relation to adopting a people centric approach to AI are significant and the protections in the workplace need full consideration in Ireland's legislative approach. We recognise that further research will add value to using the opportunity of technology to benefit job design, employee welfare, inclusion as well as performance. And investment in education and skills will be paramount for successful AI adoption.

We are happy to discuss further with the Department.

Kind regards

Mary Connaughton
Director CIPD Ireland, 16 July 2024.

Coimisiún na Meán Submission to Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

1. Introduction

This response sets out Coimisiún na Meán's sectoral expertise and outlines synergies between the EU Artificial Intelligence (AI) Act ('the Act') and other EU legislation. It provides insights into good regulatory practice based on our experiences in order to support the Department of Enterprise, Trade and Employment in its implementation of the Act. Our intention is to aid the Department in establishing the most effective configuration of competent authorities for the application and enforcement of the AI Act.

The Act will prove important in setting out a uniform legal framework for the regulation of AI, and in seeking to promote uptake of human centric and trustworthy AI while ensuring the protection of health, safety and fundamental rights as enshrined in the EU Charter of Fundamental Rights. An Coimisiún recognises that efficient and effective enforcement of the provisions of the Act will be vital in ensuring the Act meets its intended outcomes.

An Coimisiún has a role in regulating online media, including video-sharing platform services, intermediary services, and hosting services, as well as regulating TV, radio and audiovisual/video on-demand services established in Ireland.

Many of these entities have deployed AI in their services over recent years and will continue to do so as technologies evolve. As such, An Coimisiún is aware of not only the possible harmful effects that AI can create for citizens and consumers, including children, but also its potential benefits.

2. About Coimisiún na Meán

Coimisiún na Meán is Ireland's agency for developing and regulating a thriving, diverse, creative, safe and trusted media landscape.

Our responsibilities are to:

- Oversee the funding of and support the development of the wider media sector in Ireland.
- Oversee the regulation of broadcasting and video-on-demand services.
- Develop and enforce Ireland's Online Safety Framework.

Since March 2023, An Coimisiún has grown from circa 40 to over 160 staff, which we expect to reach 200 by the end of 2024, to support the delivery of our responsibilities. Our staff has a broad range of experience and expertise across the areas we regulate, including on fundamental rights and their application; policy and practice within large technology companies; within broadcast media and media development; statutory regulation and code-making; design and implementation of processes; research; media literacy, including in relation to rights and online safety; and data.

We are members of the European Digital Services Board (EBDS) in our capacity as Ireland's Digital Services Coordinator (DSC) and several European and global regulators' networks, including the European Regulators Group for Audiovisual Media Services (ERGA), European Platform of Regulatory Authorities (EPRA) and Global Online Safety Regulators Network (GOSRN). Through these groups we work collaboratively with other regulators to discuss common issues and share information, including the opportunities and risks presented by AI.

3. AI and the online safety and media landscape

AI and online safety

AI systems can be used to improve online safety. This can include AI's use in safety measures such as age estimation, and content moderation, which can help identify and remove illegal and harmful content, including Child Sexual Abuse Material (CSAM).

However, we are also aware that AI systems can carry risks. These can include, but are not limited to:

- The use of AI content moderation, leading to excessive content removal, negatively affecting freedom of expressionⁱ;
- The use of AI in recommender systems, which could amplify harmful content and its negative impactsⁱⁱ, facilitate inappropriate relationships between children and adults^{iiiiv}, and lead to people spending excessive amounts of time online^v;
- Concerns around 'hallucinations' by Large Language Models which power AI chatbots. This happens where false information is created, and users are provided with fabricated data that appears authentic. This could have implications for the spread of misinformation^{viiiviii};
- The impact which the generation of synthetically generated disinformation^{ix}, such as deep fakes, can have on civic discourse and democratic processes, with estimates that as much as 90% of online content may be synthetically generated by 2026^x;
- The use of deep fakes in non-consensual intimate image abuse is being more widely reported and has been followed by growing calls globally to address it^{xi}, and;
- Harmful and dangerous potential for AI-generated CSAM^{xii}, with one report finding over 20,000 AI-generated images posted to one dark web CSAM forum in a one-month period^{xiii}. There is already evidence for the sharing of AI models to generate images of specific children^{xiv}. If models are trained using original CSAM, it may generate material which leads to re-victimisation^{xv}.

AI and broadcast media

Many broadcasters are already deploying AI, and it has potential to become an important tool for the sector.

We are seeing significant growth across Europe in its application across news gathering, news production and news distribution. AI is already used for audience engagement, real-time translation and subtitling, tools for news verification, the automatic generation of promotional materials and the use of facial or voice recognition to improve efficiencies in archive management^{xvi}.

By way of example, RTÉ is already using machine learning for automatic database analysis, while the BBC has started experimenting with the idea of 'object-based media', a new way of personalising content that considers the user's situation (geographical, postural, sensory) and automatically adapts content to different formats on demand^{xvii}.

There are benefits to the broadcast sector, but challenges as well. These include:

- Risks of personalisation creating 'news bubbles'; in the context of news and current affairs, and threats to broadcasters' relationships with their audience and media plurality through virtual assistants, which could become a one-stop shop for accessing media content^{xviii};
- Challenges associated with AI models trained on biased data;
- Intellectual property issues arising from AI models being trained on the work of broadcasters, journalists, artists and creators, and potential unauthorised use of work to train AI^{xixxxxi};
- The production of misinformation, as a result of hallucinations, could also impact trust in broadcasters;

- Increased imbalances between larger broadcasters, which are equipped to invest in new infrastructure, and smaller outlets^{xxii,xxiii}.

A number of European public service broadcasters^{xxiv} have already published guidelines in respect of the use of AI and highlighted the need for clear commitments to transparency.

4. Observations on DETE's questions

In this section we provide our observations on questions that DETE sought responses to in its public consultation document.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

There are clear trade-offs associated with different regulatory models. A centralised model can allow for greater agility, flexibility, and coordination, and can mitigate competition between regulators for staff with in-demand skills. It can allow a regulator to build expertise in one place, but poses challenges compared to a distributed model, which allows diverse authorities to build on existing relationships and apply local sectoral knowledge and expertise to implementation and enforcement of regulations.

Other EU Member States are facing the same issues, and there have been limited indications to date of other Member States' approaches, with some exceptions.

The government of Spain has established a new independent agency, the Agency for the Supervision of Artificial Intelligence^{xxv}, well in advance of the Act being finalised. Meanwhile, in the Netherlands^{xxvi}, the existing Dutch Authority for Digital Infrastructure (RDI) is being supported by the European Commission to set up supervision of Artificial Intelligence (AI) systems in compliance with the Act.

DETE should consider a number of key issues in its designation of competent authorities:

- Remit alignment: The AI Act takes a risk-based approach to AI systems and models. It would be useful for the Department to reflect on whether there is alignment between those categories and the remits of existing regulators, that would allow those regulators to leverage their existing expertise and stakeholder relationships, increasing effectiveness of implementation.
- Capabilities: Implementation of the AI Act by National Competent Authorities (NCAs) will necessitate the recruitment of additional staff, an increase in size to align with any expanded remit, and the building of understanding in a complex area. DETE should consider regulators' existing recruitment plans, and the experience various regulators have in taking on new remits, building functions and delivering at pace, as well as ensuring regulators take on responsibilities which are appropriate and well-aligned to their existing remit.
- Hiring new skills: Implementation of the AI Act by NCAs will require them to bring in new expertise, including those with experience in developing and deploying AI systems and models. The Department should consider the availability of that talent in Ireland, and beyond, wider demand for that talent, and the remuneration required to attract this skilled workforce. In the context of the Act, NCAs will need to recruit staff with a high understanding of artificial intelligence concepts, machine learning, and ethical considerations, who are also capable of effectively engaging with the entities they are regulating.
- Cooperation: A distributed, sector-based approach to implementation of the AI Act could mean that multiple NCAs perform similar roles in discrete areas. The Department should consider how NCAs could/should cooperate at national level to support clarity and consistency in implementation of the AI Act, and the infrastructure that would be needed to support such cooperation. The Department should also consider how the distributed, sector-based approach could create complexity for organisations that provide AI systems across multiple economic

sectors, for users of the technology, and how clarity and cooperation could minimise that complexity.

- Legal underpinning of implementation: If a distributed approach is applied to the AI Act, a clear legal basis is necessary for individual NCAs to operate from. This should support them in the exercise, and definition, of their remit and would act to enhance effective and practical implementation of regulations.

Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to Digital markets, services and infrastructure?

Within Coimisiún na Meán's current remit, there are many services which either develop or deploy AI, or both. We have identified potential synergies with the Digital Services Act (DSA) in particular.

While the DSA is not specifically designed to regulate AI, its provisions can apply to AI uses by platforms regulated under the DSA, and presents multiple considerations around synergies between the two:

- Assessment and mitigation of systemic risk: The DSA obligates VLOPs and VLOSEs to assess and mitigate "systemic risks", while the AI Act does likewise for providers of general-purpose AI models (those models with high impact capabilities are considered to have systemic risk). Additionally, the AI Act sets out that AI systems embedded into VLOPs or VLOSEs are subject to the risk management framework in the DSA. AI models which comply with the systemic risk obligations in the DSA, are also presumed to fulfil the AI Act obligations unless significant systemic risks not covered by the DSA emerge.
- Transparency obligations: The obligations the AI Act places on limited risk AI systems could be valuable in assisting VLOPs and VLOSEs to meet DSA obligations to mitigate negative effects on democratic processes, civic discourse and electoral processes, including through disinformation. This includes the labelling of AI-generated content and growing concerns about the impact of audio, image and video "deepfakes" impacting electoral processes.
- Recommender systems: Recommender systems are not explicitly referenced in the AI Act, however, as many systems meet the definition of an AI system in the Act (Article 3(1)), they will be automatically within scope of the Act and may be either prohibited, or subject to the obligations for high-risk systems, depending on their functioning and use-case. They are already regulated under the DSA and AVMSD and there may be further overlaps between the three pieces of regulation.
- Age Assurance: The Digital Services Act and the OSMR Act, make it clear that platforms must implement appropriate age assurance measures to adequately protect minors when using online platforms. An Coimisiún's draft Online Safety Code also sets out requirements for video-sharing platform (VSP) operators to prevent children from encountering inappropriate content, by way of age verification measures, and a general obligation for VSPs to use age verification to protect minors from content that could impair the mental, moral or physical development where it is appropriate. AI may be used by services to verify or assure the age of potential or existing users of their service, but this must be balanced with data protection requirements and risk of biases. There may be overlap in this space with the DSA, AVMSD, OSC and GDPR.
- Fundamental rights: Both the DSA and AI Act seek to protect fundamental rights as set out in the EU Charter and place separate, but similar obligations to carry out assessments of risk to fundamental rights under the DSA (Article 34) and Fundamental Rights Risk Assessments of high-risk AI systems under the AI Act (Article 27). Between Digital Services Coordinators under the DSA and National Competent Authorities under the AI Act, there are potential opportunities for the sharing of information and learnings, particularly from a supervisory perspective.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Demonstrating excellence in implementation of the AI Act, and therefore AI regulation, can bolster Ireland's position as a leading economy that supports responsible AI innovation. Excellence in AI regulation would share characteristics with excellence in other types of regulation:

- Clarity: It would be clear to AI system and model providers, and the wider public, which body or bodies are responsible for regulating which AI systems, what the aims of such regulation are, and what the consequences of non-compliance are.
- Evidence-based: An excellent AI regulator(s) would build a robust evidence base for its decisions and demonstrate proportionality and competence, building public trust as a result.
- Consistency: If multiple bodies have competence under the AI Act for the same category of AI system, these bodies should take a consistent approach when enforcing and monitoring provisions.
- Proportionality: NCAs take a proportionate approach when monitoring and enforcing provisions of the Act, supporting organisations who make good-faith efforts to become compliant with new regulations.
- Expectations around speed: AI is a fast-evolving area and NCAs should be clear about how long pre-market activities may take so that organisations can build this into their time to market plans. NCAs should aim to perform their duties quickly and efficiently.
- Multi-stakeholder: NCAs should aim to take a multistakeholder approach to AI regulation, seeking ways to collect the views and attitudes of those with expertise and interest in AI, including the wider public, for example, through complaints infrastructure and education programmes.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives¹ while meeting our regulatory obligations?

- Excellence in AI regulation: Excellent AI regulation, supported by the appropriate configuration of regulatory authorities, can help to support the development of AI systems that respect fundamental rights while providing societal and economic benefits. By supporting development of AI systems that respect fundamental rights, regulation can also help to build public trust in such systems.
- Leadership by NCAs: Bodies tasked with implementation and enforcement of the Act must also show leadership by demonstrating clear transparency around their own use of AI, engaging with the public in an accessible way as to their specific role in implementation of the Act, and building trust by demonstrating expertise, competence and credibility in the exercise of their duties and powers.

Conclusion

As we have outlined, the EU AI Act presents a range of challenges and opportunities in respect of national implementation. Coimisiún na Meán believes that with the appropriate enforcement regime and engagement across the relevant sectors, partners and users of the technology, these challenges and opportunities can be harnessed to drive and deliver best practice in the regulation of Artificial Intelligence.

The technologies the Act seeks to regulate already touch on many aspects of our society and economy and will continue to become further embedded in our lives, as the various provisions of the Act come into force over the coming months and years.

As such, implementation, application, and enforcement of the Act's provisions is paramount to ensuring the protection of fundamental rights and the safe adoption of advancements in AI across a range of sectors, so that all can safely benefit from its use.

¹ Building public trust in AI, Leveraging AI for economic and societal benefit, and Enablers of AI

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An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regul

Commission for Communications Regulation: Response to Department of Enterprise, Trade and Employment Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Response to Consultation

Reference: ComReg YY/NN

Date: 16 July 2024

An Coimisiún um Rialáil Cumarsáide
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Introduction

On 21 May 2024, the Department of Enterprise, Trade and Employment (the “Department”) published a Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act) (the “Consultation”).

ComReg recognises the critical importance of the AI Act in improving the functioning of the internal market by laying down a uniform legal framework in particular for the development, the placing on the market, the putting into service and the use of AI systems in the EU. We welcome the Consultation and the opportunity to contribute to the assessment of the possible approaches to national implementation of the AI Act.

The Commission for Communications Regulation (“ComReg”) is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radio communications, broadcasting transmission and premium rate services) and the postal sector in accordance with European Union (“EU”) and Irish law. ComReg also manages Ireland’s radio spectrum (or “spectrum”) and national numbering resource.

ComReg is also designated as the market surveillance authority (“MSA”) in Ireland for two EU Directives: Directive 2014/53/EU¹ (the “Radio Equipment Directive” or “RED”) and Directive 2014/30/EU² (the “Electromagnetic Compatibility Directive” or “EMCD”).

The RED is transposed into Irish law by way of S.I. No. 248/2017, the European Union (Radio Equipment) Regulations 2017³ (as amended by S.I. No. 30/2024)⁴ (“RE Regulations”) which establishes a regulatory framework for placing radio equipment on the market (e.g., radio-frequency identification tags, and consumer goods such as Wi-Fi and Bluetooth enabled devices) by setting essential requirements for all radio equipment.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0053&from=EN>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0030&from=EN>

³ <http://www.irishstatutebook.ie/eli/2017/si/248/made/en/print>

⁴ <https://www.irishstatutebook.ie/eli/2024/si/30/made/en/print>

As set out in Regulation (EC) No 765/2008⁵ and Regulation (EU) 2019/1020,⁶ market surveillance is an aspect of the single market in the EU. It includes actions such as product withdrawals, recalls, and the application of sanctions to stop the circulation of non-compliant products and/or bring them into compliance.

ComReg's submission sets out our support for the configuration of a centralised model to market surveillance of the AI Act. In the below sections, our submission addresses in summary, our support for the designation of a centralised expert AI regulator together with a focus on the implications of implementation on expertise, resources and Ireland's position as a leading digital economy.

Our submission is a single entry as opposed to addressing each of the specific questions at section 4 of the Consultation.

⁵ <http://data.europa.eu/eli/reg/2008/765/oj>

⁶ <http://data.europa.eu/eli/reg/2019/1020/oj>

ComReg's Submission

In Section (A) below, we provide an overview of ComReg's position supporting the adoption of a centralised approach. In the following sections, we delve further into the specific arguments which support a centralised model.

A) Overview of ComReg's Support for a Centralised Approach

1. Article 70 of the AI Act provides that Member States should establish or designate as national competent authorities at least one notifying authority and at least one market surveillance authority ("MSA") for the purposes of the AI Act.
2. ComReg supports a centralised approach to the configuration of competent authorities responsible for the regulation of the AI Act. For the purposes of this submission, ComReg will focus its analysis on the designation of a single entity MSA. However, as set out above, ComReg supports centralisation of the function of all relevant competent authorities (including a notifying authority) for the purposes of implementation of the AI Act,⁷ including the protection of fundamental rights.
3. More specifically, ComReg submits that market surveillance by a specialised agency for high-risk AI systems would both effectively and efficiently meet the objectives of the AI Act for the State.
4. The AI Act allows for Member States to designate one central authority to act as the MSA for high-risk AI systems, which are subject to existing Union harmonisation legislation listed in Section A of Annex I of the AI Act (paragraph 6 of Section A of Annex I lists the RED). ComReg considers that there are compelling and appropriate circumstances that require this approach.
5. This central approach is provided for by way of derogation from Article 74(3) of the AI Act, which states that the MSA for high-risk AI systems, which are subject to existing Union harmonisation legislation, shall be the authority responsible for market surveillance activities designated under such legislation (i.e. the RED in the case of ComReg). The derogation provides that where Member States ensure

⁷ An exception is the supervision of general-purpose AI models, which was entrusted to the newly created AI Office in the European Commission

coordination with the relevant sectoral market surveillance authorities, another relevant authority may be designated as MSA.

6. ComReg considers that the Department should seek to rely on the derogation and implement a centralised model to the designation of a single MSA for the purposes of Annex I, in place of a fragmented sectoral model. This central authority would assume responsibility for the regulation of all high-risk AI systems under the AI Act.⁸
7. Equally, ComReg notes that the Department may also give consideration to the designation of a centralised MSA for the purposes of the different use cases under Annex III high-risk systems. ComReg is equally of the view that – outside of the uses which prescribe a MSA (e.g. AI systems used by regulated financial institutions, biometric AI systems used for law enforcement, border management, justice and democracy and AI systems used in law enforcement, migration, asylum and border control management, and administration of justice) a centralised MSA for the remaining Annex III high-risk systems represents the most appropriate model in Ireland.
8. In the view of ComReg, a central MSA in Ireland should be appointed for the purposes of regulation of both Annex I and the residual parts of Annex III referenced above.
9. ComReg is of the view that a sectoral approach would give rise to inconsistencies in the application of the AI Act across different product types for high-risk AI systems.
10. ComReg is aware of previous support for centralised AI oversight through the European Parliament's proposal for implementation and enforcement of the AI Act.⁹ Specifically, the Parliament's amendments after first reading of the EC's proposal, required one national surveillance authority (NSA) in each Member State. The Parliament's proposal is provided for by way of the derogation in the AI Act, as an alternative to the creation of multiple MSAs.
11. We set out below our principal concerns relating to what ComReg is concerned would be a fragmented and inefficient sector-based approach.

⁸ Aside from a few selected certain use cases in Annex III high-risk AI systems of the AI Act, which contain a number of exceptions in respect of the MSA to be appointed e.g. law enforcement, financial institutions etc.

⁹ <https://www.brookings.edu/articles/key-enforcement-issues-of-the-ai-act-should-lead-eu-trilogue-debate/>

- **Coordination and Consistency**

12. Centralisation could be achieved either by appointing, resourcing and empowering an existing regulatory body in Ireland to take on the role of a centralised authority for the purposes of Annex I and residual elements of Annex III of the AI Act. An alternative to this approach would be to form a specialised agency with responsibility for regulation of the AI Act. To ensure proper coordination¹⁰ with the existing MSAs (under the existing union harmonisation legislation), ComReg considers provision should be made to allow the central authority to seek the cooperation of the MSAs.
13. More specifically, this “coordination” provision should facilitate any reasonable assistance, in respect of sectoral expertise that the central authority requires for high-risk AI systems covered by union harmonisation legislation.
14. Further, if a central authority examining a high-risk AI system has the ability to coordinate with and obtain expert assistance as required from existing MSAs (covered under the Union harmonisation legislation), it will ensure a greater degree of consistency to regulation.
15. Recital 8 of the AI Act notes the dual objectives of fostering the development, use and uptake of AI in the internal market while also ensuring a high level of protection of public interests such as health and safety and the promotion of fundamental rights. It also refers to the objective of promoting secure, trustworthy and ethical AI. To achieve these objectives the recital specifically mentions the requirement for rules to be clear and robust. A centralised approach supports the achievement of these objectives as it will allow for the clear and consistent application of the AI Act to all forms of AI systems, thereby enhancing the smooth functioning of the internal market while also protecting fundamental rights.
16. ComReg anticipates that, in its sector, use cases for high-risk AI safety components of radio equipment under the RED will be infrequent and a sectoral approach would not efficiently utilise the expert resources required, and those resources would not develop their expertise to effectively manage the harms they are in place to address.
17. Further, the procedural steps required under the legislation would have to be revisited on each occasion if the frequency is low. Conversely, ComReg’s more

¹⁰ As per Article 74(3) of the AI Act

targeted assistance to an expert central authority on the infrequent occasions that the use cases arise would enable the full utilisation of that expert in a consistent way across all sectors.

18. ComReg is aware that the European Commission (Commission) has recently set out in a paper, a preliminary interpretation of how the risk classification provision of the AI Act interacts with sectoral safety legislation specifically relating to radio equipment devices which incorporate AI-based components.¹¹

19. According to the Commission's paper (which is noted as a guidance document only), every security feature using AI would be classified as a high-risk application (regardless of the application and/or existence of officially recognised technical standards, known as harmonised standards). Such an interpretation could significantly expand the use cases for regulatory oversight in relation to Annex I. Regardless, ComReg submits that the regulation of high-risk AI systems, which it and other MSAs will be responsible for (due to the interplay between the AI Act and existing Union harmonisation legislation), would be better served by a central authority, with input from ComReg where necessary.

- **Expertise & talent**

20. A centralised model can allow for AI expertise to be concentrated nationally, where it can operate in a focused and strategic manner. In contrast, a sectoral model will likely result in a scarcity of resources, with required expertise being dissipated in multiple bodies with a disjointed strategy.

21. A centralised approach would more likely facilitate the hiring of sufficient talent and building expertise to effectively deliver the objectives of the Commission and the State to access the benefits and manage the risks of AI through the AI Act.

22. A centralised team is likely to also have capacity to rapidly scale up and be agile in responding to the anticipated developments in AI and advanced technologies across all sectors.

23. A suggestion has been made by the Department that one MSA or competent authority in Ireland could house centralised experts that could be relocated within individual MSAs as needed. ComReg considers this approach is unlikely to comply with the AI Act in terms of ensuring competent authorities have the necessary

¹¹ In June 2024, the European Commission issued a guidance paper providing a preliminary view on the interplay between the AI Act and the RED.

resources required; is unlikely to fulfil requirements for independence of MSAs and is equally likely to give rise to issues relating to commercial sensitivity and confidentiality with practical implications about where and how documents are being stored, shared and secured.

- **Communication & consistency of application**

24. A centralised model may also result in more effective communication between the various authorities in different Member States and the Commission as there is only one authority to deal with in Ireland.
25. ComReg is of the view that a sectoral approach would potentially give rise to inconsistencies in the application of the AI Act across different product types for high-risk AI systems given that the enforcement of the regulation could be siloed.
26. The AI Act also establishes a complex governance structure, comprising of the EU AI Office, the European Artificial Intelligence Board (AI Board), an advisory forum and a scientific panel of independent experts. Each Member State will also be required to designate one representative as a single point of contact for the AI Board. This Board will be responsible for ensuring harmonised implementation of the AI Act.
27. ComReg's view is that a centralised pool of talent, expertise and resources would best suit this complex governance structure.

- **Resources**

28. While Article 70(3) of the AI Act, states that each Member State:

“shall ensure that their national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively under this Regulation”,

29. ComReg is of the view that a sectoral approach would likely give rise to fundamental resourcing challenges (funding and expert staff), with the various different agencies vying for the same scarce resources to fulfil their statutory remit.
30. Each MSA will require resources in order to comply with their various obligations under the AI Act. While Member States are obligated to provide resources, we are

also aware that ComReg (if designated as a MSA in respect of the RED products) to maintain its independence would need a funding mechanism such as a new levy.

- **Member State approval of a centralised model**

31. ComReg observes that Spain has recently created a new agency for the supervision of artificial intelligence (“AESIA”).¹² It is the first newly created agency with regulatory powers specifically focused on AI in Europe. Among other tasks, AESIA will act as the national supervisory authority (with sanctioning powers) for the AI Act.

32. AESIA’s object and purpose includes responsibility for carrying out supervision, advice, awareness-raising and training tasks aimed at public and private law entities for the proper implementation of all national and European regulations on the proper use and development of artificial intelligence systems, more specifically, algorithms.¹³

33. AESIA will also collaborate and coordinate with other authorities, national and supranational, for the supervision of AI.¹⁴ It remains to be seen whether AESIA will also have responsibility as an MSA for high-risk AI systems under the AI Act, which are subject to existing union harmonisation legislation.

- **Conclusion**

34. Having considered the above, ComReg is of the view that a sectoral approach appears unlikely to meet the objectives of these significant new laws and is unlikely to protect against the risks arising or allow for benefits to be achieved.

35. Further, it will be less efficient, more costly, slower to implement and not keep pace with the exponential rate of change arising from the development of AI and advanced technologies.

¹² Cullen International (cullen-international.com): The Spanish government adopted on 22 August 2023 a royal decree establishing the statute of the Spanish agency for the supervision of artificial intelligence (AESIA).

¹³ The Spanish government has approved Royal Decree 729/2023, on the Statute of the Spanish Agency for the Supervision of Artificial Intelligence (Agencia Española de Supervisión de Inteligencia Artificial) (“AESIA Statute”), which regulates the incorporation of AESIA, whose activities will be focused on supervisory tasks (including inspection and sanctioning powers on AI provided for in the EU AI Act), advice, awareness and training for the proper implementation of all national and European regulations regarding the proper use and development of artificial intelligence systems; available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2023-18911

¹⁴ Article 4(3)(c) of the AESIA Statute.

36. Overall, a centralised approach to the designation of competent authorities, would ensure consistency in applying and enforcing the AI Act.

B) Distribution of regulatory responsibilities: the impacts of distribution of functions across several public bodies risk inconsistency and there are limited synergies with ComReg's existing roles

37. As noted above, a centralised approach is preferable to ensure consistency. In particular, regarding the rationale for proposing the distribution of functions across several public bodies, while organisations such as ComReg already have expertise in respect of products it regulates under the RED, this expertise relates to the RED products only.

38. It is difficult to see therefore how a step of potentially extending ComReg's regulation to governance of an area of which it has no expertise in, namely governance of high-risk AI systems under the AI Act (i.e. where the AI system is intended to be used as a safety component of a product covered by the RED), could lend itself to any form of regulatory coherence.

39. In fact, the proposed distribution¹⁵ of MSAs under the AI Act seems likely to have the opposite effect; a disjointedness built on the foundations of a generalist approach distributed across several organisations.

40. ComReg is of the view that the establishment of a specialised central authority in respect of supervision and enforcement of the AI Act would lead to a trusted and protected system in a coordinated manner.

41. Wherever the responsibilities fall, they will need to be resourced. Coupled with that, synergies with ComReg's existing functions are misaligned as the envisaged functions and required expertise under the AI Act are quite different to those under the RED.

¹⁵ The default position under Article 74(3) of the AI Act is that MSA for high risk AI systems which are subject to the legislation listed in Section A of Annex I (Union harmonisation legislation) shall be the authority responsible for market surveillance activities designated under such legislation.

C) Quantum of resources required

42. As noted in paragraph 29 above, a sectoral approach is likely to result in resourcing challenges. In this respect, ComReg notes that the Commission Impact Assessment of the Regulation on Artificial intelligence from April 2021,¹⁶ states:

“Under options 1, 3, 3+ and 4,¹⁷ in-house conformity assessment as well as third-party conformity assessment would be funded by the companies (through fees for the third party mechanism). Member States would have to designate a supervisory authority in charge of implementing the legislative requirements and/or the voluntary labelling scheme, including market monitoring. Their supervisory function could build on existing arrangements, for example regarding conformity assessment bodies or market monitoring, but would require sufficient technological expertise. Depending on the pre-existing structure in each Member States, this could amount to 1 to 25 Full Time Equivalent (FTE) per Member State (As a comparison, Data Protection Authorities in small Member States usually have between 20 and 60 staff, in big Member States between 150 and 250 (Germany is the outlier with 700; Brave, Europe’s Governments are failing the GDPR, 2020). The resource requirement would be fairly similar, whether ex-ante enforcement takes place or not. If it does, there is more work to supervise the notified bodies and/or the ex-ante conformity assessment through internal checks of the companies. If it doesn’t, there will be more incidents to deal with.”

43. The Executive Summary of the same impact assessment states in relation to significant impacts on national budgets and administrations that:

“Member States would have to designate supervisory authorities in charge of implementing the legislative requirements... Depending on the pre-existing structure in each Member States, this could amount to 1 to 25 Full Time Equivalents per Member States.”

44. It would seem from ComReg’s remove at least, that a much greater resource may be needed for the State than potentially was indicated by the Commission Impact Assessment. Given Ireland’s current and continuing approach to foreign direct investment from major technology companies and the importance to Ireland of a

¹⁶ Available here: <https://digital-strategy.ec.europa.eu/en/library/impact-assessment-regulation-artificial-intelligence>

¹⁷ The preferred option from the impact assessment was option 3+, involving a regulatory framework for high-risk AI applications with the possibility for all non-high-risk AI applications to follow a code of conduct. With that option, compliance was to be verified through ex-ante conformity assessments and ex-post supervision and market surveillance.

technology focused digitally enabled economy, we believe that Ireland's competent authorities' expert AI resourcing needs are probably more on a par, or arguably greater, than those required by the larger Member States.

45. As we have seen with the implementation of other EU legislation, significant resources will be required for the implementation of the AI Act. For example, ComReg notes that the Commission Impact Assessment on the review of the NIS 2 proposal¹⁸ stated, in respect of systemic and structural changes to the NIS Directive,¹⁹ that it would require an overall increase of about 20% to 30% of resources of the relevant authorities per Member State at a central level, mainly for performing supervisory actions on a larger number of entities.²⁰

46. In addition, ComReg further notes the content of the Commission Explanatory Memorandum of 16 December 2020, published in Ireland on 15 January 2021²¹ and in particular the views of Mr. Ciarán Ó hÓbáin of Department of the Environment, Climate and Communications ("DECC") who correctly observed:

"The estimated 30% Commission resource increase estimations are at a minimum as any MS with an Essential or Important entity established in the Member States will be the Competent Authority for reporting obligations and compliance across the EU as a whole. In Ireland's case this could lead to significant resource requirements as a consequence of NIS2 given our position in the Digital Infrastructure environment."

47. Given the above, with both the Commission Explanatory Memorandum and the views of DECC pointing at the time to a significant resource requirement in respect of the NIS2 Directive,²² it is difficult to see how similar resourcing requirements will not arise in respect of the implementation of the AI Act.

48. ComReg submits that such resourcing requirements would be greater still if a sectoral-based model to regulation of the AI Act is implemented. In our view, due

¹⁸ Now Directive (EU) 2022/2555

¹⁹ Directive (EU) 2016/1148 of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union

²⁰ See e.g., page 83 of Part I of the Impact Assessment - Impact assessment Proposal for directive on measures for high common level of cybersecurity across the Union | Shaping Europe's digital future available at <https://digital-strategy.ec.europa.eu/en/library/impact-assessment-proposal-directive-measures-high-common-level-cybersecurity-across-union>

²¹ https://opac.oireachtas.ie/Data/Library3/Documents%20Laid/2021/pdf/DECCdocs/150121_150121_145053.pdf

²² Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148

to the scarcity of such resources and in order to be efficient and effective, the Department should centralise those resources.

49. In addition, it is obvious that the regulation of high-risk AI systems for a body such as ComReg, which has limited, if any, synergies with its existing competencies, would represent a very significant departure with attendant organisational impacts.
50. As we have seen with the NIS2 example above and further to the Commission's impact assessment for Member States in advance of the AI Act, we believe that a central authority should be furthering its resourcing case as a priority. However, the paucity of resources in and of itself provides little justification for the disaggregation of regulation responsibilities as it would simply be moving the problem to an arguably less able alternative.
51. Ireland will have a crucial and high-profile role in the EU-wide implementation of the AI Act due to the prevalence here of leading providers of AI systems.²³ ComReg believes that the Department should make provisions for the necessary resources for implementing the AI Act and, specifically in relation to the configuration of central authority, thereby obviating unnecessary risk that would arise from disaggregation – reputationally this is essential for Ireland, particularly with regard to the exponential growth of AI.

D) Ireland's position as a leading digital economy and interplay with the implementation of the AI Act

52. The requirement for skills and expertise must also be considered in the context of Ireland's position as a leading digital economy. The Commission's 2024 State of the Digital Decade report (the "Digital Decade Report") tracks the EU's progress towards a digital transformation that benefits people, businesses, and the environment.²⁴
53. According to the report's chapter focusing on Ireland:

"As stated in the national digital framework Harnessing Digital, Ireland's goal is to be a digital leader at the heart of European and global digital developments. To reinforce the recognition of Ireland's digital prowess both internally and on the international stage, the country continues to prioritise strategic initiatives aimed at

²³ Alphabet (Google), Apple, Meta (Facebook), Microsoft, X (formerly, Twitter), Salesforce, IBM, Oracle and SAP.

²⁴ <https://digital-strategy.ec.europa.eu/en/policies/2024-state-digital-decade-package>

bolstering digital infrastructure, fostering innovation and ensuring digital sovereignty...By collaborating with industry stakeholders, academia, and government agencies, Ireland is set to accelerate its digital transformation even further, to contribute significantly to the EU's Digital Decade objectives, and to strengthen its position as a digital frontrunner on the global stage."

54. Ireland's position as a "digital forerunner" is welcome, particularly as Ireland continues to attract foreign direct investment from major technology companies, including 16 of the top 20 global tech companies.²⁵

55. We understand however that with investment comes greater obligations to ensure those entities can function confidently within a secure cyber environment and that extends to high-risk AI systems.²⁶ This same digital acceleration brings with it the prospect of widening the threat landscape and consequently, increasing risks and vulnerabilities

56. In terms of focus on AI, the Commission Digital Decade Report also states that:

*"Ireland's strategic initiatives are closely aligned with the EU's goals of advancing digital infrastructure, fostering research and innovation, and safeguarding digital sovereignty...By prioritising cloud, AI and data analytics technologies uptake, Ireland aims to accelerate the digital transformation and nurture potential digital leaders, in line with the EU's vision."*²⁷

57. As highlighted by the above extracts from the Digital Decade Report and in this era marked by rapid digital transformation, the need for specialised professional skills in support of digital regulation is critical. The Harnessing Digital - The Digital Ireland Framework refers to the requirement for a 'modern, cohesive, well-resourced network of digital regulators'²⁸ to maintain Ireland's standing as a global and European hub for technology companies, and this vision is welcomed by ComReg.

58. ComReg forms part of a wider Digital Regulators Group²⁹ (DRG). The DRG have focused on the resource implications of a sample set of digital-related regulations

²⁵ <https://www.idaireland.com/explore-your-sector/business-sectors/technology>

²⁶ As per Article 15 of the AI Act

²⁷ Among the EU Commission's recommendations is that Ireland should "develop targeted programs and incentives to encourage enterprises and SMEs to adopt Big Data and AI and leverage their potential for innovation and growth".

²⁸ <https://www.gov.ie/en/publication/adf42-harnessing-digital-the-digital-ireland-framework/>

²⁹ The Digital Regulators Group includes ComReg, the Data Protection Commission (DPC), the Competition and Consumer Protection Commission (CCPC), and Coimisiún na Meán (CnaM).

(including a draft of the AI Act), and some of the observations are useful to consider for the purposes of this submission.

59. One point is that digital regulators will need access to a broad range of digital and regulatory skills and also critical is the need for those regulators to invest in upskilling, re-skilling, and building internal capability in order to deliver on their regulatory obligations. As one of Europe's leading and most ambitious digital economies, there already exists strong and highly technical digital skills within the Irish economy.
60. As we enter a new age of digital regulation, it is imperative that digital regulators acquire and have access to these skills in order to effectively monitor a complex and ever evolving landscape. Securing these skills in the market will require a sophisticated sourcing strategy. As part of this sourcing strategy the regulators will need to directly recruit these skills at scale in a highly competitive market.

E) Maintaining reputation and economic imperative

61. Expanding on the points above, the need for adequate resourcing must also be considered in the context of being able to recruit people with the talent, skills and expertise which will maintain Ireland's reputation and economic imperative. Building on the working of the DRG, ComReg as a digital regulator considers below some resourcing challenges presented by the fast-paced and disruptive nature of the digital economy, which could potentially hinder the effectiveness of implementing the AI Act and in turn impact Ireland's position as a leading digital economy.
62. A stable regulatory environment is an important factor in support of the technology sector in Ireland, which is such a significant sector of the Irish economy.
63. Maintaining Ireland's reputation as a leading global digital hub with the regulatory capability necessary to support that position will be an essential factor in sustaining growth. This growth in turn generates demand for skilled digital professionals in public and private sector regulatory roles, fostering job creation and bolstering Ireland's appeal to international talent.
64. Failure to adequately resource regulators in a manner which enables them to effectively enforce digital legislation risks undermining Ireland's reputation as a secure and innovative technology hub, which could have significant associated negative economic implications.

65. Given the levels of expertise identified as being required for the roles associated with the AI Act, current pay scales and grading structures would appear not to be adequate to accommodate the recruitment of new, scarce digital skills at volume and over a sustained period of time.
66. This limitation may also extend to core regulatory skills, reporting challenges in the retention and recruitment of those skills, particularly in legal and economics, where recruitment and retention are challenging within existing pay scales.
67. Significant investment and change within existing recruitment practices are needed to put the digital regulators on the front foot as they deal with this rapidly emerging opportunity.

Conclusion

68. In view of the scope of the AI Act, a fundamental decision in designing the national implementation is whether to adopt a distributed, sectoral model of regulation, or a centralised one with responsibilities assigned to a single entity (either an existing authority with an enlarged mandate, or a new one, established specifically for the purposes of the AI Act).
69. Additional resources (human, financial and technical) will be necessary so that competent authorities tasked with implementation of the AI Act can fulfil their responsibilities effectively and efficiently.
70. Further to the considerations set out above, ComReg submits that establishing a centralised model to regulation of the AI Act is a more practical and cost-effective arrangement based on the resources required. It will allow resourcing to focus on the recruitment of persons with sufficient talent, skills and expertise. In addition, the centralised approach is more likely to meet the various objectives of the AI Act by promoting the clear and consistent application of the AI Act.

Derilinx response to Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Introduction

We are pleased to provide the following comments in response to the Public [Consultation](#) on the National Implementation of EU Harmonised Rules on Artificial Intelligence by the Department of Enterprise Trade and Employment.

Derilinx is one of the main providers of open-data infrastructure, particularly [data.gov.ie](#) and the [Public Service Data Catalogue](#), and data consultation services into the Irish public service.

As such, we are answering from the perspective of **what existing public data management standards and data infrastructure can be used for better transparency in AI usage such that it informs AI regulation and oversight.**

It will be a matter in due course for the regulator(s) to determine specifically which standards and practices should be in place for the public and private sectors.

The Department has asked four questions which we will address in turn.

1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Most government departments will confront sectoral issues on the use, opportunities and risks of AI in respect of their own domain. There will be few sectors for which a government department has responsibility, where AI will not have an impact and require fine-tuned regulation.

While some sectors are excluded from the scope of the Regulation, there will be overspill between sectors which will make it difficult to draw strict boundaries even with those excluded zones.

Given the complexity of the issues involved and the need for a high-quality regulatory structure, we consider that, initially at least, a single authority should be chosen, or created, to oversee regulation. We take the view that a divergence of competent authorities would create the real risk of the emergence of conflicting rules and practices.

In the future more complicated structures may be required as experience is gained and cross-EU best practice emerges. Even then however, coordination will be necessary at a national level.

We note the parallel for this approach in the [Central Data Governance Unit](#) and the appointment of departmental Data Officers.

Any oversight body should emphasise good communication and guidance in what bodies need to do to be compliant. The Data Protection Commission's useful, and approachable, [resources on personal data](#) is a good example and benefits holders of personal data and organisations, such as Derilinx, who advise on data management.

Examples below are drawn in part from current requirements being met by public service bodies. It will be a matter for Irish regulatory authorities to draw on these models and to ensure similar mechanisms are in place for AI as deployed by the private sector.

2. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Openly published data and metadata can support the required transparency. There are structures in place to support openness and disclosure.

The following requirement is supported.

"high-risk AI systems shall be designed and developed in such a way to ensure that their operation is sufficiently transparent to enable providers and users to reasonably understand the system's functioning." – Article 13 of the EU AI Act.

While there is often transparency in what AI systems are used for, the approaches taken and the code used, there is often much less transparency about what data went into AI systems, and what the governance processes were around those systems.

When providing transparency around high-risk or foundation models, it is expected that PSBs adhere to existing data legislation and that the form in which PSBs provide transparency is informed by legislation on open government and open data.

Transparency will be required from private sector AI leaders and from the regulatory authority or authorities.

The following policy instruments and structures provide useful precedents to be considered in the context of AI.

- The [EU Data Act](#) promotes broader access to, and sharing of, high-quality data. This approach would help the inspection and auditing of AI systems, and the creation and sharing of well-governed representative, and diverse, open datasets for training.
- The [Open Data Directive](#) – by promoting open data practices, public sector bodies can provide valuable datasets that can be used in public AI systems.
 - The Open Data Unit and the Open Data Liaison Officers are important in the stewarding and releasing of these datasets
 - As a subset of open data legislation is the European Commission [High-Value Dataset Implementing Regulation](#). This labels certain categories of data as crucial to publishing, and adhering to certain standards – which have now been built in as part of data.gov.ie. An example would be if they, as planned, [extend the HVD categories](#) to include Climate data, and building that information into future AI models.
- National Information Sharing and Data Governance Act
 - Data Sharing Agreement Register and consultation as a reference for AI use and regulation across sectors
- [Data Governance Act](#)
 - While obviously PSBs sit on hugely valuable open data, the DGA is about creating as much valuable data as possible, while maintaining safety, over protected data.
 - There is a strong promotion of legal data sharing between PSBs – in particular making that as simple as possible at the legal, semantic, technical and organisational level.
 - From the OGCI see the upcoming:
 - Data Sharing Standards Framework
 - Data Sharing Ethics Framework
 - Single Information Point
 - [Public Service API Standards](#)

- EU Digital Services Act – defines transparency standards on private companies, in particular, using recommender systems. Regulators and oversight bodies should be defining the data model and data standards that companies should use when providing information.

3. How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Excellence in AI regulation should have regard to the following:

- There are several examples of “AI registers” which operate as openly published structured information or metadata about AI systems such as the [AI Register City of Helsinki](#), the [Scottish AI Register](#), and the [Amsterdam algorithm register](#). While these are valuable they don’t seem as guided by data standards and metadata about AI systems as they could be. Ireland should aim towards well-published and well documented systems – equivalent to a Public Service AI Catalogue perhaps. By providing well-organised transparency on AI systems and data, others can then build and adapt them for other public or private sector uses.
- The data used for these AI systems should be available and published in an international standard such as [Croissant, developed by the ML Commons group](#).
- There are many aspects to AI openness – code, documentation, APIs, datasets, weights, licences. Some have raised the issue of [“open washing” when it comes to AI](#). Ireland should aim to go even beyond what the EU AI Act prescribes and consider public service AI systems as “open by default” unless there is a good reason not to. Much of the infrastructure to do this already exists through data.gov.ie.
- Irish public service can have its own hub for sharing trained AI models – inspired by work with in the [HuggingFace Model Hub](#), or the [TensorFlow Hub](#), but specifically for models trained by the Irish PSBs. Again, adhering to ML model metadata standards, and well-developed [model cards](#). Private sector may keep these models proprietary or use existing private sector model sharing platforms.
- Further aiding and promoting data quality throughout the public service. Data quality is a key part of EU Data Governance Act and informs the Open Data Directive. The overlap between data quality in its typical sense and data quality systems can be complex (see [Priestly 2023](#)), but it is acceptable to say that the quality and accuracy of

AI systems developed by public service is very much dependent on high quality public service data. The OGCIO will be releasing a Data Quality Framework for public service and there should be discussion on how this helps public service data for AI.

- A culture of safe innovation within the public service is possible. And the releasing of data through trusted research environments, privacy enhancing technologies, and [regulatory sandboxes](#).
- Defining the interaction and co-informing between AI ethics and data ethics. The OGCIO will be publishing the Data Sharing Ethics Framework later this year, and the public service will likely see further work and advancement in the topic of data ethics. Meanwhile, DEPENDR have published the [Interim Guidelines for Use of AI](#). These two threads of work on responsible and ethics use of data and AI technologies should inform each other, and consider how ethical practices can extend not just into guidance, but into the day-to-day lives of public service staff in their work.

4. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Ireland's implementation of the AI Act can drive support and accelerate progress from various perspectives while meeting regulatory obligations by:

- The idea of a Public Service AI Catalogue to promote transparency and knowledge sharing across departments.
- Make use of the forthcoming Data Sharing Standards Framework and Data Sharing Ethics Framework to ensure AI systems in public services adhere to high standards of data governance and ethics while unlocking the value of public data. This is mentioned within Strand 7 of the National AI Strategy: "Standards and Guidelines for Ethical Data Sharing within the Public Service".
- Promote the use of standardised metadata for AI systems, such as the Croissant standard, to enhance interoperability and transparency.
- Create an Irish public service model hub – or guidance on best practice in publishing to existing ones (i.e. similar to how the CSO uses Github for code).
- Encourage collaboration between academia and public sector on AI projects, leveraging the proposed hub for sharing trained AI models.
- Implement the transparency requirements of the AI Act – technical documentation, data quality measures, data governance, disclosure of AI use, and traceability.

From: Shona D'Arcy <email address redacted>
Sent: 16 July 2024 15:25
To: ConsAI Regulation
Subject: Public consultation on the implementation of the EU Artificial Intelligence (AI) Act,

hello

I would like to make a submission for the public consultation. My research background is in AI, specifically speech recognition technology and I have an expert understanding of AI development. I have been working in Healthtech for the past 15 years with a specific interest in regulation and clinical validation which has a lot of similarities with how we will regulate AI.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

A sectoral approach is preferable in this case, Ireland has an extremely successful healthtech innovation ecosystem, and this area will require sectoral expertise and will also require more oversight than other areas. A centralised model could add undue delays on lower risk applications. I believe a competent authority should include commercial expertise that can ensure there is sufficient balance between excellence in regulation but not impeding commercial roadmaps

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

GDPR is now a main stream concept and has not had any significant impacts on the population/companies. While the rollout was seen as over burdensome it is now a seamless aspect of life.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Implementation of the AI act has many opportunities. Being the first country to have an established pathway that shows AI can be regulated and not impede innovation and commercial traction will help Irish companies grow. If external companies see Ireland as a place where they can land and achieve approvals to expand into EU we will attract inward investment. There is a lot of sentiment that regulation will hold back innovation and if this process is too slow and onerous Ireland will lag in AI innovation and we will lose inward investment.

It will be crucial to implement a regulatory process that is agile to ensure companies can get approval as efficiently as possible, particularly as the technology continues to evolve. The technology is moving at an unprecedented rate we cannot let regulation fall behind the technology.

Excellence in AI regulation would see a stamp of approval from the Irish regulator giving a company an easy transition to a new market. A similar concept can be seen in clinical trials: clinical studies completed in Germany are considered best in class and data from these can be submitted directly to FDA, additional trials do not need to be carried out in the US. This is the target we should striving to achieve, that AI approval from Ireland is seen a best in class and actually reduces the burden of

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Please include startups and enterprise when designing the competent authority. Build in a mechanism to change that can be responsive to shifting technology landscape.

I hope my contribution is useful

Regards

Shona D'Arcy

Entrepreneurship Lead Lead, EIT Health (Ireland-UK)

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**Response by Energia to the Department of
Enterprise, Trade and Employment**

***Public Consultation on National
Implementation of EU Harmonised Rules
on Artificial Intelligence (AI Act)***

16 July 2024

1 Introduction

Energia welcomes the opportunity to respond to the Department of Enterprise, Trade and Employment's consultation on the National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act). We have set out our response to this consultation in the sections below. The first section consists of the overarching response which provides an outline of our position to this consultation paper. This is followed by our response to the consultation questions posed throughout the consultation paper. The response below aims to offer the Department, Energia's thoughts on the measures under review and provide recommendations on such.

Energia operates through three businesses: Renewables; Flexible Generation; and Customer Solutions. Energia is committed to playing a key role in the energy transition and decarbonisation of the energy system. Energia has a Positive Energy Programme which, launched in 2019, set out an investment of €3 billion focussed on a range of major renewable energy projects. Ongoing projects include onshore and offshore wind, solar, battery storage and green hydrogen, and it is anticipated this programme can add circa 1.5 Gigawatts of additional renewable capacity to the system by 2030 to facilitate the achievement of Government targets and keep momentum towards the overall objective of Net Zero. Our Customer Solutions business is committed to innovation and continued investment to deliver products and services supporting the energy transition.

2 Overarching Response

Artificial Intelligence (AI) holds significant importance in how we will continue to interact and integrate technology into our lives. It is important to consider that while it brings with it many benefits, it also poses challenges that need to be addressed and overcome. AI can be applied across society and from an energy supplier perspective can increase efficiency and productivity in carrying out diverse tasks, it can increase economic growth by helping industry create new products and services better suited to customer cohorts as well as improving the quality of life not just from a medical perspective, but by providing the possibility of smart homes (i.e. home energy management systems (HEMS)), and tailored personalised recommendations in terms of energy usage and efficiency among other things.

However, to reap these benefits, Energia have identified the following criteria that should be given additional considerations when implementing the AI Act at the national level:

- Follow the principles of good regulation: Ensuring that the AI Act is clear, transparent and robust will create a trustworthy environment for investors and industry stakeholders to operate in alleviating uncertainty and ambiguity.
- Resource and skillset adequacy: In order to implement the AI Act in a resilient manner the competent authority(s) who will be responsible for the implementation will need to be adequately resourced and have the necessary skillset. Leveraging expertise from existing competent authorities should be highly considered.
- Cooperation and coordination: To reduce overlap and additional administrative burdens, the cooperation and coordination with other competent authorities in

identifying and considering the synergies between the AI Act, cyber security regulations and data protection rules is vital.

- Just Transition Principle: New developments are coupled with learning and awareness raising elements. Leveraging AI for economic and societal benefits should be coupled with the principle of a Just Transition which emphasises inclusion, fairness and equitability. Through the AI Act, all customer cohorts (and especially those with vulnerabilities) should benefit from AI but also be shielded from any negative impacts.

2.1 Principles of Good Regulation

The effective implementation of EU Harmonised Rules on Artificial Intelligence (AI Act) should be based on the existing principles around regulation. The 'Regulating Better' Government White Paper sets out six principles of Better Regulation¹. These include:

- Transparency
- Consistency
- Accountability
- Effectiveness
- Proportionality
- Necessity

Through these six principles, the White Paper laid out what is required to ensure that regulatory interactions would be smoothly applied and adhered to. The Better Regulation Toolbox of the European Commission also alludes to the same standards². Using the six principles mentioned above, the following should be given additional focus when implementing the AI Act:

- *Transparency:* Ensure the terms of the regulation are clear and simple to understand, minimising any potential discrepancies in interpretation.
- *Consistency:* Ensure synergies are understood and considered to reduce anomalies arising from other regulations. When it comes to regulation, ensure best practice is applied across all areas.
- *Accountability:* Stakeholders need to clearly understand who the governing body / national competent authority will be (e.g. those who deal with Data Protection turn to the Data Protection Office (DPO) in cases where there have been data protection breaches etc.).
- *Effectiveness:* To ensure the effectiveness of application, any discrepancies and/or loopholes around compliance with and enforcement of the AI Act should be minimised to ensure stakeholders are on a level playing field.

¹ <https://assets.gov.ie/3477/281118144439-cf60aac3e3504e6f9f62f0ccda38f203.pdf>

²https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf

- *Proportionality*: Sanctions should be proportional to the non-compliance in question. Sanctions should not be applied using a blanket approach but rather more suited to individual cases.
- *Necessity*: Ensuring that double regulation is reduced is highly important. Stakeholders, and especially energy suppliers are regulated but are also subject to stringent obligations under GDPR.

3 Consultation Questions

3.1 What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Energia believes that the Department should consider a centralised or federated approach when devising the configuration for implementation. This approach has been successfully implemented from a Data Protection perspective, whereby reporting is centralised via the Data Protection Commission but is supported by a stewardship programme.

The configuration of national competent authorities for implementation of the AI Act should also focus on ensuring that the competent authority(s) in question is/are adequately resourced and have the necessary skillset to support the implementation of the Act. We would recommend leveraging of expertise from existing competent authorities to take advantage of efficiencies and best practices (e.g. Commission for Regulation of Utilities, Data Protection Commission, Competition and Consumer Protection Commission etc.). This will ensure consistency, transparency and effectiveness across regulatory matters and will diminish any potential regulatory discrepancies in application of such regulations.

3.2 Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Energia believes the identification and consideration of synergies between the AI Act, cyber security (e.g. NIS 2 Directive³) and data protection (e.g. GDPR rules) are vital. Identifying these synergies and ensuring cooperation and coordination with other competent authorities will help in addressing double regulation and reporting, and general overlap which in turn will help reduce additional red tape, confusion and administrative delays.

In addition to having people with the corresponding skillset, it would be beneficial to establish a cross-functional working group with expert stakeholders from other areas where synergies are identified, ensuring expertise and best practice can be shared.

3.3 How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022L2555&from=IT>

investment and accelerating innovation in AI? What would excellence in AI regulation look like?

From an Energia perspective excellence in AI regulation would entail not only a clear, transparent framework that follows the principles of good regulation, but a framework that would instil a trustworthy environment for investors. Industry players would welcome guidance and support regarding implementation of the AI Act through a guidance framework which will be conducive to shaping the regulatory framework.

The creation of a guidance framework prior to the regulatory framework has been the approach employed to deliver the Cross Border Adjustment Mechanism (CBAM). For example, CBAM has been introduced in phases (i.e. the transition phase from 1 October 2023 to 31 December 2025 followed by the definitive period commencing on 1 January 2026). The transitional phase, up to the end of 2025, was designed as a “learning phase” where reports are submitted, and best practice analysed without the initial burden of “paying a financial adjustment”. The definitive period then looks to gradually cover under the obligation scheme the “embedded emissions for CBAM goods” aimed at phasing out “free allocation” of EU ETS allowances by 2033. This means that from 2034 no free allocations of EU ETS will be provided for CBAM goods⁴.

The implementation of the AI Act, as mentioned throughout this response will require adequate resourcing of personnel with the necessary expertise to support good regulation, whilst a cross functional workgroup would enable the leveraging of any overlap to address uncertainty and ambiguity for investors to navigate securely and support Ireland’s positioning as a leading digital economy.

Meeting GDPR, governance and cyber security obligations is of relevance along with the development and incorporation of high-risk criteria described in the AI Act into a simple framework that is easy to deploy, implement and administer. To that end, it is important to take into consideration that not every sector or company are on an equal footing or journey when it comes to AI and AI systemisation. Such sectors or companies will require additional support and training which should be offered by the Government in the form of training supports to upskill workers. Some examples of successful existing initiatives which could be expanded are the Skillnet Ireland Programme, Springboard, grant funding via Enterprise Ireland etc which would equip companies and their employees with the necessary knowledge and tools to drive innovation and investment in AI.

3.4 How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations (i.e. building public trust in AI; leveraging AI for economic and societal benefit; and Enablers for AI)?

Energia considers that in order to ensure implementation of the AI Act and drive support and accelerate progress in the three main areas proposed in the consultation, the core regulatory principles on best practice mentioned above will be of utmost importance. We also believe that support and accelerated progress can only be

⁴https://taxation-customs.ec.europa.eu/system/files/2023-11/CBAM%20Guidance_EU%20231121%20for%20web_0.pdf

achieved through simplicity, clarity and transparency towards the applicability of the AI Act.

Energia also believes that there is an awareness and communication piece attached to AI. AI is a new tool, and while it presents many benefits, trying to retrofit systems to ensure compliance is much more challenging than understanding and applying the rules from the onset which in turn allows for a smooth transition in complying with requirements.

There are perhaps a few lessons learnt that can be extrapolated from the implementation of GDPR, which is seen as a vital stepping stone in standardising data protection and adapting to the evolving data privacy landscape. GDPR implementation has seen multifaceted challenges, as per below⁵, and should bolster the Department's pursuit of avoiding these from arising following the implementation of the AI Act:

- Technical: processing of personal data and complexities around linked data and data aggregation, identification and mapping of data and implementing the right to be forgotten.
- Legal: Legal ambiguity has caused issues, as well as the balancing of GDPR requirements and other regulatory requirements indicating a lack of due diligence to identify potential double regulations.
- Organisational: Lack of knowledge and relevant skillset have also negatively affected GDPR implementation. This has also called into question, monetary values of human and time costs. Issues due to internal process system upgrades has resulted in GDPR being challenging to implement as well as in some countries, a noticeable resistance to change.
- Regulatory: GDPR from a regulatory perspective is seen as complex, with a lack of awareness and understanding of what GDPR requirements are, followed by vague and incomplete guidelines on implementation standards.

Energia also believes the Just Transition principle should also be considered from an economic and societal benefit perspective. Significant emphasis is placed throughout Climate Action Plan 2024 (CAP24)⁶ on the four principles⁷ of the just transition framework when seeking to meet Ireland's decarbonisation targets. The energy transition involves many changes that for some cohorts of society may be classified as complex due to vulnerabilities (i.e. sensory, physical, mental etc.). AI and technology may also be complex for some consumer cohorts to apprehend and should not be dismissed when looking at how AI can support and accelerate progress in terms of public trust and societal benefits.

⁵https://www.researchgate.net/publication/377572957_Understanding_challenges_of_GDPR_implementation_in_business_enterprises_a_systematic_literature_review

⁶<https://www.gov.ie/pdf/?file=https://assets.gov.ie/296414/7a06bae1-4c1c-4cdc-ac36-978e3119362e.pdf#page=null>

⁷ The just transition framework is made up of four principles: 1. An integrated, structured, and evidence-based approach to identify and plan our response to just transition requirements; 2. People are equipped with the right skills to be able to participate in and benefit from the future net zero economy; 3. The costs are shared so that the impact is equitable and existing inequalities are not exacerbated; 4. Social dialogue to ensure impacted citizens and communities are empowered and are core to the transition process.

Ergo Submission

Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

About Ergo

Ergo is delighted to submit the below response to the public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act).

Founded in 1993, Ergo is Ireland's largest indigenous IT solutions provider, headquartered in Dublin, with Irish offices in Cork and Limerick and international bases in New Zealand, the UK, the US, Romania, and Columbia and employing over 700 IT professionals.

Ergo excels at the intersection of business and technology and works with CIOs and IT leaders to develop bespoke AI offerings that are unique to every company's needs. As such, Ergo has an in-depth understanding of how the AI Act will impact Ireland's business professionals.

Question 1: What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Response:

The primary aim around the actual structure or configuration should be that it will provide the same experience for those working with the relevant people implementing the AI act. Three considerations we would propose considering are:

- a. Set a clear mandate around timescales and transparency. This would ensure that the outcomes of investigations or regulatory inquiries are clear, that results or outputs are reproducible, and that the time taken for inquiries is appropriately managed and does not inhibit innovation. This needs to be the case across the sector or AI risk categories.
- b. The capability and skills of the authorities must be carefully considered. Of course, the relevant AI/ML literacy must exist across all people involved. Still, it is also crucial to have a level of in-depth expertise among the authorities for interfacing with organisations working on cutting-edge deployments or high-risk AI solutions. A balance should be struck between technical, risk management, ethical, and legal expertise/knowledge.
- c. The EU AI Act applies to providers deploying AI solutions in the EU, not providers based in the EU. As such, the authorities should work with organisations outside of Ireland, but also with other authorities from organisations that might be deploying the same solution in multiple regions to minimise overheads.

Question 2: Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Response:

Yes, we think there are potential synergies between the implementation of the AI Act and other EU regulations.

Similar to the EU's AI Act, a risk-based framework could be used to grade types and uses of AI by how much risk they pose. This approach ensures that higher-risk AI applications are subject to stricter regulations.

However, until the real-world impact and implications of these regulations are better understood, this will have more to do with regulations around customer protection and strengthening the internal market, rather than technology adaptation and innovation.

Specifically for consumer protection and an increase in user safety and trust, the EU AI Act seems well aligned with GDPR. From a technology and infrastructure perspective, there may be some synergy around the Digital Operational Resilience Act (DORA), NIS2, and the CER as AI systems will also need specific infrastructure considerations.

Question 3: How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Response:

An Irish AI Advisory Council comprising experts from academia, business, law, security, social sciences, economics, and civil society can provide independent advice to the government on AI policies. This council could help identify risks and opportunities associated with AI.

Ireland with our heritage of neutrality, peacekeeping and our multi-cultural development of our society should encourage the development and use of AI through a people-centred, ethical approach. This includes ensuring transparency, accountability, and fairness in AI systems. Ethical AI development and legislation can help to build public trust and acceptance.

Excellence in AI regulation will not be "one size fits all" given the complex and varied landscape across sectors, geographies, and use cases. Excellence will be achieved when the implementation of the EU AI Act ensures that the relevant processes can be carried out efficiently and quickly to assess and govern compliance in a manner that does not block or inhibit innovation.

Collaboration with industry or domain experts would also bolster Ireland's position as a leading Digital Economy. This could help bridge some of the gaps between the regulatory guidance and how it applies in practice. Collaboration would also support AI deployers and providers as well as those managing the implementation over time as the EU AI Act itself is likely to be adapted or added to in the future as a variety of tools, technologies, and methods become available in the future.

Question 4: How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Response:

Building public trust in AI:

Ireland is known for its educated workforce and so there should be a focus on AI Education and Skills development. Investing in AI education and skills ensures the workforce is prepared for the impact and adoption of AI. This includes providing training and resources for businesses to adopt AI technologies.

We must build support in AI while accelerating progress. Building trust in AI cannot be done without developing AI literacy, training, and developing understanding among the public.

While this is important for fundamentally understanding what AI is and is not, as well as the difference between how systems like ChatGPT and shopping basket recommendations work, this development is also covered under the existing AI strategy for Ireland and should not be overlooked.

It is important to recognise that building trust in AI should also apply to the regulations. For example, it is important to explain to the public, in simple terms, what the regulations mean for organisations and end users and what is meant by "high-risk" AI. It should also be added that AI is involved in our everyday lives and has been for some time through navigation systems, online shopping, cars/vehicles, weather forecasting, etc. Acknowledging this as part of public education could help build public trust.

Leveraging AI for economic and societal benefit:

The outlined strategic actions around driving industry adoption of AI, targeted funding for AI adoption, accelerating onboarding and adoption of AI in the industry, and establishing an AI innovation hub are all well aligned to encourage AI adoption.

Supporting and accelerating progress in this space is likely to come down to a few key factors; funding/procurement opportunities, governance overhead (to make sure safeguards are met), and flexibility to move quickly. Constraining any of those will produce a difficult environment to recognise economic or societal benefits through the use of AI. If Ireland's implementation could expedite some processes (e.g. rapid access to funds for low-cost experimentation) or incentivise outcomes based on value metrics, it could accelerate progress in this space.

Enablers for AI:

The intersection of research and leading-edge technology with industry experience is, of course, important for delivering new AI solutions. However, leading-edge research is not always required to drive innovation. Innovation, fundamentally, is around practically implementing ideas resulting in new services or improvements to services. In that context, implementing the AI Act and leveraging AI for societal benefit is about making a step change from how it is being done today through deploying well-understood models, not just jumping straight to bleeding-edge technologies (which of course have their place).

Striking the balance between experimenting and talent growth for the future and innovating through incremental updates with existing technologies will be critical to success. As for skills and talent in the future, while it's a key area in terms of enablement, it's impossible to know what the requirements will be in 10 years (equally, we did not know to a degree of certainty what we would need today back in 2014). Work done in this space needs to be abstracted to the relevant level of detail so that Higher Education Institutions can be slightly more flexible in terms of curriculum design and respond to changes over time

Ireland as a Sovereign AI Superpower

I write this as a very concerned resident of Ireland. I have witnessed a continued disassociation from the realities of future progress by leadership of Ireland and would like to outline key tenets necessary to inform decisions with AI as a transformational technology for the nation.

"potential economic, environmental, and societal benefits across the entire spectrum of industries and social activities"¹

Tenets

1. **Energy** is the blood to an economy
 - a. Energy in all its forms need to be options (gas, nuclear) and the Government has a primary obligation to reduce energy costs to grow the economy. This is imperative in the world of compute.
2. **Innovation** happens with free exploration
 - a. No great innovative unlock happened by managing processes. EU countries with the most open guidelines with AI 'regulation' will attract the most ambitious startups.
3. **Talent** is not equally distributed. Ireland should become a magnet for skilled workers, this can only be done with tax advantages and beautiful places to live.
4. The wheel does not need to be reinvented. **Model policies following Singapore, Taiwan, Denmark, Estonia.** Ireland will not be an AI Nation without actions now.

National implementation of the AI Act

The EU Act is rushed and has short sightedness.

- The act defines general-purpose AI models with "high-impact capabilities" as those trained using a total computing power exceeding 10^{25} FLOPs (floating-point operations per second). This threshold is seen as potentially arbitrary and may not correlate well with actual model capabilities or risks.
- 'AI' is so much of software now the Act is already overreaching into areas that should not need regulation like logic in a spreadsheet.
- Smaller companies are going to be swamped with processes and documentation when they are already trying to survive by winning customers. Larger tech/business monopolies will be the only ones able to adhere to regulation as defined.

Input into the provided consultation questions

¹ <https://enterprise.gov.ie/en/consultations/consultations-files/public-consultation-on-national-implementation-of-eu-harmonised-rules-on-artificial-intelligence-ai-act-.pdf>

Consultation Questions (Section 4²)

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges.
 - a. **What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?**
 - i. I would strongly caution against an overly centralised approach. Innovation in AI requires flexibility and the ability to experiment, which is often stifled by rigid, top-down regulatory structures. A distributed, sector-based model would allow for more nuanced oversight that takes into account the unique considerations of different industries.
 - ii. While coordination challenges are a valid concern, they are outweighed by the benefits of having regulators with deep domain expertise. A centralised authority risks taking a one-size-fits-all approach that could severely hamper AI development, especially for startups and SMEs that may lack the resources to navigate complex bureaucracy.
 - iii. Instead, I would recommend a federated model with sector-specific bodies that have significant autonomy, loosely coordinated by a light-touch central office focused mainly on information sharing and high-level policy. This preserves flexibility while still allowing for some degree of harmonisation.
2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.
 - a. **Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?**
 - i. While there may be some administrative efficiencies in aligning implementation of the AI Act with other digital regulations, we should be extremely wary of creating an overly burdensome and interlinked regulatory regime. The more complex and interdependent the rules become, the more they risk stifling innovation - especially for smaller players who can't afford armies of compliance officers.
 - ii. Instead of focusing on regulatory synergies, Ireland should look for opportunities to streamline and simplify rules where possible. The goal should be creating clear, straightforward guidelines that don't require advanced legal knowledge to navigate. Overcomplicating the regulatory landscape will only entrench the dominance of large tech incumbents.
3. Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a "centre of regulatory excellence" in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. — 6
 - a. **How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?**
 - i. Loosen the grip of regulation in Ireland. Become a freeport for AI. Ireland should position itself as a haven for AI innovation by embracing regulatory sandboxes, creating safe harbours for experimentation, and focusing enforcement efforts on truly high-risk applications rather than blanket restrictions.
 - ii. To attract investment and accelerate innovation, Ireland needs to signal that it will take a pro-innovation stance in interpreting and enforcing the AI Act. This could include things like:
 1. Fast-track approval processes for lower-risk AI applications
 2. A "right to explain" approach rather than preemptive restrictions

² <https://enterprise.gov.ie/en/consultations/consultations-files/public-consultation-on-national-implementation-of-eu-harmonised-rules-on-artificial-intelligence-ai-act-.pdf>

3. Emphasising industry self-regulation and codes of conduct over prescriptive rules
 4. Providing ample transition periods and grandfathering of existing systems
4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.
 - a. **How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?**
 - i. Ireland should take a highly sceptical view of any regulatory obligations that could impede AI progress and innovation. The focus should be on the bare minimum needed for compliance, while maximising flexibility and autonomy for AI developers and deployers.
 - ii. To build public trust, the emphasis should be on education and transparency rather than restrictions. Help the public understand AI capabilities and limitations, but don't patronise them with heavy-handed protections.
 - iii. For economic and societal benefits, create incentives and support structures to drive AI adoption across industries. But let the market, not regulators, determine the most valuable use cases.
 - iv. Enablers for AI should focus on infrastructure, talent, and access to data - not on an expansive regulatory regime. Keep oversight narrowly focused on clearly defined, high-risk applications.
 - v. In summary, Ireland has an opportunity to differentiate itself with a genuinely innovation-friendly approach to AI governance. But this requires pushing back against regulatory overreach and trusting in the power of free exploration and market-driven solutions.

Resources

- [The AI Act Explorer | EU Artificial Intelligence Act](#)
- AI Act Briefing [Artificial Intelligence Act, European Parliament](#)

Response to Consultation Questions

Question 1:

There are a number of potential approaches for national implementation of the AI Act. Each approach has its own distinct advantages and disadvantages. Based on our experience, we believe that a centralised model would provide the most suitable approach for the initial implementation of the AI act for the following reasons:

- **Access to skills** – AI is a new and emerging technical area and the competent authority will need to hire the required skills to discharge their oversight responsibilities. In a decentralised model, the competent authorities would be competing for already scarce skills resulting in duplication at a national level. Centralising would mean that a single competent authority would be able to concentrate their investments and hire more specialised skills across AI domain areas (for example data management, AI modelling, AI architecture, etc).
- **Consistency of approach** – The implementation through a centralised authority would ensure a consistent approach across organisations and ensure clarity on the requirements and interpretations of the Act. In addition, some of the larger organisations are increasingly working across industry sectors (e.g. technology companies in health) and it is important to have a single designated authority for each organisation. Finally, this would also provide clear accountability for AI oversight and implementation. This centralised authority could implement sector-based guidelines to ensure that the individual sectors receive relevant guidance so there is no loss of sectoral insights or experience.
- **Common issues / risks** – Whilst sector specific issues will undoubtedly emerge over time, it is likely that there will be more commonality in terms of the risks, controls and oversight across sectors that would benefit from shared experiences/knowledge. Data protection and GDPR are examples of previous regulations that have benefits from regulation through a centralised competent authority.
- **Amplification:** A centralised regulatory approach in Ireland could assist in amplifying Ireland's position on the European and global stage.

Question 2:

There is increasing complexity across the regulatory expectations for organisations stemming from recent EU digital legislation, the AI Act and indeed existing data protection requirements. At the heart of these regulations is the protection of citizens. As part of this, organisations must manage data, use data and make decisions based on data for citizens. In many organisations, the systems of governance and control to deliver compliance with the various obligations will be common and thus there may be synergies for the implementation of these regulations.

The AI Act identifies a number of specific pieces of EU legislation which are relevant including the web accessibility directive, directive (EU) 2019/882 on the accessibility requirements for products and services, EU Cyber security legislation, harmonised safety legislation, GDPR and many others.

A key theme of recent digital legislation from the EU is a focus on transparency. The AI Act imposes a number of transparency requirements. Similarly, the digital services act also imposes transparency requirements and for companies operating in that space a holistic approach to the transparency obligations would be beneficial.

The greatest synergies could likely be achieved through incorporation of new requirements into existing processes and input into existing and new standards.

Question 4:

Ireland's economy has performed exceptionally well in recent years, reflecting its underlying strengths - from a dynamic FDI sector and talented indigenous entrepreneurs, a skilled workforce and world class universities, to an enterprise-friendly environment. Economic headwinds abound, however, and if Ireland is to keep pace with developments in global markets, we also need to cultivate the seeds of tomorrow's economic growth.

Looking to the future, AI will be embedded in the operational fabric of every sector and will be central to future economic growth. All sectors and geographies are taking part in an AI-powered technology race that will be a significant driver of growth and opportunity¹. A recent [EY CEO Outlook](#) reveals that global CEOs prioritise AI transformation to boost productivity and growth, with 47% planning to invest in AI and technology in the coming year.

As the National Competitiveness and Productivity Council highlight, the AI landscape is rapidly evolving, and early adopters stand to gain significant economic, strategic, and competitive advantages. Ireland's national AI strategy is a strong foundation for our country. Policymakers here have been proactive in recognising the opportunity that AI presents for Ireland, businesses here and wider society. However, it is imperative that we maintain this momentum as we look to implement the AI Act, particularly when it comes to Leveraging AI for economic and societal benefit in a number of key areas.

A: Prioritise AI Skills, Education and Training for All

Ireland is ideally positioned to become a world-leading hub for investment in AI-enabled business across industries. To do so, Ireland must focus on building an AI-ready workforce by upskilling and reskilling and concentrating our efforts on specific sectors or domain areas.

When it comes to the labour market, technological innovation typically impacts via (1) job creation, where new roles and opportunities emerge, (2) job displacement where functions become obsolete due to automation, and (3) job transformation where the nature of tasks is augmented. As AI adoption increases and skill requirements change into the future, it will be

¹ [AI transformation, ESG and M&A: CEO survey April 2024 | EY Ireland](#)



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essential to ensure that enterprise and education policies are in place to promote and support inclusive training and life-long learning.

Beyond technical proficiency, we must integrate AI into the entire educational spectrum, beginning at the school level. This approach ensures that graduates in fields such as commerce or accounting are also well-versed in AI, cultivating a workforce ready to embrace and leverage AI technologies.

Upskilling and retraining of those currently in the workforce at all stages is also crucial, so they can take advantage of the tremendous opportunity and competitive advantage of AI no matter their field or their years of experience in the workforce.

B: Continue to support R&D Investment

Significant steps have been made to improve Ireland's existing R&D tax credit regime over recent years, which are very welcome. However, given the rapid pace of increased competition from other jurisdictions, for Ireland to continue attracting FDI projects as well as supporting indigenous businesses to grow and scale, it will be essential that our offering remains competitive.

To attract and foster greater AI development, we need to ensure the right incentives are available to compete on the global stage for this talent and create an ecosystem which encourages greater collaboration between industry and academia.

C: Improve Collaboration between Research and Businesses

The development of R&D clusters is key to making Ireland more attractive. Greater collaboration is needed between and amongst both academic research and the state-funded research system, and indigenous entrepreneurs and our multinational sector. Increased funding may be needed to support and enable this collaboration.

There is also a strong case for the establishment of an AI Centre of Excellence in Ireland to nurture the start-ups that will provide the investment opportunities for FDI firms as well as to develop the skills base.

Conclusion

We thank the Department for the opportunity to engage on this critically important matter and would be happy to meet to discuss the content of this submission further.

Eoin O'Reilly
Head of AI and Data at EY Ireland

European Movement Ireland

AI Act Consultation DRAFT

QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Sectoral Expertise: The competent authorities should have relevant expertise and competencies in the sectors where AI systems are being regulated and deployed, such as healthcare, finance, education, law enforcement, etc. The Act states that for financial services, the existing competent authorities for financial regulations should also be designated as the competent authorities for supervising AI systems used by financial institutions unless Member States decide to assign a different authority.

Coordination: Effective coordination and information sharing between the national competent authorities, the EU-level AI Office and AI Board established under the Act, and other relevant EU bodies and agencies are important to ensure consistent application of the rules.

Technical Expertise: Evaluating AI systems for compliance with the various requirements around risk management, data quality, human oversight, accuracy, robustness and cybersecurity requires significant technical expertise. The national authorities will need access to AI and data science experts to fulfil their roles.

Market Surveillance: The national authorities should have the capacity and resources to conduct market surveillance activities to identify non-compliant AI systems and enforce penalties where required.

Engagement with Stakeholders: Configuring the national authorities should involve consulting with relevant industry bodies, SMEs, startups, academia, and civil society to obtain their input. An advisory forum representing a balanced selection of stakeholders is envisioned to provide technical expertise to the AI Board at the EU level.

2. In recent years, the EU has adopted a series of Regulations designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between implementing the AI Act and other EU Regulations governing Digital markets, services, and infrastructure?

Digital Services Act (DSA) and Digital Markets Act (DMA): The AI Office established under the AI Act is tasked with "ensuring coordination with the Digital Services Act and Digital Markets Act". The DSA and DMA aim to create a safer and more open digital space where users' fundamental rights are protected and to establish a level playing field for businesses. There could be synergies in terms of the transparency and accountability requirements for AI systems used by online platforms and gatekeepers covered under the DSA and DMA.

Data Protection and Privacy: The AI Act builds upon the existing General Data Protection Regulation (GDPR) by requiring AI systems to handle personal data transparently and securely. Compliance with GDPR principles around data minimisation, purpose limitation, transparency, etc., will be vital to meeting the data governance requirements for high-risk AI systems under the AI Act.

Cybersecurity: The EU Cybersecurity Act establishes a framework for certifying cybersecurity products, services, and processes, which can be relevant to AI systems, especially those used in critical infrastructure and high-risk sectors. The AI Act's requirements around cybersecurity and robustness for high-risk systems could be implemented in synergy with the Cybersecurity Act's certification schemes.

Sectoral Regulations: AI systems are increasingly being deployed in regulated sectors such as financial services, healthcare, transport, energy, etc. Each of these sectors has its own EU regulations and competent authorities. The AI Act foresees these sectoral authorities also being responsible for supervising the use of AI in their respective domains unless Member States designate other authorities. This allows for leveraging existing expertise and avoids duplication of regulatory efforts.

3. Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation in SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Provide Regulatory Clarity and Guidance: Ireland can aim to provide clear and practical advice to businesses on how to comply with the AI Act's requirements, especially for SMEs and startups that may face additional challenges to comply with all of the Acts provisions. This could include sector-specific guidelines, best practices, and tools to help companies navigate the regulation. Clarity on classifying AI systems into different risk categories and the corresponding obligations will be crucial. Clear, consistent and proportionate rules would characterise excellent AI regulation.

Foster a Conducive Ecosystem for AI Innovation: Ireland can leverage the AI Act's provisions around regulatory sandboxes and real-world testing to create controlled environments for businesses to develop and test innovative AI applications before full-scale deployment. Facilitating access to funding, computing resources, datasets, and talent can further boost AI innovation and attract investments.

Position Ireland as a Hub for Trustworthy AI: By emphasising the AI Act's focus on ethical, trustworthy and human rights compliant AI that respects EU values and fundamental rights, Ireland can differentiate itself as a jurisdiction that prioritises the responsible development and deployment of AI. This can build user trust and give companies a competitive edge in the EU

market. Ireland's data protection authority is already seen as a critical regulator for major tech companies - it can build on this reputation in the AI space.

Invest in AI Skills & Research: Excellent AI regulation would go hand-in-hand with initiatives to develop a skilled AI workforce and support cutting-edge research. Ireland can invest in AI education programs, reskilling initiatives, and research funding to create a pipeline of AI talent. Forging close partnerships between academia, industry, and government can drive AI innovation and position Ireland as an AI leader.

Engage Proactively in EU & Global AI Governance: As an EU member state, Ireland has the opportunity to shape the implementation of the AI Act and contribute to the broader EU AI governance framework through the AI Board and other mechanisms. Ireland can also engage in global AI standards development and cooperate with other leading AI nations to promote interoperability and shared principles for trustworthy AI.

4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society through a people-centred, ethical approach to its development, adoption, and use. In recognition of AI's wide-ranging effect on our lives, this Strategy considers AI from several perspectives: Building public trust in AI, Leveraging AI for economic and societal benefit, and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Supportive Regulatory Environment:

- Provide clear and practical guidance on compliance requirements, especially for SMEs and startups, through workshops, helplines, online resources, and templates.
- Establish a dedicated AI regulatory sandbox where businesses can test innovative AI applications in a controlled environment with regulatory support and oversight.
- Offer incentives such as grants, tax credits, or fast-track approval processes for AI projects that demonstrate adherence to the AI Act's requirements and ethical principles.

Capacity Building & Skills Development:

- Launch AI skills development programs with universities, training providers, and industry to create a pipeline of AI talent versed in technical and ethical considerations.
- Support the upskilling and reskilling of the existing workforce to adapt to AI-driven changes in job roles and requirements.
- Fund research on AI governance, ethics, and responsible AI development to generate evidence-based insights to inform implementation.

Public Trust & Engagement:

- Conduct public awareness campaigns to educate citizens about AI's benefits and risks, their rights under the AI Act, and the safeguards in place.

- Engage citizens in dialogues and deliberative processes around AI deployment in public services, such as healthcare, education, and law enforcement.
- Establish clear and accessible mechanisms for individuals to seek redress or file complaints related to AI systems that violate their rights or cause harm.

Title: **"AI could soon animate lab monsters that end humanity"**

Alt. titles: "AI could soon motivate monsters to end humanity"

 "Humanity is seeding its own destruction"

 "Deepfakes are a distraction from the deadly AI Trojan horse"

 "Better AI leaders can deliver better outcomes for humanity"

Key words: lab monsters, humanity, deepfakes, Trojan horse, OpenAI, copyrighted material, copyright theft, internet, AI tools, ChatGPT, Aesop's fable, artificial intelligence, AI, Sam Altman, Silicon Valley, rogue actors, first principle, large language models, AI models, porn videos, ISIS beheading videos, Hall of Faces, hyperscale, generative AI, guardrails, treaties, pacts, accords, robot constitutions, product roadmap, Satya Nadella, Microsoft, Skynet, John Connor, Resistance.

Summary:

- AI is rife with foundational flaws.
- OpenAI is a dangerous Trojan horse.
- 'The storm is coming. Join the Resistance.'

Body: No surprise that OpenAI is rationalizing the theft of copyrighted materials scraped from the internet (" 'Impossible' to create AI tools like ChatGPT without copyrighted material, OpenAI says", 8 Jan 2024 -- <https://www.theguardian.com/technology/2024/jan/08/ai-tools-chatgpt-copyrighted-material-openai>). Spot-on.

Yet there are bigger issues at stake. Readers might keep in mind the false yet insidious Aesop's fable concerning the frog and the scorpion, in which the latter rationalized (as many humans do): *"It's in my nature."*

Thoughtful ministers, legislators, and scientists as well ought to be suspicious of early experimentation in artificial intelligence. It is no divine primordial soup. Those leaders should also get busy and probe AI's genesis plus the backgrounds, qualifications, and inclinations of AI's hustling chiefs and funfair barkers.

Sam Altman (in addition to the rogues' gallery of ever-hyped Silicon Valley venture capitalists and rotating CEOs) either doesn't know, or won't publicly admit, that today's AI creatures are rife with first principle flaws. They can mutate easily (if left unchecked or later hijacked) to inflict catastrophic harm upon humanity.

Today's twitchy large language models and AI offerings derive from theft, porn, and gore. Countless lawsuits have been lodged against certain tech companies which, allegedly, repeatedly violate copyrights to train AI models by hoovering mountains of purportedly protected content from published works. Desperate for large and predictable datasets, coders for one pioneering form of AI were reportedly directed to find inspiration (and massive datasets) among decades of collected 'public domain' porn videos. Likewise, another AI early mover's founders and coders apparently drew swift, incisive, and bountiful datasets from a library of 'fair use' ISIS beheading videos.

Leaders of all stripes would be wise to focus intensely, right now, on identifying latent IT and AI sociopaths plus their Hall of Faces enablers. The immediate risk is that a self-anointed messiah (either singly or in cahoots with other nihilists) knits together multiple unbridled generative AI systems during a baying, unthinking dash to hyperscale.

The existential risk for humanity is if an AI source code monster, whether automated or sentient, awakens from such ghastly parentage. Then begins self-parallel computing, inferring, and self-replicating to permanently disrupt (while hunting throughout) its well-stocked abattoir named Earth.

Guardrails, treaties, pacts, accords, 'robot constitutions', and especially Microsoft CEO Satya Nadella's "... product roadmap ..." for OpenAI all be damned; Skynet is nearly upon us.

'This is John Connor. The storm is coming. Join the Resistance.'

Jim Egan
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UK: [email address redacted]

Bio: Jim Egan is a technologist and aerospace enthusiast. He leads an ecosystem creating digital futures initiatives to influence the perceptions, emotions, behaviours, brand loyalties, and discretionary spending of 250m-sized online audiences. During a previous life, while toiling inside a Pentagon vault as a Defense Department contractor, Jim became fond of (yet concerned with) massive binary crunching architectures and predictive modeling tools.

Image credit: Deposit Photos (used with permission) --

Fexco Response to The Department of Enterprise, Trade and Employment Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose co-ordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Response

Given the fact that the existing regulatory structure for AI, as designated by the EU Artificial Intelligence Act (hereafter 'AI Act'), is already relatively complex in nature, an important consideration would be to, where possible, streamline and simplify the regulatory and enforcement structures at the national level, so as not to add further complexity to the environment.

Considering that, at the EU level, there is an EU Artificial Intelligence Board, an EU Artificial Intelligence Office, an EU AI Advisory Forum and a scientific panel, and that at the national level there will need to be a market surveillance authority and a notifying body, it is submitted that less, rather than more regulatory bodies being involved in the chain would more effectively achieve the goals of the AI Act.

A co-ordinated, centralised approach, with one national authority appointed to regulate AI in Ireland, would provide greater certainty and understanding for affected parties as well as helping to ensure that regulatory activities would be faster and more efficient. Ultimately this would assist in achieving the goals of the AI Act, which are to support the EU internal market for AI, to ensure that AI safety is implemented and that fundamental rights are respected.

Although a sectoral approach may give greater access to expertise, it would also risk further fragmentation, and potentially create less efficient regulation, with, as a final result, potentially less protections for individuals and more impact to business and innovation. In particular, where multiple sectoral approaches, across many different regulators, are adopted:

- issues such as co-ordination, communications, complaints handling, enforcement and the issuing of guidance can all become more difficult;
- there may be applications of AI which will fall outside of the remit of existing sectoral regulators, which could lead to areas of life and business being unregulated; and
- there is a real risk with a sectoral approach that AI rules and principles would be applied inconsistently across diverse sectors, leading to potential contradictions and fragmentation.

Furthermore, an existing potential complication is the fact that, to the extent that the Digital Services Act partially regulates AI, Ireland's designated regulator under that Act, Coimisiún na Meán, already has a formal role to play in the regulation of AI in Ireland. While this is a very welcome development, meaning as it does that the AI environment in Ireland will be safer for all users and better protected, it does, however, introduce another layer of complexity and co-operation. If a sectoral approach was adopted in addition to this existing regulatory arrangement, it could risk leading to less-than-optimal AI regulation in Ireland. Where Coimisiún na Meán needs to investigate AI matters, it would be preferable, and more effective, if it interacted with only one national AI regulator, as opposed to many sectoral ones.

Also, considering that many different EU member states are adopting contrasting approaches to regulating AI, there is merit in the Department of Enterprise, Trade and Employment having regard to these arrangements and, perhaps, aligning with the majority approach, if that proves appropriate. This would help to achieve harmonised compliance across the EU. For instance, the French and Dutch governments have signalled their intent to assign AI regulation to their respective data protection authorities, while the Spanish government has opted to create a wholly new AI regulator, the Agency for the Supervision of Artificial Intelligence. In any case, a review of the merits and demerits of other Member State decisions, in this regard, could prove very valuable in understanding what kind of arrangement should be adopted.

On the whole, Fexco believes that a simpler regime, with one designated national AI regulator, will help to ensure that Ireland, and the EU, remains competitive for AI investment and innovation, as well meeting the core safety and fairness requirements of the AI Act.

As regards the appropriate regulator for AI in Ireland, Fexco believes that, whether a new regulator is created, or if, alternatively, AI is assigned to an existing regulator, the final regulatory body should have experience with:

- regulating complex technologies.
 - regulating large multi-national technology companies.
 - balancing fundamental rights with business interests.
 - regulating in an EU-wide cross-border context.
- 2.** The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Response

There are a number of potential synergies across EU regulations:

- **Digital Services Act:** the remit of Ireland's digital services regulator, Coimisiún na Meán, extends to AI where there are digital safety concerns in the underlying technology. The work and expertise of Coimisiún na Meán in this regard could be leveraged by Ireland's AI regulator, and, if co-ordination can be achieved, a strong relationship between these two regulatory bodies could lead to enhanced protections for individuals.
- **General Data Protection Regulation:** Given that data governance is a core requirement for high-risk AI systems under Article 10 of the AI Act¹, in particular, that data be accurate, meet high quality standards and be free of bias and discrimination, already-existing data protection compliance, under the GDPR, could assist affected bodies to comply with the AI Act. The GDPR has already ensured that good data governance practices have become standard in many organisations.

Furthermore, considering that Ireland's data protection regulator, the Data Protection Commission, has important experience in regulating cutting-edge, complex AI technologies, such as generative AI, this experience and know-how could be very helpful to any new AI regulator in Ireland.

- **Digital Operational Resilience Act and Network and Information Security Directive 2:** Article 15 of the AI Act² places stringent cyber-security requirements on the development and deployment of AI systems. The Digital Operational Resilience Act and the Network and Information Security Directive 2 also have clear overlaps in this regard, and so work completed in these areas should have significant positive impacts for AI Act compliance.
- 3. *Harnessing Digital - The Digital Ireland Framework*** establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a "centre of regulatory excellence" in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

¹ https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138_EN.pdf

² Ibid.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI?

Response

Regulators have a number of functions, including, supervision, investigation and enforcement; however, an equally important function is to support, educate and guide the businesses that are subject to often complex new regulations. This is especially important in an ecosystem, like Ireland, where it is widely recognised that there is a vibrant start-up community, many of which companies are now seeking to leverage AI technologies in their products and services. Ireland is clearly centrally placed to further expand on its reputation as a leading, technology-friendly country, if it can deploy AI regulation in the optimal way. If Ireland is to use regulation to foster innovation and become 'a centre of regulatory excellence', the following would be important factors:

- At the most fundamental level, and a key-success factor for AI regulation, will be meaningfully explaining the purpose of the AI Act. The AI Act is ultimately intended as a pro-innovation initiative, designed to win the trust of the public in the development of AI technologies and it does this by setting acceptable boundaries within which AI technologies can thrive. A behavioural change is required, namely that businesses will become accustomed to developing AI in a risk-conscious manner that puts safety and fairness at the core of its plans. If this most basic message is not communicated and understood, then it will be difficult get consistent buy-in from Irish AI start-ups and from international AI companies.

In this respect, an equally important stakeholder to convince will be the public, who need to meaningfully trust in AI technologies before they will adopt them and buy into Ireland's ambitious digital agenda.

- Developing effective AI regulatory sandbox capabilities that encourage start-ups to take risks in a controlled, safe testing environment will be a key operational success factor. This is especially relevant given that Article 57 of the AI Act mandates that 'Member States shall ensure that their competent authorities establish at least one AI regulatory sandbox at the national level'.³ However, in this respect Member States have the leeway to go further than the basic requirements of Article 57 and are encouraged to establish sandboxes 'jointly with the competent authorities of one or more other Member States'.⁴ Given Ireland's participation in the D9+ Group of EU Member States, this may provide a valuable opportunity to develop joint sandboxes across these Member States.

The Department of Enterprise, Trade and Employment should also consider the value of sectoral AI sandboxes, for example, in the Healthtech or Fintech sectors, as well as local

³ Ibid.

⁴ Ibid.

and regional sandboxes that match geographically with centres of innovation across Ireland.

Finally, co-ordination with existing sandbox initiatives, such as those operated by the Central Bank of Ireland for the finance industry, would be an important step for the new AI regulator to move fast on sandbox requirements and begin to test innovative high-risk AI technologies.

- Working with companies to help them navigate the complexities of AI regulation will be vital. In this respect, guidance, consultation processes, outreach initiatives, hackathons, risk management workshops and training will all play a role in helping businesses to have the courage to innovate successfully within the safety and fairness boundaries of the AI Act.

What would excellence in AI regulation look like?

Response

- The EU Commission's own research has shown the very important connection between balanced regulation and the stimulus of innovation, and that good regulation, instead of being an automatic blocker of progress, can in fact be a growth factor in technological developments. In one important evidence-based Commission report, *How Can EU Legislation Enable and/or Disable Innovation*, the authors note the impact of previous EU regulations on innovation:

'Regulation can at times be a powerful stimulus to innovation. EU regulation matters at all stages of the innovation process. Different types of regulation can be identified in terms of innovation impact: general or horizontal, innovation-specific and sector-specific regulation. More prescriptive regulation tends to hamper innovative activity, whereas the more flexible EU regulation is, the better innovation can be stimulated. Lower compliance and red-tape burdens have a positive effect on innovation.'⁵

Specifically, the above research highlights a number of factors that have a constraining effect on innovation, and, so, these issues should be managed and mitigated, where possible. Some of these constraining factors are:

- **Excessive administrative burden:** this issue naturally has a particular impact on new entrepreneurs who will often lack the time, understanding, resources and even mental space to deal with potential 'red tape' obligations. Time spent on administrative obligations is also time not spent on more productive activities that may be essential for the survival of young, fragile start-ups. It is clear that the AI

⁵ How Can EU Legislation Enable and/or Disable Innovation, Jacques Pelkmans and Andrea Renda , https://ec.europa.eu/futurium/en/system/files/ged/39-how_can_eu_legislation_enable_and-or_disable_innovation.pdf.

Act, especially in the case of providers of AI, does create a significant administrative burden, so any initiatives that may help, such as template checklists, SME-specific guidance, and technology toolkits should be explored.

- **Excessive Compliance Obligations:** when the application and enforcement of compliance obligations are disproportionate to the risks involved, or too costly and time-consuming to meet, negative market effects can materialize with start-ups either ceasing to continue, or not even making it past the feasibility stage. Clearly, under the AI Act, the compliance obligations for high-risk and systemic risk providers are not trivial and presume a complex infrastructure of IT, compliance and product safety know-how. Solving this issue and ensuring that Irish businesses are willing and able to cope with these requirements will become progressively important over the next 24 months, as the full obligations of the AI Act begin to become real for the market.
- **Flexibility:** regulation that incorporates a flexible, proportionate and risk-based approach to the interpretation and application of the law has tended to prove more successful in realising regulatory goals. This will have special relevance for the AI Act considering that it is, in essence, a precision regulation that regulates the uses of AI technologies and not the technology itself. Properly applying the risk framework of the AI Act, and accurately understanding which level businesses fall into, will become central to achieving this flexibility.
- **Certainty:** the absence of stability and certainty in regulatory frameworks has a hindering effect on innovation in that businesses are simply unclear on what it is they should or should not do from a strategic perspective. Also, it disincentivises the right kind of risk-taking which seeks to explore alternatives and push boundaries. It also, especially, hampers disruptive innovation where the risk-taking is necessarily of a higher order. Also, in the AI space, where companies may wish to embark on multi-year, ambitious AI projects, certainty is a vital driver for these longer-term, transformative initiatives. In the context of the AI Act, this speaks to the earlier point made in this response, namely that it will be key to select the right regulator for AI in Ireland and that a simpler regime of one unequivocal AI regulator will practically and symbolically radiate a message of certainty down through the AI ecosystem.

4. *AI - Here for Good: National Artificial Intelligence Strategy for Ireland* sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Response

The delivery of Ireland's national AI strategy can be supported by implementation of the AI Act in the following ways:

- **Public Engagement:** As mentioned previously, the public, as the ultimate users and beneficiaries of AI technology will be a central stakeholder in the successful adoption, and regulation of, AI technologies. If trust does not come from the ground up, then many critical, high-risk uses cases to improve or transform the delivery of public services may be jeopardised.

Further to this, Strand 4 of the national AI Strategy, 'AI serving the public', envisages AI playing a key role in the provision of public services. The regulation of AI can assist in this goal by demonstrating to the public how such key projects were developed in conformity with the AI Act. For instance, the publication of AI risk assessments, fundamental rights impact assessments, and transparency as regards suppliers used can have an important effect on winning the trust of the public.

- **Choosing the Right Initiatives:** Also, the choice of AI initiative is a relevant consideration. To gradually obtain public trust, it is usually wise to select clearly defined AI use cases, which may have modest goals, but will also have a high probability of success. Starting with manageable lower-risk cases will have the effect of showing the public how AI can improve their lives, while also helping them to trust in its abilities.
- **Maintaining Focus on an Ethical Approach to AI:** A theme that runs through the entire national AI strategy is 'the Government's commitment to an ethical approach to AI and to the secure use of AI and other digital technologies.'⁶ In its purpose, the AI Act is fundamentally based on an ethical approach to AI technologies and on ensuring that AI is adopted in a human-centric, safe and fair way that respects fundamental rights. In this respect, a correct and balanced application of the AI Act, with special focus on the protection of rights and on the appropriate use of human-in-the-loop controls, will dovetail with the national AI strategy's goal of achieving ethical AI.

⁶ AI - Here for Good A National Artificial Intelligence Strategy for Ireland
<https://enterprise.gov.ie/en/publications/publication-files/national-ai-strategy-executive-summary.pdf>



ENDS

financial services union

STRONGER TOGETHER

**Submission from the Financial Services Union
to the Department of Enterprise, Trade and
Employment consultation on National
Implementation of EU Harmonised Rules on
Artificial Intelligence (AI Act)**

This consultation is both timely and crucial. This submission will concentrate on those areas that the FSU feel is applicable to our area of expertise.

Finance has long been on the cutting edge of innovation. As artificial intelligence (AI) becomes more accessible, financial services firms are using these tools to streamline business processes and improve customer experiences. Long associated with early adoption of new technologies, the financial service workforce's focus on information processes increases exposure to AI. The explosive growth of large language models, including ChatGPT, offers unprecedented levels of data analysis and linguistic processing – capabilities that further expose finance workers to job disruption.

While AI is expected to have a notably disruptive effect on employment in the financial services industry, these changes should not necessitate job loss. Amidst these changes, upskilling will be essential to ensure sustainable business growth and reduce skill shortages. Financial services leaders must also address worker concerns related to surveillance and performance management – challenges that could undermine employee morale by threatening the nature of work.

Ireland's highly trained workforce and sectoral experience in banking, data, and technology is establishing Ireland as a global financial leader. The nation is a global hub for international banks and investment firms, with 17 of the world's top 20 banks located in Ireland.

Currently, there are an estimated 57,600 people employed in finance in Ireland. Financial technology (FinTech), which describes "the use of technology to deliver financial services and products to consumers," is a strong driver of this employment.

The shift to digital service use during the pandemic, the strength of Irish research centres, Ireland's highly educated workforce, stable political environment, and targeted government funding options have all contributed to this growth.

The financial services sector has historically been on the cutting edge of technological innovation. From the 13th century development of net-present-value calculations to the invention of the ATM, financial actors have adopted new technologies to guide decision-making and streamline the customer experience. In the aftermath of the 2008 financial collapse, banking institutions have invested significant resources into automating systems to improve services and prevent future crisis.

Information processing and quantitative analyses are essential to financial services, making this sector an ideal operating environment for artificial intelligence (AI) technologies. Finance presents quantifiable problems that facilitate data-driven algorithms using numeric markers such as economic returns. A 2023 European Commission survey found that financial intermediaries are among the leading users of automated tools for business activities.

The field of artificial intelligence is experiencing particularly rapid growth and development. As computer processing becomes more sophisticated and data more accessible, AI has evolved from a laboratory novelty to a household tool. Financial firms are leveraging these advancements to improve business operations, benefiting from the technical growth of AI. The four most significant AI technologies for financial services include knowledge representation, natural language processing, machine learning, and deep learning. These technologies are revolutionising how financial institutions process information, interact with customers, and make data-driven decisions.

The popular deployment of OpenAI's ChatGPT marks a historic accomplishment in the development of GenAI. Launched in November 2022, the LLM-driven tool quickly built a large user base.

Despite the operational benefits of ChatGPT, ethical, security, and accuracy challenges are fuelling concerns over the suitability of the program for financial service tasks.

Bias: Early academic studies confirm the presence of bias in ChatGPT. ChatGPT relies on internet data that may contain biases related to race, gender, religion, or region to generate responses – a reliance that could result in biased outputs. Given the tool's massive scale, these encoded views could have widespread consequences for marginalised groups.

Misinformation: Despite extensive data training, ChatGPT has been known to produce factually incorrect responses. A critical accuracy issue is "hallucination," where models generate responses that are plausible but inaccurate.

Privacy: ChatGPT relies on a large set of individuals' and organisations' financial data. Should malicious parties manage to access this data, the privacy and financial security of these actors could be compromised.

Transparency: While ChatGPT's responses play an important role in organisational tasks, there is very limited insight to the algorithms used to power the tool. This lack of transparency is alarming, particularly considering regulations such as the European General Data Protection Regulation.

These ethical and accuracy challenges demonstrate the need for strong human oversight of AI systems in the financial services workforce.

As technology evolves into cognitive computing, the digitalisation of front-, middle-, and back-office processes is likely to accelerate. This breakdown of AI application areas highlights key focus areas for financial services firms.

Assessing a borrower's expected ability to repay a loan is one of banks' key activities, as well as one of the most discussed applications of AI in financial services. Traditionally, credit scoring processes have relied on the time-consuming, subjective, and error-prone human evaluation of creditworthiness. AI tools can leverage machine learning to automate credit evaluation, theoretically improving accuracy, efficiency, and fairness.

Lenders have implemented predictive models to determine creditworthiness for decades using data from credit reporting bureaus. Advancements in data processing have enabled firms to use ML to analyse different types of data to broaden the types of characteristics determining repayment likelihood.

These predictive benefits do bring substantial downsides including potential opacity, errors, discrimination, unfair exclusion from credit, and lack of explainability.

Chatbots are computer programs that mimic a human-to-human conversation to provide online users with information. Despite these operational benefits, chatbots present accuracy challenges that can erode customer trust.

A review of customer complaints finds that some users experience negative outcomes due to chatbots' technical limitations, including wasted time, feelings of frustration, inaccurate information, and excess junk fees.

Since the early days of its development, AI/ML has created concerns amongst workers that their jobs would be lost to automation.

These fears are not ungrounded: Key considerations facing financial services workers include:

- Job displacement and task augmentation
- Further entrenchment of workplace inequality
- Changing nature of work
- Challenges to worker dignity

Ireland is expected to face higher levels of AI disruption than other advanced economies, according to recent research from the Department of Finance and the Department of Enterprise, Trade and Employment. 63% of employment in Ireland has relatively high AI exposure, slightly above the advanced economy average of 60%. 30% of Irish jobs fall into the high exposure, low complementarity group and are at-risk of labour displacement. The 33% of jobs with high exposure and high complementarity stand the most of gain from AI adoption, including boosts to productivity.

As AI integration disrupts the skills needed within the financial services sector, workers will need to adapt their skills to the changing labour market. To address changing needs, firms need to prioritise on-the-job training and coaching and internal training departments.

The COVID-19 pandemic and shift to remote work accelerated employer use of automated technologies to increase worker surveillance. There are various tools used to monitor employees, including keystroke logging, webcams, phone and login data, and emotion-detecting badges.

While there has always been some level of employer surveillance of employees, AI-powered tools present new privacy challenges. Under GDPR, employee monitoring must be necessary, legitimate, and proportionate. Employers must also be transparent about what AI they are using it, when they are using it, why they are using it, and how it might impact employees.

Despite these requirements, many financial services employees are unsure if they are under surveillance. A recent survey from the Financial Services Union found that more than half of Irish financial services employees were uncertain if their work computers or even home computers were monitored.

Worker surveillance – especially using programs fuelled by AI – undermines morale and creates psychosocial risks for workers. The FSU survey found that most financial services employees felt that surveillance indicated a lack of trust by their employer (60%) and believed that the use of surveillance erodes trust (60%). Data management is also a concern: just one quarter of respondents trusted how their organisation used their data.

It is vital that companies engage with workers and trade unions. This collaborative approach can ensure positive outcomes for workers, employers, and consumers of Ireland's financial services industry.

Conclusion

The possible level of transformation in the workplace due to the effects of increased artificial intelligence is hard to quantify. The future of work is ever changing and poses as many dynamic opportunities as challenges.

We should not be afraid of change, but we should regulate for it. A failure to plan now will lead to unnecessary problems in the future. We cannot make the mistake that was made with social media which was given free rein without the provision of adequate protections.

Human oversight in decision making is vital to ensuring fairness and transparency and in gaining trust and participation in the workplace.

We cannot talk about the future of work and artificial intelligence without discussion on a four-day week, without discussion on training and upskilling of workers and flexible working and without referencing collective bargaining. This will require investment from employers and Government. In the Financial Services Sector training and skilling employees to deal with a future looking workplace is an investment worth making. It cannot be a tick box exercise and will require protected time for staff.

The future of work needs to be a collaboration between employers and employees, it needs to be a transparent process where relevant stakeholders have equal input. This is best done through dialogue with trade unions.

The EU Directive on Adequate Minimum Wages is required to be transposed into Irish Law by the 15th of November this year. Part of this transposition requires the Irish Government to produce an action plan to help increase collective bargaining coverage to 80%.

This Directive, if transposed in the correct manner can have a positive contribution to negotiate the change that is inevitable with jobs being changed significantly or jobs being lost.

Increased regulation is required, and new legislation is needed to ensure that we control the advances of AI for the benefit of all not just the few.

The FSU look forward to future engagement with employers and Government.

The Financial Services Union is the leading Trade Union representing staff in the Financial Services, Fintech and Tech sectors.

We have membership in over ninety companies and are organised in the Republic of Ireland, Northern Ireland, and Great Britain with headquarters in Dublin and a presence in Belfast.

We support thousands of members building their career in the financial services sector – in banks, fintech companies, the life assurance sector, game and animation and specialists support firms.

We are the collective voice of staff in some of the leading financial institutions across Ireland and beyond.

Built on a network of locally elected representatives, we pride ourselves on being our members voice in negotiations with employers on critical workplace issues such as pay, the right to disconnect, leave entitlements, and health and safety. We are a representative and campaigning union based on shared common values of decency, fairness, equality and respect in the workplace.

Question 1: For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Sectoral Expertise vs. Coordination:

- **Sectoral Expertise:** Leveraging specialised knowledge within specific sectors ensures effective regulation and compliance. Authorities with deep sectoral expertise can better understand and address unique challenges and risks associated with AI systems in their respective domains.
- **Coordination Challenges:** A distributed approach may lead to some fragmentation and inconsistencies in enforcement. To mitigate this, robust coordination mechanisms, such as inter-agency committees, standardised protocols, and regular communication channels, would need to be established to ensure cohesive implementation.
- **Centralised Model:** Provides uniformity, streamlined decision-making, and a clear point of accountability. This model can ensure consistent application of the AI Act across all sectors. However, a **Decentralised Model** offers flexibility and responsiveness to sector-specific needs but requires strong oversight and coordination to maintain alignment with national and EU objectives.

Recommendation: As the field of AI will develop and evolve at a rapid rate in the coming years, a sectoral approach will best allow supervision to keep pace by enabling focused skill development within each sector. However, there should be a central governance structure and process that will facilitate the transfer of experiences and knowledge across multiple sectors.

Consideration will also have to be given to the current capacity of each sector's supervisor, including staffing, technical expertise, and financial resources. Efficient allocation of resources must avoid duplication and ensure maximum impact. We suggest the Department consider a shared services model or support systems to enhance efficiency.

We would also encourage the Central Governance body engage stakeholders and the public in the oversight process to ensure the authorities' actions align with broader public interests and foster trust.

Question 2: The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Potential Synergies:

1. **Digital Markets Act (DMA) and Digital Services Act (DSA):**
 - **Unified Digital Strategy:** Coordinated implementation of the AI Act with DMA and DSA can create a unified regulatory strategy that promotes fair competition, protects consumers, and fosters innovation across the digital economy.
 - **Data Sharing and Interoperability:** Encourage data sharing and interoperability standards that benefit both AI systems and digital market regulations, enhancing data availability for AI training and compliance monitoring.
2. **General Data Protection Regulation (GDPR):**
 - **Consent Management:** Need a streamlined processes for obtaining and managing user consent for data use in AI systems, in compliance with GDPR. The **EUDIW** initiative could provide a mechanism for consent to be given by consumers.
 - **Financial Crime:** Ensure AI systems can securely access datasets from financial institutions and law enforcement to enhance the detection and prevention of financial crimes, while ensuring compliance with GDPR to protect individuals' data privacy.

Question 3: Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Strategies for Bolstering Ireland’s Position:

1. Innovation-Friendly Regulation:

- **Flexible Compliance Frameworks:** Develop a regulatory framework that supports innovation by providing clear, predictable, and flexible compliance pathways, especially for SMEs and startups.
- **Regulatory Sandboxes:** Establish an AI regulatory sandbox that allow companies to test innovative AI solutions in a controlled environment, promoting experimentation and rapid iteration. This could be built on the CBI Innovation Sandbox initiative.

2. Investment Incentives:

- **Tax Incentives:** Offer tax incentives and grants for AI research and development to attract investment and foster innovation. Also consider tax incentives for attracting overseas talent into Ireland.
- **Public-Private Partnerships:** Encourage collaborations between government, academia, and industry to drive AI advancements and commercialisation.

3. Excellence in AI Regulation:

- **Proactive Governance:** Implement proactive governance frameworks that anticipate and address emerging AI risks and opportunities. Adopting a ‘Regulatory Sandbox’ capability similar to the new Central Bank initiative will allow Governance to evolve as new services and products are developed.
- **Transparency and Accountability:** Ensure transparent regulatory processes and hold AI system providers and deployers accountable through rigorous monitoring and enforcement.

Question 4: AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Strategies for Supporting AI Development:

- 1. Building Public Trust in AI:**
 - **Education and Awareness:** Launch public education campaigns to inform citizens about AI, its benefits, and regulatory safeguards in place to protect them.
 - **Ethical AI Standards:** Promote the development and adoption of ethical AI standards that prioritise fairness, transparency, and accountability.
- 2. Leveraging AI for Economic and Societal Benefit:**
 - **AI for Public Good:** Invest in AI projects that address societal challenges, such as Credit approval (deepening the credit pool while also protecting consumers from unmanageable debt), healthcare, education, and environmental sustainability.
 - **Inclusive Innovation:** Ensure AI innovations are inclusive and accessible, benefiting all segments of society, including marginalised and vulnerable groups.
- 3. Enablers for AI:**
 - **Research and Development:** Support AI research through funding and collaboration with academic institutions and industry leaders.
 - **Digital Infrastructure:** Invest in robust digital infrastructure to support the deployment and scalability of AI technologies.

Public Consultation on National Implementation of the EU AI Act

From: Genesys Cloud Services B.V., and
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To: Department of Enterprise, Trade and Employment of Ireland

ConsAIregulation@enterprise.gov.ie

Re: Genesys opinion concerning the application of the EU AI Act in Ireland.

Introduction

At Genesys, we are convinced of the transformative power of artificial intelligence (AI) as a driver of societal and industrial development, and we wish to harness it in full compliance with international standards, guidelines and regional regulations. As a tool for innovation, AI is not without its flaws, so we believe that the EU AI Act is a great opportunity to ensure that this technology keeps at the core of its development a set of principles such as the respect of fundamental rights and democratic progress of society. Readiness of national authorities will be crucial in that context, and we are therefore happy to participate in this Public Consultation.

We are convinced that the authorities, as it is the case for the Department of Enterprise Trade and Employment (The “Department”), should take advantage of the synergies that are already starting to be woven into the European landscape thanks to the data protection, competition and innovation regulators, to name but a few, to achieve a holistic and well-informed application of the regulation.

Below, we transcribe the questions published by the Department of Enterprise, Trade and Employment of Ireland as part of the Public Consultation launched for the application of the EU AI Act, followed by our opinion composed by various stakeholders within the organisation.

Questions

Question 1:

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Genesys opinion:

The national competent authority should be a one stop shop for businesses who wish to deliver services and develop AI models and features for the European market. A significant issue with the General Data Protection Regulation (GDPR) in recent years has been the widely differing interpretations between various member states' Data Protection authorities. This has made it very difficult for businesses to innovate and especially for smaller businesses and particularly startups who do not have the depth of funding or staffing to address all these differing interpretations.

A centralised model for implementing the AI Act incorporating all requirements and references to additional sectorial considerations covering developers of General-Purpose AI Models, service providers building on these General-Purpose AI Models and businesses consuming services that utilise AI would greatly benefit the innovation while assuring the absence of barriers for companies to achieve compliance with the regulations. A separate but related function should overlook academic research, as these technologies will equally serve scholar development across multiple disciplines.

Question 2:

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Genesys opinion:

The AI Act significantly interplays with other pieces of EU Regulation. This is notably the case with the GDPR, where the AI Act provides obligations for stakeholders intersecting with other GDPR duties for controllers and processors. We consider that the AI implementing authorities should liaise with both supervisory authorities for data protection as well as with companies currently facing those regulations, in order to better assess the ways to achieve compliance with obligations for controllers and processors that also fall in scope of one of the number of duties for stakeholders under the EU AI Act, specifically for the interest of obligations that should be adapted depending on the AI system at stake.

In addition to the above, we foresee that the EU AI Act may also derive in additional product specific convergent duties and best practices considering the Digital Services Act and The Data Act, and as pointed out above, close collaboration with the relevant parties will be crucial in particular for transparency and interoperability duties under those pieces of law.

The example of the technology-neutral model proposed by the GDPR is interesting as it intended to provide general principles that could be applied without restriction of systems, algorithms or models subject to fast innovation and potential obsolescence. While the AI Act had to be more precise in terms of the particularities of the technology to be regulated, e.g., in risk classification, we believe that the implementation of the law should focus on the principles addressing individual rights, as the

EU Digital Strategy has sought to protect. While it is known that these rules are also expected to be business catalysts, and to provide a level-playing field for the internal market's innovation and development, the underlying objective should remain the protection of rights and freedoms within the European Economic Area. In the same regard, as Data Protection Authorities have started to individually and jointly assess AI tools and companies, such as the [Italian Data Protection Authority](#) and the [EDPB's ChatGPT TaskForce](#), we believe that close collaboration of these agencies and any other relevant regulator with the EU AI Office will be essential to guarantee consistency regarding enforcement of the AI Act and other related regulations.

Question 3:

Harnessing Digital - [The Digital Ireland Framework](#) establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a "centre of regulatory excellence" in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Genesys opinion:

We believe that the EU, and especially Ireland, should embrace the promotion of Open Source models for AI vs Closed-Source as lately proposed by incumbents such as Open AI, among others. Closed Source will only lead to a deep moat around the biggest businesses and lack the transparency ingrained in Open Source, which has greatly served society for the last 40 years. We strongly consider that Open Source enables innovation while delivering the best security model.

See as means of example:

<https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/07/open-weights-foundation-models>

From the above, the Federal Trade Commission of the United States considers that Open Source models: "...have the potential to improve privacy, security, and auditability", and that "open-weights models have the potential to drive innovation, reduce costs, increase consumer choice, and generally benefit the public – as has been seen with open-source software". This suggests that Open Source models should not be subject to the same level of regulatory compliance as other models that allow less transparency and that provide fewer choices for consumers. We kindly suggest The Department to take this comparative example as input for its own implementation of the AI Act with regards to the use of Open Source models and how these should not be constrained to the same set of obligations as it could stiffen innovation in the field.

Question 4:

[AI - Here for Good: National Artificial Intelligence Strategy for Ireland](#) sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Genesys has no specific opinion or suggestions on this subject.

Question 5:

The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

Genesys opinion:

The success of the EU AI Act is reliant upon having adequate resources in place to enforce this new law. We have witnessed this with the GDPR, as the markets and regulators did not foresee such a major overhauling for compliance programs and enforcement actions, which consequently caused a significant delay in addressing privacy issues in Ireland where supervisory authorities could only focus on the big players. We hope that this experience will help us to jointly address concerns with the implementation and application of the law by preserving open dialogues between different market sectors, civil society and the authorities, including the courts of law.

This is particularly important in those portions of the EU AI Act that converge with other laws such as the GDPR, the Digital Services Act and The Data Act. And while technical subtleties may vary, as stated above, it will be vital that The Department listens to the public and private sector's opinions towards a centralized application of the law for the interest of fundamental rights and safe innovation.

Conclusion:

We are aware that the application of the law and its adoption by all stakeholders cannot be tackled immediately. We therefore take this opportunity to extend to The Department our sincere support where our opinion in the subjects addressed above could be of help.

Denis Jude Haughton - email submission

From: Denis Jude Haughton [Email address redacted]
Sent: 23 May 2024 10:36
To: ConsAI Regulation
Subject: Submission AI Regulation [DJH2305]

Categories: Filed to eDocs

EXTERNAL MAIL

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Submission AI Regulation [DJH2305]

Hello,
Just a short one

1. a maintaining of INDEPENDENCE is the most crucial feature of the AI technology which must be implemented and monitored constantly

by INDEPENDENCE I mean no EU or indeed National integrated security monitoring by a single commercial entity (I have seen lobbying for such a thing in the EU over the part number of years)

If AI technologies are treated individually (including group company networks) then the regulations can move forward with individual errors and effects smoothed over all "AI units"

Denis Jude Haughton

Comments prepared by HSA executive

National implementation of the Artificial Intelligence (AI) Act

The HSA recognises that AI systems identified as high-risk include AI technology used in safety components of products, and the need for such systems to be subjected to certain obligations.

We also recognise it is a fast evolving technology area that will be an area of significant growth into the future where its use will increase in products manufactured and placed on the EU Market.

While we understand the requirement for market surveillance, a specific type of technical expertise for assessing AI technologies would be required. This point is recognised in the EU's approach to the implementation of this new AI legislation and the EU is establishing a separate central European AI office to oversee enforcement and implementation.

It would be appropriate to also establish nationally a central national authority with AI expertise for the implementation and regulation of the AI Act in Ireland. This central national body could be supplied with information from market surveillance authorities who in the course of their own inspections, investigation and assessments identify potentially relevant products using such AI technologies for compliance assessment.

CONSIDERATION OF PUBLIC CONSULTATION QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

HSA response

The AI Act opens up a new wide field of EU regulation. The AI Act will apply to multiple aspects of EU legislation across a large area of economic, social and industrial fields. It is imperative that the implementation of the regulatory requirements are carried out in Ireland to the required high standards and in a consistent manner.

We note that the AI Act will apply to seven specific products directives for which we are the market surveillance authority. The AI Act applies to particular applications relating to the **software** for safety control systems under the machinery, lift and pressure equipment but we are unaware of its application for PPE, Gas Appliances or ATEX.

Expertise to regulate the AI Act.

Expertise in assessing systems that has AI technology built in will be critical to ensure good regulation and consistent application including enforcement/compliance with the AI Act within the EU. The process of assessing products with control systems with self- evolving learning, AI logic software etc. will require a specific type of specialist technical expertise in AI software data computing etc. expertise to determine if the products comply in all aspects with the legislation. This is recognised within the new regulation (Article 70 (3)).

National Competent Authorities

Article 70 of the new legislation specifies the requirement of member states to appoint Competent Authorities and also specifies the requirement that these Competent Authorities are resourced, both financially and with adequate personnel with the technical expertise to carry out the role (See Art 70 (3) below).

Article 70

3 Member States shall ensure that their national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively under this Regulation. *In particular, the national competent authorities shall have a sufficient number of personnel permanently available whose competences and expertise shall include an in-depth understanding of AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks and knowledge of existing standards and legal requirements.* Member States shall assess and, if necessary, update competence and resource requirements referred to in this paragraph on an annual basis.

The current proposed model is for assignment of Competent Authorities as the name suggests to be the Authorities, Agencies and Departments that are 'Competent' to carry out the role and to regulate in their field of expertise / competence. However, Health and Safety Authority inspectors do not have these type of competencies, primary qualifications nor expertise in AI technologies, data and data computing etc. in order to form an opinion of compliance or non-compliance with the requirements of AI requirements. We would expect that the availability of such expertise will be limited nationally and within the EU.

Market Surveillance Authorities

Art 74 (3) specifies that the designated market surveillance authority shall be the MSA responsible for the Union harmonized legislation, *however we also note there is a derogation which allows member states to appoint another MSA to regulate the AI Regulations.*

Considering the specialist types of expertise required, it would be appropriate to establish a central body to regulate the AI Act and to centralise the expertise, implementation and enforcement nationally.

Assigning individual authorities as MSAs across the state for AI in addition to their current functions will lead to inconsistency in implementation and regulation of the AI Act in Ireland, because of

- (a) lack of and limited expertise nationally,*
- (b) lack of coordination,*
- (c) lack of resources.*

It is the understanding of the Health and Safety Authority that the role of notifying authority has not been assigned and nor have any notified bodies been appointed in the EU to date. The designation of a notifying authority is not a role appropriate to assign to the HSA. (The notifying authority for Ireland for the relevant product legislation we are the market surveillance authority for is the Minister)

Considering the specialist types of expertise required and their scarcity, centralising the expertise with an in-depth understanding of AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks and knowledge of existing standards and legal requirements to implement and enforce all aspects of the AI Act would be preferable.

If during the course of our existing market surveillance activities we identify a product containing AI, provision could be made for the Authority to establish co-operations to share information about the product with the relevant AI central authority for appropriate relevant compliance follow-up and or enforcement action.

2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

HSA response

The Health and Safety Authority is not a Competent Authority or involved in any way for drafting or reviewing the new technically approved legislations such as the AI Act, Cyber Security Act, or the EU Data Act or standards. Unfortunately, we cannot offer an opinion on this question.

3. [Harnessing Digital - The Digital Ireland Framework](#) establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the [D9+ Group](#), an informal alliance of Digital Ministers

from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

HSA response

The Health and Safety Authority is not involved in this aspect of digital regulation. The Health and Safety Authority believes there is a fine balance between the regulation of AI and allowing technological free enterprise and innovation to develop. With Ireland’s record it could be at the forefront of technological innovation, and it will be important that EU regulation does not stifle such enterprise. Having a central AI agency/department with central expertise for the implementation and enforcement of the AI Act would be an appropriate way for Ireland to be a leader.

Provisions for appropriate data-sharing and co-operation agreements with the relevant market surveillance authorities will also support.

4. [AI - Here for Good: National Artificial Intelligence Strategy for Ireland](#) sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

A central AI agency/department with central expertise for the implementation and enforcement of the AI Act coupled with appropriate data-sharing and co-operation agreements with the relevant market surveillance authorities.

The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

Medical technology industry perspective on the final AI Act

Date: 13 March 2024

Introduction

In response to the European Parliament Plenary endorsement of the AI Act, MedTech Europe would like to present a medical technology industry perspective on the final agreed text of the AI Act.

We welcome the significant efforts made by the co-legislators to reduce unnecessary administrative complexities and legal uncertainties arising from the simultaneous application of multiple Union Harmonisation Legislation and encourage consistency across the relevant applicable rules for the medical technology sector. We appreciate the difficulty of the task presented to lawmakers to provide for horizontal regulation on an emerging and complex technology such as artificial intelligence while providing for its safe and effective integration across the EU market. Co-legislators have made great strides to increasing clarity and consistency within the AI Act, including on rules on data and data governance, which we agree are further reflective of the technological realities of training and validation, or the revised approach taken by co-legislators towards the exercise of human oversight, with requirements based on contextual realities rather than a one-size-fits-all requirement.

However, further clarity is still needed to ensure that the AI Act supports European technological innovation, and the wider integration of AI within and across European healthcare settings, ensuring timely delivery of trustworthy, safe and effective care and diagnosis, for the benefit of patients and healthcare systems.

Many existing AI solutions used today in national healthcare systems are integrated into medical technologies and regulated under the Medical Devices Regulation (MDR), and the *In Vitro* Diagnostic Medical Devices Regulation (IVDR) which each lay down comprehensive requirements for product design and development, as well as for clinical performance, patient safety and security protections. MDR/IVDR also regulate medical devices and *in vitro* diagnostic medical devices incorporating or qualifying as artificial intelligence-based software. Going forward, many such AI solutions will qualify as high-risk AI systems under the AI Act, and medical technology manufacturers will therefore need to ensure compliance with both the MDR/IVDR and the corresponding requirements under the AI Act.

In order to ensure a clear and practical applicability of the AI Act to the medical technology sector, MedTech Europe recommends that the following steps be considered:

- European Commission guidelines should be developed swiftly and well before the end of the transition period. They should be developed with active input by stakeholders, including the Medical Device Coordination Group (MDCG).
- Alignment of horizontal AI Act standards under development, with existing vertical standards, including with those for medical technologies.
- Further clarity underpinning a single conformity assessment procedure, let by sectoral processes.
- A clear pathway for clinical and performance evaluation of medical technologies

1. Need for further alignment between high-risk AI systems requirements under the AI Act and related standards, and MDR/IVDR requirements and related standards

The AI Act's recitals acknowledge the need for consistency, avoiding unnecessary additional burdens or costs, and allowing for flexibility for AI systems providers (manufacturers) to make operational decisions on how best to ensure compliance with the applicable requirements of Union Harmonisation Legislation when incorporating AI systems into their products. However, the final text in the AI Act only translates these recital principles into clear legal rules with regard to some obligations (e.g., the possibility to integrate testing and reporting processes, information and documentation into already existing documentation and procedures required under the existing Union Harmonisation Legislation). Importantly, the AI Act legal text does not address and provide clarity on many critical principles. MedTech Europe is concerned that the current wording of Article 8 (2a) leaves room for diverging interpretations among medical technology manufacturers and will lead to confusion, inconsistency, and ultimately delays to the delivery of safe and effective products to patients and healthcare systems. For example, clarity is needed to confirm that a 'substantial modification' within the AI Act, as it relates to transitional provisions and new conformity assessments, aligns with the definition/interpretation outlined in MDR/IVDR and relevant guidance for change control for medical technologies that are AI systems.

In order to avoid legal uncertainty, it is essential to provide further clarity as to what extent conformity with the MDR and IVDR and related harmonised standards are presumed to be in conformity with the requirements set out within the AI Act.

- The requirements for providers of high-risk AI systems under the AI Act should in no way contradict, misalign, or compromise the requirements for those medical technology manufacturers under MDR or IVDR, as unintended contradictions or duplications will delay the delivery of safe and effective medical technologies to patients and healthcare systems.
- Timely European Commission guidelines as well as MDCG Guidance clarifying the integration of the AI Act with the existing MDR/IVDR rules, including the application of key concepts and definitions will be of the utmost importance. This can be achieved through close collaboration with relevant sectoral expert groups and bodies, such as the MDCG.

MedTech Europe appreciates that the final text of article 40 explicitly states that the European Commission, when making a request for standardisation, must clearly specify that standards must be consistent with both current and future standards being developed across sectors for products covered by the existing Union safety legislation, including MDR/IVDR. Indeed, alignment of horizontal standards of the AI Act with sectoral standards under MDR/IVDR is key to the clear implementation of the AI Act's requirements into sectoral processes and to facilitate compliance. The European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) are tasked with the development of horizontal harmonised EU standards on AI which, if not appropriately considered, could duplicate or, worse, conflict with vertical standards in the medical technology space. As an example, CEN-CENELEC will develop a harmonised standard on risk management, which may need to be applied and aligned simultaneously with an existing vertical standard on risk management under MDR/IVDR. Vertical standards (such as those employed within the medical technology sector) should therefore be taken into account during the CEN-CENELEC harmonised standards development process to ensure that compliance with one set of standards does not result in a divergence from others. As such, MedTech Europe encourages CEN-CENELEC to consult with CEN sectoral groups for MDR/IVDR and industry stakeholders in order to ensure appropriate coherence between horizontal and sector standards pertaining to the same area. The complementary nature

between the AI Act and existing sectoral legislation should be taken into account in future standardisation activities or guidance adopted by the Commission.

- Consistency among horizontal and vertical standards is key, including with the existing and future standards developed in the medical technology sector, and aimed at ensuring that AI systems placed on the market or put into service in the EU meet the essential requirements laid down in the AI Act. Additionally, applicable international standards need to be preferred over local European standards.

2. Support for the single conformity assessment and technical documentation

As mentioned above, we appreciate the efforts of the co-legislators to ensure that high-risk AI systems related to products following the New Legislative Framework approach comply with the requirements of the AI Act. The assessment of such compliance should be carried out as part of the conformity assessment procedure already foreseen under that legislation. In addition, the application of the requirements of the AI Act should not affect the specific logic, methodology or general structure of conformity assessment under the relevant NLF legislation. MedTech Europe welcomes the envisioned single EU Declaration of Conformity which shall be drawn up in respect of all EU legislation applicable to the high-risk AI system, considering that the Declaration of Conformity of the AI Act will be integral to the Declaration of Conformity required under the MDR/IVDR.

- Legal certainty and the avoidance of obstacles in delivering the ethical, safe and effective devices that the AI Act intends to support can only be achieved if the conformity assessment processes and requirements are aligned with the MDR/IVDR. MDR/IVDR quality management certificates should be used to express that medical device manufacturers also meet respective requirements of the AI Act.

The availability of detailed technical documentation, containing information necessary to prove compliance of the high-risk AI system with the relevant requirements is an integral part of the medical technology industry to commit to continuous general safety and performance requirements (GSPR) for patients and healthcare professionals, as it is already regulated under MDR/IVDR. The sector-specific technical documentation covers the AI Act requirements, among others, the intended purpose, detailed description, instructions for use, design specifications, validation and testing and risk management system. Given the extensive overlap between the type of documentation and information required for conformity assessment under the MDR/IVDR and the AI Act, it should be made explicit that manufacturers can leverage a single set of technical documentation.

- European Commission guidelines should explicitly clarify that a single set of technical documentation can be developed to demonstrate compliance with the requirements in both the AI Act and the MDR/IVDR.

Since both the MDR/IVDR and the AI Act are risk-based regulations, they require third-party conformity assessment for products of a higher risk class, which is carried out by independent Notified Bodies. However, the AI Act does not provide sufficient clarity whether providers of AI-enabled medical technologies can continue to rely on the established MDR/IVDR processes with notified bodies used today for AI-enabled medical technologies. For a smooth functioning of the process for providers and notified bodies alike and to prevent unnecessary delay, it is essential to make use of the existing conformity assessment procedure to enhance notified bodies' designation scope under MDR/IVDR to cover AI-related aspects. In addition, it

should be clarified that the same notified body identification number used for MDR/IVDR conformity assessment can be used for conformity assessments undertaken for the AI Act.

- Notified bodies should be able to use existing technology codes for the assessment of AI-enabled medical technology, with the same notified body identification number maintained for both the AI Act and the MDR/IVDR.
- Under the AI Act, and specifically, to assess conformity of AI-enabled medical devices in accordance with the AI Act's "high risk" requirements, the notifying authorities that are responsible for notified bodies according to the MDR/IVDR shall also be responsible for notified bodies according to the AI Act.

3. A clear pathway for clinical and performance evaluation of medical technologies

In accordance with the MDR and IVDR, medical devices and *in vitro* diagnostic medical devices that require third-party conformity assessment by an MDR/IVDR-designated notified body must be supported by clinical evidence to demonstrate their safety, performance and clinical benefit.

As per the MDR and the IVDR, medical devices and *in vitro* diagnostic medical devices undergo a clinical investigation or performance study in order to gather sufficient clinical evidence to allow a qualified assessment of whether the device is safe and achieves the intended clinical benefit(s), when used as intended by the manufacturer. In both cases, the devices, referred to as investigational devices under MDR and devices for a performance study under IVDR, are tested in real-world conditions to support them with the appropriate clinical evidence in view of the characteristics of the devices, their intended purpose and functioning.

It is crucial to note that at this investigational stage, these devices do not require a CE marking for the testing process/procedure, nor are they regarded as placed on the market or put into service in the sense of EU product legislation. This process ensures that these medical technologies are of high quality and meet the necessary requirements to be marketed in the EU including clinical output and therefore, it is an essential step in the medical device development process.

The AI Act however does not specifically address clinical investigations and performance studies. As such, MedTech Europe is concerned that investigational devices (per the MDR) and devices for performance study (per the IVDR) would require an AI Act CE mark before they undergo clinical and performance evaluation.

- Conducting clinical investigations/performance studies is critical to gather the necessary information for a medical device or an *in vitro* diagnostic medical device to ensure the safety and effectiveness of the device and complete its conformity assessment with a notified body, and by extension, receive its MDR/IVDR CE-marking. However, under the AI Act, there is a risk that these investigational devices and devices used for performance study may be deemed to be "put into service" or "placed on the market" and therefore may require an affixed CE-marking prior to their testing. MedTech Europe therefore recommends that investigational devices and devices for performance studies follow an MDR/IVDR logic and, as such, be exempted from the requirements of the AI Act, insofar as those processes respect patient safety and fundamental rights, such as those stipulated under GDPR.

Conclusion on AI Act implementation

For the seamless implementation of the AI Act alongside MDR/IVDR, MedTech Europe recommends that the European Commission work to deliver implementation guidelines in a timely manner to assist all stakeholders to adequately comply with the new regulatory requirements. Stakeholders, including the medical technology industry, should be consulted in the development of such guidelines.

In view of those European Commission guidelines, further attention should be given to the following areas in order to deliver on comprehensive regulatory interplay for the medical technology sector:

- Firstly, there is a need to build upon alignment of high-risk AI systems requirements and standards from the MDR/IVDR and the AI Act, insofar as they affect medical technologies.
- Furthermore, it is necessary to continue to operate through an MDR/IVDR approach to assess conformity of AI-enabled medical technologies, including all necessary processes and procedures to ensure the safety and performance of AI-enabled medical technologies.
- Finally, it is critical that the AI Act does not represent a regulatory barrier to the functioning of the MDR/IVDR-required clinical investigations and performance studies. Such processes are required to demonstrate that a medical technology performs safely in view of the device characteristics and as clinically intended.

MedTech Europe is committed to being a proactive partner throughout the AI Act implementation process and looks forward to supporting the work of the European Commission and the Medical Device Coordination Group in ensuring clear regulatory integration and alignment.

About MedTech Europe

MedTech Europe is the European trade association for the medical technology industry including diagnostics, medical devices and digital health. Our members are national, European and multinational companies as well as a network of national medical technology associations who research, develop, manufacture, distribute and supply health-related technologies, services and solutions. www.medtecheurope.org.

For more information, please contact: [Benjamin Meany](#), Manager Digital, Software and AI Regulation



Response to DETE Consultation

**Ibec priorities on National
Implementation of EU
Harmonised Rules on Artificial
Intelligence (AI Act)**

July 16, 2024

Ibec priorities on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

July 16, 2024

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Executive summary

Ibec, the Irish business group, welcome the opportunity to respond to the Department of Enterprise, Trade and Employment (DETE) consultation on national implementation of EU harmonised rules on artificial intelligence (AI). We recognise ‘trust and excellence’¹ in AI as both an imperative and opportunity for Ireland. We see investment in our AI readiness and effective national implementation of the AI Act as a competitiveness issue.

Ibec policy recommendations for the national implementation of the AI Act:

1. Configure national competent authorities to enable effective implementation of the EU AI Act and shared strategic ambitions:

- Ensure implementation enables Ireland, Europe and the AI ecosystem to meet the objectives, scope requirements and timelines set out in EU AI Act; and shared strategic ambitions on responsible AI.
- Take a hybrid approach in choosing between a centralised or distributed regulatory model.
- Ensure national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively.
- Reflect authorities’ dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks and enablement of responsible innovation and embracing the opportunities of AI.
- Enable and demonstrate leadership at national, EU and international levels on evolving AI governance and regulation.

2. Find regulatory synergies in the implementation of the EU AI Act

- Deepen and underscore a coordinated governance approach to delivering a shared AI agenda:
 - Retain and amplify the political commitment, framework, and resources co-ordinating driving and implementing our AI agenda.
 - Ensure effective governance in implementation of the AI Act. Introduce common statutory duties for concerned regulators so they can act in concert on AI.
 - Create and/or deepen formal links, mechanisms, and work between the EDAF, the AI ecosystem and other relevant elements of our governance structures.

¹ See [European approach to AI](#). Trustworthy AI is defined as lawful, ethical and robust throughout its lifecycle. Excellence in AI refers to boosting the national and EU technological capacities and AI uptake across the economy in both the private and public sectors.

- Ensure effective engagement in the implementation of the AI Act
 - Regulators should engage stakeholders and develop and deliver a joint overarching National AI Regulatory Strategy. Maintain momentum and engagement by delivering regular reports on progress.
 - Uphold regulatory principles, reflected in the AI Act.
 - Double down on scalable compliance solutions.
 - Provide guidance and advice to support compliance with the AI Act, in particular to SMEs including start-ups.
 - Reflect international best practice and strengthen global governance.

3. Boost regulatory excellence and competitiveness.

- Bolster Ireland's ambition to be an AI frontrunner by further embracing our role as an international regulatory hub.
- Secure full and active Irish representation in shaping any further AI policy and secondary regulation/standards at EU and international levels. Develop and implement a whole of government advocacy strategy to systematically engage and influence the development, shape and outcomes of evolving AI governance.
- Balance authorities' dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks and enablement of responsible innovation and embracing the opportunities of AI.
- Develop and leverage an early and accessible national regulatory sandbox that can enable and promote the readiness of our policy/regulatory capacities in AI and AI ecosystem.

4. Drive national strategic aims for AI

- Ensure effective national implementation of the AI Act in concert with an updated National AI Strategy (NAIS) and active engagement with the AI ecosystem.

5. Other views

- Ensure national implementation of the AI Act in concert with investment that enables our AI ecosystem and effective AI adoption. National implementation of the AI Act, in isolation, will not be enough to deliver shared EU and national ambitions in AI. We must invest in our AI readiness *and* leverage the AI Act to enhance our competitiveness.
 - Invest and foster the skills, talent, and inclusion necessary to enhance Ireland's AI opportunity.
 - Invest in capacities necessary to enable adoption and further opportunity in AI for all businesses.

1. Introductory remarks

Ibec, the Irish business group², welcome the opportunity to respond to the Department of Enterprise, Trade and Employment (DETE) consultation³ on national implementation of EU harmonised rules on artificial intelligence (AI). Our response to the consultation questions and additional views on Ireland's approach to AI are outlined in Section 2 of this paper.

Ibec is a member of EDAF⁴ and has a longstanding Digital and AI Affairs Committee⁵ with a track-record of both direct⁶ and joint engagement with partners⁷ on international and national initiatives on the future approach to governing AI. We recognise that building trust and excellence in AI is both an imperative and opportunity for Ireland (see Annex I of this paper). We see investment in our AI readiness and effective national implementation of the AI Act as being central to boosting the long-term competitiveness of the economy.

² <https://www.ibec.ie/digitalpolicy>

³ DETE (May 21, 2024) [Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence \(AI Act\)](#)

⁴ The Government's [Enterprise Digital Advisory Forum](#)

⁵ Ibec's cross-sectoral Digital and AI Affairs Committee (DAIAC) aims to co-ordinate engagement across enterprise and promote awareness, and build trust and capacities that enable organisations and individuals to embrace further Digital and AI opportunities.

⁶ For example, see Ibec priorities on the [EU Commission White Paper on AI](#), the EU Act ([proposal](#) and [trilogue](#) stages), and a [National AI Strategy](#).

⁷ For example, [B9+](#), [BusinessEurope](#) and Business at the OECD ([BIAC](#)).

2. Ibec Response to the DETE Consultation

2.1. Configure national competent authorities to enable effective implementation of the EU AI Act and shared strategic ambitions.

Consultation question: What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Recommendations:

Government should:

1. Ensure the establishment/designation and functions of national competent authorities **enables Ireland, Europe and the AI ecosystem⁸ to meet the objectives, scope requirements and timelines set out in EU AI Act** (See Annex 2 of this paper); **and shared strategic ambitions on AI⁹**. Avoid gold-plating in national implementation, to ensure national rules do not extend or diverge from EU rules, to avoid fragmentation, to support legal certainty and ensure a level playing field for Irish businesses across the EU digital single market¹⁰.
2. **Take a hybrid approach in choosing between a centralised or distributed regulatory model.** There are several government departments and statutory bodies who, with EU and OECD partners, may influence the direction and pace of our AI readiness and the policy/regulatory structures on which it relies. Technical and innovation expertise, domain expertise and regulatory experience in designated domains will be required in implementation of the AI Act. Annex 2 of this paper outlines the National Market Surveillance Authorities (MSAs) in EU harmonisation legislation specified in Annex I of the EU AI Act. It is acknowledged that different approaches to the designation of national

⁸ Includes “national or European standardisation organisations, notified bodies, testing and experimentation facilities, research and experimentation labs, European Digital Innovation Hubs and relevant stakeholder and civil society organisations”.

⁹ Shared National and EU targets of 75% Enterprise adoption of AI by 2030.

¹⁰ The Omnibus Directive (implemented via the Consumer Rights Act 2022) significantly extended consumer protection law to digital services including those provided without monetary consideration. AI doesn't introduce anything novel that would change how this law applies so we should counsel against any revision of domestic law in that regard. It is also worth noting that the EU consumer acquis is currently being reviewed so Government should await the outcome of that process so that companies have a consistent, pan-EU framework which would better support investment in the single market.

competent authorities, ranging from a centralised model¹¹ to a more distributed, sector-based approach¹² will likely involve trade-offs¹³.

¹¹ Create a new national agency for centralised oversight and enforcement, that would act as the central authority responsible for all tasks of a market surveillance authority.

¹² Assign AI enforcement to several existing agencies, utilizing current structures and sectoral expertise. This would still require Member States to designate one of the designated market surveillance authorities to act as a single point of contact vis-à-vis the public and other counterparts at Member State and EU levels.

¹³ For example, a distributed approach may provide better access to sectoral expertise but may pose potential coordination challenges or mandate disputes leading to silos between agencies. On the other hand, a centralised approach may offer enhanced co-ordination but may face challenges in sectoral understanding/expertise and may require more time to establish (which may be a challenge in meeting EU deadlines).

A hybrid approach¹⁴ would offer the benefits of both worlds¹⁵ i.e., take a centralised expertise approach to horizontal technical issues like model training, bias, benchmarking models, compliance with GP-AI Code of Practice¹⁶; with a distributed domain-expertise based approach for sectors¹⁷ and AI consumers.

- a. Ensure transparency, consultation and coordination between regulatory bodies. The regulatory model will need to be structured and operate in a way that drives consistency as well as stability and predictability in the application of the AI Act. This requires not only close coordination between the relevant regulatory bodies but transparency and consultation with stakeholders to inform decisions that are proportionate and support innovation, competitive markets and investment.
- b. Ensure the notification process under the AI Act is adaptive and responsive to the evolving requirements of assessing digital products and services, as conformity assessment bodies will need to conduct audits for AI technologies that previously fell outside their scope.
- c. Recognise existing sectoral conformity assessment bodies as ‘notified bodies’ without necessitating a burdensome redesignation process, to swiftly extend those existing conformity assessment bodies’ conformity and compliance activities to the requirements and obligations set in the AI Act¹⁸. Companies should be able to maintain relationships with bodies familiar with sectoral/industry specificities in the context of conformity assessments under the AI Act.

¹⁴For example, a hub and spoke model, where existing ‘distributed’ sectoral authorities retain their specialised domain expertise, while a ‘central’ AI authority coordinates the oversight and enforcement provisions of the AI Act, develops deep AI expertise and guidance to regulated entities, and acts as the single point of contact and resource (internally to relevant authorities and externally with other stakeholders).

Member States can designate an existing authority as the only market surveillance authority, while creating a mechanism within that authority to combine sectoral insights through interdisciplinary teams into centralized expertise. A single designated entity would act as the only market surveillance authority designated under the AI Act, while consulting sector- or topic-specific bodies, for example the DPC if an enforcement case relates to data governance requirements for high-risk systems, or the Financial Regulator/CBI if a case relates to the use of AI systems in the financial services. This new mechanism would bring together AI experts from different backgrounds, temporarily or permanently, to form interdisciplinary teams (e.g., legal, sectoral and technical experts) on specific cases.

¹⁵ Enhanced co-ordination and use of resources.

¹⁶ Recital 116 and Article 56 (3) of the AI Act.

¹⁷ For example, the Medical Device sector is one example area, where sectoral approach is particularly important.

¹⁸ Article 43(3) implies a redesignation of existing designated notified bodies for the purposes of the AI Act (to meet requirements in Article 31 (4, 5, 10 and 11)).

3. **Ensure “national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively** under this Regulation¹⁹”. The authorities must have the mandate, expertise, and resources to understand and keep pace with the evolving issues; engage technically with partners/AI ecosystem in a meaningful way; and meet the goals²⁰ and procedural standards expected in the AI Act.
 - a. Ensure relevant Government departments have adequate resources to understand and drive implementation that bolsters our regulators and AI ecosystem.
 - b. “Establishing [regulatory] authorities should also ensure that the AI regulatory sandboxes have the adequate resources for their functioning, including financial and human resources.”²¹ Member States shall ensure that the competent authorities...allocate sufficient resources to comply with this Article effectively and in a timely manner²².
 - a. Notified bodies will need to acquire new skills/upskill to meet new requirements. Notified bodies under existing EU product safety laws have traditionally focused on evaluating physical products and approaches to physical products. The AI Act is a regulation which covers both product safety and the protection of fundamental rights. The regulatory mandate should support businesses in understanding their obligations from both perspectives.
4. Ensure the establishment/designation and functions of national competent authorities (and their implementation) **reflects authorities’ dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks²³ and enablement of responsible innovation and embracing the opportunities of AI²⁴**. The authorities need clear statutory duties to have regard for innovation, competitiveness, and growth in exercising their supervision and enforcement powers. Enable Ireland to both safeguard people *and* enable further opportunities through responsible use of AI for the benefit of society. Risks can be consistently identified and addressed through affirmative, structured operations, and

¹⁹ “In particular, the **national competent authorities shall have a sufficient number of personnel permanently available** whose competences and expertise shall include an in-depth understanding of AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks and knowledge of existing standards and legal requirements. Member States shall assess and, if necessary, update competence and resource requirements” on an annual basis (Article 70(3) of the EU AI Act).

²⁰ See Recommendation 1 in this Section of the paper.

²¹ Recital 138 of the AI Act.

²² Article 57(4) of the AI Act.

²³ Trust in AI

²⁴ Excellence in AI

accountability. It is through these operations and assessments that we must also consider the benefits that this transformative technology can bring to users, society and the economy.

5. **Enable and demonstrate leadership** at national, EU and international levels on evolving AI governance and regulation (See Section 2.3 of this paper).

2.2. Find regulatory synergies in the implementation of the EU AI Act

Consultation question: Are there potential **synergies** between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Recommendations:

6. Government should deepen and underscore a coordinated governance approach to delivering a shared AI agenda. How the national regulatory model should operate in practice needs a great deal of careful thought to ensure that Ireland harnesses the opportunities that AI can bring, while mitigating potential risks, and providing companies the clarity and stability they require for beneficial innovation and for effective AI deployment in what is a very fast-moving market and noting that some business activities may span more than one regulator. Articulating a shared vision, actions and ensuring adequate resources, stakeholder engagement, co-ordination and momentum in delivery are acknowledged as key challenges for implementation of horizontal digital policy by the OECD²⁵. **Specifically,**

Government should:

- a. **Retain and amplify the political commitment, framework, and resources co-ordinating driving and implementing our AI agenda** in any iterations to Government/Departmental responsibilities and functions and future Programmes for Government.
- b. **Implement the OECD recommendation²⁶ to re-establish the ‘Better Regulation Unit’ in the Department of An Taoiseach** and establish a new arms-length regulatory oversight body. Retain better regulation at the heart of Government.
- c. **Ensure effective governance in implementation of the AI Act. Introduce statutory duties for concerned regulators so they can act in concert on AI.** These duties should include a duty to have regard to the impact on innovation, competitive markets and investment/growth. Establish an overarching duty of co-operation between the concerned regulators enhancing shared regulatory knowledge and stability for trust, investment, and innovation. Ibec acknowledges the importance of the Digital Regulators Group (DRG)²⁷ and the separate Market Surveillance Authorities Forum (MSAF)²⁸. However, formally creating and/or clarifying regulatory

²⁵ OECD (2020), "Going Digital integrated policy framework", *OECD Digital Economy Papers*, No. 292, OECD Publishing, Paris, <https://doi.org/10.1787/dc930adc-en>.

²⁶ OECD (2023) ‘[Strengthening Policy Development in the Public Sector in Ireland](#)’. Recommendation would ensure better quality and independent oversight of regulatory processes and in line with other EU countries ensure adequate impact assessments and ex-post evaluation.

²⁷ <https://www.dataprotection.ie/en/news-media/latest-news/regulators-welcome-national-digital-strategy> This group talks to the Government’s Senior Officials Group on Digital Issues

²⁸ Annex 2 of this paper.

roles, links and co-operation and identifying a single point of contact required by the AI Act would enhance integrated communication between Government, regulators and the AI ecosystem and drive regulatory coherence, trust and excellence in national implementation of the AI Act. Government should require both bodies to consult on and publish an annual programme of work and processes for engagement with regulated entities²⁹.

- d. **Create and/or deepen formal links, mechanisms and work between the EDAF, the AI ecosystem and other relevant elements of our governance structures³⁰** in driving and delivering implementation of the AI Act and shared AI ambitions.
- e. **Assess (and/or encourage the European Commission to assess) the digital legislation applying to AI, with the aim of identifying legal interplay, overlaps and potential conflicts in enforcement.** Use this assessment to inform co-ordination of enforcement and policy-making. This will deliver greatest certainty for investors in Ireland, eliminating overlapping or conflicting rules and ensuring important continuity in the application of the existing EU digital rulebook.

²⁹ For example, the evolving Digital Regulatory Cooperation Forum (DRCF) in the UK publish an [annual plan of work](#).

³⁰ For example, the elements may include representation from the Digital Issues Senior Officials' Group, the Digital Regulators Group (DRG), National Market Surveillance Authorities (MSA), the National Cybersecurity Centre (NCSC) and GovTech Delivery Board leading digital transformation of Public Services.

7. Regulators should ensure effective engagement in implementation of the AI Act, building and delivering national trust and excellence in AI.

Transparency and consultation in how designated regulatory authorities work together (and with our AI ecosystem and international partners³¹) should ensure consistency and predictability that safeguards people and supports responsible innovation and commercial decisions in AI deployment. **Specifically, Regulators should:**

- a. **Engage with Government and the AI ecosystem³² and develop and deliver a joint overarching ‘National AI (and digital) Regulatory Strategy’.** Reinforce Ireland’s ambition as a key international digital regulatory hub. The expansion of Ireland’s AI (and digital) regulatory roles will be complex, cross-sectoral and interconnected to implement in practice³³. The proposed Strategy would act as an investment signal and support and demonstrate our whole of government approach and international leadership and influence in evolving AI (and digital) governance. The Strategy would support regulatory coherence and alignment between co-dependent government/regulatory initiatives. Consider the creation of a formal cross-structural mechanism/workstream in the existing National AI and Digital Strategies’ governance structure to support engagement and implementation of this regulatory strategy and facilitate the further development of Ireland as an international AI (and digital) hub and a source of high-quality employment, subject to appropriate regulation.
- b. **Maintain momentum and engagement by delivering regular reports on progress** made through the proposed Regulatory Strategy, in the implementation of the AI Act and the achievement of shared AI ambitions.
- c. **Uphold regulatory principles, reflected in the AI Act,** of a technology neutral, future-proofed, risk-based approach; proportionality; confidentiality and trade secret protections; and non-duplication of regulation³⁴ or regulatory requests. Enforcement should reflect technical feasibility³⁵ and best/state of art practices;

³¹For example, European Commission AI Office and other National Competent Authorities.

³² We welcome the co-regulatory approach suggested in the codes of practice. For those to be successful it is important that the mandate of the code is aligned with the AI Act and that those who will have to implement them - providers and regulators - are part of a meaningful process.

³³ See IAPP (2024) [EU AI Act: The web of regulatory intersections](#).

³⁴ Avoid unnecessary duplication and conflicts between the AI Act provisions and other EU Regulation (e.g., DSA, Copyright Directive, Corporate Due Diligence Directive, and GDPR). Ensure the stated purpose of AI Act is met and avoid unnecessary duplication or legal uncertainties.

³⁵The requirement to publicly disclose a ‘sufficiently detailed summary’ about the content used for training must be matched with proper protections for confidential business information and trade secrets. This requirement must also be underpinned by a shared understanding of the practical infeasibility of disclosing and summarising the entirety of content on the open web.

and focus on the level of risk posed by its application and the context of its application. Ensure Ireland's framework recognises that AI is a multi-purpose technology that calls for customized approaches and proportionate allocation of compliance responsibilities across the AI value chain.

- d. **Double down on scalable compliance solutions.** The importance of oversight is acknowledged. However, the state and rate of change in both EU regulation, technology and our digitalised economy means regulators need to prioritise consultation on actionable guidance and scalable compliance solutions. Both the AI Act and other EU laws, such as the GDPR, provide a path for codes, seals, and certifications which we haven't fully utilised yet so there are ways to get to useful solutions in parallel to oversight.
- e. **Provide guidance and advice on the implementation of the AI Act, in particular to SMEs including start-ups,** taking into account the guidance and advice of the Board and the Commission, as appropriate (Article 70 (8) of the AI Act).
- f. **Reflect international best practice** and strengthen global governance. Implementation may impact the extent that we will be able to influence others or benefit from the opportunities AI can bring, foster [investments](#) and the number of [startups](#).

2.3. Boost regulatory excellence and competitiveness.

Consultation question: How can Ireland's implementation of the AI Act **bolster** Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Recommendations:

8. **Implementation of the AI Act can bolster Ireland's ambition to be an AI frontrunner if it positions Ireland to further embrace its role as an international regulatory hub** and meet requirements for regulatory co-operation outlined in the Act and international co-operation³⁶ i.e., excellence in implementation of AI regulation³⁷ should:
 - a. Ensure Ireland garners, retains and demonstrates **first mover advantage and influence** in the evolution of associated secondary regulation and standards that impacts Ireland's AI ecosystem and competitiveness. Ireland has a unique opportunity, to lead by example and establish pro-innovation guidance and oversight, given its proximity to the UK and US and status as a digital frontrunner, to promote mutual recognition between UK/US AI Safety Institutes and the AI Office.
 - b. Ensure that we have a **common understanding of risk** and do not diverge on how to conduct risk assessments and model evaluations. Compliance, testing, or documentation efforts of providers towards one of these institutes should be recognised as equivalent by others. Leverage this advantage and influence in the changing EU political cycle, the D9+forum/work, Ireland's upcoming EU Presidency and the OECD.
 - c. Encourage and enable **innovation and investment** in AI in Ireland and Europe.
 - d. **Safeguard** Irish and EU citizens.
9. **Secure full and active Irish representation in shaping any further AI policy and secondary regulation/standards at EU and international levels.** Develop and implement a whole of government advocacy strategy to systematically engage and influence the development, shape and outcomes of evolving international AI governance. Ensure close co-operation with industry in the development of standards. Leverage the experience of our regulatory, industry and research communities in driving policy and regulation that enhances national and EU competitiveness. Ensure implementation of the AI Act aligns with international standards

³⁶ For example, co-operation around the development and/or supervision of Codes of Practice, Regulatory Sandboxes, Market Surveillance (e.g., ADCO), Standards and Secondary Legislation associated with the AI Act.

³⁷ See Annex 3 of this paper.

and complementary international initiatives³⁸. Ireland is a proving ground for international digital regulation, implementation and governance.

³⁸ ISO Standards, OECD and G7 work.

10. Balance **authorities' dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks³⁹ and enablement of responsible innovation and embracing the opportunities of AI⁴⁰**. Enable compliance, adoption, innovation and investment.
11. **Develop and leverage an accessible national regulatory sandbox that can enable and promote the readiness of our policy/regulatory capacities in AI and our AI ecosystem⁴¹**. Mandate the early development of a regulatory sandbox (well ahead of the AI-Act's deadline), where regulators and other stakeholders can work together on compliance, innovation, and developing best practices. Boost and demonstrate our status as both a regulatory and AI hub - encourage innovation and attract investment in AI. Objectives should include:
- a) Ensure clarity and legal certainty to achieve Ireland's regulatory compliance with this Regulation or, where relevant, other applicable Union and national law.
 - b) Share best practices through cooperation (with other authorities and the AI ecosystem).
 - c) Enhance our AI ecosystem and regulatory capacities. A sandbox may play an important role in a compliance and certification process for AI solutions from Irish enterprise⁴².
 - d) Accelerate access to the internal market for AI systems and models, particularly when provided by Irish firms, big and small alike⁴³.
 - e) Help address divergent rates of adoption and obstacles to AI adoption⁴⁴.

³⁹ Trust in AI

⁴⁰ Excellence in AI

⁴¹ Recital 138-139, Article 57 of the AI Act

⁴² For example, the [Spanish](#) AI regulatory sandbox initiative, [Danish](#) AI regulatory sandbox initiative and [ICO](#) regulatory sandbox for personal data.

⁴³ Article 57(13) of the AI Act.

⁴⁴ DoF and DETE (2024) [Artificial Intelligence: Friend or Foe?](#)

2.4. Drive national strategic aims for AI.

Consultation question: How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives [below] while meeting our regulatory obligations?

Recommendation:

12. Ensure effective national implementation of the AI Act in concert with an updated National AI Strategy (‘NAIS – Here for Good, 2021’) and active, deep engagement with the AI ecosystem. Ireland should be well placed⁴⁵ to realise further opportunity⁴⁶. However, there is still a competitive imperative to address gaps in the state and rate of our relative progress and meet 2030 targets⁴⁷. Technological change and global competition in digital transformation are dynamic and intensifying. Ireland (and Europe) must position itself to safeguard its longer-term position and to best compete for new investment and opportunities⁴⁸. Last year (2023) saw groundbreaking advances and interest in AI⁴⁹. The European Commission has highlighted that our future competitiveness has dependencies on further digital adoption and leadership in key digital technologies including AI⁵⁰. Some digital frontrunners/D9+ members are already reacting to recent technological developments⁵¹. The overarching themes of our current NAIS remain valid, but Government should ensure the Strategy and associated initiatives reflect technological and industry developments⁵² as well as the recent developments in EU and international governance of AI. Position Ireland with a leadership role in AI and emerging

⁴⁵ Ireland is recognised by the [OECD](#) as being part of a group of top global hubs for digitally deliverable services and a [European digital frontrunner](#) by the European Commission.

⁴⁶ The potential to harness the benefits of further digitalisation of the economy and society for enhanced competitiveness, resilience, public services, inclusion and regional development.

⁴⁷ European Commission (2024) [Digital Decade Country Report 2024, Ireland](#); and EIB (2023) [Digitalisation in the European Union: Progress, challenges and future opportunities](#). While progress is being made, we have a competitive imperative to enhance our performance relative to other digital frontrunners, rather than compare ourselves to the EU average.

⁴⁸ [a] IMD (2023) [Incorporating AI technology from the top down will build digital nationhood in 2024, says new IMD report](#); and [b] IMD (2023) World Digital Competitiveness Ranking.

⁴⁹ [Stanford AI Index Report 2023](#); CB Insights (2024) [State of AI 2023](#); Economist (2023) [Generative AI will go mainstream in 2024](#); ACM Technology Brief (Leslie and Rossi, 2023) [Generative Artificial Intelligence](#); Global AI-related patents have accelerated since 2012 due to greater availability of data, computing power and connectivity ([WIPO](#), 2019).

⁵⁰ European Commission (2023) [Long-term competitiveness of the EU: looking beyond 2030](#). The Communication highlights the need for further digital adoption in the economy and leadership in key digital technologies including Artificial Intelligence (AI), Quantum Computing, microelectronics, web 4.0, virtual reality and digital twins, and cybersecurity.

⁵¹ Government of the Netherlands (2024) [The government-wide vision on Generative AI of the Netherlands](#)

⁵² Some digital frontrunners/D9+ members are already reacting to recent technological developments e.g., Government of the Netherlands (2024) [The government-wide vision on Generative AI of the Netherlands](#).

technologies. Table 1 outlines how national implementation of the AI Act can support strategic aims on AI.

Table 1: How national implementation of the AI Act can support strategic aims on AI.

Perspectives in National AI Strategy [highlighted in DETE consultation]	How can implementation of AI support/accelerate progress on these perspectives?
Building public trust in AI	1. Provide a transparent, coordinated approach to AI regulation and AI literacy that develops and enables/safeguards public trust in AI. ⁵³
Leveraging AI for economic and societal benefit	<p>2. Provide a proportionate, coordinated approach to AI regulation that enables adoption, innovation, and investment in AI across all businesses.⁵⁴</p> <p>3. Leverage the NSAI Standards and Assurance Roadmap for AI at national and international levels.</p> <p>4. Deliver and leverage an accessible national AI regulatory sandbox in concert with AI ecosystem to enable and promote the readiness of our policy/regulatory capacities in AI and a competitive AI ecosystem.</p>
Enablers for AI	<p>5. Deliver and leverage a national AI regulatory sandbox to enable and promote the readiness of our policy/regulatory capacities in AI and a competitive AI ecosystem. Enable adoption, innovation and investment across all businesses.</p> <p>6. Provide guidance and advice on the implementation of the AI Act and on the effective adoption of AI, in particular to SMEs including start-ups. Enable compliance, adoption and access to market across all businesses.</p>

⁵³ A governance framework that promotes trustworthy AI.

⁵⁴ A governance framework that promotes excellence in AI.

2.5. Other views.

Consultation question: The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

The Government should ensure national implementation of the AI Act in concert with investment and trade policy that enables our AI ecosystem and effective AI adoption. This is a multi-faceted challenge. National implementation of the AI Act, in isolation, will not be enough to deliver shared EU and national ambitions in AI. We must invest in our AI readiness *and* leverage the AI Act to enhance longer-term competitiveness. The European Commission has recommended that Ireland increase investment in AI take-up at all levels and “*develop targeted programs and incentives to encourage enterprises and SMEs to adopt Big Data and AI and leverage their potential for innovation and growth*”⁵⁵. Finally, because AI is by its nature a cross-border technology, individual policy efforts must be tethered to strong trade and investment policies that support trusted international collaboration on AI, including cross-border data flows essential to AI development and deployment.

Recommendations:

13. Invest and foster the skills, talent, and inclusion necessary to enhance Ireland’s AI opportunity:

- **Pursue a strategic approach to addressing AI skills that mobilises and coordinates the whole education and training system around three key pillars:** responding to existing skills needs of industry through upskilling and reskilling programmes; building a strong talent pipeline with multiple and varied opportunities to develop AI skills; and supporting digital (including AI) inclusion through lifelong learning and AI literacy so that a wide diversity of talent and workers can participate in an evolving labour market.
- **Ensure AI skills are in place across all government departments and regulatory bodies so that they can fulfil their functions.** Support upskilling in functions becoming increasingly digitised in their area of remit.
- **Double down on the commitments in the Digital Strategy for Schools**⁵⁶ to ensure that digital (and AI) literacy is embedded in education from an early age.
- **Unlock the surplus in the National Training Fund (NTF). This must be used to deliver on its intended promise to upskill Ireland’s workforce** if the country is to successfully navigate the twin digital and green transition. Treating NTF spending like other specific purpose funds would support this. Ibec is still recommending the introduction of a National Training Voucher scheme to underpin a strategic approach to

⁵⁵ European Commission (2024) [Digital Decade Country Report 2024, Ireland](#)

⁵⁶ Department of Education (2022) [Digital Strategy for Schools](#)

lifelong learning, boost in-company training and widen participation in upskilling and reskilling in areas including AI⁵⁷.

- **Attract and retain mobile AI talent.** Ensure Ireland remains a top location for mobile business investment. Resource and continue the reform of visa and work permit processes.

14. Invest in capacities necessary to enable effective adoption and further opportunity in AI⁵⁸:

- **Scale public investment in research and innovation** in AI.
- Continue funding for digital transition measures currently funded via the NRRP. **Introduce a new €500M National Digital Acceleration Fund to meet commitments in national and EU AI (and digital) targets** in the period 2025-2030. Funding streams should support: the development of AI skills and literacy at all levels, research and development capacities, adoption and ecosystem development. Support all businesses to innovate.
- **Leverage investment and procurement of AI in the public sector as a catalyst for broader economic growth⁵⁹.** Enhance the procurement framework and address any administrative barriers. Leverage the €210m provided for in the agreed National Recovery and Resilience Plan (NRRP) to drive further digital transformation in public sector projects.

⁵⁷ Ibec (2024) [Sharpening our edge, Budget Submission 2025](#).

⁵⁸ Ibec (2024) [Sharpening our edge, Budget Submission 2025](#)

⁵⁹ Act on the Cruinniú GovTech report findings for enhanced public services.

3. Annexes

Annex I: The imperative and opportunity from trust and excellence in AI

The digital (including AI) readiness of our infrastructure, services, businesses, and people matters to our longer-term competitiveness and resilience, to better public services, regional development, and our well-being. This readiness can enable further (AI and digital) opportunities for government, business, and individuals. For example:

- I. **Competitiveness:** AI is potentially transformative for digitalised economies like Ireland. AI readiness is a strategic cross-sectoral issue. In 2020, 41% of goods and services produced in the economy were transacted digitally. This can take the form of being digitally ordered, digitally delivered or both⁶⁰. In 2022, there was an estimated 270,000 employed in our “digitally intensive”⁶¹ sectors⁶². In 2019, there were 90,766 employed in our ICT sector itself, almost half (40,746) of those employed by domestic firms⁶³, making a significant contribution to output in Ireland⁶⁴. Approximately 29% of our manufacturing jobs are in high technology sectors. This is four times the EU average⁶⁵. Ireland’s labour market is marginally more exposed to AI than the advanced economy average⁶⁶. It is estimated that Generative AI could boost productivity and Ireland’s annual GDP by €40-45 billion, amounting to +8% GDP in peak year if widespread adoption is achieved⁶⁷. Building capacities that help organisations adopt and innovate with AI is an important policy consideration.
- II. **Resilience:** Trusted digital (including AI) innovation⁶⁸ and international co-operation proved critical to sustaining our economic and societal well-being throughout the pandemic and will be essential to our future success and resilience. Green and trusted digital transitions can be mutually reinforcing, securing, and sustaining physical and digital environments that sustain us. The EIB (2023) found that recent shocks accelerated digital adoption and that “*digitalisation drives firms’ resilience to economic*

⁶⁰ CSO (2022) [Digital Transactions in the Irish Economy 2020](#)

⁶¹ Technology Ireland, 2022. ‘Digitally intensive’ describes industries that use high shares of digital inputs (>80%) relative to other inputs and produce digital goods and services.

⁶² Technology Ireland (2022) [Technology Ireland submission to the Joint Committee on Enterprise, Trade and Employment on challenges facing the technology sector](#)

⁶³ [CSO \(2022\)](#)

⁶⁴ Central Bank of Ireland (2023) [Q1 Bulletin: The Role of the ICT Services Sector in the Irish Economy](#)

⁶⁵ Ibec (2022) Manufacturing in Ireland

⁶⁶ DoF and DETE (2024) ‘Artificial Intelligence: Friend or Foe’

⁶⁷ <https://implementconsultinggroup.com/article/the-economic-opportunity-of-generative-ai-in-ireland>

⁶⁸ The development and deployment of trusted digital and data innovation safeguards people and the environment that sustains them (e.g., safeguards human rights, sustainability, safety, market fairness and security).

disruption and climate change, and it has helped European businesses resist repeated shocks”.

- III. **Services:** AI innovation can enhance public *services* and the digitalisation in public services can also act as a *catalyst* to develop our indigenous digital ecosystem and capacities⁶⁹. Trusted AI innovation can augment healthcare provision and with our comparative and sectoral advantages, Ireland has the potential to become a recognised global hub for digital health⁷⁰.
- IV. **Inclusion:** Connectivity, digital education, and digital (including AI) literacy (digital inclusion) enables social inclusion and regional development⁷¹. This is a question of positioning AI for augmentation of the future workplace. The latest national and international research points to a net positive story, however building the necessary skills in organisations and individuals across our economy and society is an important policy consideration:
- A 2022 report⁷² by Ireland’s Expert Group on Future Skills Needs (EGFSN) on the skills needed for Ireland to fully benefit from the opportunities presented by Artificial Intelligence found AI is not likely to bring about a net loss of jobs, but it will replace certain tasks within many jobs over time.
 - The WEF (2023)⁷³ expect the impact of most technologies on jobs to be a net positive over the next five years, driven by the twinned digital and green transitions. In the WEF research almost 75% of companies surveyed are expected to adopt AI. Some 50% of the firms expect jobs to be created as a result, while 25% expect job declines. In other words, the WEF predicts AI adoption will result in disruption, but also net job creation.
 - Research by the OECD (2023) on the impact of AI on the workplace⁷⁴ shows that, to date, job reorganisation appears more prevalent than job displacement, with automation prompting the reorientation of jobs towards tasks in which humans have a comparative advantage.
 - In 2023, International Labour Organisation (ILO)⁷⁵ assessed the impact of Generative AI and reported that is likely to augment rather than destroy jobs.

⁶⁹ DPER (2020) ‘Connecting Government 2030’

⁷⁰ <https://www.ibec.ie/digitalhealth>

⁷¹ NESC (2021) [Digital Inclusion in Ireland: Connectivity, Devices & Skills](#)

⁷² EGFSN (2022) AI Skills: A Preliminary Assessment of the Skills Needed for the Deployment, Management and Regulation of Artificial Intelligence

⁷³ WEF (May, 2023) Future of Jobs

⁷⁴ OECD (March, 2023) The Impact of AI on the Workplace

⁷⁵ ILO (August, 2023) Generative AI and jobs: A global analysis of potential effects on job quantity and quality

Annex 2: Objectives, scope, requirements, and timelines of AI Act in relation to establishment/designation and functions of national competent authorities

1. The **objectives of the AI Act**, include improving the functioning of the internal market; promoting the *uptake* of human-centric and trusted⁷⁶ AI while *protecting* health, safety, fundamental rights⁷⁷; and *supporting innovation* in the EU. The Act also aims to ensure that the EU remains *competitive* for AI investment and innovation.
2. The **scope of the AI Act** includes risk-based regulation of AI usage across a variety of domains and actors (organisations and people) across the AI value chain. For example, AI systems intended for use as a *safety component of a product in certain regulated frameworks* (Article 6 and Annex I of the AI Act⁷⁸) and *specific usage* of AI systems that pose a significant risk to health, safety, or fundamental rights across 8 areas (Article 6 and Annex III of the AI Act) are classified as high-risk for the purposes of the Act.
3. **The AI Act requirements for the establishment/designation of national competent authorities and associated timetable for implementation:**
The AI Act requires member states, including Ireland, to establish establish/designate national competent authorities with *at least*:

⁷⁶European Council, Special meeting of the European Council (1 and 2 October 2020) – Conclusions, EUCO 13/20, 2020, p. 6. The **human-centric approach** to AI outlined by both the AI HLEG and OECD **encourages beneficial outcomes from AI for both humans and the planet that sustains them**. This approach encourages a respect for law, human rights and democratic values as well as a consideration for the natural environment and sustainability. ‘**Trustworthy AI**’ refers to AI systems that **respect value-based principles**, it has **3 components** (it is lawful, ethical, and robust) **and meets 7 requirements** (1. Human agency and oversight; 2. Technical robustness and safety; 3. Privacy and Data governance, 4. Transparency, 5. Diversity, non-discrimination, and fairness, 6. Societal and environmental well-being, and 7. Accountability). See [Ethic guidelines for trustworthy AI of the High-Level Expert Group on AI](#) (AI-HLEG, 2019).

⁷⁷ **Rights** enshrined in the [Charter of Fundamental Rights of the EU](#), including democracy, the rule of law and environmental protection.

⁷⁸ **Article 6(1) and Annex I** of the Act provides two lists of regulated frameworks categorised as high risk:

- **Section A:** List of EU harmonisation legislation based on the **New Legislative Framework** (NLF) including machinery, toys, recreational/personal watercraft, lifts, protective systems for potentially explosive atmospheres, radio equipment, pressure equipment, cableway installation, personal protective equipment, gaseous fuel burning appliances, medical devices, in vitro medical devices.
- **Section B:** List of other sectoral EU harmonisation legislation including: civil aviation security and safety, two or three wheel vehicles and quadricycles, agricultural and forestry vehicles, marine equipment, interoperability within EU rail system, motor vehicles and trailers.

- One **notifying authority** to select and monitor conformity assessment bodies (‘notified bodies’)⁷⁹ to test compliance with the rules before the AI is used⁸⁰.
- One **market surveillance authority** to test compliance during the AI lifecycle⁸¹. If there are several authorities, one single point of contact must be chosen⁸².

Member States must communicate this (and single points of contact) to the European Commission *within 12 months* the Acts entry into force. These authorities will have oversight powers at national level.

Nationally, DETE is a Notifying Authority for a number of EU product laws⁸³. Only safe products may be placed on the EU market. Market Surveillance Authorities (MSA) are already responsible for ensuring product safety at a national level. Ireland has a **Market Surveillance Forum** (established in 2009) with representatives from all national MSAs. It meets regularly to discuss market surveillance issues and to coordinate a national response to EU market surveillance issues⁸⁴. National MSAs in EU harmonisation legislation specified in Annex I of the EU AI Act are outlined in Table 2.

⁷⁹ **Articles 28-39** of the Act covers establishment and rules for notifying authorities and notified bodies.

⁸⁰ **Article 43** of the Act (Conformity Assessment).

⁸¹ **Article 74** Market surveillance and control of AI systems in the Union market.

⁸² **Article 70** Designation of national competent authorities and single point of contact.

⁸³ <https://www.inab.ie/news-resources/news/notified-bodies-in-ireland.html>

⁸⁴ <https://enterprise.gov.ie/en/what-we-do/consumer-competition/product-safety-/>

Table 2: National MSAs in EU harmonisation legislation specified in Annex I of the EU AI Act

EU harmonisation legislation specified in Annex I of the EU AI Act	Existing national Market Surveillance Authority / Competent Authority in this EU harmonisation legislation ⁸⁵ .
Directive 2006/42/EC (machinery)	Health & Safety Authority (HSA)
Directive 2009/48/EC (on the safety of Toys)	Competition and Consumer Protection Commission (CCPC)
Directive 2013/53/EU (recreational craft and personal watercraft))	Department of Transport/Marine Survey Office (MSO)
Directive 2014/33/EU (relating to Lifts and safety components for lifts)	HSA
Directive 2014/34/EU (relating to equipment and protective systems intended for use in potentially explosive atmospheres)	HSA
Directive 2014/53/EU (relating to the making available on the market of radio equipment)	Commission for Communications Regulation (ComReg)
Directive 2014/68/EU (relating to the making available on the market of pressure equipment)	HSA
Regulation 2016/424 (on cableway installations)	Commission for Railway Regulation (CRR)
Regulation 2016/425 (on personal protective equipment)	HSA and CCPC
Regulation 2016/426 (on appliances burning gaseous fuels)	HSA and CCPC
Regulation 2017/745 (on medical devices)	Health Products Regulatory Authority (HPRA)
Regulation 2017/746 (on in vitro diagnostic medical devices)	HPRA
Regulation 168/2013 (on the approval and market surveillance of two- or three-wheel vehicles and quadricycles)	Under consideration
Regulation 167/2013 (on the approval and market surveillance of agricultural and forestry vehicles)	Minister for Agriculture, Food and the Marine (DAFM)
Directive 2014/90/EU (on marine equipment)	MSO
Regulation 2018/858 (on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles)	Road Safety Authority of Ireland (RSA)
Regulation 2018/1139 (on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency)	Irish Aviation Authority (IAA)

⁸⁵ DETE (2022) [National Market Surveillance Authorities/ Competent Authorities in Ireland and the Relevant Legislation](#) provides details of the Irish Market Surveillance Authorities along with their responsibilities under various pieces of EU product safety legislation.

4. **The requirements of national competent authorities under the AI Act**, may include capacity building, national/international collaboration, oversight, enforcement, guidance and enabling innovation e.g.,
- **Regulatory oversight and enforcement** of provisions in the Act. This includes:
 - Pre-market certification of High-risk AI systems' conformance with standards.
 - Surveillance of High-risk AI systems after they are deployed or made available on the market.
 - **Collaboration with the EU AI office in drawing up, reviewing and adaption of codes of practice for general-purpose AI models** (and those presenting systemic risks), consulting with relevant domestic stakeholders and taking into account international approaches⁸⁶.
 - **Establishment and supervision of at least one sufficiently resourced AI regulatory sandbox** to promote innovation at national level. This involves engagement with other relevant regulators and actors in the national ecosystem and relevant authorities involved in the supervision of sandboxes in other Member States [to support regulatory coherence]⁸⁷.
 - **Guidance and advice on the implementation of this Regulation**, in particular to SMEs including start-ups, taking into account the guidance and advice of the Board and the Commission, as appropriate.
 - Take appropriate measures to **ensure an adequate level of cybersecurity**.

⁸⁶ Article 56(3) and Recital 116.

⁸⁷ Article 57 and Recitals 138-139.

Annex 3: Ireland's important roles in AI governance and regulation

Ireland has critically important roles in AI governance and regulation.

Ireland plays a key role in EU data governance – as lead regulator on behalf of all EU citizens in the data protection, cybersecurity and online content space⁸⁸ – and should be at the forefront of policy design. Embracing Ireland's role as an international digital regulatory hub and ensuring continued effective engagement with EU and other international partners are key to demonstrating our digital leadership internationally and influencing evolving governance, impacting our digitalised economy⁸⁹. The National AI and Digital Strategies rightly reflect an ambition to be both a European and global AI (and digital) leader and a *'centre of regulatory excellence in Europe where both industry investments and European consumers are the winners'*⁹⁰. This ambition matters because leadership in AI (and digital) policy and regulation acts as an investment attractor⁹¹ and is *'a prerequisite to our ambition to be a leading digital economy'*⁹². Effective EU and International engagement are *'critically important'*...

- *'...to ensure that we **retain influence** in the development of policies and regulation that impact Ireland's economic and business environment.'*⁹³
- To position Ireland (and the EU more broadly) at the forefront of evolving international digital regulation, with a potential **'first mover advantage'** in digital and data matters⁹⁴. This is because the EU⁹⁵ can *'significantly influence and/or take the initiative in relation to regulatory developments in a broader international context.'*⁹⁶
- To fulfil **Ireland's lead role in promoting EU values and safeguarding both Irish and EU citizens**⁹⁷ under both existing⁹⁸ and evolving EU digital regulation in data, markets, safety, AI, cyber security and resilience⁹⁹.

⁸⁸ Acknowledging other regulators have competency in these areas also e.g. European Commission for DSA.

⁸⁹ Ibec (2021) Backing our digital future. DETE (2022) White Paper on Enterprise 2022-2030

⁹⁰ Department An Taoiseach (2022) Harnessing Digital - The Digital Ireland Framework p41

⁹¹ William Fry and Amarach (2021) [Ireland is a Leading Location for Data-Related Investment in the EU](#)

⁹² DETE, 2022 White Paper on Enterprise 2022-2030, p 38

⁹³ DETE, 2022 Ibid

⁹⁴ DETE, 2022 Ibid

⁹⁵ EU influence on international regulation/governance is sometimes referred to as the **'Brussels Effect'**.

⁹⁶ DETE, 2022 Ibid

⁹⁷ European Commission (2022) [Address by President von der Leyen to the Joint Houses of the Oireachtas](#). The speech highlights Ireland's virtues as both a digital and regulatory hub and notes that *'Europeans depend heavily on Irish authorities to ensure that the many tech giants based here comply with our common privacy rules. Ireland can be the home base for the human-centred internet Europe wants to build'*.

⁹⁸ General Data Protection Regulation ([GDPR](#))

⁹⁹ Zenner, Marcus and Sekut, 2023 [A dataset on EU legislation for the digital world](#).

Ibec welcome the progress made to date with the introduction of Ireland's National AI strategy (NAIS)¹⁰⁰ and associated National Digital Strategy (NDS)¹⁰¹ with commitments to:

- a whole-of-government governance approach¹⁰² and business engagement¹⁰³,
- 'a modern, cohesive and well-resourced digital regulatory system',
- 'being a strong voice in Europe for a balanced approach to digital regulation'¹⁰⁴ and 'advocating for the benefits of the country-of-origin principle... essential to the functioning of the single market'¹⁰⁵.

While progress is being made¹⁰⁶, there are still imperatives to further embrace and strengthen Ireland's EU/international roles as both an AI and a regulatory hub.

¹⁰⁰ DETE (2021) [AI- Here for Good: National Artificial Intelligence Strategy for Ireland](#)

¹⁰¹ Department of the Taoiseach (2021) [Harnessing Digital - The Digital Ireland Framework](#)

¹⁰² It is understood that this whole of government approach is led by the Cabinet Committee on Economic Recovery and Investment (CCERI), with supporting official-led sub-structures including:

(a) the Digital Issues Senior Officials' Group, chaired by the Department of the Taoiseach, and

(b) the [Digital Single Market Group](#), chaired by the Department of Enterprise, Trade and Employment. The Cabinet Committee also engages with the 'Digital Regulators Group' ([DRG](#)) i.e., Commission for Communications Regulation ([ComReg](#)), the Data Protection Commission ([DPC](#)), the Competition and Consumer Protection Commission ([CCPC](#)), and [Coimisiún na Meán](#) (CnM, previously known as the Broadcasting Authority of Ireland, BAI).

¹⁰³ [Enterprise Digital Advisory Forum \(EDAF\)](#) established to support the government in driving the digitalisation of enterprise across Ireland.

¹⁰⁴ Department of the Taoiseach (2021) [Harnessing Digital - The Digital Ireland Framework](#)

¹⁰⁵ DETE, 2022 The White Paper on Enterprise 2022-2030. The country-of-origin principle 'provides that regulated enterprises must comply with just the one legal regime of the Member States in which they are established, as opposed to the laws of every Member States into which they sell, when it comes to cross-borer services such as digital.'

¹⁰⁶ DETE (2023) [Minister Calleary publishes progress report on National AI Strategy](#) and Government of Ireland (2024) [Harnessing Digital Progress Report 2023](#)

The Implementation of the EU AI Act in Ireland

SUBMISSION TO THE DEPARTMENT OF ENTERPRISE, TRADE AND EMPLOYMENT

Barry O'Brien
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July 2024

IBM is a leading provider globally of hybrid cloud and AI, and consulting expertise. We help clients in more than 175 countries capitalize on insights from their data, streamline business processes, reduce costs, and gain the competitive edge in their industries. More than 4,000 government and corporate entities in critical infrastructure areas such as financial services, telecommunications and healthcare rely on IBM's hybrid cloud platform and Red Hat OpenShift to effect their digital transformations quickly, efficiently, and securely.

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INTRODUCTION

IBM welcomes the opportunity to respond to the Department of Enterprise, Trade and Employment's public consultation on the implementation of the EU Artificial Intelligence (AI) Act in Ireland. In this paper we set out our comments on the Department's consultation paper published on May 21, 2024.

For further information, please contact Barry O'Brien: [email address redacted]

SUMMARY

IBM welcomes the EU AI Act as the world's first comprehensive AI legislation. We have long urged lawmakers to take a balanced approach, focused on regulating high-risk applications of AI while promoting transparency, explainability, and safety. We welcome that in the AI Act, the EU takes a risk-based approach that prioritizes different rules for different use cases; provides clear guidance on end uses that constitute high-risk AI activity; places practical requirements on high-risk systems; and emphasizes transparency.

We share policymakers' goals of enabling AI's safe and trustworthy development and creating an open, pro-innovation AI ecosystem, and recognize that both government and industry have roles to play. In our own development and use of AI, and in our work with clients, we emphasise the need to create organization-wide AI governance systems, not just to comply with regulation, but to drive business value. For example, our [watsonx.governance](#)¹ platform provides organizations with the tools they need to manage risk, embrace transparency, and support compliance with AI-focused regulation like the AI Act.

As the focus now shifts to implementation of the AI Act, we know companies are asking, "How will this affect my business day to day? And how do I ensure I'm compliant?" Through a coherent and effective implementation of the AI Act, the Irish Government can help to answer those questions in a way that will promote the responsible uptake and governance of AI so its benefits are enjoyed broadly across business and society, while its risks are understood and managed.

In considering the Irish implementation of the EU AI Act, we make a number of recommendations in the following section, but would highlight the following key themes:

1. Adopting a hybrid approach to the configuration of the national competent authorities, where existing sectoral authorities retain their specialised domain

¹ <https://www.ibm.com/products/watsonx-governance>

expertise, while a central AI authority delivers the oversight and enforcement provisions of the AI Act, acts as the single point of contact and develops deep AI expertise.

2. Ensuring the regulatory authorities cooperate and work in a coordinated and consistent manner, balancing the protection of health, safety and fundamental rights with the promotion of innovation and the uptake of AI for the benefit of Ireland and the EU.
3. Resourcing the national competent authority adequately from the beginning, so it can quickly establish a reputation for excellence, and provide early and comprehensive advice to support an ambitious adoption of trustworthy AI by business and other organisations in Ireland.

CONSULTATION QUESTIONS

1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

How the relevant competent authorities are configured and how they operate on a day-to-day basis will be one of the key determining factors for a successful implementation of the AI Act in the Irish context. The aim should be a system that provides consistency and clarity for all stakeholders, and actively supports the balance at the heart of the AI Act between protecting health, safety and fundamental rights, and promoting innovation and the uptake of AI for the benefit of Ireland and the EU.

Our recommendations:

- Adopt a hybrid approach, where existing sectoral authorities retain their specialised domain expertise, while a central AI authority delivers the oversight and enforcement provisions of the AI Act, as well as capacity-building measures, guidance to business, overall coordination, and strong AI expertise.
- The AI authority should be the single point of contact to serve both internally with other relevant authorities and externally with business and other stakeholders.
- The AI Act is a regulation which covers both product safety and the protection of fundamental rights. The national competent authority should be mandated to support businesses in understanding their obligations from both perspectives.
- The national competent authority must be adequately resourced from the beginning so it can quickly establish a reputation for excellence.

2. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

There has been a proliferation of EU regulations and directives applying to various aspects of the digital economy in recent years. As the National Digital Strategy recognises, a cohesive and coordinated national regulatory framework is essential for the effective implementation of those regulations, and it is welcome that the Government has put structures in place to achieve that. The implementation of the AI Act will add further complexity to the situation as it overlaps with many of the existing regulations, but also provides an opportunity to refocus regulatory coordination around the national competent authority.

Our recommendations:

- Enhance the existing cooperation mechanisms to ensure the relevant regulatory authorities operate in a coordinated and consistent manner and share the goal of delivering the objectives of the National Digital and National AI Strategies.
- Ensure that guidance and advice being provided to business reflects not only the requirements of the AI Act, but endeavours to cover related issues arising from other digital economy regulations.
- Invest in developing deep AI regulatory expertise in the national competent authority, as a resource for domain experts in the sectoral authorities to draw upon.
- As well as potential synergies, AI also introduces new considerations for other regulatory bodies. For example, the intersection of AI with cybersecurity is a multi-faceted issue: as well as ensuring the cyber-resilience of the regulatory authorities themselves and promoting the resilience of AI systems being developed and deployed in Ireland, there are challenges and opportunities raised by the use of AI in cyberattacks and cyberdefence more broadly, which should be addressed by the National Cyber Security Centre.

3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ireland has positioned itself well among the digital front-runners in the EU, including through its active role in the D9+. A coherent and effective implementation of the AI Act would further enhance that position. Excellence in AI regulation will be demonstrated by high levels of adoption and AI-based innovation, the delivery of measurable benefits across the public and private sectors, and widespread use of best practices and standards for risk management.

Our recommendations:

- Provide sufficient financial and human resources to offer early support to businesses and other organizations using AI about the applicable rules and guidance before the transition periods expire.
- Implement communications initiatives targeted at specific industry sectors to explain the AI Act's rules, in particular on the classification of high risk uses. Equally important will be to explain to companies what their role in the AI value chain is, according to the AI Act (e.g. provider, deployer, other third party). This will be especially helpful for small and medium-sized enterprises (SMEs).
- Support companies with guidance and adequate legal clarification regarding the many provisions of the AI Act which are open for further review, to be complemented by delegated and implementing acts, or subject to Commission guidelines and codes of conduct.
- Leverage the deep AI regulatory expertise that should be developed in the national competent authority to further raise Ireland's profile and engagement within the EU, in other international AI policy fora such as the OECD, and to advance transatlantic regulatory coordination.
- Mandate the early development of a regulatory sandbox (well ahead of the 2-year deadline in the AI Act), where the regulators and other stakeholders can work together on compliance, innovation, and developing best practices.

4. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

AI must not be seen as just a tech-sector issue, but as a topic of central importance for every sector. For Ireland to reap the benefits of AI, Government must encourage and enable adoption of AI by organizations across all sectors of the economy and be seen to play an active role in balancing the benefits with the risks.

Our recommendations:

- Continue to promote broad stakeholder engagement in AI awareness and debate, e.g. through the work of the AI Ambassador, Enterprise Digital Advisory Forum, AI Advisory Council etc.
- Lead by example – accelerate the work of the GovTech Delivery Board to promote the adoption of trustworthy AI in the public services.
- Ensure close cooperation with national authorities from other EU Member States through the AI Board as well as with the European Commission's AI Office to avoid fragmented implementation and unnecessary administrative burden and delays across the EU.
- Regularly update the National AI and National Digital Strategies, to reflect technological and regulatory developments, and ensure they are consistent and actionable.



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

Submission to the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Irish Human Rights and Equality Commission
July 2024

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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Introduction

The Irish Human Rights and Equality Commission is Ireland's independent National Human Rights Institution and National Equality Body.¹ We protect and promote human rights and equality in Ireland. We are the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities;² the independent National Rapporteur on the Trafficking of Human Beings;³ and will be assigned the role of the Co-ordinating National Preventive Mechanism under the Optional Protocol to the Convention against Torture,⁴ pending ratification. Alongside the Northern Ireland Human Rights and Equality bodies, we have a mandate to provide oversight and report on rights and equality issues falling within the scope of the Article 2 commitment of the Windsor Framework.⁵ We also have legal powers under the *Gender Pay Gap Information Act 2021*.

Under our Act, we are mandated to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality; and to make recommendations to the Government in relation to the measures that we consider should be taken to strengthen, protect and uphold human rights and equality in the State.⁶ We welcome the opportunity as part of this consultation⁷ to provide the Department of Enterprise, Trade

¹ Established under the *Irish Human Rights and Equality Commission Act 2014*.

² Section 103 of the *Assisted Decision-Making (Capacity) (Amendment) Act 2022* amends section 10(2) of the *Irish Human Rights and Equality Commission Act 2014* to provide that one of our functions is to promote and monitor the implementation in the State of the UNCRPD.

³ IHREC, [Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings](#) (2020).

⁴ To be provided under the *Inspection of Places of Detention Bill*, when enacted.

⁵ In the wake of the UK's withdrawal from the EU, the Commission, along with the Northern Ireland Human Rights Commission ('NIHRC') and the Equality Commission for Northern Ireland ('ECNI') comprise the Article 2(1) Working Group of the Dedicated Mechanism. This group is mandated to provide oversight of, and report on, rights and equality issues falling within the scope of the Article 2 [Windsor Framework] commitment that have an island of Ireland dimension.

⁶ Section 10(2) of the *Irish Human Rights and Equality Commission Act 2014*.

⁷ <https://www.gov.ie/en/consultation/bbca1-public-consultation-on-national-implementation-of-eu-harmonised-rules-on-artificial-intelligence-ai-act/>

and Employment with our observations on the national implementation of the EU Artificial Intelligence Act ('AI Act')⁸.

Observations on the implementation of the AI Act in Ireland

"The EU's AI act is the first ever law on artificial intelligence, a regulatory framework that aims to make sure AI systems are safe, and that they respect the law and the EU's fundamental rights and values."⁹

While AI and the AI Act have profound implications for fundamental rights, equality and non-discrimination,¹⁰ in this submission we focus our observations on the national governance structure for the AI Act; in particular, Article 77 of the AI Act concerning bodies charged with responsibility for monitoring fundamental rights. We note the pressing need to address the requirements in Article 77 (2), that no later than three months after the entry into force of this Act,¹¹ each Member State must identify the relevant public authorities or bodies and make a list of them available to the public. As Ireland's National Human Rights Institution and National Equality Body, IHREC is, by definition, an Article 77 body, and should appropriately be designated as such. However, if we were to be designated as an Article 77 body we would emphasise the imperative for adequate financial, technical, and staff resources to fully and effectively undertake this function.

We acknowledge that Article 77 itself does not precisely identify the responsibilities of Article 77 bodies, and how they will coordinate and cooperate with other Article 77 bodies and with

⁸ [Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence and amending regulations \(EC\) No 300/2008, \(EU\) No 167/2013, \(EU\) No 168/2013, \(EU\) 2018/858, \(EU\) 2018/1139 and \(EU\) 2019/2144 and Directives 2014/90/EU, \(EU\) 2016/797 and \(EU\) 2020/1828 \(Artificial Intelligence Act\).](#)

⁹ See <https://www.consilium.europa.eu/en/policies/artificial-intelligence/>

¹⁰ The AI Act pays particular attention to fundamental rights, non-discrimination, the impact of AI systems on structurally vulnerable groups and the risk that historical patterns of discrimination are perpetuated by the use of certain AI systems.

¹¹ On 13 June 2024, the presidents of the European Parliament and the Council of the European Union signed the AI Act, which is expected to be published in the EU's Official Journal in July 2024 and enter into force 20 days after its publication.

market surveillance authorities. Due to AI's impact on fundamental rights, equality and non-discrimination, it is important that priority be given to addressing how the national governance / regulation of AI will operate in practice. The regulatory framework, including the investigatory and enforcement powers of market surveillance authorities, should be legally robust. It is critical that the mechanisms for cooperation and coordination between the bodies be developed, and guidance and good practice on implementation of the AI Act be drawn from and shared with other EU Member States. As a member of the European Network of National Human Rights Institutions ('ENNHRI') and a member of the European Network of Equality Bodies ('Equinet'), we have drawn from the expertise of ENNHRI,¹² Equinet,¹³ and other National Human Rights Institutions / National Equality Bodies who are also considering the implementation of the AI Act within their own States.

In implementing the AI Act, there is a need for alignment with other EU regulations, including the transposition of the Corporate Sustainability Due Diligence Directive, and alignment with national policy frameworks, including the National Artificial Intelligence Strategy for Ireland and the successor to the National Plan on Business and Human Rights.

While the AI Act applies to a wide variety of actors and bodies, the role of public sector bodies is of particular importance. The requirement to assess the impact on fundamental rights when using high-risk systems includes any use of high-risk AI in the public sector.¹⁴ This overlaps with the obligations of the Public Sector Human Rights and Equality Duty for public bodies to assess the equality and human rights issues relevant to their purpose and functions.¹⁵ It is critical to ensure adequate oversight of the deployment of AI in public

¹² See ENNHRI's work on AI: <https://ennhri.org/our-work/topics/artificial-intelligence/>

¹³ See Equinet's work on AI: <https://equineteurope.org/what-are-equality-bodies/artificial-intelligence-and-equality/>

¹⁴ Article 27 of the AI Act.

¹⁵ Section 42 of the *Irish Human Rights and Equality Commission Act 2014* imposes a legal obligation on public bodies to have regard to the need to eliminate discrimination, promote equality of opportunity, and protect the human rights of those to whom they provide services and staff when carrying out their daily work. The Public Sector Duty requires public bodies to undertake an assessment of the equality and human rights issues pertaining to their purpose and functions; to devise an action plan to address the issues raised in the assessment; and to report annually on progress and achievements with regard to identified actions. Further information and guidance on the Duty can be found at: <https://www.ihrec.ie/our-work/public-sector-duty/>

services to ensure accountability and transparency, and provide reassurance to the public that AI is being used in a proportionate manner.

Effective implementation of the AI Act requires taking into account the risks of collective discrimination, social injustice, and other societal risks, such as threats to the rule of law and democracy. Due attention should be paid to the collective and societal impact of AI systems when implementing the AI Act and when shaping the supervisory landscape.

Role, powers and resourcing of the Article 77 body / bodies

As Ireland's National Human Rights Institution and National Equality Body, we note that Article 77 of the AI Act provides for cooperation with existing national authorities or bodies that monitor fundamental rights, including the right to non-discrimination. We note also the relevance of Articles 70, 73, 79 and 82 to the role and powers of bodies under Article 77. These articles in the AI Act define new cooperation mechanisms and powers for public bodies entrusted with monitoring fundamental rights and non-discrimination to enable them to effectively exercise their mandate in relation to AI-induced risks to fundamental rights, equality and non-discrimination.

From our understanding of the AI Act, Articles 73, 77, 79 and 82 of the Act provide that Article 77 bodies:

- › may request access to any documentation, in an accessible language and format, related to the use of high-risk AI systems held under the AI Act, when necessary for the effective exercise of their mandate [Article 77 (1)];
- › may request that market surveillance authorities organise technical testing of the high-risk AI systems, with the close involvement of the Article 77(1) bodies [Article 77 (3)];
- › be informed by market surveillance authorities and cooperate with them in case of suspicion that an AI system poses a risk to fundamental rights, with particular attention to risks to structurally vulnerable groups [Article 79 (2) in conjunction with Article 5];

› be notified by market surveillance authorities of incidents and malfunctions of high-risk AI systems reported to them, by providers of high-risk AI systems, that breach the fundamental rights obligation under European Union or national legislation [Article 73 (7)].

› be consulted when the market surveillance authorities find that a high-risk AI system, although compliant with the AI Act, nevertheless presents a risk to the health or safety of persons, to fundamental rights, or other aspects of public interest protection [Article 82(1)].

As Ireland's National Human Rights Institution and National Equality Body, we are of the view that IHREC would appropriately be considered as an Article 77 body. In order to give effect to our mandate, our staff includes a critical mass of subject-matter experts with respect to human rights, non-discrimination, and equality. This includes staff with legal expertise. As such, it is a significant resource in the design of a supervisory framework which is compliant with the AI Act.¹⁶ However, we do not currently have in-house expertise with respect to the particular emerging challenges at the intersection of rapidly evolving AI-enabled technology and fundamental rights.

If we were to be designated as an Article 77 body, it is essential that we are appropriately resourced to build our capacity if we are to successfully fulfil this wider remit. It cannot be underestimated the capacity and effort (in terms of resources, time and expertise) required to effectively undertake the tasks including requesting and accessing any documentation under the AI Act or being involved in a testing of a high-risk AI system. There could also be a substantial number of serious incidents referred to an Article 77 body by the market surveillance authorities.

In the AI Act, we note the importance placed on resources for the responsible supervisory bodies. Article 70(3) provides that Member States should assess and, if necessary, update

¹⁶ Equinet and ENNHRI, [Joint Equinet and ENNHRI Statement on EU Artificial Intelligence Act Trilogue](#) (2023) pp. 2–3; ENNHRI, [ENNHRI Common Position on EU Artificial Intelligence Act](#) (2023) pp. 5–6; Equinet, [Ensuring European AI that Protects and Promotes Equality for All: Equinet's recommendations for the trilogues to strengthen the enforcement of non-discrimination in the context of AI](#) (2023) p. 3; Equinet, [Regulating for European AI that Protects and Advances Equality: Position paper laying down recommendations and core components for future EU legislation on Artificial Intelligence](#) (2022) pp. 8–9.

resource and competence requirements under this Article on an annual basis. Article 112 provides that the European Commission's review of the Act, every four years after the Act enters into force, should include consideration of the financial, technical and human resources provided to national competent authorities in order to assess whether they are able to effectively perform the tasks assigned to them under this Act.

Due to the nature of the obligations and powers of Article 77 bodies under this Act, we would require adequate financial, technical, and staff resources to fully and effectively undertake this additional function, without impacting our ability to carry out our existing statutory functions.¹⁷ The implementation of the AI Act is also relevant to our wider functions including awareness raising regarding human rights and equality; making recommendations to the State in the area of law and policy relating to human rights and equality; provision of legal assistance; appearing as *amicus curiae*; assisting public bodies in accordance with section 42 of the IHREC Act; commissioning and funding research; and consultation with national, EU and international bodies.¹⁸

We have seen our mandate grow significantly since we were established in 2014;¹⁹ however, our budget allocation has not been increased to provide for the development and staffing of these expanding functions, in a way that would give meaningful effect to new mandates. The recently approved EU Directives on Standards for Equality Bodies²⁰ have introduced a legal requirement on Member States to provide multi-mandate bodies with adequate human,

¹⁷ Equinet and ENNHRI, [Joint Equinet and ENNHRI Statement on EU Artificial Intelligence Act Trilogue](#) (2023) p. 2.

¹⁸ Section 10 of the *Irish Human Rights and Equality Commission Act 2014*.

¹⁹ As noted in the introduction, as well as our broad mandate to protect and promote human rights and equality, we are the Independent Monitoring Mechanism for Ireland under the UNCRPD; the independent National Rapporteur on the Trafficking of Human Beings; we will be assigned the role of the co-ordinating National Preventive Mechanism under the OPCAT, pending ratification; we have a role in working to uphold equality and rights protections on the island of Ireland post Brexit; and we have legal powers under the *Gender Pay Gap Information Act 2021*.

²⁰ On 19 June 2024, the EU Directives on Standards for Equality Bodies entered into force. Member States will have two years to adapt their national legislation to the provisions of the Directives, which lay down standards for equality bodies to ensure that people enjoy a common minimum level of protection against discrimination. The Directives cover the mandate, independence, resources, tasks and powers of equality bodies to (1) engage in the prevention of discrimination and awareness raising activities and (2) deal with cases of discrimination/assist victims. See Council of the European Union, [Strengthening the role of equality bodies across the EU: Council adopts two directives](#) (2024)

technical and financial resources to perform their tasks and competencies effectively.²¹ Such budgetary allocation should be stable and include multi-annual planning, to facilitate the covering of costs that can be difficult to anticipate.²²

The EU Directives on Standards for Equality Bodies also require the State and public bodies to consult with equality bodies in a timely manner on legislative and policy proposals affecting their mandate, independence, and functioning and ensure equality bodies can follow up their recommendations to the State and public bodies.²³ This is particularly relevant for any reports and recommendations we may provide around the human rights and equality impacts of the implementation of the AI Act, and the implementation of policies and legislation involving AI.

Cooperation and coordination with other Article 77 bodies

The AI Act lacks clarity on the circumstances and arrangements where a Member State identifies a number of bodies as having a potential role in respect of domestic governance. There is potential for gaps in accountability and transparency if there are multiple bodies acting as Article 77 bodies without any clear structure specifying their respective roles, tasks,

²¹ Article 4 and Recitals 20 and 21 of the [Directive \(EU\) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU](#); and Article 4 and Recitals 21 and 22 of the [Council Directive \(EU\) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC](#).

²² Recital 21 of the [Directive \(EU\) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU](#); and Recital 22 of the [Council Directive \(EU\) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC](#).

²³ Article 15 of the [Directive \(EU\) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU](#); and Article 15 of the [Council Directive \(EU\) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC](#).

and responsibilities. Clarity will need to be provided on how Article 77 bodies cooperate and coordinate with each other in relation to the powers they have under the Act. For example, could multiple Article 77 bodies separately request and access any documentation under the Act, or will there be a coordination mechanism in place? This will need to be considered in light of the existing mandates and obligations of potential Article 77 bodies.

Due to the requirement of having knowledge of monitoring fundamental rights, equality and non-discrimination, we would be of the view that the list of Article 77 bodies in Ireland would be short and limited to those bodies that have existing expertise and experience of these areas. Noting the short timeframe to publicly identify the Article 77 bodies, priority should be given to early engagement with and between Article 77 bodies to establish how Article 77 bodies will cooperate and coordinate with each other.

Human rights and equality expertise of market surveillance authority / authorities and notifying authority / authorities

Article 70(3) stipulates that the market surveillance authority / authorities and notifying authority / authorities must have sufficient staff permanently available. Such staff must have a thorough understanding of AI technologies, data and data processing, personal data protection, cyber security, **fundamental rights**, health and safety risks, and knowledge of existing standards and legal requirements. Knowledge of fundamental rights and existing standards includes knowledge of Irish equality and non-discrimination legislation. We note the importance of providing robust safeguards to ensure that the staff of the market surveillance authority / authorities and notifying authority / authorities have a thorough understanding of fundamental rights, equality and non-discrimination.

The Act provides that market surveillance authorities should consult with Article 77 bodies when an AI system poses a risk to fundamental rights or inform Article 77 bodies when there is a serious incident with a high-risk AI system.²⁴ It cannot be assumed that users and providers of AI, and market surveillance authority / authorities are capable of recognising these risks to fundamental rights. There is an immediate need for capacity building within market

²⁴ Articles 73(7), 79(2) and 82(1) of the AI Act.

surveillance authority / authorities and notifying authority / authorities to ensure that staff within these authorities / bodies recognise risks to fundamental rights, equality and non-discrimination with the use of AI. Education and awareness about fundamental rights, equality and non-discrimination will be key to effective supervision. It is critical that over the implementation timeframe for the Act, human rights and equality expertise and experience be embedded into the market surveillance authority / authorities and notifying authority / authorities.

Cooperation and coordination between the Article 77 body / bodies and the market surveillance authority / authorities

The articles in the AI Act provide for new cooperation and coordination mechanisms for bodies charged with monitoring fundamental rights and market surveillance authorities. To give meaningful effect to Articles 73, 77, 79 and 82, priority should be given to establishing a mechanism / network to share expertise and experience between bodies monitoring fundamental rights and market surveillance authorities. We note the relevance of Article 14 of the EU Directives on Standards for Equality Bodies, which sets out an obligation for Member States to set up “cooperation mechanisms” between Equality Bodies and “public and private entities”.²⁵ Equality Bodies should have effective coordination channels with the market surveillance authorities, other relevant public regulators, such as data protection authorities and product safety authorities, and private entities such as tech development companies and private deployers of AI systems.

Cooperation with a National Human Rights Institution and National Equality Body enables cost-effective transfer of knowledge, which ensures that fundamental rights, equality and

²⁵ [Directive \(EU\) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU](#); and [Council Directive \(EU\) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC](#).

non-discrimination considerations are integrated into all activities of market surveillance authorities, and other supervisory bodies and actors.²⁶ While the State has 12 months from the date of entry into force of this regulation to designate one or more market surveillance authorities, we emphasise the importance of identifying these authorities at an early stage to ensure that mechanisms can be established to share knowledge on implementing the AI Act and expertise on risks to fundamental rights, equality and non-discrimination with the use of AI. Any mechanism / network for cooperation and coordination should clarify the respective roles, tasks, and responsibilities between market surveillance authorities and the Article 77 bodies to ensure there is a clear governance, supervisory and enforcement structure in place.

²⁶ Equinet and ENNHRI, [Joint Equinet and ENNHRI Statement on EU Artificial Intelligence Act Trilogue](#) (2023) pp. 2–3; ENNHRI, [ENNHRI Common Position on EU Artificial Intelligence Act](#) (2023) pp. 5–6; Equinet, [Ensuring European AI that Protects and Promotes Equality for All: Equinet’s recommendations for the trilogues to strengthen the enforcement of non-discrimination in the context of AI](#) (2023) p. 3; Equinet, [Regulating for European AI that Protects and Advances Equality: Position paper laying down recommendations and core components for future EU legislation on Artificial Intelligence](#) (2022) pp. 8–9.



Coimisiún na hÉireann um Chearta
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EU AI Act - Submission by the Irish National Accreditation Board

EU AI Act - Accreditation

The Irish National Accreditation Board (INAB) is informed by the EA, the European co-operation for Accreditation regarding the EU AI Act and the implications on accreditation. The EA is a not-for-profit association, registered in the Netherlands. It is formally appointed by the European Commission in Regulation (EC) No 765/2008 to develop and maintain a multilateral agreement of mutual recognition, the EA MLA, based on a harmonized accreditation infrastructure.

The EA Task Force Group on the EU AI Act conducted an assessment of the Act and compiled a report. The document covers the general assessment of the EU AI Act regarding the implications on accreditation. It proposed the findings and ideas of the EU AI Act TFG to the Working Group WG AfN (Accreditation for Notification). The final decisions on how to proceed with the conformity assessment procedures regarding the EU AI Act were then made by the WG AfN.

The EA AfN Project Report was updated on 1st July 2024. The aim of the project is the harmonization of the accreditation requirements used as basis for notification by defining the preferred harmonized standards for each Union Harmonization Legislation.

The report available at the link below includes the following table:

<https://european-accreditation.org/wp-content/uploads/2023/04/AFN-PROJECT-2024.pdf>

Directive / Regulation	Regulation (EU) 2024/XXX - Artificial Intelligence Act	
Attestation Module / System	Preferred Standard	Justification
Annex VII Conformity based on assessment of quality management system and assessment of technical documentation	ISO/IEC 17065	ISO/IEC 17065 is considered to be the best fit as this Annex is based on more than just a QMS audit, it includes assessment of technical documentation which falls under product certification. The Annex is considered to be equivalent to a module H1.

The implications of the AI Act for INAB include a requirement for adequate resources and access to appropriate expertise. INAB not having appropriate resources will impact Ireland's ability to implement the AI Act.

The accreditation model employed is that INAB contracts external assessors to perform technical assessments and this expertise can be very difficult to access in specific technical areas and is also very expensive. The availability of the necessary expertise is critical.

Communication with DETE

INAB continues to have ongoing meetings with DETE regarding its future potential role in the implementation of the AI Act.

It is envisaged that INAB's role will be in the assessing and monitoring of conformity assessment bodies who are accredited to ISO 17065 for the purposes of notification under the AI Act. As detailed above, INAB will require adequate resources and access to expertise in order to conduct this work.

R. Hayden
INAB Manager
10/07/2024



AI Act Implementation Submission 2024

1. Introduction

The Industry Research & Development Group (IRDG) is a not-for-profit, business-led representative group for companies and third level institutions engaged in research, development and innovation (RDI). Founded in 1992, IRDG's mission is to drive excellence in innovation within Ireland's industry to create growth, jobs and prosperity.

IRDG is unique as the only business organisation in Ireland wholly focused on business RDI. IRDG has over 300 member organisations with membership evenly distributed between foreign direct investment and indigenous firms ranging in size from start-ups to the largest companies in Ireland.

IRDG as an industry body has a highly diverse membership across all sectors of industry, including engineering, food & beverage, healthcare, ICT, medical devices, pharmaceuticals, software, technology, agriculture, construction, and utilities. In addition, IRDG membership includes most of the third-level colleges, institutes, and R&D centres. This unique combination makes for a very a highly experienced network.

Representation has been a core activity since the establishment of IRDG. IRDG is the respected voice of industry on RDI matters and over many years the views of IRDG members have been invaluable in informing and shaping RDI schemes and incentives available to industry.

IRDG has extensive exposure to industry wide RD&I within both the SME and large company sectors through our work and dialogue with members. We actively support members to better understand, prepare and manage R&D tax credit claims through our seminars and nationwide clinics as well as interacting with the grant funding eco-system.

Our submission is informed by a series of roundtable breakfasts we held with 180 companies across the country in January and February, by our National RD&I Survey of 394 companies published as Ireland's Innovation Index in June and we directly spoke with a number of our 300 member companies and collated their views.



2. Consultation Responses

Q1. Considerations the Department have regard to when devising the configuration of national competent authorities for implementation

Ireland's competent authority should emphasise reliability and flexibility, while serving all stakeholders in a balanced manner. An approach which integrates with existing regulations, is adequately resourced, receives broad stakeholder involvement and with strong oversight are critical for effective implementation of the AI Act. The key question is whether a centralised or sectoral approach should be pursued.

A centralised approach presents the potential for SMEs to be underserved. With large companies occupying significant amounts of administrative overhead, SMEs may not have access to necessary resources. In a centralised approach, the Department should consider dedicating a portion of resources to SMEs.

On the other hand, a concern about a distributed/sectoral approach is that niche sectors may not have full access to the necessary resources for implementation. With experts and administrators spread out between sectors, industries with fewer stakeholders may not be allocated the same resources as larger industries. This disparity may cause some sectors to be underserved, disincentivising AI implementation.

Therefore, we recommend a balanced approach combining sector-based authorities to offer deeper expertise and value-based support for various industry sectors, coupled with a central co-ordination/oversight function to ensure all sector-based authorities are adhering to a general set of principles:

1. **Integration with Existing Regulations:** Rather than creating separate certification processes, the AI Act should integrate seamlessly with existing regulations governing various industries. For instance, the CE IVDR Regulations could serve as a framework for incorporating the AI Act. This alignment streamlines implementation and avoids redundancy.
2. **Adequate Funding and Resources:** Implementing AI adaptation comprehensively requires substantial resources. Adequate funding, resourcing, and training/guidance are essential for both the notified bodies responsible for enforcing the regulation and the industry itself. Ensuring smooth and effective implementation hinges on providing necessary support.
3. **Broad Stakeholder Involvement:** Drawing from my experience in standards development, involving a broad range of interested and affected parties is crucial. Their diverse viewpoints help balance theoretical aspirations with

practical feasibility. Legal and technical experts play a central role in drafting and scripting the Act, while health and safety concerns drive safe standards.

4. **Strong Oversight Body:** To oversee the process, a single owner or standards watchdog with authority is vital. This body should represent public/user interests and remain impervious to other vested interests. Health and Safety considerations should guide decisions, ensuring safety and practicality.
5. **AI Advisory Council Model:** An authority structured similarly to the AI Advisory Council would align well with the needs of the competent authority. Embedding it within the existing Data Protection Commission (DPC) ensures coherence. Like GDPR, the authority should demonstrate Ireland's competence, reliability, and trustworthiness in deploying AI systems. A distributed governance approach, while agile, must maintain responsiveness to responsibilities.

Regardless of the configuration of the national competent authority, great consideration must be given to the rapidly changing nature of AI technology and international regulations. The national competent authorities must be flexible to these changes and emergent risks, frequently communicating with agencies in EU Member States and third countries. The Department should consider plans to restructure the competent authorities if it is deemed they are ineffective or incompatible with changes in AI technology.

Q2. Potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

One general consideration is a recognition of the additional burden that new regulation places on companies, which can be particularly challenging for SMEs. When implementing the AI Act, all potential synergies should be examined to ensure that a clear and consistent set of regulations are in place while effectively managing the compliance burden on companies.

There are synergies across a number of EU regulations, including GDPR and the European Digital Services Acts. The AI act is in part an evolution of the learnings of these regulations, and we should ensure that lessons learned in the implementation of these are applied here. This should not be solely based on resources, potential case management and rulings; an Irish authority would need to be proactive to ensure that enterprise and services that are deployed, developed and managed from Ireland have full support, education and tools necessary to ensure compliance with the act. It would also need to drive the amendments to the tiered levels of risk as technology and its usage in public and civic spheres evolve.

The AI Act, together with other EU regulation such as GDPR/Digital Services act should enable negotiations on data residency, through the provision of a robust set of protections that mitigate concerns and allow for growth of high value services from Ireland and for global stakeholders. Ireland can effectively implement the AI Act by adopting a strategic, coordinated approach that maximises synergies with other EU regulations. The key to this is interdepartmental coordination and an integrated compliance framework. The national competent authorities established under the AI Act should facilitate regular meetings with departments overseeing other EU regulations to ensure alignment on implementation strategies. They should develop unified compliance guidelines and a single point of contact for businesses, streamlining the compliance process.

Alignment with the roll out of the digital services act, where presumably AI will feature heavily in the creation of innovation, growth and competitiveness across digital markets.

There should also be alignment with the application of GDPR. A competent authority should support companies to understand where there is inter-play, where there are synergies and where the GDPR take precedence over the AI Act. This should include mapping to bilateral EU-US/CA/ASIA agreements to ensure that Irish operations can capitalise on these agreements to reduce legislative burden. Looking at individual regulations we can see the following opportunities for synergies:

Digital Markets Act (DMA) and Digital Services Act (DSA)

The AI Act's focus on transparency and accountability can greatly enhance the objectives of the DMA and DSA. For instance, Article 13 of the AI Act mandates transparency obligations for AI systems, ensuring users are aware they are interacting with AI. This complements the DMA's Articles 5 and 6, which impose obligations on gatekeepers to ensure fair competition, such as preventing self-preferencing and ensuring data portability. Similarly, the DSA's Article 24, which requires platforms to disclose the parameters used for content moderation, aligns with the AI Act's transparency requirements, fostering a fairer digital environment. Harmonizing standards across these regulations reduces compliance burdens and fosters innovation by providing clear guidelines for businesses operating in digital markets.

General Data Protection Regulation (GDPR)

The AI Act and GDPR both emphasize robust data governance and privacy. Articles 10 and 11 of the AI Act focus on ensuring high-quality datasets free from bias and robust data management practices. These requirements align with GDPR's principles outlined in Articles 5 and 6, which ensure lawfulness, fairness, and transparency in data processing. Both regulations also stress risk management, with the AI Act's Article 14 requiring risk assessments for high-risk AI systems, mirroring GDPR's Data Protection

Impact Assessments (DPIAs) under Article 35. Integrating these processes can streamline compliance efforts and provide a comprehensive approach to managing data-related risks.

Network and Information Security (NIS2) Directive

The AI Act's provisions for security and resilience in AI systems (Article 15) support the NIS2 Directive's objectives to enhance cybersecurity across the EU. Article 4 of the NIS2 Directive expands the scope of cybersecurity requirements to include critical infrastructure, ensuring AI systems are protected against cyber incidents. Both the AI Act's Article 16 and NIS2's Articles 11 and 12 emphasize the importance of incident reporting and response, aligning these requirements to improve overall system security and resilience.

European Green Deal

The AI Act encourages the development of AI technologies that contribute to environmental sustainability, aligning with the European Green Deal's goals. By promoting sustainable AI, Ireland can support the Green Deal's focus on climate neutrality and resource efficiency. The AI Act's Article 54 establishes a regulatory sandbox framework to test innovative AI solutions in a controlled environment, fostering developments that address climate change and environmental challenges. This synergy can drive the adoption of AI applications that enhance energy efficiency, reduce emissions, and support the circular economy.

Digital Decade Policy Programme

The AI Act supports the EU's digital transformation targets set by the Digital Decade Policy Programme. By setting clear rules for AI, the Act ensures that these technologies are ethical, human-centric, and aligned with broader digital goals. The Digital Decade's targets for digital infrastructure, skills, and public services by 2030 are complemented by the AI Act's emphasis on education and training in AI ethics and compliance. This ensures that the workforce is equipped with the necessary skills to develop, implement, and manage AI systems.

CE IVDR Regulations

Ireland can leverage the synergies between the AI Act and the new CE IVDR regulations to develop a unified certification process that reduces regulatory complexity and enhances compliance efficiency. This approach benefits manufacturers and also ensures the safety, transparency, and reliability of AI-driven in vitro diagnostic devices. Key synergies identified are as follows:

- **Risk Management Systems:** Both regulations require comprehensive risk management practices to identify and mitigate potential hazards. Harmonising

these would see the development of a unified framework that would lead to greater safety and transparency as well as improved patient outcomes.

- **Quality Management System (QMS):** A unified post market surveillance system to monitor performance that ensures AI specific and device specific issues are tracked and addressed appropriately.
- **Notified Body Assessment:** Utilising the existing sectoral experts to encompass the requirements for compliance with the AI act for that sector will deliver comprehensive assessments whilst reducing duplication across the regulatory landscape, streamlining the whole certification process.

Q3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ireland needs to develop a system of clear, transparent, and efficient regulatory processes. To achieve this standard of regulatory excellence requires providing clear guidance, prompt feedback, and practical support to companies.

As part of transposing the act into Irish Law, a proportional view with clear principles and practical applications should be adopted. The legislation should feel 'light' in its day-to-day application and not create additional resourcing burdens/barriers to innovation for business.

Through thoughtful consideration of the legislation, Ireland could continue to position itself as a 'good place' to do business. **Develop Innovation-Friendly Regulation:** This would involve the implementation of the AI Act to ensure it balances with innovation. Measures such as regulatory sandboxes to allow medical device companies to test their AI solutions in a controlled environment will promote innovation whilst ensuring compliance.

Support for SMEs and Start-ups

Government incentives for innovation are an effective way to increase AI innovation and provide targeted support for SMEs and start-ups in the AI sector coupled with a simplified regulatory process. This can help smaller companies develop cutting-edge AI solutions without being overwhelmed by compliance costs. The most direct way of implementing this is through grants and vouchers for SMEs to create and implement AI systems. SMEs have the greatest potential to innovate, but often lack the capital to do so. Incentives would enable many SMEs to enter the AI market, creating a demand for

innovative AI systems. Another program that would assist innovation is a white hat hacker program. In these programs, AI providers would allow hackers to attempt to break through the system's cybersecurity measures. This would expose weaknesses in these measures that providers could then improve upon before releasing their AI to the market. As part of the regulatory sandboxes in Article 57, white hat hacker programs would greatly bolster data security.

One of the appeals to Ireland attracting the EMEA HQ of so many digital companies was its stance on GDPR/Data Privacy. A place that saw both sides of the EU/US coin – providing a soft-landing and gateway for US companies in EU. Maintaining that 'translator/negotiator' position is key to our continued success in FDI.

A crucial part of an effective implementation of the AI Act is an emphasis on cooperation. Coordinating with regulatory authorities for other EU regulations to create unified compliance guidelines would ease the burden on providers and deployers of AI. As discussed in the second question, the AI Act has significant overlap with other EU regulations on the digital market. Configuring the single point of contact designated in Article 70 such that it acts as a single point of contact for all of these regulations would make it easier and more efficient for persons implementing AI technologies to comply with all regulations. Harmonised implementation of these regulations would lower the barrier to enter the AI market, increasing investment and accelerating innovation.

Another key aspect of cooperation is international cooperation, both with EU member states and third countries. Any AI system developed in Ireland has the potential to be used in other countries, where the AI systems must meet those countries' requirements. Regulations set by the national competent authorities should incorporate regulations set by other dominant digital economies to ensure global use of Irish AI systems. Similarly, implementation of the AI Act should involve importer-friendly policies. These policies would allow more AI systems to operate in Ireland, expanding the market and creating competition that would accelerate innovation.

Secondly, we have seen historical pushback from other EU countries, including the D9+ group, for any single country being seen as the centre of regulatory authority, especially when they are seen as under resourced, commercially biased and not having the level of transparency desired. Ireland is in an ideal position as the data authority for European services, and it will be a more difficult challenge to achieve the same position in the AI space. Excellence in AI regulation will need to ensure that all tenets of the AI act can be regulated efficiently from Ireland, and we have a clear structure to register, monitor and assess risk levels for AI systems, especially those that have been trained outside the AI. To do this, we need to develop a support ecosystem with SMEs and providers that can

deliver this regulatory assessment independently as needed and are accredited by the AI authority.

Q4. How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives (building public trust in AI, leveraging AI for economic and societal benefit, and enablers for AI) while meeting our regulatory obligations?

Building Public Trust: Ensure transparency and accountability in AI systems

To foster public trust in AI, it is essential to ensure continuous monitoring and human oversight of high-risk AI systems particularly in areas like healthcare, insurance and fintech. It is important to provide clear systems of communication that outlines the benefits and safeguards of AI to build public trust. This can be enhanced by requiring providers to submit post-market monitoring data regularly to national competent authorities, specifically data about constant human oversight, Ireland can demonstrate a commitment to safety and accountability. This transparency will help build confidence in AI technologies by showing the public that robust measures are in place to prevent misuse and malfunctions.

Public awareness campaigns can play a crucial role in educating citizens about the benefits and safeguards of AI. These campaigns should highlight how AI can enhance various aspects of daily life while emphasizing the transparency and accountability embedded in its development. By informing the public about the protective measures in place, fears and misconceptions can be alleviated, building broader support for AI initiatives.

In addition to education, establishing channels for public feedback and concerns is vital. Ensuring that citizens feel their voices are heard and considered in AI development and deployment fosters a sense of inclusion and trust. Regular public consultations and feedback mechanisms can further enhance this trust, demonstrating a commitment to a people-centric approach to AI governance.

Leveraging AI for Economic and Societal Benefit

Economic and societal benefits can be realized by incentivizing AI adoption in industries that significantly impact the public. Financial incentives, such as grants, tax breaks, and subsidies, can encourage businesses to integrate AI solutions that improve efficiency, productivity, and service quality. Promoting Green AI initiatives aligns AI development with environmental goals, creating synergies with the EU Green Deal. By offering

financial support for AI projects that contribute to sustainability, Ireland can drive economic growth while simultaneously benefiting society and the environment.

By understanding the inter-play between the EU AI Act and legislation in global markets – and shaping Irish legislation so companies can use Ireland as an innovative, safe, location to drive success in AI. Effectively Ireland should use this as an opportunity to go on the offensive and define a differentiator with our EU counterparts.

Promote the use of AI to enhance healthcare outcomes, such as through advanced diagnostic tools and how utilising that data generated could deliver a more robust healthcare system.

Training for AI & Ethical Development

Invest in digital infrastructure (broadband), education, and training to ensure we build a skilled workforce capable of developing and managing AI systems.

Emphasise ethical considerations in AI development, ensuring AI systems are designed and used in ways that respect human rights and societal values as a priority.

Enablers for AI Adoption

Enablers for AI adoption include industry-specific newsletters and ongoing stakeholder engagement initiatives. Newsletters released by the national competent authorities that highlight new AI innovations and systems relevant to specific sectors can serve as valuable resources for businesses. By staying updated on the latest advancements, industries can better understand how to apply AI to improve their operations. Continuing stakeholder engagement through consultations is essential for gathering feedback during the implementation of the AI Act. Regular interaction with industry leaders, academics, and the public ensures that the regulatory framework remains responsive and effective.

Additionally, offering AI education programs for all ages can dispel fears and misconceptions about AI. Drawing parallels to the adoption of computers in the 1980s, these programs can emphasize how early adopters of AI skills will become valuable assets. Providing a baseline for AI literacy and building on this with specific certifications creates a knowledgeable workforce capable of leveraging AI technologies while meeting the guidelines set in Article 4 and Article 26 (2) of the AI Act. Moreover, comprehensive cybersecurity training programs in line with NIS2 requirements are crucial for protecting against AI-related threats. AI ethics and compliance training ensures adherence to the AI Act and GDPR regulations, fostering a culture of ethical AI use and data protection.

The National AI strategy was developed with the understanding that the EU AI Act was due and is closely aligned to its objectives. The EU AI Act is superior to the strategy, and

beyond updating this alongside future changes in the EU AI Act due to technology changes, the objectives remain. The only potential update that is needed to include in the strategy a specific budget allocation for a regulatory authority. The current strategy is dependent upon goodwill from our business, academic and government to deliver, monitor and report on its objectives. In line with the first question, if we are to have a competent authority for EU wide AI regulation that can liaise with entities beyond Europe, then it will need to be independent and supported.



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Response by ITAG and ITAG AI Forum to the Public Consultation on National Implementation of the EU AI Act

Context:

ITAG (Innovation Technology AtlanTec Gateway, www.itag.ie) is the industry representative body for the tech sector along the Atlantic gateway. There are over 150 member organisations in ITAG. Among ITAG's activities, it organises a range of forums including the AI Forum, which brings together software engineers, practitioners, scientists, and academics who all have an interest and passion for AI & Deep Learning.

This document represents views drawn from a range of member organisations of ITAG that are working on topics of relevance to AI. It is organised with reference to the four questions laid out in the consultation document.

ITAG members may also make separate submissions on this and future AI public consultations, individually or on behalf of their organisations.

Key Contributors:

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- ITAG – David Bermingham, AI Adoption and Policy Consultant
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Question 1: What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

We recommend that there should be a central authority that, for individual sectors of high importance, devolves authority to an appropriate sectoral authority, while retaining oversight and overall responsibility, and also retaining direct authority for sectors other than those to which it has devolved authority.

This will enable there to be a single authority with a common approach across all sectors, but customised to fit the needs of individual sectors.

Already, the Central Bank is taking the role of competent authority for financial regulation relating to AI. Other sectoral competent authorities are also emerging. In general, the challenge for a central authority is that it might not have sufficiently deep knowledge of sectoral activities, eg financial regulations and medical device regulations, which is why we propose the ability to delegate authority. This should enable disciplinary-specific expertise with tailored approaches that address specialised needs in sectors with high-risk and limited-risk AI applications, or handling sensitive data (GXP in pharma, Personal Health Information in healthcare) without compromising uniform enforcement.

In addition, the establishment of the AI regulatory sandboxes should be delegated to the relevant sector-specific regulating authority, under the supervision and guidance of the AI competent authority,

However, we believe it is important to have a central authority (in a hybrid model) rather than a taking a purely distributed sector-based approach, to ensure uniform adherence and coherent communication.

The central authority should engage with relevant sector-based groups (e.g. IBEC, ISME, Medtech, Biopharma, Agri/Food, etc) for input, benchmarking, and sector-specific feedback on the on-going implementation of the EU AI Act in Ireland.

Some EU countries, such as Spain, have already established national AI regulation authorities. Others such as Italy are adding their AI regulation function to their existing Data Protection Office.

Ireland may be considered to have a disproportionately high influence in the EU in the AI space role, as the European headquarters of several of the large multinational corporations who are key AI players AI research, development and production deployment, and Ireland is a key datacentre location for hyperscalers. Therefore, there is likely to be a busy regulatory role, and so we recommend a separate authority rather than one integrated with the DPC. It might be feasible to expand the remit of Coimisiún na Meán to be the national competent authority, or it may be preferable to establish a completely new authority.

It will be important for the national competent authorities to maintain expertise at a pace aligned with the pace of AI development, and to sufficiently tailor evaluations and recommendations to domain-specific applications of AI, e.g., healthcare vs. education vs. policing. Delegated sectoral responsibility will assist with this.

Overall oversight by a central authority should help to retain a sufficient degree of authority and cross-domain communication to implement broader recommendations or restrictions if need be. It should also enable high degrees of transparency and consistency.

Question 2: Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

In an EU/Ireland context, companies in all sectors are faced with emergent digital regulatory and compliance regimes, in their product or service or in the value chain they participate in. For example, the AI Act, Digital Services Act, Data Act, GDPR, and also in Cybersecurity (NIS2), CSRD supply chain traceability, carbon footprint, food provenance and other compliance imperatives.

There should be cohesion between bodies and implementation approach to other EU Regulations. However, as noted under Question 1, we recommend that there should be a standalone competent authority responsible for the implementation of the AI Act and the ongoing overseeing of AI within the scope of the act. There needs to be a consistency in how the EU AI Act is assimilated into existing regulatory practices and in how synergies are identified and acted upon, otherwise there are risks for miscommunication and dilution of authority.

An integrated regulatory environment is needed, with synergies with existing EU regulations (consumer protection, cybercrime, anti-fraud, anti-money laundering) for a harmonised Digital Single Market and holistic AI strategy.

To address the range of different regulations, the competent authority for AI regulation should:

- Have responsibility to educate, de-mystify and prioritise clear actions across sectors and companies;
- Provide clarity about relationship to other regulations, eg GDPR, product liability, digital services, etc., so as to avoid contradictions;
- Provide/support appropriate advisory and consultancy services for companies to navigate this;
- Take the lead on a national coordinated plan for education, training and ongoing support, with DETE, the HEI sector, government agencies, and industry associations, in collaboration with industry and services, supported by flexible mechanisms;
- Prepare for future amendments as AI evolves, to keep the regulatory framework effective and relevant.

Question 3: How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

AI can be seen as an element of success in the Digitalisation foundational supports. Many of the things that made companies successful in current digital readiness (e.g. cloud) transformation will also apply to AI. If an organisation is already ahead of the curve on digital transformation, AI will supercharge this and accelerate the differentiation it creates. If a sector or company has struggled, AI stands to widen the gap. If an organisation can radically improve its response to change, AI could be a way to leapfrog some of the early advantages created by digital transformation.

Education is a key enabler of Ireland being a leading digital economy, accelerating innovation in AI. This includes: (1) formal education such as MSc programmes in AI; (2) up-skilling programmes for people in industry, such as micro-credentials; (3) targeted industry supports, for example via EDIHs; (4) media-based communications and public engagement; and (5) free online training programmes to develop AI literacy broadly, like the Finnish "Elements of AI" programme.

Currently, foundation models in the generative AI large language model space are controlled by a small number of entities, all with bases in Ireland, but with proprietary models and data, which creates risk for any companies that wish to build products on those foundation models, and which restricts academic research. Open-source models are beginning to emerge, and further democratization of this technology should be supported as a way of accelerating innovation in AI.

Excellence in AI regulation should include the following features:

- Consistent and transparent regulation, informed by sectoral engagement, and appropriately communicated to impacted parties.
- Any penalties or restrictions associated with regulations must have a sensitivity to domain-specific risks, to ensure not only that special care is taken in high-risk domains such as a healthcare or policing, but that innovation and curiosity are encouraged and permitted in the appropriate contexts.
- Access to expertise in AI for SMEs and Irish operations of larger companies. Availability of AI consulting and funding to support this can help companies move past early AI hurdles when trying to build AI based solutions/products.
- Tailored support for SMEs and startups, including documents, toolkits, and regulatory sandboxes, to help SMEs integrate AI efficiently, reducing barriers and enabling competition.
- A common AI consulting approach to help seed ethical AI from the start.
- A Trustworthy AI Hub with a clear regulatory framework to make Ireland a globally recognized centre for human-centric, ethical AI, attracting international firms and investors.
- Identification of sectors with risk and opportunity areas created by AI, combined with alignment towards long terms education and skills to embrace changes brought by AI, so that future employment is assisted by AI rather than threatened by it.
- Public-Private Collaboration that engages industry, academia, and civil society to improve transparency, build trust, and keep regulations aligned with technological advancements.
- Initial demonstrators of the application of AI to enhancing public services, that will lead the Public Service to be a leader in the application of AI to improve efficiencies and citizen satisfaction in services like social welfare, health, and law enforcement.

Question 4: How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

A clear public communication, education and engagement strategy will be needed to build trust in AI. The implementation of the EU AI Act must be done transparently, and it must be communicated to the public in a clear, concise and consistent manner. However, the nation must be educated on AI from the bottom-up as

well as the top-down. This may mean revisions to syllabi at every level of education and making educational resources for those out of the education system available.

Public education and engagement and development of AI literacy will support acceleration of progress. When people understand the capabilities and limitations of AI systems, they are more empowered to use them when appropriate and less fearful of them. In general, demystifying technology supports its adoption. It is important to discuss risks, but in a realistic context, without scaremongering on dystopian sci-fi futures. TV shows, print media, social media information sharing can build public trust. We see good-quality public broadcasting on climate change, a similar approach on AI would be good.

To leverage AI technologies for economic and societal benefit, we recommend following a domain-specific and technology-specific risk evaluation model, such as the one outlined in the EU AI Act, to optimize the possibility of implementing the EU AI Act in a way that has the most economic and societal benefits. This approach guarantees that important checks and restrictions are in place for high-risk domains and decisions, minimizing the risk of negative economic and societal impact. However, it also importantly means that innovation and experimentation is encouraged in lower-risk contexts, which maximizes the chance of new and impactful AI research and integration to flourish and ultimately benefit the economy and society.

Additional Comments Outside Scope of Q1-Q4:

It is suggested that in key areas of AI – for example, employee productivity tools, marketing/comms AI, customer services channels – there should be demonstration exemplars relevant to each individual sector. This may have to be done in partnership Digital Platform companies and industry bodies, with HEI support.

Additional strategic sectors – for example, Services/Supply Chain, FoodTech, AgriTech, CreativeTech – might be chosen for exemplar demonstrators that are sector-specific and relevant to multi-sector business processes.

The regulatory authority, when established, may need to consider the practice of EU and Irish citizen data used from the public domain to train large language models by organisations external to Ireland/EU, and in particular whether it should be permitted to use EU data to train models that are classed as unacceptably risky under the EU AI Act.

There are challenges for sustainability related to AI power consumption, given Ireland's leading place as a datacentre location for hyperscalers.

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Submission from Insight SFI Research Centre for Data Analytics

Insight SFI Centre for Data Analytics is one of Europe's largest data analytics research organisations, with over 450 researchers, more than 220 industry partners and over €150 million in funding. The centre's research spans fundamentals of data science, sensing and actuation, scaling algorithms, model building, multimodal analysis, data engineering and governance, decision making and trustworthy AI. Insight is a joint initiative between Dublin City University, University College Cork, University College Dublin, and University of Galway, with partner institutions including Maynooth University, Trinity College Dublin, Tyndall National Institute, and the University of Limerick.

We welcome the opportunity to input to the public consultation on the national implementation of EU harmonised rules on Artificial Intelligence. The submission is set out in accordance with the questions in the call and also provides feedback beyond the scope of the questions.

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

We recommend that **a new agency is established to oversee the implementation of the AI Act**. This organisation would work closely with relevant bodies such as the Data Protection Commission, Coimisiún na Meán and national and international standards authorities. Given the challenges presented by implementing the AI Act we believe that a central body tasked with coordination of the implementation of the AI Act along with other relevant bodies, as well as providing expertise, oversight,

monitoring and stakeholder engagement would be the optimal solution. Key functions of the agency that we envision are set out as follows:

- **Coordination:** Along with other relevant bodies, developing a strategy for the implementation and supervision of all aspects of the EU AI Act.
- **Information and Expertise:** Providing expertise and advice to government and government agencies as needed.
- **Impact Evaluation:** Continuous evaluation of the impact of the AI Act on all relevant stakeholders.
- **Advocacy:** Engagement with the European Commission on the implementation of the AI Act and monitoring its effects, with particular focus on SMEs.

The oversight and implementation of the EU AI Act is complex. In Brussels there is an AI Office giving oversight of the day-to-day operation of the AI Act. There is also an AI Board with membership representation from each of the member states, an AI Forum and an AI scientific panel advising the AI Office. In addition to that, each member state will have an AI Regulator as well as a National Standards authority and notifying authorities but each member state has autonomy on how it determines how or who oversees the AI regulation.

Some member states are establishing, or have established, AI regulation as a separate entity. For example the AI regulator in Spain, the Spanish Agency for the Supervision of Artificial Intelligence (AESIA), was established in August 2023 and Spain was the first to do so. Other member states are combining the roles of AI regulation with their Data Protection Office, so the AI regulator in Italy is the Italian Data Protection Authority. There is a temptation to do what some other member states are doing and to combine the roles with that of the Data Protection Commission but this should not be done. The main reasons are that the DPC and AI regulation roles are very different and by combining roles into one organisation, each would dilute the other.

We can expect that with companies like OpenAI (GPT), Microsoft (Copilot), Alphabet (Gemini), X (formerly Twitter) (Grok), each producing a LLM above the size threshold for which the EU AI Act applies and each having their European and/or EMEA headquarters in Ireland, the AI Regulator in Ireland will be kept busy. We have an established role and operation within the DPC, a role which is increasingly important as the sizes of the fines issued by the DPC indicate. By layering on a

second role, AI regulation, on top of an already busy organisation, that second role would be seen as the secondary role and that would do a disservice to the importance of AI regulation. Thus while there might be a school of thought that says we could get a benefit of scale by combining the DPC and AI Regulation roles, this would be short-lived as the demands of the AI regulation will increase rapidly as provisions of the EU AI Act take effect. For all of these reasons we strongly advise that a new agency is set up to coordinate the implementation of the AI Act.

2. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

There are several EU regulations that are closely related to the AI Act, including the Digital Services Act (DSA), Digital Markets Act (DMA) and General Data Protection Act (GDPR). There are also sector-specific regulations to be considered, for example MDR (medical devices), IVDR (In Vitro Diagnostic Regulation). The competent authority here is the HPRA and the NRECs for ethical approvals. Given the range of sectors and organisations potentially affected by the AI Act, it is essential that a new organisation understand all of the related regulations and work along with the relevant authorities to ensure the efficient and effective implementation of the AI Act.

3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

For Ireland ***to be a digital leader in AI we need a highly educated workforce***.¹ We are currently at a difficult time where, due to funding schedules, very few PhD candidates working in AI will begin their studies over the next two years. Centres funded under the SFI CRT programme, which had a hugely positive impact on PhD numbers (and especially the kind of interdisciplinary PhD candidates who might work in AI regulation), stopped enrolling PhD students in 2023 and have no remaining funding for recruiting new PhD candidates. The main AI-focused SFI Research Centres, Insight and ADAPT, that are the main drivers of publicly-funded

¹ AI Skills: A Preliminary Assessment of the Skills Needed for the Deployment, Management and Regulation of Artificial Intelligence (June 2022)
- <https://enterprise.gov.ie/en/publications/ai-skills.html>

fundamental AI research in the country are at stages in their funding life-cycles at which it is no longer possible to recruit new PhD candidates (as the period of the candidates' studies will exceed the lifetime of the centres). Together this means that there will be very few PhD candidates working in AI who are recruited in 2024 and 2025 which will hugely interrupt a very important talent pipeline.

We envision that a new AI agency could coordinate with organisations such as Universities and research centres, Skillnet and others to ensure AI literacy among the public, inclusive of all demographics and age groups. The agency should engage the public so they can be actively involved in discussions to provide a citizen's voice on issues related to AI ethics and ensure that societal values and concerns are integrated into AI policy, similar to the way that IPPOSI (the Irish Platform for Patient Organisations, Science and Industry) does for patient advocacy. The new agency should also invest in training and skills for public sector adoption recognising the unique challenges of AI adoption (personal and sensitive data, resource limitations, legal liabilities, silo-ed operations, interoperability/legacy systems, scaling, public trust)

Training is a central part of the AI Act and a very rapidly developing field, we need to ensure training (academic, sectoral, professional, educational) is informed by the most up to date research. The Centre for Digital Policy at University College Dublin is one of a number of organisations well placed to play a key role in providing education on ethics and regulation of AI. There is also a potential role for bodies like Skillnet, Cedar and Learnovate in providing training or information.

A function of the new AI agency that we propose would be to advise and support those who are to be regulated, particularly SMEs and start up companies to avoid any uncertainty. The agency should also provide information to the general public and a clear pathway for people to engage with the AI agency to report incidents whereby their rights may have been undermined. This will help build an "eco-system" of trust in AI by ensuring the regulation can be implemented in a timely fashion and complaints dealt with promptly.

It is important also to minimise the cost of compliance, particularly to SMEs. Large MNCs already have compliance departments and access to expertise. The impact of the regulation should be monitored and insights provided to continuously improve regulation.

The Act provides a framework for the creation of regulatory sandboxes by Member States. These sandboxes are designed to promote innovation by allowing businesses and organisations to test AI systems in a controlled environment under the supervision of regulatory authorities. It is imperative that the sandboxes are established in a timely manner to aid organisations in getting prepared for the Act and that the rules of engagement for interacting with the sandboxes are made clear. For example, what is the application process to gain access to a sandbox? Will SMEs be given priority access? Within the sandboxes, the range of services should include accessible templates for compliance, tools for conducting AI impact assessments and expert guidance on navigating regulatory requirements. Costs associated with participating in the sandboxes should generally be kept minimal to encourage broad participation.

One other important point related to the improvement in AI literacy is that this is not a once-off activity and it needs to be a continuous, on-going process. The applications of, and the underpinning technologies for generative AI are changing and developing at an unprecedented rate and this demands that familiarity with the area is itself ongoing.

4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland ... considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations

The responsibility for developing public or citizen AI literacy is a combined one, involving multiple stakeholders including educational institutions (schools and universities), government and public sector (through public awareness campaigns) and industry and technology companies (who have a vested interest in fostering public trust in AI).

When it comes to leveraging the opportunities the EU AI Act offers, Ireland is small enough to be agile yet large enough to make a big impact. There is an already established culture of collaboration within Irish academia in the AI area (eg. the SFI Research Centres) and a global reputation for collaboration between Irish Universities and industry. This makes it quite feasible to establish strong partnerships between academia, industry, and government to foster AI innovations. These can promote open data and open processing initiatives to make high-quality

datasets available for AI research and development, while ensuring data privacy and security.

Public or citizen AI literacy is important for building public trust in AI because it equips individuals with the knowledge to understand how AI systems work, their potential benefits as well as associated risks. When people comprehend the basics of AI, including how decisions are made and data is used, they are less likely to fear or distrust these technologies. Enhanced AI literacy can demystify the technology, making it more transparent and fostering a sense of agency and confidence among the public. This understanding can lead to more informed discussions about AI's role in society, and increased acceptance of AI-driven technology in various sectors such as healthcare, finance, and education. Furthermore, a well-informed public can actively participate in shaping the development of AI technologies, ensuring that they align with societal values and needs.

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16 July 2024

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National Implementation of the EU AI Act

On behalf of the Irish Congress of Trade Unions and our 46 affiliated unions and seven associate members I would like to thank the Department for consulting on the national implementation of the provisions of the EU AI Act, which will apply on a phased basis over the next three years.

Trade unions acknowledge the enormous opportunities as well as challenges for our society and economy presented from the adoption of AI. We had called for robust regulation of the rapidly evolving AI landscape in our evidence to the Oireachtas Committee on Enterprise, Trade and Employment and in our election manifesto for the European Parliament. It was deeply disappointing that a worker representative was not appointed to the AI Advisory Council, an important pillar in the deployment of AI in Ireland.

Each member state is required to establish or designate a national regulator to oversee compliance, within 12 months of the AI Act coming into force on 01st August. When considering the configurations of the new regulator, the Department should have regard to the important aspects for trade unions. The national AI supervisory authority -

- will be an autonomous, adequately resourced public body with an independent budget and administrative authority at its disposal.
- will coordinate the regulatory guidance and enforcement activities of existing authorities and regulators (e.g. the Data Protection Commission) to ensure a consist approach to AI regulation and making it as clear as possible for citizens and businesses to interact with the new legislation.
- duties (e.g. inspection related to the secure, responsible use of AI systems) will not impinge upon the remit of other government agencies responsible for health and safety and other labour relations matters.
- one of the ordinary members of its Board will be a person who has, in the opinion of the Minister, knowledge, or experience in matters relating to the interests of employees having regard to the views of the Irish Congress of Trade Unions.

People whose working lives are affected by AI and the digital transition must be given a real say through their trade unions over those decisions.

Yours sincerely



Owen Reidy
General Secretary

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

31st July 2024

The Irish Copyright Licensing Agency CLG (ICLA) is a collective management organisation (CMO). It represents Irish literary authors and publishers in relation to the secondary licensing of their works (the copying of published books and periodicals). ICLA has agreements with Newspaper Licensing Ireland and the Irish Visual Artists' Rights Organisation which enable it to extend its licences to include newspaper content and visual works embedded in literary materials.

In addition to licensing on behalf of Irish authors and publishers, through a network of reciprocal rights agreements with CMOs in other countries, ICLA collects licence income for the use of its Irish members' works in those countries. In this way, ICLA represents some 5,000 authors and publishers in respect of their Irish and foreign rights. ICLA is a committed member of IFRRO (the International Federation of Reproduction Rights Organisations). It works for IFRRO on committees of WIPO (the World Intellectual Property Organisation) and plays a role in supporting the growth of reprographic rights organisations in developing countries and countries bordering the EU.

ICLA was established in 1992, primarily to meet the need of the education sector for licences to copy protected works. This sector is still at the heart of ICLA's licensing operations. While the licensing of literary materials grew in response to the use of the photocopier, educational licensing has expanded way beyond photocopying. The ICLA educational licenses now permit a range of digital uses. ICLA consults willingly and regularly with the sector and endeavours to keep its licences in step with the developing digital needs of the institutions.



ICLA, taking into consideration the views of its constituent members of authors, publishers and creators of visual materials, wishes to make the following submission in respect of *Regulation (EU) 2024/689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) and the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence.*

Identification of Works used to train AI models

While it is true that it is stipulated in Chapter V of the Regulation, Section 2, Article 53, paragraph 1, point (d) that “a sufficiently detailed summary about the content used for training of the general-purpose AI model” shall be drawn up and made publicly available, and in Section 4 of the same Chapter, Article 56, paragraph 2, point (b) that “the adequate level of detail for the summary about the content used for training” will be ensured, recital 107 of the Regulation stipulates that said summary should be “comprehensive in its scope instead of technically detailed” so that it might “protect trade secrets and confidential business information” while also facilitating “parties with legitimate interests, including copyright holders, to exercise and enforce their rights under Union law, for example by listing the main data collections or sets that went into training the model, such as large private or public databases or data archives.” Recital 108 reinforces the dismissive attitude towards listing individual works, as it stipulates that “the AI Office should monitor whether the provider has fulfilled those obligations without verifying or proceeding to a work-by-work assessment of the training data in terms of copyright compliance.” We are of the opinion that only listing the main data collections/sets used in AI models training and leaving out the individual works comprising them is insufficient and only creates more complications for the publishers and the writers they represent.

We believe it would only fair that a full list of the works used to train an AI model should also be made available, if not publicly at least to publishers and to CMOs representing creators, which would make it substantially easier to keep track of what copyright protected works are being used for such a purpose. At the very minimum, we ask that a comprehensive list of the



mined websites and third-party datasets used in training AI models should be made available. Likewise, we ask that a secondary and bilateral exchange should be possible between rightsholders and AI model developers to get more certainty on the use of works, a layer of transparency which is not at the moment covered by the AI Act's code of practice and hinders the former's capabilities of procuring meaningful information from the latter.

Text & Data Mining

With respect to text and data mining, we ask that AI model developers should be required to be transparent when it comes to the technical opt-out methods they recognise and the bots they use (and for what purpose). Likewise, we ask that AI model developers respect the opt-out methods used by publishers even if they are not the ones they themselves recognise and not attempt to coerce the latter into using other opt-out methods.

Versions of Works

Lastly, we ask that new versions of generative AI models marketed as new products (and particularly if they exist in parallel to previous versions of the respective model) be rightfully recognised as brand-new products and not merely updates of pre-existing products. Failure to do so would negatively impact the publishing sector's means of protecting its copyrighted works to a high extent. We hope that such dire circumstances can be avoided.

Balance between protection and innovation

We understand that fulfilling rightsholder demands regarding transparency for copyright protected material used in AI model training would appear to hinder the work of AI model developers to a certain extent, as they will be required to conduct more thorough research into the data collections/sets selected before they can be harvested for AI model training and/or dedicate time and manpower towards responding to rightsholders' queries. However, we contend that such a course of action is also in the developer and users best interest. Seeing as recital 59 points out the importance of using high-quality data in AI model training in order to ensure it functions appropriately, elaborating a list of the individual works used or at the very least a thorough summary of the mined websites and third-party datasets used in training AI models would also make it easier for AI model developers to spot undesirable data that would negatively affect their work and will protect users and consumers.



Public Consultation

ICLA supports the submission of the Irish Creative Industries Forum as submitted separately.





Department of Trade, Enterprise and Employment
23 Kildare Street,
Dublin 2

By email

16 July 2024

Submission to the Irish Government on AI Act Implementation

Dear Colleagues,

1. The Irish Council for Civil Liberties (ICCL) is Ireland's oldest independent human rights organisation. We welcome the opportunity to provide inputs¹ to Ireland's implementation of the EU AI Act.²
2. We make recommendations on two topics:
 - a) AI Act national enforcement structure
 - b) Adequate resources for the regulators

AI Act national enforcement structure

3. Ireland is losing credibility as the EU's major tech regulator due to its lethargic enforcement of the GDPR.³ The AI Act offers an opportunity to change that by entering a new chapter of robust enforcement. This is possible through a part-distributed, part-centralised enforcement structure.
4. We suggest that, for the products in Annex I of the AI Act, the existing market surveillance authorities (MSAs) of those products be designated as the MSA⁴ under the AI Act.

¹ Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act), 21 May 2024. URL: <https://enterprise.gov.ie/en/consultations/public-consultation-on-eu-ai-act.html>

² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act). URL: <https://eur-lex.europa.eu/eli/reg/2024/1689/oj>

³ *Don't be fooled by Meta's fine for data breaches, says Johnny Ryan*, 24 May 2023. URL: <https://www.economist.com/by-invitation/2023/05/24/dont-be-fooled-by-metas-fine-for-data-breaches-says-johnny-ryan>. Also see ICCL, *Irish Big Tech enforcement in 2023*, 29 May 2024. URL: <https://www.iccl.ie/news/irish-big-tech-enforcement-in-2023/>

⁴ AI Act, Article 3 (26).

5. For prohibited AI systems⁵ and high-risk AI systems in Annex III, we suggest that a central and coordinating supervisory authority such as the Data Protection Commission (DPC) be designated as the MSA under the AI Act. However, there are at least two exceptions for this designation:
 - a) high-risk applications in sectors where an MSA exists,⁶ in which case the existing MSA should be designated; and
 - b) high-risk AI systems used in financial services,⁷ including for the assessment of creditworthiness in the financial sector,⁸ in which case the Central Bank of Ireland, or the Financial Services and Pensions Ombudsman could be the MSA.
6. The AI Act gives powers to fundamental rights bodies.⁹ The Irish government must identify those bodies and notify the list to the European Commission and other EU countries by 2 November 2024. We suggest that, at a minimum, the Irish Human Rights and Equality Commission (IHREC) and the DPC be identified as authorities protecting fundamental rights under the AI Act. Fundamental rights bodies will play a critical role in evaluating the fundamental rights risks of AI systems. These bodies can identify risks in deployed AI systems, including AI systems that were initially deemed to be compliant,¹⁰ and can require corrective action from the companies.
7. A clear coordination structure among the MSAs, sector-specific regulators (such as in the employment sector) and the fundamental rights bodies is essential for effective enforcement. The MSAs should closely collaborate with sector-specific regulators and fundamental rights bodies during investigations, and establish a knowledge-sharing system. The exchange of information between MSAs, sector-specific regulators and fundamental rights bodies should be made possible by creating legal bases in the national law implementing the AI Act.
8. Furthermore, we recommend that Ireland establish an advisory forum¹¹ consisting of civil society organisations with fundamental rights expertise and trade unions, as well as people who are often at the receiving end of AI deployment, such as teachers artists and actors. They have important insights into AI harms and incidents. By regularly engaging with the advisory forum, MSAs would be exposed to necessary perspectives that can advise their work.

Adequate resources for the regulators

9. The culture at the MSAs will be critical for effective enforcement of the AI Act. The culture of MSAs should be investigative and sceptical. AI systems impact the lives of people in Ireland and Irish society. A soft-touch regulator will fail both to promote responsible use of AI and to protect people from the harms of AI.

⁵ AI Act, Article 5.

⁶ The Dutch Data Protection Authority and Dutch Authority for Digital Infrastructure in their '1st (interim) advice supervisory structure AI Act' identify critical infrastructure as being such a high-risk application.
URL: <https://www.autoriteitpersoonsgegevens.nl/en/system/files?file=2024-06/20231107%20EN%201st%20%28interim%29%20advice%20supervisory%20structure%20AI%20Act.pdf>

⁷ AI Act, Article 74 (6) and (7) specify that the MSA for financial services shall be the MSA for that sector.

⁸ AI Act, Annex III 5(b).

⁹ AI Act, Article 77.

¹⁰ AI Act, Article 82(1).

¹¹ Not to be confused with the AI Advisory Council established by the Department of Trade, Enterprise and Employment.

10. MSAs cannot fulfil their job of enforcing the law unless they have an adequate budget, capacity and skilled staff.
11. Assessing AI systems on the market and their compliance with the AI Act will require in-depth technical knowledge. All MSAs, sector-specific regulators and fundamental rights bodies must have technical expertise at their disposal.
12. We recommend that, at a minimum, the central and coordinating supervisory authority be a hub of expertise with an adequate number of technical experts employed to support the central authority and other MSAs, sector-specific regulators as well as the fundamental rights bodies.
13. MSAs will also have to learn from fundamental rights bodies and upskill to assess the fundamental rights impacts of AI systems. The knowledge-sharing system can assist with this.
14. We also recommend that Ireland establish a pool of independent technical, legal and fundamental rights experts on AI. Their expertise can be tapped into when specialised assistance is required by the MSAs and fundamental rights bodies. These experts should be chosen transparently and scrupulously with no member presenting an objective or perceived conflict of interest with the companies regulated within the scope of the AI Act.
15. Finally, Ireland must establish operational AI regulatory sandboxes, at the very least one, by 2 August 2026. We recommend setting up a separate unit at the MSAs with dedicated resources and staff to supervise sandboxes. Resources and staff from the enforcement unit should not be diverted to supervise any sandboxes.

Sincerely,

Dr Kris Shrishak
ICCL Enforce Senior Fellow



IRISH
CREATIVE
INDUSTRIES FORUM

Copyright House, Pembroke Row, Lower Baggot Street, D02 HW59, Ireland

Response to the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI)

The **Irish Creative Industries Forum (“ICIF”)** is an industry representative advocacy group established to protect and promote the interests of the creative industry in Ireland from a public policy perspective. The ICIF members include representatives of organisations from literature, music, press, theatrical production, operas, motion picture, video, photography, visual and graphic arts, and their copyright management organisations.

The creative industries have a crucial role in fostering the development of a smart, knowledge-based economy founded on innovation and unique output. Based on human creativity and talent, knowledge-intensive industries generate considerable economic wealth. More importantly, the creative industries are critical to our shared sense of Irish identity, our innate culture and values.

Copyright and Creative Industries (CCIs) are also characterised by exceptionally strong contributions to both European and Irish economic performances and job creation. CCIs account for a 6.9% share in total EU GDP and an 8.2% share in total employment (direct and indirect) in the EU¹. Ireland’s CCIs are famous ‘heavyweights’ in the European and indeed global economic contexts, by dint of excellence in creative talent, in standard setting approaches to business and due to Ireland’s robust approach to copyright norms, laws and enforcement.

The ICIF looks forward to co-operating with the Irish Government and Commisiun na Meán to ensure that the rights of all of the creative community are taken into account in the drafting and implementation of existing and future robust, ethical, people centred and effective AI Regulation legislation at national level.

¹ EUIPO, EPO, IPR-intensive industries and economic performance in the European Union, 4th ed., 2022

QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

The Irish Creative Industries Forum believes that Coimisiún na Meán is best placed to implement the AI Act at a national level. Its function as the regulator for broadcasters, on demand services and online media, with the additional responsibility for supporting media development, means that it already has significant involvement with many of the main users and equally importantly the developers of AI technology. Use of the existing regulatory landscape will reduce the potential for duplication of functions across different authorities and centralise the activities required giving consistency to different applications of AI.

In addition, Coimisiún na Meán is currently the designated Digital Services Coordinator in Ireland to supervise, enforce and monitor the implementation of the Digital Services Act, in close coordination with the EU Digital Services Board, the European Commission's DG CNECT and indeed the EU AI Office. Recital 116 and Article 56(3) requires Member States to cooperate with the AI Office when it is drawing up, reviewing and adapting codes of practice of AI systems. A careful consideration on the policy of the GPAI models on compliance with EU law is absolutely essential in this process and any support and help by the Irish government in ensuring proper compliance with EU law would be beneficial.

Coimisiún na Meán has two Commissioners solely focused on Digital and Online activities. Included in these roles are developing relationships with counterparts in other European countries, sitting on the European Board of Digital Services, the development and approval of trusted flaggers and vetting researchers access to data. These Commissioners and their respective teams in Coimisiún na Meán have regular contact with the main technology companies, have the power and the ability to compel technology companies to adhere to legislation and regulations, have the procedures in place to implement fines if necessary and have the required connections within the wider EU to gather information and make informed decisions. The availability and allocation of resources and expertise exists within the regulator's office in its involvement with and consultation of relevant stakeholders including AI developers and users, consumers, academia, legislators and other relevant authorities. This should result in centralised oversight with necessary and required flexibility to make and regulate principles which will benefit all aspects of AI in Ireland.

It should be recalled that this centralisation also exists at the EU level, with the enforcement teams for both the EU Digital Services Act (DSA) and EU Artificial Intelligence Act (AI Act) operating within the European Commission's Directorate-General for Communications Networks, Content and Technology (DG CNECT).

Finally, AI Act (Recital 149 and Article 65(3)) requires Member States to designate one representative for the AI Board for a period of three years, with an option to renew. Such representatives may be any persons belonging to public entities, who should have the relevant competences and powers to facilitate coordination at national level and contribute to the achievement of the Board's tasks. The Irish Government has selected Jean Carbury, Assistant Secretary at the Digital, EU and Climate Division within the Department of Enterprise, Trade and Employment. It is important to ensure that Ms Carbury has the necessary resources which will be critical for the lawful functioning of GPAI models and ICIF members are available to meet Ms Carbury on a regular basis to provide up to date information on developments within our sectors.

2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

In our view, there is a great potential to create synergies between the implementation of AI Act and the implementation of other EU and national legislations. The EU Copyright in the Digital Single Market Directive (CDSM Directive) and the application of the Copyright and related Rights Act have a particular importance for the rights of the members of the ICIF.

It should be noted that certain requests for information issued by the European Commission under the Digital Services Act (DSA) already refer to systemic risks related to the use of Generative AI systems, indicating that synergies in the enforcement approaches under the DSA on the one hand and the AI Act on the other are not only possible but already being pursued.

The AI Act provides new tools for right holders to exercise their existing rights and introduces three critical obligations for providers of General Purpose AI (GPAI) models.

- Firstly, GPAI model providers must demonstrate that they have put in place policies to comply with EU copyright laws, regardless of where in the world the model training has taken place.
- Secondly, GPAI providers must make available a sufficiently detailed summary of the works used for training their models with the legislation's express goal of enabling copyright holders to effectively exercise and enforce their rights, prevent the provision of illegal content online and reduce economic harms

- Thirdly, GPAI providers are required to draw up and retain detailed technical documentation, including information on dataset provenance and composition, to be made available to enforcement authorities upon request and open to provision to downstream deployers. For the purposes of copyright protected works, this “detailed technical documentation” means each work which has been used for model training and Generative AI. Without such detail our sectors are unable to enforce their rights.

In the process of creating AI-generated content, several copyright-relevant acts may be undertaken, including scraping and re-producing data from websites, creating a database for training, analysing patterns, and developing a model. All rights involved in this process are controlled by creatives and their representatives. GPAI models must comply with copyright law. In legal terms this means, as the EU AI Act reiterates – that this need for GPAI to comply with copyright law, means the entire existing acquis of copyright law including for example the 2001 InfoSoc Directive, the 2004 EU IPR Enforcement Directive, the 2019 Copyright Directive, the 2022 Digital Services Act etc.

When it comes to copyright exceptions, these may only be relied upon by valid applicants, for specific permitted usages (notably excluding the scraping of content) and only where the requirements for their application have been met (e.g. the requirement of lawful access). For example, AI companies scraping copyright protected content from our digital service partners such as YouTube, Facebook, X, Spotify, Apple Music and other digital licensed content services are breaking contract law, copyright law and the AI Act. This is not lawful access of online content.

3. **Harnessing Digital - The Digital Ireland Framework** establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI Regulation look like?

Public policy needs to focus on enabling AI and harnessing its benefits whilst also ensuring the protection of the creative industries from the same technology. The Government's primary focus must be on allowing artificial intelligence technologies to develop fairly in compliance with copyright law and be used to support human culture and artistry.

It is critical to have a comprehensive regulatory framework for Ireland to effectively assert its place in the digital economy. The proposed Digital Ireland Framework, which outlines specific goals and actions, aims to establish Ireland as a foremost digital innovator and a hub of excellence from a European viewpoint.

The roadmap provided by the Digital Ireland Framework will guide overarching efforts. Yet the effectiveness of the framework will hinge on detailed execution, particularly the proficiency of the regulatory body and the engagement level of key stakeholders.

To foster growth and innovation, Ireland's regulatory environment should incentivise progress, captivate interest, and encourage groundbreaking ideas. This necessitates a regulatory authority that is responsive, easily approachable, ready to act swiftly, and open to calculated risks. Leaders of such a body need to be supportive of the community they oversee and ensure their employees are capable of adapting quickly, reflecting the dynamism of the tech industry they regulate.

The integral involvement of stakeholders can introduce valuable, practical insights into the regulator's decision-making process. However, collecting stakeholder feedback is only meaningful if it significantly influences regulatory decisions and practices. A consultative approach with stakeholders, fully integrating their perspectives, will create a fertile ground for artificial intelligence development and position Ireland as an attractive destination for investment.

The formation of a Digital Advisory Forum represents a positive step towards regulatory success. An additional enhancement would be to establish sector-specific subdivisions within this forum, leading to precise, industry-tailored guidance on AI advancements and application. Such a structure would allow for specialised knowledge from active participants in the various sectors to make well-informed recommendations to the regulation authorities.

It is crucial that the Irish Government provides political support to ensure that the transparency reports generated by GPAI models include at least the following elements.

- **Description of the methods and process used by the AI provider to identify and respect the rights of rightsholders:** This is to provide an understanding of the process put in place by AI providers to respect different reservations of rights, which is essential to assess the trustworthiness and legality of the data and content collected, as well as the due diligence deployed by AI providers. Moreover, where protected works are used, what measures have been put in place to ensure compliance has been ensured
- **Type of content used as training data:** It will be necessary to assess the likelihood of a rightsholder's content having been used as training data by an AI provider. This can also include the provenance and/or amount of the type of content used.
- **List of all the sources of content used for pre-training and training of GPAI (which includes Generative AI):** Listing all the digital sources (websites, apps, acquired datasets including synthetic datasets etc.) accessed, purchases, crawled, scraped or 'mined' as part of the data collection process is essential to track potential illegal sources or illegal collections. Information on the legal basis used to mine the website

(public domain, licence, exception) would also be necessary to assess the legality of the mining.

- **Date of the data collection:** To determine the timeline of crawling or collection of data and thus the potential illegality of the collection of a content.
- **The legal basis for use of copyright protected data:** the bases for legal use of protected data are: when licensed by relevant rightsholders for training or GenAI purposes; when proven to fall within scope of specific uses permitted by a copyright exception (if cited so, the exception should be specified); when fully owned by the GPAI company; when the training data is within the public domain (this must be globally true in order to avoid infringements of rights and laws). These necessary justifications should be provided per data source and for each data acquisition phase.
- **List and details about the third-party datasets used for the training (including URLs in the case of publicly available datasets):** AI providers often rely on a combination of ad-hoc mined content and datasets provided by other participants in the AI supply chain. Providing information of such third-party datasets is equally important, as illegally obtained content has been used to feed such datasets on many occasions. The information provided in the summary should be consistent and integral, so if the link or the website where the data set is located is changed or deleted in time, the information can still be retrieved.
- **Available information to identify works used as training data, including through these standardised identifiers (e.g. ISWC, ISRC in case of music):** Where works are used as training data, they are often associated with means to identify them, which would allow rightsholders to directly identify works. Rightsholders have been using standardised work identifiers that are included in the metadata of works for many years and these should be also included for a granular reporting from GPAI providers.
- **Contact information available for rightsholders for potential follow-up:** As a publicly available summary of the training data may not necessarily contain all the information needed, or require further clarification, it is necessary for the AI provider to provide rightsholders with the means to contact the provider and ask further information on a bilateral basis. It is essential to guarantee the meaningful ability for rightsholders to enforce their rights. As such, AI providers should have a due diligence obligation to follow up on information requests sent by rightsholders.
- **Possibility of audit and verification of the information provided by the GPAI models:** This would require GPAI providers to indicate the ways that rightsholders can undertake to use third-party technology providers to verify and check the training data of the GPAI provider against rightsholders' repertoire to ensure compliance.

- **List of options to challenge the report or to lodge a complaint at the AI Office:** As the AI Office remains the main entity to assess and evaluate the transparency reports, an easy and accessible guide on how to lodge complaints on possible unsatisfactory declarations and the options to enforce the EU law provided by the AI Office would also be useful.
 - **Confirming access to civil liability instruments within Irish law to access databases of the Generative AI services** for the purposes of evidence collection, in case of an infringement, especially where the service does not provide a “sufficiently detailed summary to allow rightsholders to exercise and enforce their rights”. Such instruments might include provisions allowing for evidence discovery orders issued by the judiciary.
 - **Awareness Training Activities:** Recital 143 and Article 62(1b/c) require national authorities to organise specific awareness raising and training activities on the application of the AI Act tailored to the needs of SMEs including start-ups, deployers and, as appropriate, local public authorities. These could usefully include awareness raising and information on copyright compliance for Irish SMEs and innovative services in the field of generative AI services, to which ICIF members can also usefully contribute and provide expertise.
4. **AI - Here for Good:** National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Creative works shape our culture, identity, values, and worldview and they are fundamental elements of our culture that are uniquely human. Only humans are capable of communicating the endless intricacies, nuances, and complications of the human condition through art - whether it be music, performance, writing, or any other form of creativity. Developments in artificial intelligence are exciting and could enable advances, but AI can never replace human expression and artistry.

Ireland’s implementation of the EU AI Act can drive support and accelerate progress by ensuring that existing and emergent forms of AI comply closely with the AI Act as well as existing laws. This will require effective implementation by the government of the detailed provisions of the AI Act (our sectors and trade bodies are ever ready to advise and support), but as important is active and speedy work to address ongoing and increasing non-compliance with existing copyright and

competitions laws - too many AI companies are breaching these en masse in an effort to secure commercial advantage illegally.

As new branches of AI technologies emerge and become more central aspects of professions, economies and online consumer interfaces, they must do so legally, responsibly and with ethical respect for the irreplaceable artists, performers, and creatives who have shaped our history and will chart the next

These principles outline how we can responsibly use artificial intelligence, to support human creativity and accomplishment with respect to the inimitable value of human artistry and expression.

1. TECHNOLOGY HAS LONG EMPOWERED HUMAN EXPRESSION, AND AI WILL BE NO DIFFERENT

For generations, various technologies have been used successfully to support human creativity. Take music, for example, from piano rolls to amplification to guitar pedals to synthesizers to drum machines to digital audio workstations, beat libraries and stems and beyond, musical creators have long used technology to express their visions through different voices, instruments, and devices. AI already is and will increasingly play that role as a tool to assist the creative process, allowing for a wider range of people to express themselves creatively. Moreover, AI has many valuable uses outside of the creative process itself, including those that amplify fan connections, hone personalized recommendations, identify content quickly and accurately, assist with scheduling, automate and enhance efficient payment systems and more. We embrace these technological advances.

2. HUMAN CREATED WORKS WILL CONTINUE TO PLAY AN ESSENTIAL ROLE IN OUR LIVES

Creative works shape our identity, values, and worldview. People relate most deeply to works that embody the lived experience, perceptions, and attitudes of others. Only humans can create and fully realize works written, recorded, created, or performed with such specific meaning. Art cannot exist independent of human culture.

3. USE OF COPYRIGHTED WORKS, AND THE USE OF VOICES AND LIKENESSES OF PROFESSIONAL PERFORMERS AND CREATORS REQUIRES AUTHORISATION, LICENSING, & COMPLIANCE WITH ALL RELEVANT LAWS

We fully recognise the potential of forms of AI to push new boundaries for knowledge, science and technological progress. However, as with all predecessor technologies, the use of copyrighted works requires permission from the copyright owner. The point of difference here is scale. GenAI has the ability to access, train on and reproduce new output based on the entirety of the world's published music. AI is subject to free-market licensing for the use of works in the development and training of AI models, as the 2024 EU AI Act reiterates. Creators and copyright owners legally retain exclusive control over determining how their content is used commercially, but we need to

ensure this legal fundamental is actualised in the market. Exclusive control therefor does not mean prevention, but rather prior authorisation for such uses. AI developers must ensure any content used for training purposes is approved and licensed from the copyright owner, including content previously used by any pre-trained AIs they may adopt. Additionally, performers' voices and likenesses must only be used with their consent and fair market compensation for specific uses.

4. GOVERNMENTS SHOULD NOT CREATE NEW COPYRIGHT OR OTHER IP EXEMPTIONS THAT ALLOW AI DEVELOPERS TO EXPLOIT CREATORS WITHOUT PERMISSION OR COMPENSATION

As the EU and many other governments worldwide have stipulated – existing copyright law is robust and caters for almost all iterations of AI. Therefore Governments do not need to pursue any regulatory approach to AI which limits copyright protections or loss of IP protections. This was considered by the UK Government in an extensive consultation and dismissed due to the economic harm it would cause. AI is not and must not receive exemptions from copyright law or other intellectual property laws and must comply with core principles of fair market competition and compensation. Creating special shortcuts or legal loopholes for AI would harm the economy, creative livelihoods, damage creators' brands and limit incentives to create and invest in new works.

5. COPYRIGHT SHOULD ONLY PROTECT THE UNIQUE VALUE OF HUMAN INTELLECTUAL CREATIVITY

Copyright protection exists to help incentivise and reward human creativity, skill, labour, and judgment, not output solely created and generated by machines. Human creators, whether they use traditional tools or express their creativity using computers, are the foundation of the creative industries and we must ensure that human creators are paid for their work.

6. TRUSTWORTHINESS AND TRANSPARENCY ARE ESSENTIAL TO THE SUCCESS OF PROTECTION OF CREATORS

Complete recordkeeping of copyrighted works, performances, and likenesses, including the way in which they were used to develop and train any AI system, is essential. Algorithmic transparency and clear identification of a work's provenance are foundational to AI trustworthiness. Stakeholders should work collaboratively to develop standards for technologies that identify the input used to create AI-generated output. In addition to obtaining appropriate licenses, content generated solely by AI should be labelled describing all inputs and methodology used to create it -- informing consumer choices and protecting creators and rightsholders.

7. CREATORS' INTERESTS MUST BE REPRESENTED IN POLICYMAKING Policymakers must consider the interests of human creators when crafting policy around AI. Creators live on the forefront of, and are building and inspiring, evolutions in technology and as such need a seat at the table in any conversations regarding legislation, regulation, or

government priorities regarding AI that would impact their creativity and the way it affects their industry and livelihood.

Member organisations of ICIF supporting this consultation response

- **AIM (Association of Independent Music)** is the Irish association of independent music and the collective voice of the independent music industry in Ireland
- **ICLA (Irish Copyright Licensing Agency)** is a not-for-profit licensing body that supports the rights of authors, publisher and visual artists.
- **ICMP (International Confederation of Music Publishers)** is the global trade body representing the music publishing industry worldwide.
- **IMRO (Irish Music Rights Organisation)** administers the performing right in copyright music on behalf of songwriters, composers and music publishers
- **MPAI (Music Publishers Association of Ireland)** represents the interests of the Irish music publishing community and the songwriters and composers signed to those publishers at home and internationally
- **RAAP (Recorded Artists Actors Performers)** is a not-for-profit organisation that ensures musicians receive performance royalties from broadcast recordings.
- **SCGI (Screen Composers Guild of Ireland)** is the representative body for professional Irish and Irish based composers for screen
- **SDGI (Screen Directors Guild of Ireland)** is the representative body for directors involved in the Irish and International audiovisual industry.
- **WGI (Writers Guild of Ireland)** is the representative organisation for Irish writers for film, television, theatre, radio, animation and games.

PUBLIC CONSULTATION ON NATIONAL IMPLEMENTATION OF EU HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (AI ACT)

This submission is being presented by the Irish Recorded Music Association CLG (IRMA). IRMA represents the interests of Irish record producers. IRMA is grateful to be given an opportunity to participate in this public consultation.

QUESTION 1

1. *For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.*

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

- 1.1 IRMA respectfully submits that the choice should not be binary, that it is possible to get the best of both worlds.
- 1.2 It appears to IRMA that a centralised model for a Competent Authority would be appropriate. This might mirror the governance structure in place at EU level. The EU structure involves a European Artificial Intelligence Board (comprised of High-Level Representatives setting strategic agendas, overall steering and co-ordination), Permanent Standing Sub-groups (providing cooperation and exchange among national authorities, collection and sharing of technical and regulatory expertise etc.,) and Additional Sub-Groups examining specific issues. The Irish structure would benefit from being set up in the same way.

- 1.3 The centralised model need not suffer from the absence of access to sectoral expertise as it could create its own subgroups to examine specific issues. In matters relevant to the Irish Record Industry IRMA will be happy to participate in a subgroup, offer sectoral expertise and access to expert opinions and I suspect that other similar creative organisations will be happy to do likewise. This is not to imply that expertise will not reside within the centralised structure and / or that such institutional expertise would not grow over the years however cooperation and information sharing with the creative industries would benefit both the Competent Authority and the creative industries and IRMA for its part would gladly participate as a member of a sector specific subgroup or on an ad hoc basis.
- 1.4 In IRMA's opinion the correct location to place the Competent Authority is within Coimisiún na Meán for the reasons set out in the answer to question 2.

QUESTION 2

2. *The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.*

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

- 2.1 There are significant synergies between the EU Digital Services Regulation (DSA), the Digital Single Market Directive (promulgated in Ireland by Statutory Instrument No 567 of 2021) (DSM) and the AI Regulation (AI Act). In the context of the EU, both Regulations and the Directive aim to create a safer digital space in which the fundamental rights of all users of digital services are protected, provide a safe digital environment that is free from illegal content and aims for transparency and accountability, throughout the whole of the EU.
- 2.2 The rules of the DSA, the AI Act and the DSM overlap significantly. Online platforms must comply with the DSA and if they provide or deploy General Purpose AI (GPAI) models and/or AI generated content they must have robust policies to comply with EU Copyright rules and must comply with detailed transparency obligations in respect of their training and pre-training data to enable copyright holders to exercise and enforce their rights. Furthermore, record-keeping and disclosure of records is necessary to make the exceptions in Articles 3 or 4 of the DSM work in practice.
- 2.3 The structure set up under the EU DSA at EU level is similar to the structures set up under the EU AI Act. There is a central European Board for Digital Services and each of the Member States have a Digital Services Coordinator (DSC) with each DSC having its own representative on the EU Board. Ireland's obligations under the EU DSA are fulfilled by the Digital Services Act 2024 providing for the appointment of Coimisiún na Meán as the DSC for Ireland and within the Coimisiún a Digital Services Commissioner (John Evans) who is the Irish representative to the European Board of Digital Services.
- 2.4 There are also synergies with the EU Digital Markets Regulation (DMA). Whilst enforcement for the DMA is centralised in the EU Commission, the EU Commission cooperates and coordinates closely with the Irish Competition and Consumer Protection Commission (CCPC). At the same time certain competencies relevant to the functioning of the DMA being articles 30 traceability of traders or KYBC,

32 Compliance by Design and 32 Right to Information fall to the CCPC and the CCPC is given significant powers to work on their own initiative or on the directions of Coimisiún na Meán. This close cooperation between the CCPC and Coimisiún na Meán is important because robust adherence to EU Copyright Rules and the ability of rights holders to exercise intellectual property rights including copyright through licencing and/or enforcement actions, remain critical for protecting and fostering creativity and innovation, but most importantly in this context are a key enabler of a fair and competitive European digital content market.

- 2.5 For all of these reasons the Coimisiún seems to be the best location within which to place the Competent Authority for AI. Use of the existing regulatory structure should reduce the potential for duplication of functions and centralise activities creating consistency. The Coimisiún should however have its own independent AI Commissioner, whose office should be appropriately resourced. In Coimisiún na Meán however the AI Competent Authority would benefit from the learnings, contacts and structures of the DSC (including its contacts with the CCPC) and could and should operate in synch with them. ¹

3. QUESTION 3

***Harnessing Digital - The Digital Ireland Framework** establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.*

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI Regulation look like?

- 3.1 The music industry is at the heart of digital innovation and at the forefront of technological change for decades. Record labels and artists have been using AI as a tool for years in how artists make music, how platforms organise music in playlists, how artists connect with fans, and how fans access music. More recently, record labels and artists alike have also been involved in truly unique and cutting-edge projects, using AI responsibly to enhance human artistry. ²

¹ The enforcement teams for both the EU DSA and the EU AI Act operate together within the EU Commission's Directorate-General for Communications Networks, Content and Technology (DG CNECT)

² For example:

<https://www.universalmusic.com/youtube-announces-ai-music-principles-and-launches-youtube-music-ai-incubator-with-artists-songwriters-and-producers-from-universal-music-group/>

<https://www.universalmusic.com/endel-and-universal-music-group-to-create-ai-powered-artist-driven-functional-music-designed-to-support-listener-wellness/>

<https://www.sonymusic.com/sonymusic/the-orb-and-david-gilmour-launch-metallic-spheres-in-colour-ai-global-remix-project-for-fans/>

<https://www.wmg.com/news/warner-music-partners-with-edith-piafs-estate-on-groundbreaking-ai-technology>

- 3.2 IRMA's members always encourage innovation. Innovation is however only possible in an environment where rights are respected, where there is a level playing field between GPAI providers both inside and outside the EU and where laws are enforced. A healthy and ethical AI market is one that respects intellectual property rights and personality rights when AI is trained on protected content.
- 3.3 The recorded music industry has always had to deal with copyright infringement however the problem has grown exponentially due to the large-scale ability of GPAI to ingest, copy and appropriate protected content. The main challenge is to be able to apply existing copyright rules effectively when it is nearly impossible to ascertain if and how protected works or sound recordings have been used to train AI models and whether infringements of pre-existing works or sound recordings have taken place.
- 3.4 The AI Act provides new tools for right holders to exercise their existing rights in the context of AI technologies. It introduces obligations on providers of GPAI models to make available a sufficiently detailed summary of the works used for training their models and to demonstrate that they have put in place policies to comply with EU copyright law, regardless of where they developed their models.

And so excellence in AI Regulation will involve at the very least:-

- 3.4.1 Transparency obligation on GPAI model providers
- 3.4.2 Application of copyright in the context of GPAI models
- 3.4.3 Obligations on GPAI model providers to put in place policies to comply with EU copyright law
- 3.4.4 Labelling – deepfakes and synthetic AI-generated content
- 3.4.5 Application of rules outside the EU / standard-setting
- 3.4.6 Sanctions for failing to comply with the AI Act

Each of these is dealt with in more detail below:-

3.4.1 Transparency obligation on GPAI model providers

Article 53(1)(d) sets out the important requirement for GPAI model providers to:

“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) provides further information on how this obligation should be interpreted:

“In order to increase transparency on the data that is used in the pre-training and training of general-purpose AI models, including text and data protected by copyright law, it is adequate that providers of such models draw up and make publicly available a sufficiently detailed summary of

the content used for training the general-purpose model. While taking into due account the need to protect trade secrets and confidential business information, 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, for example by listing the main data collections or sets that went into training the model, such as large private or public databases or data archives, and by providing a narrative explanation about other data sources used. It is appropriate for the AI Office to provide a template for the summary, which should be simple, effective, and allow the provider to provide the required summary in narrative form."

Excellence in AI regulation will involve ensuring that the format of the Template and the level of detail required in the Template will be sufficient to exercise rights (whether by enforcement or licensing). It will be particularly important to clarify that merely providing the names of datasets will not be enough, given the possibility for datasets to become unavailable or be made private, and that more detail than that should be required to enable right holders to exercise their rights.

It will also be necessary to ensure that trade secret law cannot be used to limit the disclosure required in a way that renders the obligation meaningless.

3.4.2 Application of copyright in the context of GPAI models

The AI Act confirms at Recital 105 that:

"[A]ny use of copyright protected content requires the authorization of the rightholder concerned unless relevant copyright exceptions apply."

It further states that

"[W]here the right to opt out has been expressly reserved in an appropriate manner, providers of general-purpose AI models need to obtain an authorisation from rightholders if they want to carry out text and data mining over such works".

Excellence in AI Legislation will involve ensuring that those businesses seeking to rely on the Article 4 DSM text and data mining exceptions do so in a fully compliant manner, and respect to the greatest degree the conditions of the TDM exceptions in particular but not only, lawful access, the respect of the rights holder's reservation of rights and the obligations around record keeping and disclosure in the AI Act.

3.4.3 Obligation on GPAI model providers to put in place policies to comply with EU copyright law

Article 50(1)(c) obliges GPAI model providers to:

"put in place a policy to comply with Union copyright law, and in particular to identify and comply with, including through state of the art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790".

Recital 106 further states that this is for the purpose of ensuring that providers of GPAI models comply with EU copyright law and that this obligation must be complied with regardless of where the provider trained the AI model:

“Providers that place general-purpose AI models on the Union market should ensure compliance with the relevant obligations in this Regulation. To that end, providers of general-purpose AI models should put in place a policy to comply with Union law on copyright and related rights, in particular to identify and comply with the reservations of rights expressed by rightsholders pursuant to Article 4(3) of Directive (EU) 2019/790. Any provider placing a general-purpose AI model on the Union market should comply with this obligation, regardless of the jurisdiction in which the copyright-relevant acts underpinning the training of those general-purpose AI models take place. This is necessary to ensure a level playing field among providers of general-purpose AI models where no provider should be able to gain a competitive advantage in the Union market by applying lower copyright standards than those provided in the Union.”

Excellence in AI regulation will involve ensuring that it is clear that GPAI model providers must put in place policies to comply with copyright law, that the responsibility is on GPAI model providers to “identify and comply with” rights reservations, including through state-of-the-art technologies.

3.4.4 Labelling – deepfakes and synthetic AI-generated content

The Act introduces requirements for labelling of deepfake content (Art 50(4)):

“Deployers of an AI system that generates or manipulates image, audio or video content constituting a deep fake, shall disclose that the content has been artificially generated or manipulated. [...] Where the content forms part of an evidently artistic, creative, satirical, fictional analogous work or programme, the transparency obligations set out in this paragraph are limited to disclosure of the existence of such generated or manipulated content in an appropriate manner that does not hamper the display or enjoyment of the work.”

The AI Act also introduces requirements for labelling of synthetic AI-generated content (Article 50(2)):

“Providers of AI systems, including general-purpose AI systems, generating synthetic audio, image, video or text content, shall ensure that the outputs of the AI system are marked in a machine-readable format and detectable as artificially generated or manipulated. [...]”

Excellence in AI regulation will involve ensuring that Deepfakes and AI generated synthetic music will have to be distinguished from that of human artists.

3.4.5 Application of rules outside the EU / standard-setting

The rules set out in the AI Act apply to providers that place a GPAI model in the EU as well as providers and deployers of AI systems where the output produced by the AI system is used in the EU, irrespective of whether those providers are established or located within the EU or in a third country See (Article 2(1)(a) & (c)):

“(a) providers placing on the market or putting into service AI systems or placing on the market general-purpose AI models in the Union, irrespective of whether those providers are established or located within the Union or in a third country;”

“(c) providers and deployers of AI systems that have their place of establishment or are located in a third country, where the output produced by the AI system is used in the Union;”

Further, the obligation on GPAI model providers to put in place policies to comply with EU copyright law applies *regardless of where they trained the models* (Recital 106).

Excellence in AI Regulation will involve ensuring that GPAI models trained outside the EU but then placed in or put into service in Ireland must comply with EU copyright rules, negating the benefit of having looser copyright rules if AI developers want to export elsewhere. As set out in Recital 106, this ensures *“a level playing field among GPAI model providers where no provider can gain a competitive advantage in the EU by applying lower copyright standards than those provided in the EU”*.

Further it should be clear that simply putting “output produced by an AI system” into the EU is sufficient to ensure that these rules apply to providers and deployers, even if they are based outside the EU.

3.4.6 Sanctions for failing to comply with the AI Act

Excellence in AI Regulation will require the Irish Government to lay down effective, proportionate and dissuasive penalties, including administrative fines, in relation to infringements and communicate them to the Commission (Article 99(1) and (2)).

QUESTION 4

4. *AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.*

How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Ireland’s vision that Ireland *“will be an international leader in using AI to the benefit of our population, through a people-centred, ethical approach to AI development, adoption and use”*, is indeed powerful.

IRMA can offer suggestions touching on the principle that development should be “people centred” and “ethical”. IRMA believes that a people centred approach will bring societal benefit and an ethical approach will engender public trust which will encourage innovation and accordingly economic benefit. We will first look at the people centred approach (4.1) and then consider ethics and trust (4.2)

- 4.1 Creative works shape our culture, identity, values and worldview. Ireland may be a small country, but it punches way above its weight internationally in the area of creativity and this is in no small part due to Ireland's robust approach to copyright law and enforcement. It is axiomatic that "people centred" must actively include artistic and creative people. The development of artificial intelligence must not be prioritised over human artistry. The Human Artistry Campaign, a group established by the international creative community established valuable principles ³ (which I have listed in the Appendix) but first sets out as follows:-
- 4.1.1 *"There are fundamental elements of our culture that are uniquely human. Only humans are capable of communicating the endless intricacies, nuances and complications of the human condition through art – whether it be music, performance, writing or any other form of creativity.*
- 4.1.2 *Developments in artificial intelligence are exciting and could advance the world farther than we ever thought possible. But AI can never replace human expression and artistry.*
- 4.1.3 *As new technologies emerge and enter such central aspects of our existence, it must be done responsibly and with respect for the irreplaceable artists, performers and creatives who have shaped our history and will chart to next chapters of human experience.*
- 4.1.4 *These principles outline how we can responsibly use artificial intelligence – to support human creativity and accomplishment with respect of the inimitable value of human artistry and expression.*
- 4.2 Trust must be earned, and a very important step is to ensure that the use of property and personal image rights by the AI industry is ethical, in so far as it is governed by appropriate laws and principles, and that laws are enforced. This is an issue of great importance to individuals and interest group sectors across society - not just for the creative industries. All individuals and entities need to trust that there will be accountability in relation to infringements of their property rights, image rights and personal privacy.

Accordingly, it is important that:-

- 4.2.1 intellectual property rights in works used by AI and upon which AI has been trained have been fully respected.
- 4.2.2 meaningful transparency obligations are effectively implemented and applied (including with regard to copyright protected content, image rights and elements of the personality of artists).
- 4.2.3 AI has been trained only on the basis of licensed content and (including with regard to copyright protected content, image rights and elements of the personality of artists).
- 4.2.4 AI generated content is clearly labelled as such.

³humanartistrycampaign.com

- 4.3 A number of highly respected international organisations have considered these issues and IRMA recommends that the Government should consider the G 7 Hiroshima Process International Guiding Principles ⁴ and the OECD AI Recommendations ⁵. It is noteworthy that in both cases AI principles and / or recommendations are predicated on the existence of legal frameworks that respect Intellectual Property law.

ASPECTS OF THE IMPLEMENTATION OF THE AI ACT OUTSIDE THE SCOPE OF THE QUESTIONS ABOVE

In the context of the upcoming work of the AI Board in the drawing up of the first Code of Practice on the rules for GPAI model providers pursuant to Article 53, which will involve the participation of national authorities we respectfully suggest that it is vital for the Irish Government to consult with the creative sector, including IRMA, to ensure that the goals of article 53 are enforceable in practical terms and meet the aim of ensuring right holders can exercise and enforce their rights.

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⁴ <https://www.mofa.go.jp/files/100573471.pdf>

⁵ <https://legalinstruments.oecd.org/en/instruments/oecd-legal-0449>

APPENDIX

Core Principles for Artificial Intelligence Applications **in support of human creativity & accomplishment**

1. Technology has long empowered human expression, and AI will be no different

For generations, various technologies have been used successfully to support human creativity. Take music, for example... From piano rolls to amplification to guitar pedals to synthesizers to drum machines to digital audio workstations, beat libraries and stems and beyond, musical creators have long used technology to express their visions through different voices, instruments, and devices. AI already is and will increasingly play that role as a tool to assist the creative process, allowing for a wider range of people to express themselves creatively.

Moreover, AI has many valuable uses outside of the creative process itself, including those that amplify fan connections, hone personalized recommendations, identify content quickly and accurately, assist with scheduling, automate and enhance efficient payment systems – and more. We embrace these technological advances.

2. Human created works will continue to play an essential role in our lives

Creative works shape our identity, values, and worldview. People relate most deeply to works that embody the lived experience, perceptions, and attitudes of others. Only humans can create and fully realize works written, recorded, created, or performed with such specific meaning. Art cannot exist independent of human culture.

3. Use of copyrighted works, and the use of voices and likenesses of professional performers, requires authorization and free-market licensing from all rightsholders

We fully recognize the immense potential of AI to push the boundaries for knowledge and scientific progress. However, as with predecessor technologies, the use of copyrighted works requires permission from the copyright owner. AI must be subject to free-market licensing for the use of works in the development and training of AI models. Creators and copyright owners must retain exclusive control over determining how their content is used. AI developers must ensure any content used for training purposes is approved and licensed from the copyright owner, including content previously used by any pre-trained AIs they may adopt. Additionally, performers' and athletes' voices and likenesses must only be used with their consent and fair market compensation for specific uses.

4. Governments should not create new copyright or other IP exemptions that allow AI developers to exploit creators without permission or compensation

AI must not receive exemptions from copyright, right of publicity, or other intellectual property rights and must comply with core principles of fair market competition and compensation. Creating special shortcuts or legal loopholes for AI would harm creative livelihoods, damage creators' brands, and limit incentives to create and invest in new works.

5. Copyright should only protect the unique value of human intellectual creativity

Copyright protection exists to help incentivize and reward human creativity, skill, labor, and judgment - not output solely created and generated by machines. Human creators, whether they use traditional tools or express their creativity using computers, are the foundation of the creative industries and we must ensure that human creators are paid for their work.

6. Trustworthiness and transparency are essential to the success of AI and protection of creators

Complete recordkeeping of copyrighted works, performances, and likenesses, including the way in which they were used to develop and train any AI system, is essential. Algorithmic transparency and clear identification of a work's provenance are foundational to AI trustworthiness. Stakeholders should work collaboratively to develop standards for technologies that identify the input used to create AI-generated output. In addition to obtaining appropriate licenses, content generated solely by AI should be labeled describing all inputs and methodology used to create it – informing consumer choices and protecting creators and rightsholders.

7. Creators' interests must be represented in policymaking

Policymakers must consider the interests of human creators when crafting policy around AI. Creators live on the forefront of, and are building and inspiring, evolutions in technology and as such need a seat at the table in any conversations regarding legislation, regulation, or government priorities regarding AI that would impact their creativity and the way it affects their industry and livelihood.

Executive Summary

The successful implementation of the AI Act will be of high importance for Ireland. A balance must be struck between adhering to the Regulation and its objectives while also attempting to foster innovation, remain business-friendly, and attract investment. Ireland is uniquely positioned within the EU (following Brexit) as the only Member State that is English speaking and hosts such a large amount of global technology companies. This puts Ireland in a great position to benefit from future technological developments and innovations and maintain its reputation as a leading world tech hub.

This submission discusses the key points in relation to the implementation of the AI Act – Our response discusses the considerations of implementing the AI Act through a partly decentralised model for national competent authorities and how to implement the Act in order to ensure compliance but also promote innovation, while bearing in mind the interests of the public which are paramount.

Question 1 – What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

The AI Act will have a far-reaching impact on both industry and wider society. It is vital that the AI Act is implemented successfully, and to do this requires the effective configuration of national competent authorities. This response deals with the structures and functions of authorities, the relevant skill sets, (including independent expertise) and technology that will be required for a functioning and effective regulatory environment.

The AI Act allows Member States a certain level of flexibility in selecting national competent authorities (they may either be established or designated)¹, and under Article 70 of the AI Act a Member State must have “*at least one notifying authority and at least one market surveillance authority*”. Market surveillance authorities are responsible for enforcing the Act, while notifying authorities are responsible for assessing and monitoring AI conformity assessment bodies. There must also be a designated “*single point of contact*”.²

With regard to the configuration of these national competent authorities, given the complexities involved in implementing the AI Act across industries, a more decentralised approach might be optimal to leverage existing competencies in each sector. This would involve various national competent authorities being designated to oversee various sectors of the economy for which they have expertise. Certain sectoral regulators with expertise may already be of the view that the regulation of their sectors in respect of AI will be within their remit (for example, the Central Bank of Ireland in respect to AI issues within the banking and financial services sector). It is key to accept that the ‘use case’ is the ultimate end goal of AI, even though the end use activity will vary dependent on the sector. This reinforces the idea that being sector focused may be key. This will allow for the creation of a framework which can be extended to other areas and against which Ireland’s experience as it goes down this path can be assessed. A more decentralised approach may further be useful in combatting the rapid pace of technological advancement, as one centralised authority may encounter more resistance and rigidity in attempting to adapt to the continuous and swift changes in artificial intelligence.

To the extent such a decentralised configuration is utilised, effective coordination, communication, and transparency between each of the national competent authorities will be key. In light of this, Memorandums of Understanding (MOUs) would be appropriate to ensure cohesive inter-departmental coordination. These MOUs would clarify and specify the roles and contributions expected of each department, enhancing cooperation in a formalised manner while still allowing scope for flexibility in the implementation of the AI Act. As the AI Act is principle-based in nature (allowing for more flexibility in application), it’s essential that there is conformity in definition and approach and avoidance of duplication, and that the approach of regulators be subject to consultation and/or benchmarking. In this context, the use of internationally accepted standards such as NIST and ISO will be key. Particularly relevant will be ISO / IEC 42001 and ISO / IEC23894, as there is overlap between the ISOs and the AI

¹ Article 59 AI Act

² Article 70 AI Act

KPMG

Act in terms of the importance of a risk assessment focus, and the protection of fundamental rights (fairness in algorithms and minimisation of bias). The use of external independent expertise to implement, assess and benchmark appropriate governance standards may be particularly relevant. In light of this, the establishment of a dedicated national level AI Office which acts partially as a general point of liaison between inter-departmental units may be beneficial.

Relevant to any configuration of the national competent authorities will be the input of the Competition and Consumer Protection Commission (the “**CCPC**”). The CCPC should be part of any regulatory MOUs and to the extent that is feasible, regulate in a consistent manner. Also, relevant input can be obtained from the policymaking, legal, and technology sectors to ensure that the right balance between innovation and regulation is struck. As such, regulators should follow the risk-based approach taken by the AI Act and simultaneously encourage innovation in AI and attract further investment.

From a practical viewpoint, it is crucial that national competent authorities are equipped with the technical skills and the resources to perform their tasks under the AI Act. Member States must ensure that “*national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively*”³ under the AI Act. Suitable expertise should be available in many areas, including AI, personal data, cybersecurity, fundamental rights, legal requirements, and safety risks. In this context, training and upskilling of the workforce will be key. Organisations such as the Centre for Applied Data Analytics and AI (“CeADAR”) should be consulted in this regard and may provide relevant training. Skillnet Ireland would further be well placed to act in an advisory role to national competent authorities responsible for the implementation of the AI Act. The relevant national competent authorities may also wish to open line of communication with Enterprise Ireland, and IDA Ireland, who already collaborate with Skillnet Ireland, as well as local enterprise offices. The provision of appropriate incentives should also be investigated, to ensure that the right talent can be attracted and retained.

Adequate funding and resourcing will be necessary to ensure that Ireland can adhere to a sufficient standard of competency across these areas. As AI is progressing rapidly and ringfencing required funds and forecasting future funds may be a complex task, the National Training Fund may be in a position to assist in foreseeing the technical expertise which may be required in the coming years in respect of AI developments, as part of its mandate is the funding of research to provide information on existing and likely future skills requirements of the economy. Further, it’s noted that the National Artificial Intelligence Strategy states that going forward, the Government will prioritise policies that ensure workers can access opportunities to upskill or re-skill with regard to AI or AI-adjacent jobs.

Cybersecurity will be an extremely important area of focus in the implementation of the AI Act. The AI Act requires that national competent authorities take appropriate measures to ensure a sufficient level of cybersecurity is in place. In making this a reality, national competent authorities should open a direct line of communication and collaborate with the National Cyber Security Centre. Other organisations with which the relevant competent authorities should be aligned with are the Garda National Cyber Crime Bureau, the Department of Environment, Climate and Communications (which oversees the National Cyber Security Centre), Cyber Ireland and appropriate education institutions and research institutions to the extent that it is practical. Comprehensive cybersecurity in the realm of AI will assist in building trust in the sector, both commercially and for the Irish public.

The considerations set out above for a partly decentralised model highlight the benefits in the Irish context and align with approaches being considered and/or adopted for other European jurisdictions and other non-European jurisdictions for other Artificial Intelligence frameworks. While a number of jurisdictions (such as Spain with its Spanish Agency for the Supervision of Artificial Intelligence –AESIA) plan to have one central agency to identify best practices in AI governance and supervise/implement such best practices, the reality is that the model which best suits each jurisdiction should be chosen for that jurisdiction. A centralised model would potentially allow for efficiencies in developing capabilities and consistency in approach, however this can be overcome through robust frameworks and collaboration under a decentralised model. The EU AI office will be acting as a co-ordinator in this regard and as happens in relation to sectors such as data protection, the use of this office by national

³ Article 70(3) AI Act.

authorities to co-operate and share approaches (including on centralise and decentralised models) should be undertaken from an early stage and over the course of the planned implementation period of the AI Act.

Question 2 – Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

In relation to opportunities for synergies between the implementation of the AI Act and other EU regulations, firstly there will be significant interaction between the AI Act and the GDPR - the relationship between AI and data protection being expressly recognised in the text of the AI Act. As a result, the relevant national competent authorities under the AI Act will need to collaborate closely with the Data Protection Commission (the “**DPC**”). AI and data protection are closely aligned on several key areas creating the opportunity for synergies to exist, among them, risk assessments (and the necessity of implementing detailed governance frameworks) and the use of AI for automated decision-making. For example, AI fundamental rights impact assessments can be modelled on data protection impact assessments. The DPC also has experience in performing similar functions to those which are required of the market surveillance authority in terms of enforcement and investigative powers, and as such market surveillance authorities should seek to leverage this knowledge. Although synergistic effects may be created by interactions such as this between different pieces of legislation, Ireland should keenly bear in mind that private companies (in particular SMEs) may find the many obligations under various regulations burdensome as well as synergistic, and the Government should make efforts where practical to alleviate such stresses in so far as possible.

Further, the use of AI and similar algorithmic systems is a clear commonality of the EU regulations that make up the EU Digital Package (namely, the Digital Services Act (DSA) and the Digital Markets Act (DMA)). The DSA will need to be considered as large online platforms frequently use substantial AI systems for various purposes. Coimisiún na Meán (“**CnM**”) the designated lead competent authority for Ireland in this regard, and again, communication between national competent authorities and CnM will be important if any potential synergies are to be taken advantage of. It is worth noting that the CCPC is also a designated competent authority under the DSA, with specific responsibility for online marketplaces (and the Digital Markets Act separately also seeks to ensure there are no anti-competitive practices). The CCPC, as mentioned above, will be a key part of any overall regulatory Memorandum of Understanding and should have a prominent role in working with the national competent authorities.

For the purposes of implementing the AI Act, legislation such as the AI Liability Directive must be thoughtfully considered. There may be potential synergies in the long-run, but the AI product liability regime, to the extent that the circle of potentially liable economic operators is expanded by the regime, may also act as a disincentive and stifle innovation in Ireland to a degree and transposition of the Directive should take this into account.

The AI Act will also interact with other major EU digital legislation such as the Data Act, the Cyber Resilience Act and the Digital Operational Resilience Act (“**DORA**”). Accordingly, close cooperation between the parties across different sectors involved will be expected, given that DORA for example is enforced by the Central Bank of Ireland.

Question 3 – How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

As mentioned previously, the implementation of the AI Act must be done in such a way as to strike the right balance between innovation and regulation.

In achieving this aim, the setting up of 'regulatory sandboxes' to foster innovation in AI will be central. The AI Act requires that Member States set up at least one regulatory sandbox at a national level,⁴ but we would recommend a proactive approach to establish as many regulatory sandboxes as is practical, and this appears to align with Ireland's own plans as stated in the Digital Ireland Framework.⁵ Again, it will be crucial to have the right input from relevant experts in various sectors in order to establish effective regulatory sandboxes, which may be significant in advancing innovation at a competitive rate for the country. Ireland should make use of any flexibility or scope for innovative practices such as regulatory sandboxes, provided they are implemented compliantly and consistently by the various Government departments. The creation of these sandboxes and associated technical activities could be targeted by specific financial incentives such as tax incentives or grants, bearing in mind that these may be subject to relevant state aid law.

In order to ensure the continuation of investment into Ireland and flourishing innovation, small and medium sized enterprises must be adequately supported. The AI Act even makes certain explicit provisions to support this aim, such as requiring Member States to give priority access to SMEs in relation to regulatory sandboxes.⁶ Efforts should be made to ensure SMEs are aware of their obligations under the AI Act and are not disproportionately burdened.

In terms of excellence in AI regulation for Ireland, as mentioned above, the AI Act must be implemented in such a way as to allow for certain flexibility to account for the rapid pace of change in AI and related technologies, while still enforcing with clarity and legal certainty the obligations of various actors under the AI Act. A careful balance must be achieved to provide (i) enough legal certainty to provide a sense of clarity and predictability for individuals, companies, and investors acting within the State, and (ii) enough flexibility operating within the AI Act to ensure that Ireland is sufficiently agile to respond to any technological advances / changes. As a more general comment, Ireland also needs to have appropriate digital infrastructure in place which will require significant investment in data, cloud infrastructure, and compute capacity.

As referenced in question 1, the details of AI Governance should combine internationally accepted standards such as appropriate NIST and ISO standards within the regulatory frameworks that are referenced within the AI Act and the AI Office, together with relevant authorities in members states. Irish authorities would perhaps be best advised to combine sector specific regulatory approaches i.e. consumer protection within the financial services sector with generally accepted best practice processes for AI i.e. Company level AI Policies together with appropriate departmental procedures.

Finally, Ireland must consider the implementation of the AI Act in the context of open-source AI. Generally speaking, open-source AI is subject to less restrictions than other forms of AI, for example under Article 2, the AI Act as a whole "does not apply to AI systems released under free and open-source licenses", although this is subject to certain carve-outs. This is intended to encourage the making available of open-source AI to the benefit of a wide variety of users and developers and aims to accelerate innovation through access to shared resources. To the extent possible, a strategy that allows flexibility around open-source AI could (a) drive collaboration and innovation, resulting in accelerated research and development outcomes, (b) contribute to attracting global talent and investment, and (c) foster a transparent and ethical AI ecosystem. Similar (but not identical) systems worth looking at are the HTML standards and the Apache database system (which is open source and is the basis for a thriving community of database users and developers). This all encourages collaboration. Accelerates opportunities for innovation and solidifies Ireland on the map as a "Digital Leader".

Question 4 – How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations? We note that this question is to be answered in line with consultation paper guidance which refers to (i) building public trust in AI, (ii) leveraging AI for economic and societal benefit, and (iii) enablers for AI.)

⁴ Article 57 AI Act.

⁵ Page 13, *Harnessing Digital – The Digital Ireland Framework*.

⁶ Article 62 AI Act.

There are a number of ways the AI Act drive support and accelerate progress from each of the perspectives as set out by the National Artificial Intelligence Strategy.

With regard to building public trust in AI, it is important that the positive effects of AI are felt throughout the economy and filter down to individual citizens, as well as commercial actors. A core theme of the AI Act is the protection of fundamental rights of individuals. The interests of the public should be carefully guarded and considered (in particular the interests of minors) during the implementation of the AI Act and beyond, and a broad and open approach to inviting comments and views from the public and stakeholders representing public interests should be enacted. In this context, regulations and regulators will need to keep up with the pace of the evolving technology and the uses to which it is put. This element of flexible and swift response must be married to an overall approach of the State which is transparent, accountable and accessible to the public. Making AI accessible in this way to the public will foster a culture of support and progress in which AI can thrive. National competent authorities could be mandated to establish online forums or complaint response units, or this might be a function that a more centralised AI Office could implement. Other stakeholders advocating for the interests of the public must be brought into consideration, such as the Department of Children, Equality, Disability, Integration and Youth (who may deal with issues such as Equality Law's interaction with AI and attendant socio-economic consequences), or ethics advisory committees. Further, public awareness campaigns should be undertaken to educate the general public about the possibilities of AI as relevant to them, and to ensure the public has the requisite knowledge to be comfortable with the national embracing of AI.

In general, a broad and open approach to keeping all stakeholders informed and inviting engagement will help to drive support for Ireland's AI aims. In terms of leveraging AI for societal benefit, consultation with the right organisations and stakeholders will again be of the utmost importance. Thinktanks and collaborations (with a dedicated national AI Office to possibly consider ethical issues as part of their remit) could be established which may assist in leveraging AI to address societal challenges – for example, healthcare issues, public safety, housing issues, and agricultural difficulties.

A major issue which must be addressed is the use of AI and its environmental impact. AI consumes a vast amount of power, and going forward, measures to mitigate the environmental impact and in turn build trust with the public must be put in place. The Government must make this a priority in implementing the AI Act, and a code of conduct should be drawn up, the aim of which would be to reduce the negative environmental impact of AI systems.⁷ Further, Ireland must ensure that it is capable of handling the resource requirements of AI systems in the future, and this may require collaboration with organisations to produce electricity usage forecasts, so that Ireland does not fail to meet energy needs and lose competitive ground.

This submission has already mentioned several points in relation to enabling AI, namely implementation of the AI Act to balance regulation with flexibility to allow for innovation, education of the workforce and the public alike, building the infrastructure to make AI possible, and the optimal configuration of national competent authorities to achieve the goals of the AI Act.

Conclusion

KPMG appreciates the opportunity to contribute towards this consultation on the national implementation of the EU AI Act.

We welcome the Department's consultation, and we welcome the State's approach to foster conditions of innovation and progress in the area of AI, while still considering vital factors like the views and concerns of all stakeholders and the impact on the environment.

KPMG is available to assist the Department further in any way regarding the future implementation of the AI Act, and to respond to any queries that that Department may have on any aspect of this submission.

⁷ As permitted under Article 95 of the AI Act.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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Submission on the National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Department of Enterprise, Trade and Employment

16 July 2024

Submission on the National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Introduction

The Law Society of Ireland (the **Law Society**) is the educational, representative and regulatory body of the solicitors' profession in Ireland. The Law Society delivers high-quality legal education and training and also places significant emphasis on civic engagement, supporting local community initiatives and driving diversity and inclusion.

The Law Society appreciates the opportunity to provide views on what considerations should be taken into account by the Government when implementing the European Union Harmonised Rules on Artificial Intelligence Act (the **AI Act**) at a national level.

The Law Society is optimistic about the future of AI in Irish society and is particularly interested in the implications of this technology for fundamental rights and the continued development of the legal industry. A [survey of members conducted by the Law Society in 2023](#) found that AI and data protection topped the list of areas that the surveyed legal profession felt were most likely to experience substantial growth. As a prolific educator of solicitors, the Law Society is also particularly interested in how the safe use of AI can be encouraged among the legal profession from an educational standpoint.

A 2023 [LexisNexis International Legal Generative AI Report](#) that polled over 8000 respondents (including 3,700 lawyers) in the US, UK, France and Canada noted that 47% of respondents thought that AI tools (specifically generative AI) would have a 'significant or transformative' impact on the legal profession. At the same time, the survey found that almost 90% of lawyer respondents had at least some concerns about the ethical implications of generative AI (with almost a third saying that these implications will be 'significant or fundamental' in nature).

Taking into account the substantial contemporary relevance of AI in society, it is clear that it provides substantial opportunities but also substantial risks. Misuse of AI, either intentional or accidental, can have severe repercussions beyond a mere 'product safety' commercial standpoint: fundamental rights of data privacy or reputation can be at risk if AI is not correctly regulated.

For example, deepfakes can ruin a person's reputation, private sensitive information can be leaked to bad actors by generative AI tools and so on. It is also acknowledged that there are substantial environmental considerations about the use of AI, concerns that must be allayed by effective and robust regulation that nevertheless encourages, rather than stifles, technological innovation.

This [public consultation](#) was opened by the Department of Enterprise, Trade and Employment (the **Department**) on 21 May 2024. The initial consultation was divided into four specific questions and this submission aims to address each of these in-turn. The Law Society is available to meet in order to discuss these issues further. It is also willing to provide any further expertise or assistance on the national implementation of the AI Act, particularly in the drafting of any regulations that may arise as a result of this implementation, including via its membership.

Key Takeaways

- a) The Law Society recognises that centralised or distributed models of AI regulation have their own distinct advantages and disadvantages. Despite this, centralised and distributed models are not mutually exclusive. Both can be drawn from by the Government in creating an AI regulatory ecosystem. The Government should seek to construct AI regulation that eases the leveraging of EU financial aid and expertise. Extensive cross-border collaboration with EU organisations on AI should be encouraged in both the economy and in Government agencies.
- b) When constructing a new national AI regulatory framework, the Government should prioritise:
 - Maximising the efficiency of sectoral expertise and encouraging robust stakeholder engagement,
 - Ensuring that any national competent authorities are well resourced,
 - Facilitating communication and coordination between national competent authorities, and
 - Improving access to justice.
- c) The Government should be aware of the potential synergies between the AI Act, the General Data Protection Regulation and the Digital Services Act prior to national implementation of the AI Act. In particular, the Data Protection Commission could be well-positioned to adopt an enforcement or co-enforcement role given its expertise and resources.
- d) Ireland is very well-resourced to position itself at the forefront of AI provided it takes advantage of regulatory sandboxes and develops AI in an environmentally sustainable manner. There is a possibility for AI to enhance the provision of legal aid provided there is effective human oversight. Support for small and medium enterprises should be prioritised by the Government, including the deployment of targeted supports for these enterprises.
- e) Excellence in Irish AI regulation would emphasise:
 - Certainty and flexibility,
 - Strong support for innovation and development, and
 - Environmental and energy sustainability.
- f) Finally: under the National AI Strategy, Irish AI regulation should prioritise the public interest by leveraging AI for economic and social benefit alike. The Law Society argues that economic benefit and ethical regulation are not mutually exclusive and that both can be pursued to the benefit of the Irish public. Being highly invested in education, the Law Society suggests that the utility of AI for improving education should be seriously explored by the Government.

Question 1: For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Answer:

Background

Article 59 of the EU AI Act allows a Member State to establish or designate a ‘national competent authority’ or authorities which have the responsibility of overseeing the application and implementation of the AI Act.

Under Article 70, a Member State is required to have at least one notifying authority and at least one market surveillance authority (**MSA**). These authorities, referred to collectively in Article 3 of the Act as ‘national competent authorities’, have substantially different responsibilities. MSAs are required to enforce the rules in the AI Act, investigate complaints and impose penalties for violations of the Act. Notifying authorities establish and maintain procedures for the assessment, designation of notification of conformity assessment bodies. Notified conformity assessment bodies perform third party conformity assessment activities on AI.

Both MSAs and notifying authorities collectively will be referred to as national competent authorities in this submission.

Generally, these national competent authorities must:

- operate as independent entities and be free of bias,
- have suitable expertise in AI, personal data protection, cybersecurity, fundamental rights, health/safety risks and knowledge of existing standards and legal requirements,
- comply with confidentiality requirements under Article 78,
- be provided with adequate technical, financial and human resources by the Member State.

Although the AI Act gives substantial leeway to Member States on how to approach the national implementation of the Act, Article 70 of the Act does require Member States to designate a MSA as a ‘single point of contact.’ A Member State must then notify the European Commission of the identity of this single point of contact, which the Commission then adds to a publicly-available list.

The AI Act also establishes the AI Office at EU level. This Office implements and supervises AI systems (and particularly General Purpose AI systems¹). A separate AI Board will fulfil an advisory role to this AI Office and will be composed of representatives from the Member States.

Centralised and Distributed Approaches

¹ **GPAI**, as defined under Article 3, are AI models trained with a large amount of data that display substantial generality (i.e. are able to perform a wide variety of different tasks).

The Act gives flexibility to Member States as it does not explicitly require them to establish a new regulatory authority dedicated to AI. Ireland could approach the national implementation of the Act in a number of different ways:

- A. Ireland could establish or designate a single, centralised national competent authority that would have primary or sole responsibility for the regulation and development of AI. There are already precedents for this approach in both Spain² and France,³ which may serve as useful models if the Government takes this route.
- B. Ireland could designate or establish a basket of national competent authorities governing various areas of the economy,⁴ with responsibilities corresponding to their existing areas of expertise.⁵
- C. Finally, Ireland could take a combined approach of having multiple market surveillance authorities in crucial areas reporting to a centralised authority. Centralised or distributed approaches are not necessarily mutually exclusive.
 - As in example B, the CBI could regulate the use of AI in finance, the Department of Justice could regulate the use of AI in law enforcement, and so on.
 - This would be combined with a central, primary market surveillance/notifying authority that would cooperate with the various market surveillance authorities and (a) enhance their interoperability, (b) engage in training and information sharing and (c) offer a cohesive single point of contact.
 - Ireland may also place responsibility for AI regulation on a body such as the Data Protection Commission (the **DPC**), while leaving an option for the DPC to delegate market supervisory authority where needed to the nearest sector or domain-specific supervisor, as [has been recently recommended by the Dutch Data Protection Authority \(the AP\)](#).

As noted earlier, the Law Society acknowledges that the current leeway given to Member States for the regulation of AI is a relatively recent change to the AI Act: the European Parliament's earlier draft, adopted on 14 June 2023,⁶ had proposed to centralise AI oversight in a single national surveillance authority in each Member State.⁷

² Spain established the Spanish Agency for the Supervision of Artificial Intelligence (**AESIA**) in September 2023, prior to the EU AI Act, for this exact purpose. It may be worth noting that AESIA does not supersede the Spanish data protection authority (AEPD) but it complements and collaborates with it as a co-enforcer of data protection/AI regulation.

³ France appointed the national data protection authority as the central authority for the regulation of AI in the State. In France, this role is filled by the [National Commission on Informatics and Liberty \(CNIL\)](#) which has already created a department dedicated solely to AI. For an example of the grade of work that the CNIL carries out, please see its recent recommendations on the development of AI systems. Available at: <https://cnil.fr/en/ai-cnll-publishes-its-first-recommendations-development-artificial-intelligence-systems>

⁴ For example, the Central Bank of Ireland (CBI) could regulate AI used in financial transactions. Article 74 of the AI Act does require that, under certain circumstances, the national competent authority for financial institutions should be the relevant national authority responsible for the supervision of those institutions in the first place, i.e. the CBI. There is a derogation from this allowing for another relevant authority to be designated by a Member State as an MSA supervising the financial sector, where there are proper coordination measures in place (Article 74, para. 6).

⁵ Although outside of the EU, the UK has taken a similar approach to this by establishing the [Digital Regulation Cooperation Forum](#) composed of four separate digital regulators that are seeking to coordinate their efforts on AI (and other areas such as online platforms and digital services).

⁶ Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0236_EN.html

⁷ This would have been, in contrast, a departure from the final text of the General Data Protection Regulation (the **GDPR**) which allowed Member States to establish one or more independent public authorities for monitoring the application of the GDPR. The Parliament's proposal differed from the

The EU's approach to the regulation of the AI Act closely follows the principle of subsidiarity by assigning essential roles to both the Member States and the Commission alike.⁸ Considering this leeway given by the Act there is a clear opportunity to identify the considerations that should be taken into account prior to pursuing a 'centralised' versus a 'distributed' approach towards national implementation of the Act. Ireland is completely free to adopt a stance of its own choosing so long as it is within the framework established by the AI Act requiring a minimum of one market surveillance authority, one notifying authority, and one single point of contact.

The Law Society recognises that it is not necessarily an either/or question when it comes to centralised or distributed forms of governance. A centralised regulatory system, for example, can be complemented with a distribution of oversight activities drawn from groups across society.⁹

The Law Society notes that the Department consultation specifically asks for considerations that should be taken into account when planning this national implementation of the Act and the Law Society aims to fully detail any considerations that it believes relevant.

Main Considerations

When implementing the provisions of the EU AI Act at a national level by configuring the new AI regulatory landscape, the Department should prioritise the following considerations:

A. Maximising the efficiency of sectoral expertise and encouraging robust stakeholder engagement

The Department should, in considering a suitable means of national implementation, seek to leverage and maximise pre-existing and future sectoral expertise. In addition, the model that ends up being implemented by the Department should itself facilitate ongoing stakeholder engagement.

Distributed model

In this regard, the Law Society notes that a 'distributed' model of national implementation would have an advantage over a more 'centralised' approach. If a centralised market surveillance authority were to be established, it might lack easily-accessible expertise in AI as applied to financial contexts, legal contexts, healthcare contexts and so on. This would necessitate extensive cooperation between the centralised authority and various financial, legal and healthcare institutions, which may be less efficient than a more decentralised model where each of these institutions have bespoke remit over AI in their respective areas (such as the CBI for AI in finance, the Department of Justice over law enforcement, the Department of Health over healthcare and so on).¹⁰

Council and Commission proposals which aimed to give more freedom for Member States to designate and establish market surveillance authorities.

⁸ Manuel Wörsdörfer, 'The E.U.'s Artificial Intelligence Act: An Ordoliberal Assessment' (AI Ethics, 2023), p. 8.

⁹ Joan Lopez Solano and others, 'Governing data and artificial intelligence for all: models for sustainable and just data governance' (European Parliamentary Research Service, 2022).

¹⁰ For example, the [AI Now Institute](#) has previously argued (in the US context) that domains like health, education, criminal justice and welfare all have their own contextual backgrounds and regulatory frameworks: therefore, a national AI safety body will struggle to meet the sectoral expertise minimum standards needed for regulation that is nuanced and well-rounded. They also gave (non-AI)

On the other hand, a distributed model may also have issues pooling expertise and knowledge as each market surveillance authority is segregated in its own area, making coordination difficult.

Centralised model

Although the above considerations are relevant, a centralised model,¹¹ if implemented correctly, could avoid these pitfalls and be able to effectively harness sectoral expertise while also benefiting from the various advantages that a centralised model could bring. The Data Protection Commission, although it is a centralised authority responsible for data protection in Ireland, regularly consults with experts from various sectors when drafting its guidance notes. It has also committed to increased stakeholder and sectoral expertise engagement in its strategy,¹² which was well received by those parties.¹³ A centralised authority could emulate these models in order to maximise: (a) its utility of sectoral expertise, and (b) stakeholder engagement.

Democratising oversight within a centralised system can lead to better outcomes than a fully distributed system in that accountability is more representative of society. This approach fits into a reflexive system of governance which gives voice to all sectors of society.¹⁴

Further considerations

Any national regulatory model introduced by the Department should have a strong focus on engaging with stakeholders such as researchers from academia, expert organisations and consumer advocacy organisations. In addition, the Law Society recognises that the general public are also important stakeholders in the development of safe, effective, well-regulated AI systems. The Department might also consider creating a regulatory framework that is particularly aware of the needs of the public. For example, national competent authorities might be required to have an online feedback and complaints portal aimed at the public.

As noted by the International Association of Privacy Professionals (IAPP), AI is not a static product and its regulation requires continuous adaptation. Accordingly, the AI Act and its provisions need to be flexible: it is a framework that will be continually built upon and expanded by the EU (see answer to Question 3). In this sense, the Irish stance on the Act should remain agile. Maintaining a continued dialogue with sectoral expertise and stakeholders is particularly important given the fact that AI is an emerging and rapidly developing technology. The Law Society wishes to emphasise that, together with its Intellectual Property & Data Protection and Technology Committees, it is happy to offer expertise, feedback and support on any national implementation measures being devised by the Department in the coming years.

Finally, Recitals 105 to 109 of the AI Act require that the providers of GPAI models put in place policies to comply with the requirements of EU copyright and related rights law. In particular,

examples of this in the US, such as the US Federal Aviation Administration – see the [AI Now Report 2018](#) (AI Now Institute, December 2018) at page 4. The same is true in Ireland, with a variety of different organisations possessing expertise in their own respective areas.

¹¹ Like with the AESIA in Spain, or CNIL in France.

¹² Draft Regulatory Strategy for 2021-2026 (Data Protection Commission).

¹³ Regulatory Strategy: Consultation Feedback Report, pgs 9-10. Available at:

https://www.dataprotection.ie/sites/default/files/uploads/2021-12/Regulatory%20Strategy_Final%20Consultation%20Report.pdf

¹⁴ Labhaoise Ní Fhaoláin, Vivek Nallur and Colin Scott, 'Promoting Social Justice through the Reflexive Governance of AI' in Karine Gentelet (eds), *Considering Artificial Intelligence Through the Lens of Social Justice* (Presses de l'Université Laval 2023).

the consent of rights holders is required to the text and data mining of copyright works, unless the exception under Article 4 of the Copyright Directive EU (2019/790) applies and the rights holders have not reserved their rights in the appropriate manner including in machine readable form for online content under the provisions of Article 4(3) of that Directive.

These matters are of great concern to Irish creative industries which rely extensively on the integrity of copyright and related rights law to protect their products and services. Any regulation of AI in Ireland needs to ensure that the transparency requirements in the AI Act related to text and data mining and the provisions of Articles 3 and 4 of the Copyright Directive are fully reflected in the regulatory regime.

B. Ensuring that any national competent authorities are well resourced

It is made explicit under the AI Act that all national competent authorities should have access to the suitable expertise in AI, personal data protection, cybersecurity, fundamental rights, health/safety risks and knowledge of existing standards and legal requirements. They must also be provided with adequate technical, financial and human resources by Member States. These authorities must also ensure an adequate level of cybersecurity.

Accordingly, there is a positive obligation contained in the AI Act for a Member State to keep any national competent authorities well-resourced including with technical know-how. This might pose a particular set of challenges as a solution is not as simple as shifting resources to authorities. Technical capabilities are often concentrated in a small number of private sector organisations that pay large salaries compared to those offered in regulatory bodies (regulatory bodies being the primary candidates for Ireland's future national competent authorities). The AI Act also requires agents involved in product safety regulation to assess risks to fundamental rights.¹⁵

Regulating product safety is substantially different than the assessment of risks to fundamental rights, and this difference will necessitate the contracting of external expertise or internal staff training. Both of these outcomes are very resource-intensive and will likely necessitate the procurement of external assistance. It is also acknowledged that the resource issue is exacerbated by the introduction of, among other instruments, the Digital Services Act which imposes additional burdens on regulators that cannot be easily rectified by increased funding.¹⁶ This is despite the fact that there are potential synergies between the AI Act and the Digital Services Act (see answer to Question 2).

The Department should take into account the above concerns when considering how to implement the AI Act. The Department should prioritise the public interest by protecting fundamental rights above all else, ensuring that the development of AI is transparent and ethical. The Law Society would caution that an overreliance on private sector actors could increase the risk of regulatory capture whereby AI is regulated in a manner that benefits and protects deployers and providers of AI systems, rather than the general public who are most at risk of having their private information mishandled or reputations damaged by AI misuse.

Resourcing issues should therefore be carefully considered by the Department. It is not simply a financing issue that can be solved with additional funding: the Department should put a strategic focus on supplying a future regulatory infrastructure with the right knowledge and expertise. All future regulatory bodies should be aided directly by the Department in the sense

¹⁵ Marco Almada and Nicolas Petit, 'The EU AI Act: A Medley of Product Safety and Fundamental Rights?' (European University Institute - Robert Schuman Centre for Advanced Studies, 2023), pgs 22-23.

¹⁶ Ibid.

of providing not just funding, but also the means of acquiring, hiring and retaining talent in the form of AI specialists and researchers.

The Law Society recognises this is a challenge and it would take a substantial amount of time and effort to build up this infrastructure. The Department might look to the DPC as a useful model as the DPC possesses a substantial amount of expertise while being the sole data protection authority in Ireland. The DPC also works effectively with third parties from a wide range of backgrounds to rectify any areas in which it might lack expertise or knowledge. The DPC's substantial bank of expertise and experience makes it a good candidate to be the main enforcer or co-enforcer of the Act's provisions, depending on the final approach taken by the Department.

This being said, the Law Society also recognises the huge potential of AI when developed safely and used responsibly. The Law Society fully recognises the worth of 'regulatory sandboxes'¹⁷ (which have been implemented in other jurisdictions¹⁸) for the development of groundbreaking AI systems. The AI Act requires Member States to set up regulatory sandboxes for the testing of AI innovations.¹⁹ Accordingly, the Department should give strong consideration towards fully resourcing these initiatives with the necessary human capital and financial support.

The Law Society would also recommend that the Department, when implementing the AI Act, should seek to facilitate an interplay between academia and NGO resources to maintain this focus on the protection of fundamental rights in the public interest. Although AI regulation also has a product safety dimension, the ethos of the AI Act (like the GDPR) emphasises a rights-based approach focusing on individual rights to privacy and dignity. Accordingly, the Law Society would recommend that the Department strongly prioritise the protection of fundamental rights by robustly resourcing any future national competent authority or authorities and organising them in such a manner to vindicate the rights of the public.

C. Facilitating communication and coordination between national competent authorities

One potentially significant concern associated with a decentralised model is that it would make coordination and communication between national competent authorities difficult. Such issues would generally not be present in a centralised model as all the components of a central regulator would be able to easily exchange information and coordinate their efforts under a singular strategy.

At EU-level, the EU will coordinate the work of national supervisory authorities and the Commission via the European AI Board (**EAIB**).²⁰ If adopting a more distributed model of regulation, a system similar to this could be implemented by the Department whereby a national-level AI Board or Commission could coordinate various national competent authorities and enable the sharing of information from one organisation to another.

It may be worthwhile to note that the EU requires at least one notifying authority, one market surveillance authority, and one single point of contact. A model in which all of these authorities are separate might present communication and logistical challenges, and could lead to

¹⁷ A testing ground for AI where regulatory restrictions have been loosened, within a controlled environment. See response to Question 3.

¹⁸ See, for example Filippo Bagni, 'The Regulatory Sandbox and the Cybersecurity Challenge: from the Artificial Intelligence Act to the Cyber Resilience Act' (Rivista italiana di informatica e diritto, 2023) pgs 205-207.

¹⁹ Article 57.

²⁰ Article 65.

unnecessary bureaucracy and inefficiency. A centralised approach would certainly have an advantage in this sense, assuming that the centralised approach involved a singular notifying authority, market surveillance authority and single point of contact concentrated in one national competent authority. This would also facilitate the liaising of Ireland's AI regulatory landscape with the EAIB.

D. Improving access to justice

It is the view of the Law Society that any national implementation of the EU AI Act would be undermined if such an implementation did not adequately consider access to justice.

Under Article 85, the EU AI Act does contain provisions that allow individual members of the public to lodge a complaint directly with a market surveillance authority, without prejudice to other administrative or judicial remedies. The Law Society sees this as a very positive aspect of the AI Act. There are no restrictions placed on this right: an individual who makes a complaint might not necessarily have conventional legal standing.

The legal system ought not to be the sole means by which members of the public seek to lodge their complaints. The implementation of this guaranteed right to lodge a complaint, although positive, must be seriously considered by the Department when constructing the new regulatory framework around AI as certain modes of national implementation might interfere with the intended nature of this right making it difficult for an individual to make a complaint.²¹ The process for making a complaint should be as streamlined as possible to make the process accessible for members of the public.²² The Government might also consider providing an explicit right for civil society organisations to bring a complaint on behalf of an individual or group of individuals.

Having a single point of contact for the public would help with access to justice through the complaints mechanism, although the Department might also consider other alternative approaches for complaint-making. The Ada Lovelace Institute, for example, has proposed the piloting of an AI Ombudsman role in the UK.²³ This would allow complaints to be coalesced in one Office in the event the Department pursues a distributed model. In the event the Department pursues a centralised model, having an AI Ombudsman might help alleviate backlogs in complaints as well as allowing the Ombudsman to collaborate with Ombudsmen from other sectors of Irish economy and society. Related to this, Ireland has already implemented an Ombudsman mechanism across various areas.²⁴ It might be beneficial for the Department to investigate the possibility of such a position for AI as this role could enhance access to justice by creating a forward-facing and proactive Office dedicated solely to the investigation of complaints.

²¹ In a distributed model of national implementation it may be unclear, depending on how such a model is implemented, where a person should make a complaint particularly where the alleged abuse of AI might span multiple areas (such as finance and health). In a centralised system, an individual would only need to make a formal complaint on misuse of AI to a single competent authority.

²² For example and as mentioned before, the Department might require national competent authorities to implement an online complaints and feedback portal for the public and require them to regularly consult their users. Once the Department decides on a model regulatory framework, they might also invite feedback from the public and publish a roadmap for implementation so that the general public can view the progress on its implementation.

²³ Regulating AI in the UK (Ada Lovelace Institute, July 2023) pgs 29-30. Available at: https://www.adalovelaceinstitute.org/wp-content/uploads/2023/09/ALI_Regulating-AI-in-the-UK_2023.pdf

²⁴ Including the [Financial Services and Pensions Ombudsman](#), the [Office of the Ombudsman](#) (which investigates complaints against public service providers) and the [Garda Síochána Ombudsman Commission](#) (soon to be rebranded as [Fiosrú – the Office of the Police Ombudsman](#)) which deals with complaints against members of the Gardaí.

Question 2: The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to digital markets, services and infrastructure?

Answer:

There are potential synergies between the implementation of other EU Regulations (applying to digital markets, services, and infrastructure) and the AI Act.

- **The AI Act and the General Data Protection Regulation**

Potential synergies exist between the implementation of the AI Act and the General Data Protection Regulation (**GDPR**). While the two regulations address different entities — the GDPR outlines obligations for data controllers and processors, while the AI Act targets providers and users of AI systems—organisations must carefully map these concepts to determine which parties are subject to the requirements of the AI Act, GDPR or both. This is particularly important due to the overlapping aspects of the two regimes, especially regarding (1) bias and discrimination, (2) risk assessments, and (3) solely automated decision-making.²⁵

For example, a company (A) that processes personal data to train a new AI system, functions both as a provider under the EU AI Act and as a controller under the GDPR. This dual role arises because the company is developing a new AI system and is making decisions about how to process personal data for the purpose of training it.²⁶ Following on from the first example, if a company (B) that purchases the AI system from company A (as described in Example 1) and uses it in a manner involving the processing of personal data (such as a chatbot for customer interactions or an automated recruitment tool) it will act as both a deployer under the EU AI Act and a controller under the GDPR for its own personal data processing. This means company B is not responsible for the personal data originally used to train the AI system but is responsible for any data it uses in conjunction with the AI.²⁷

Clearly, organisations deploying AI systems will need to be well-versed in both the AI Act and the GDPR. Organisations may need to adopt more proactive measures to ensure compliance with the AI Act, such as conducting regular risk assessments and implementing robust data governance frameworks. This proactive stance will be critical to avoiding enforcement actions. When complying with both Acts, synergies in implementation will become apparent including in the following ways.

Data protection authorities and the implementation of the AI Act

Before the EU AI Act, EU data protection authorities (**DPAs**) were among the first regulatory bodies to take enforcement actions against the use of AI systems. These actions were based on various concerns, particularly the lack of a legal basis for processing personal data or special categories of personal data, lack of transparency, abuses in automated decision-

²⁵ See <https://www.euaiact.com/key-issue/6>

²⁶ See <https://privacymatters.dlapiper.com/2024/04/europe-the-eu-ai-acts-relationship-with-data-protection-law-key-takeaways/#:~:text=Human%20oversight%20under%20the%20EU,legal%20or%20similarly%20significant%20effects.>

²⁷ Ibid.

making, failure to fulfil data subject rights, and issues with data accuracy.²⁸ The introduction of the EU AI Act is likely to change the enforcement landscape for AI systems in several significant ways compared to the previous actions taken by DPAs.

- Specific Requirements for AI Systems: The EU AI Act introduces specific requirements for different categories of AI systems, such as high-risk AI. These requirements include risk management, data governance, transparency, and human oversight. This specificity will likely lead to more detailed and targeted enforcement actions by DPAs and authorities established under the AI Act. In addition, the AI Act places particular emphasis on high-risk AI systems, which are subject to stricter requirements. This focus means that enforcement actions will likely target these systems more rigorously, ensuring that they adhere to the highest standards of safety and accountability as required by EU regulations.
- Enhanced Transparency Obligations: The AI Act mandates higher levels of transparency from AI providers and deployers, requiring them to provide clear information about the operation and purpose of AI systems. This increased transparency will enable more effective monitoring and enforcement by regulatory bodies, including DPAs.
- Increased Penalties and Sanctions: The EU AI Act is expected to introduce stringent penalties for non-compliance, similar to the GDPR. These increased penalties can act as a stronger deterrent against violations and encourage organisations to prioritise compliance. Penalties under multiple EU regulations will create a synergistic deterrent effect whereby the risk of non-compliance with multiple regulations brought on by a single violation could mean heavy fines that not even the largest corporations can afford to ignore.
- Collaboration Between Authorities: The AI Act encourages collaboration between different regulatory bodies, including DPAs and those overseeing AI regulations. This collaborative approach can lead to more comprehensive and coordinated enforcement actions. Enforcement bodies will be able to collaborate on complex enforcement actions, bringing additional resources to bear on violators. Moreover, multiple agencies overseeing the sector will mean that less violations go unnoticed by regulators, and regulatory bodies can inform each other of violations that might not be solidly within their regulatory scope.

Furthermore, as DPAs develop their enforcement policies influenced by public concerns, and with the growing public awareness and interest in AI, it is likely that DPAs will increasingly focus on AI.²⁹ Overall, the EU AI Act is set to create a more structured and rigorous enforcement landscape for AI systems, addressing a broader array of concerns and ensuring higher standards of accountability and transparency that will benefit the implementation and enforcement of the GDPR and other EU regulations.

It has been noted previously in this submission that certain models of AI regulation could lead to DPAs being enforcers of the provisions of the AI Act. The EU AI Act mandates that each Member State designate one or more national competent authorities responsible for supervising the application and implementation of the Act. These authorities will also be tasked with conducting market surveillance activities to ensure compliance with the new regulations. The national competent authorities will receive support from the European Artificial Intelligence Board and the European AI Office. The European AI Office's most significant duty

²⁸ See <https://privacymatters.dlapiper.com/2024/04/europe-the-eu-ai-acts-relationship-with-data-protection-law-key-takeaways/#:~:text=Human%20oversight%20under%20the%20EU,legal%20or%20similarly%20significant%20effects>.

²⁹ Ibid.

is to enforce and supervise the new rules for general-purpose AI models, ensuring that these models adhere to the standards set out in the AI Act. The potential appointment of the Data Protection Commission (**DPC**) as the main enforcer or co-enforcer of the EU AI Act would reinforce the existing relationship between the EU GDPR and the EU AI Act. This would create a cohesive regulatory framework, leveraging the expertise of DPAs in handling data protection and privacy issues to oversee the responsible deployment and use of AI systems across the EU. It is noted that the Spanish AESIA, mentioned earlier in this submission, cooperates extensively in this manner with the Spanish data protection authority (AEPD) by sharing expertise and knowledge.

Conformity assessments and fundamental rights impact assessments under the AI Act and the data protection impact assessments under the GDPR

The AI Act requires conformity assessments to ensure that providers adhere to its requirements for the safe development of high-risk AI systems.³⁰ These conformity assessments are not risk assessments; instead, they serve as demonstrative tools to verify compliance with the EU AI Act's stipulations. Furthermore, the AI Act requires a fundamental rights impact assessment (**FRIA**). The purpose of a FRIA is to identify and mitigate risks to the fundamental rights of individuals arising from the deployment of an AI system. In addition to the above requirements, it is likely that AI systems will be subject to data protection impact assessments (**DPIAs**), as mandated by the GDPR, for high-risk personal data processing activities. According to Article 35 of the GDPR, data controllers must conduct DPIAs when processing activities are likely to pose a high risk to the rights and freedoms of individuals.³¹

AI providers may not always be able to predict all potential uses of a system. Even if a provider's initial assessment deems the system not high-risk under the AI Act, this does not preclude a subsequent data protection impact assessment by the user. Consequently, the same AI system might be subject to varying risk management requirements and classifications under different laws. In this way, providers of high-risk AI systems may also need to conduct a DPIA concerning the use of personal data during the development and training of the system. In this context, the technical documentation prepared for conformity assessments can help establish the factual basis for a DPIA. Similarly, this technical information can assist a deployer of the AI system who is required to conduct a DPIA related to its use.

The synergy between the GDPR and the EU AI Act lies in their complementary focus: while the GDPR emphasises the need for DPIAs to protect individual rights and freedoms, the EU AI Act mandates conformity assessments to ensure the safe development of AI systems. This dual framework ensures that AI systems are both compliant with safety standards and considerate of data protection principles, requiring AI providers and users to navigate and harmonise these overlapping regulatory landscapes effectively.

Some organisations, particularly so in the case of larger organisations, already have governance mechanisms in place that bring together legal, IT and business professionals for impact assessments like the DPIA.³² In these organisations, those existing structures can also be utilised for conducting assessments mandated by the AI Act. Similar to a DPIA, the initial step in conducting an assessment under the AI Act is likely a pre-screening to identify the use

³⁰ AI Act, Title III, Chapter 2.

³¹ See <https://www.euaiact.com/key-issue/6>

³² Small and medium enterprises may not already have these governance mechanisms in place, necessitating Government aid and support. See the answer to Question 3 for further discussion on this.

of a high-risk AI system that falls within the scope.³³ In addition, if obligations related to fundamental rights impact assessments under the AI act are already addressed through the GDPR's data protection impact assessments), then these assessments should be conducted in parallel.³⁴ It is unlikely, however, that a DPIA will cover all the obligations required of FRIAs. FRIAs under the AI Act have a broader material scope because DPIAs typically focus on a single fundamental right: data privacy. In contrast, FRIAs must address a wide array of fundamental rights, which can be particularly challenging due to the inherent complexity of AI systems.³⁵

- **Synergies between the implementation of the AI Act and the Digital Services Act package**

The Digital Services Act (**DSA**) and the AI Act fundamentally address different aspects of technology regulation. The AI Act primarily governs AI technology, while the DSA regulates intermediary services, including online platforms. While the development of the DSA occurred when Generative AI was still emerging and although the DSA and AI Act were enacted separately, the regulation of platforms and the use of AI systems are becoming increasingly interconnected as acknowledged in the AI Act's preamble. Determining the legal framework applicable to issues at the intersection of AI and platform regulation may require efforts to harmonise these two distinct but parallel pieces of legislation.

The DSA encompasses three broad categories of intermediary services: conduit, caching, and hosting. Generally, standalone AI services such as generative AI, which create new content based on user prompts, do not fall into these categories.³⁶ However, the distinction between standalone large language models performing exhaustive internet searches and traditional search engines has become increasingly blurred. For instance, Google's recent introduction of AI Overviews transforms its traditional services by providing users with AI-generated answers drawn from web information, aiming to directly present the sought-after information instead of just listing links.

Moreover, interpersonal communication services, like emails or private messaging services, fall outside the DSA's scope for hosting services and are subject to specific requirements only when operating through public groups or open channels.³⁷ Consequently, AI chatbots facilitating individual user interactions on online platforms are generally excluded from the DSA rules applicable to the main service. A more complex scenario arises when generative AI products are integrated into platforms subject to the DSA and offered as a specific service. These tools may prompt or assist in creating new content, such as text and images, involving some level of human intervention.

Synergistic regulation of systemic risks in the DSA and the AI Act

³³ See <https://privacymatters.dlapiper.com/2024/04/europe-the-eu-ai-acts-relationship-with-data-protection-law-key-takeaways/#:~:text=Human%20oversight%20under%20the%20EU,legal%20or%20similarly%20signifi cant%20effects.>

³⁴ AI Act, Article 29a.

³⁵ See https://www.technologysleage.com/2024/03/fundamental-rights-impact-assessments-under-the-eu-ai-act-who-what-and-how/?_gl=1*2kv90j*_ga*MTg3MjEwMzgzcOC4xNzE4ODcyNjQ3*_ga_NF3H0849M0*MTcxOTIzNjEyN S4zLjEuMTcxOTIzNjEyOC42MC4wLjA.

³⁶ See <https://www.techpolicy.press/the-digital-services-act-meets-the-ai-act-bridging-platform-and-ai-governance/>

³⁷ Ibid.

A key area where the AI Act and the DSA intersect is in the obligation to assess and mitigate "systemic risks" as outlined in both laws.³⁸ This obligation requires both AI system providers and digital service intermediaries to conduct thorough risk assessments to identify potential harms that their technologies or services could pose to users and society at large. The aim is to implement measures that mitigate these risks, ensuring that their operations do not negatively impact areas such as user safety, public health, democratic processes or fundamental rights. The systemic risks include not only technical failures and security vulnerabilities but also broader societal impacts, such as the spread of misinformation, discrimination, and threats to freedom of expression. Consequently, both the AI Act and the DSA emphasise the importance of accountability and proactive risk management to create a safer and more transparent digital environment.

Once in effect, the AI Act will require providers of general-purpose AI models with systemic risks to assess and mitigate these risks. General-purpose AI models, which are trained on large datasets and capable of performing a wide range of tasks, are considered to have systemic risks if they possess high-impact capabilities. Industry experts have noted that this criterion will include many current models.³⁹

The DSA, adopted in 2022 and fully applicable since February 2023, also mandates that Very Large Online Platforms (**VLOPs**) and Very Large Online Search Engines (**VLOSEs**) assess and mitigate "systemic risks." Although the definition of systemic risks in the AI Act and the DSA are not identical, they share many similarities.⁴⁰ The AI Act explicitly states that AI systems integrated into VLOPs or VLOSEs must adhere to the risk management framework of the DSA.⁴¹ Furthermore, the AI Act stipulates that if AI models comply with the systemic risk obligations outlined in the DSA, they are also presumed to meet the requirements of the AI Act, provided no significant systemic risks not addressed by the DSA arise.

The recitals of the AI Act indicate that the authorities designated under the DSA should also serve as enforcement authorities for the AI Act's recommended system provisions.⁴² Practically, for VLOPs, this implies that the DSA Compliance Officer may play a significant role in regulatory interactions concerning the AI Act.

³⁸ See <https://www.techpolicy.press/the-digital-services-act-meets-the-ai-act-bridging-platform-and-ai-governance/>

³⁹ See <https://aibusiness.com/responsible-ai/eu-ai-act-would-scrutinize-many-general-ai-models-sxsw-2024>

⁴⁰ See <https://www.techpolicy.press/the-digital-services-act-meets-the-ai-act-bridging-platform-and-ai-governance/>

⁴¹ See <https://legalbriefs.deloitte.com/post/102ierr/eu-ai-act-implications-for-vlops-and-digital-services-act>

⁴² Ibid.

Question 3: Harnessing Digital – The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Answer:

A. How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI?

Regulatory sandboxes

Ireland is the only major English-speaking common law jurisdiction in the Eurozone. In addition to hosting large tech and pharmaceutical companies, Ireland also has a strong foundation of educational excellence particularly in the technological fields which forms the basis of a very effective supply chain of human capital. Irish third-level STEM graduates per 100,000 people are the highest in Europe. Ireland already possesses substantial financial incentive for R&D and has encouraged a strong industry cluster environment supporting collaboration between corporations and researchers. These offerings mean that Ireland is uniquely and strongly positioned to leverage investment and innovation in AI as a leading Digital Economy.⁴³

Article 57 of the AI Act requires that Member States establish at least one regulatory sandbox at a national level. These regulatory sandboxes are permitted to be established jointly with the national competent authorities of other Member States. Article 57.2 allows Member States to establish additional regulatory sandboxes at regional or local levels on their own volition. These sandboxes may also be given technical support, advice and tools by the European Commission.

Regulatory sandboxes have the potential to increase investment and accelerate innovation in AI in Ireland. The Government could look at establishing collaborative initiatives with other Member States to pool resources and expertise, in order to maximise the effectiveness of these regulatory sandboxes. In addition, direct Commission support for these sandboxes could help alleviate existing concerns about access to resources and talent.

Under the Digital Ireland Framework the Government has committed to promoting the creation of testbeds and regulatory sandboxes for AI (and other digital technologies).⁴⁴ The AI Act imposes a requirement on Member States to establish at least one such sandbox. The Government could consider establishing a number of regulatory sandboxes allowing for innovation in particular narrow areas. For example, in the UK both the [Financial Conduct Authority \(FCA\)](#) and the [Information Commissioner’s Office \(ICO\)](#) have established regulatory sandboxes relating to AI solutions in their respective areas. The FCA sandbox is fintech-

⁴³ The Law Society is actively involved in promoting Ireland’s advantages as a venue for international legal work, emphasising its competitiveness and its attractiveness in relation to the rule of law, through its support for [Ireland for Law](#). The Ireland for Law initiative is also supported by the IDA, the Bar of Ireland and the Department of Justice.

⁴⁴ Page 13.

focused but it also admits AI solutions with applications in the financial sector, whereas the ICO sandbox includes a focus on AI and privacy-related solutions. In France, the CNIL has established a personal data sandbox calling for projects in the field of health (which includes AI in that sphere). The German Government, in accordance with its AI strategy and via the coordinating office for Regulatory Sandboxes at the Federal Ministry for Economic Affairs and Climate Action, established and is planning to establish multiple regulatory sandboxes⁴⁵ (for particularly granular applications⁴⁶). Numerous firms and colleges in Ireland have also independently started their own AI innovation programmes, including AI incubators which, although not the same as a formal regulatory sandbox, operate on similar principles.⁴⁷

A tailored regulatory sandbox could be established specifically for the development and testing of AI to be used in legal contexts.

AI systems for Legal Aid efforts

The Law Society, having a strong interest in improving access to justice, notes that it has been previously argued that there is strong potential for AI to enhance the administration and provision of legal aid in Ireland, but that these efficiencies come with risks, especially if AI is used to make decisions that affect individual rights (i.e. whether to grant or deny requests for criminal legal aid) without human oversight,⁴⁸ meaning that testing AI tools designed to improve legal aid outcomes in the real world might be excessively risky.

A low-risk regulatory sandbox used for the express purpose of testing AI systems for use in the provision of legal aid would be an ideal method by which any shortcomings of such AI could be ironed out in advance of any deployment of such systems. These systems may be classified as high risk under the Act meaning that extensive testing and regulation is a must, although their potential utility to the streamlining of the legal aid process is evident. A regulatory sandbox like this, contained under a broader, law-related regulatory sandbox could be resourced by the Commission and could be conducted with cross-Member State cooperation.

Supporting and nurturing small and medium enterprises (SMEs)

Under Article 62, Member States are required to give priority access for SMEs and start-ups to any regulatory sandboxes established under the Act. Ireland is, [according to a report by PwC](#), already a highly attractive jurisdiction for business. It seems likely that the correct implementation of AI regulation could improve Ireland's attractiveness even further.

If the Government were to introduce a dedicated regulatory sandbox for AI with legal applications, this would be an important aspect of the AI Act's implementation as, in

⁴⁵ Regulatory Sandboxes in Artificial Intelligence (OECD Digital Economy Papers, July 2023), pgs. 30-32. Available at: <https://www.oecd-ilibrary.org/docserver/8f80a0e6-en.pdf?expires=1719389902&id=id&accname=guest&checksum=F7D7556BABA846BAD579710869A799F>

⁴⁶ Including (a) a regulatory sandbox, established in Hamburg, for the specific purpose of testing an autonomous delivery robot and (b) a regulatory sandbox focused specifically on automated driving.

⁴⁷ UCD, for example, [has created an AI accelerator programme for start-ups and entrepreneurs](#) aiming to support them in developing AI solutions in key sectors such as healthcare and finance. [Intel created an AI incubator partnership with DCU at Talent Garden Dublin in 2018](#), aimed at providing technical support and guidance to AI innovators. Finally, Expleo (a global engineering, technology and consulting services provider) [invested €1 million to launch an AI centre of excellence in 2024](#). This AI centre aims to gather more than 380 experts to help businesses adopt AI including generative AI and AI involved in fraud detection.

⁴⁸ See <https://www.lawsociety.ie/gazette/top-stories/2024/may/human-oversight-key-to-fair-use-of-ai-in-legal-aid>

comparison to smaller organisations, larger firms have easy access to resources and talent. In the future this would lead to a lopsided adoption of legal AI in Ireland, something that could prejudice smaller firms. Large law firms are already taking the initiative by extensively collaborating with AI providers (such as [A&L Goodbody](#) and [McCann FitzGerald](#) announcing partnerships with Harvey AI). The option of extensively cooperating with an AI provider is not available to small and medium firms meaning easy access to regulatory sandboxes would help to reduce the ever-widening AI gap in the legal industry. Smaller firms could maximise their engagement with these sandboxes through the medium of industry clusters encouraged by the Government for the exact purpose of facilitating the development of AI tools.

Small and medium firms in Ireland are extremely important, particularly in rural communities and in smaller towns where they are often the sole providers of legal services to the public. Maintaining the competitiveness of these firms is of particular importance. To this end, the Government might seek to leverage all relevant EU financial aid via the Digital Europe programme to support SMEs throughout the economy but particularly in the legal sphere. The legal profession in Ireland is well positioned to play a leading role in the use of ethical AI and this prospect can be enhanced through robust Government financial and technical support as well as funding at the EU level. Targeted supports for SMEs would be key to minimise the AI technology gap. The Government should strive to avoid the formation of a two-tier economy where some firms, due to an inherent advantage in financial resources or expertise, have a substantial advantage in leveraging new AI tools relative to smaller firms.

This access for small and medium firms would coincide with the Government's commitment in the Framework to develop a comprehensive programme of digitalisation across enterprise (with a particular focus on SMEs),⁴⁹ running from 2022 to 2026. The Law Society notes that the Government has also committed to funding this programme with the €85 million Digital Transition Fund and by leveraging the [National Recovery and Resilience Plan](#) to give particular attention to SMEs. The Law Society welcomes these initiatives and believes that it will coincide well with the AI Act's focus on aiding SMEs in adopting AI tools in the future.

B. What would excellence in AI regulation look like?

AI regulatory excellency is achievable in Ireland given the unique characteristics of our jurisdiction. From the perspective of the Law Society, regulatory excellence would possess the following characteristics:

Certainty and flexibility

The nature of AI technologies present a series of problems that make it difficult for a democratic society to regulate them. Namely, in order to maintain legal certainty laws need to be clear, precise and fixed to an extent: but in the case of the regulation of a rapidly-moving technology like AI, laws need to have a degree of flexibility to adapt to changing circumstances. This is often expressed as a 'pacing problem' i.e. a gap between the pace of regulation and technological advancement.⁵⁰ One common criticism has emphasised regulators' inadequate understanding of complex and rapidly-developing AI systems.⁵¹

⁴⁹ Page 9.

⁵⁰ Stefan Larsson, Jockum Hildén and Kasia Söderlund, 'Between Regulatory Fixity and Flexibility in the EU AI Act' (Lund University, 2024), pgs 1-2. Available at: <https://portal.research.lu.se/en/publications/between-regulatory-fixity-and-flexibility-in-the-eu-ai-act>

⁵¹ Anu Bradford, 'The False Choice Between Digital Regulation and Innovation' (2024) 118(2) Northwestern University Law Review, p. 29.

AI is developing extremely rapidly with figures demonstrating that, since 2012, the amount of computing power used in the largest AI training runs has grown by more than 300,000 times.⁵² Of course, this dramatic and rapid increase in the capability of AI tools opens the potential for AI to be used in almost every sphere of life including in health, law enforcement and finance, and this necessitates a regulatory response in kind.

The AI Act itself contains flexible and ‘future-proof’ language and provisions, often bordering on ‘soft governance’ or anticipatory regulation. For example, the definition of AI in Article 3 is very broad leaving room for future interpretation. Article 69 of the Act also provides for voluntary codes of conduct that will be encouraged by the AI Office and Member States. As another example, the AI Act aims to introduce harmonised standards, established by European standard setting organisations (such as the European Committee for Standardisation), the primary function of which is to provide an example of how the essential requirements in the Act are to be interpreted on a detailed and technical level. When in conformity with these standards, a high-risk AI possesses the presumption of conformity with the AI Act.⁵³

If regulations on AI are too flexible, they lack certainty and if they are excessively rigid, they lack the agility to respond to a rapidly changing technology. The ideal AI regulatory landscape would be one that strikes a careful balance between flexibility and certainty.

Having both effective regulation and strong support for innovation and development

The Law Society believes that regulatory excellence and innovation are not mutually exclusive. It is entirely possible to construct an AI regulatory ecosystem that protects and cultivates individual rights as well as innovation. There is a common perception that European digital regulatory approaches, including in AI, stifle economic and innovation relative to the United States (which takes a more laissez-faire approach to regulation), for example.⁵⁴ Certain types of regulation, however, actively promote innovation (such as intellectual property protection) and innovation offsets produced by regulations can exceed the compliance costs of said regulations as companies find new ways to meet the demands of new regulations. New regulations may also encourage companies to join the market that would otherwise remain on the sidelines.⁵⁵ With regards to AI regulation, any costs of compliance may be offset if regulators help companies (particularly SMEs) with their compliance efforts.

Finally, creating trustworthy AI through effective regulation will lead to economic benefits as consumers will adopt AI as a consequence of trusting AI technologies that meet regulatory standards.⁵⁶ This will in turn attract the developers of AI tools to Ireland, boosting their revenues and allowing them to commit more resources to innovation which benefits the Irish AI landscape. Ireland should maintain its competitive advantage in Europe by leading in the development of AI tools, but this goal should not be pursued at the expense of public safety or data protection hence the need to synergise AI regulation with the GDPR (see answer to Question 2).

⁵² Hannah Ruschemeier, ‘AI as a challenge for legal regulation – the scope of application of the artificial intelligence act proposal’ (2023) 23 ERA Forum 361.

⁵³ Stefan Larsson, Jockum Hildén and Kasia Söderlund, ‘Between Regulatory Fixity and Flexibility in the EU AI Act’ (Lund University, 2024), p. 11. Available at: <https://portal.research.lu.se/en/publications/between-regulatory-fixity-and-flexibility-in-the-eu-ai-act>

⁵⁴ Anu Bradford, ‘The False Choice Between Digital Regulation and Innovation’ (2024) 118(2) Northwestern University Law Review, p. 12.

⁵⁵ Ibid, 20.

⁵⁶ Ibid, 30-31.

The Law Society has made several suggestions to improve and encourage innovation under regulations stemming from the AI Act, including giving easier access to regulatory sandboxes for SMEs. In relation to future-proofing regulations to provide for continuous strong protections of fundamental rights, the Government could also look towards international regulatory initiatives such as the US [Algorithmic Accountability Act](#) (which is more technology-neutral in principle than the AI Act) as inspiration. Aside from this, the implementation of the AI Act should provide for the involvement of civil society organisations in the monitoring of AI, particularly in view of their focus on the protection of fundamental rights.⁵⁷ In addition, market expertise (particularly from SMEs) is also crucial for making AI regulation supportive of innovation.

A strong focus on sustainability

One often overlooked aspect of AI training and usage is the cost to the environment. AI consumes large amounts of energy and water. By 2027, for example, it is estimated that the total energy consumption of AI is estimated to rival the energy demand of the Netherlands or Argentina. The creation of one single image using a leading image generation AI requires as much energy as charging a smartphone.⁵⁸ The Law Society strongly believes any future AI regulatory landscape must, in the public interest, emphasise the importance of environmental sustainability.

The Government could construct regulations in such a way that emphasises AI sustainability, for example, by requiring environmental impact statements and increased transparency in disclosing what resources are consumed by AI models. The Government could also consider introducing a dedicated AI sustainability regulation which places caps on the amount of power or water that AI tools consume. It could also complement this approach by encouraging the adoption of AI industry codes of conduct that have a strong emphasis on sustainability and particularly the minimisation of power usage for AI. These codes could be made semi-binding and could be very effective when used in conjunction with formal regulation.⁵⁹

Finally, if Ireland is to attain a competitive advantage in the development, training and operation of AI tools, its energy infrastructure must be well equipped to meet the needs of the AI industry. The Law Society notes that recent reports have suggested that Ireland's electricity supply is already restricted by rising demand and that Eirgrid expects that electricity supply and demand will be constrained in the next ten years.⁶⁰ If Ireland wishes to improve its position in relation to the hosting and development of advanced AI tools (particularly generative models) and become a European leader in AI, steps will need to be taken by the Government to correspondingly increase energy production.

⁵⁷ Marinós Kalpakos, 'Defining the Future: The AI Act's Potential in Equitably Safeguarding Fundamental Rights and Promoting AI Innovation' (UFITA, 2024) p. 165. Available at: <https://www.nomos-elibrary.de/10.5771/2568-9185-2023-1-128.pdf>

⁵⁸ Philipp Hacker, 'Sustainable AI Regulation' (European New School of Digital Studies, 2023). Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4467684

⁵⁹ Ibid, p. 21-22. Article 95 in fact allows Member States to draw up codes of conduct specifically aimed at minimising the environmental footprint of AI systems.

⁶⁰ 'Squeeze on electricity supply to last into 2030s, report finds' (Irish Times, January 2024). Available at: <https://www.irishtimes.com/ireland/2024/01/13/squeezed-electricity-supplies-may-force-state-to-fall-back-on-older-fossil-burning-power-plants-eirgrid-report/>

Question 4: AI – Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and social benefit; and Enablers for AI.

How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Answer:

The Law Society believes that Ireland’s future implementation of the AI Act offers significant opportunities to drive support and accelerate progress from each of the three perspectives under the National AI Strategy (the **Strategy**). Within these three broad headings there are eight ‘strands’ of progress.

A. Building public trust in AI

The Law Society notes that a substantial amount of progress has been made by the Government under this heading in the last few years, notably under Strand 1 – “AI and Society”. This progress includes the appointment of an AI Ambassador in May 2022 and the establishment of the National Youth Assembly on AI in October 2022.

The freedom given to the Member States by the AI Act allows Ireland to introduce a comprehensive and robust regulatory AI ecosystem (Strand 2 – “A Governance Ecosystem that Promotes Trustworthy AI”). The Government should consider the factors mentioned previously in this submission⁶¹ prior to introducing any regulatory framework. Ireland’s implementation of the AI Act will allow Ireland to exercise its soft power influence in the ‘multinational forum’ of the EU⁶² to advocate for an ethical, human-centred approach to AI (while also not sacrificing a commitment to innovation and technological progress) particularly if Ireland’s implementation of the Act involves a strong focus on cross-border cooperation with other Member States. This might be aided through collaboration with the Department of Foreign Affairs or other Departments as necessary.

The Strategy⁶³ mentions that the Government will seek to examine and promote ways to help businesses self-assess the trustworthiness of their AI systems. This will include the development of case studies and toolkits for SMEs and could be undertaken by the Department in conjunction with Enterprise Ireland. The success of this goal will depend on how the Government aims to implement Chapter X of the AI Act, which concerns voluntary codes of conduct. The Government could progress this strategic goal by developing codes of conduct on AI trustworthiness that would then be applied to businesses.

These codes could be developed collaboratively with organisations. For example, the Law Society is already aiming to ensure trustworthiness in legal AI by working to provide guidance on the deployment of AI systems. This Law Society guidance is aimed at professionals, particularly those in small and medium law firms. The guidance also promotes an ethical and human rights-based approach to AI governance. The Law Society welcomes any future collaboration with the Government on legal industry codes of conduct on the use of AI.

⁶¹ See answer to Question 1.

⁶² Page 7 of the Strategy.

⁶³ Ibid.

The Law Society also notes that the Department of Children, Equality, Disability, Integration and Youth will consider the implications of AI as part of a planned review of equality legislation. AI, if misused, could have serious implications on equality particularly in the context of law enforcement (including discriminatory practices such as over policing that might be exacerbated by AI if not properly regulated). As noted in this submission's answer to Question 2, Article 27 of the Act requires that a fundamental rights assessment must be conducted by certain deployers of high-risk AI systems prior to any deployment to the market.

Finally, this submission has already advocated that regulatory sandboxes should, as a concept, be utilised in Ireland. This would coincide well with the Strategy's stated aims to investigate the utility of these sandboxes for promoting innovation. Regulatory sandboxes could be trialled and analysed for successes or failures. The Law Society believes that SME access to these sandboxes should be prioritised.

B. Leveraging AI for economic and social benefit

This strategic perspective is divided into Strand 3 ('Driving adoption of AI in Irish enterprise') and Strand 4 ('AI serving the public').

This submission has already mentioned extensively how the Government, in implementing the AI Act, could leverage AI for economic and social benefit. Namely, the Government could make effective use of regulatory sandboxes, encourage AI to be environmentally sustainable, and ensure the protection of fundamental rights by facilitating fundamental rights assessments. The Law Society notes a commitment in the Strategy that the GovTech Delivery Board will consider the adoption of AI by the Public Service (Page 9).⁶⁴ The definition of high-risk AI systems, as specified in Annex III of the Act, includes systems used for migration and law enforcement, both areas that are governed by the Public Service (specifically, the Department of Justice). While welcome, AI used in these contexts should be carefully regulated and subject to human oversight, particularly if applied to the granting and administration of legal aid⁶⁵ or the administration of justice. The Act's risk-based framework will provide crucial guardrails within which the Government can accelerate leveraging AI to improve efficiencies and outcomes in the Public Service.

Page 11 of the Strategy includes a commitment to assist employers to expand workplace-focused AI upskilling and reskilling. The Law Society welcomes this commitment and believes that the introduction of national competent authorities under the Act will assist the implementation of this commitment as these authorities will be equipped with the tools necessary to aid with the upskilling and reskilling of Ireland's economy towards AI.

C. Enablers for AI

There are four Strands under this heading. These are "A strong AI innovation ecosystem" (Strand 5), "AI education, skills and talent" (Strand 6), "A supportive and secure infrastructure for AI" (Strand 7) and "Implementing the Strategy" (Strand 8).

⁶⁴ Including:

- (a) what appropriate safeguards are needed to ensure a secure system for AI development and use in the public service,
- (b) The approach to developing and promulgating principles for trustworthy AI which will apply to all AI developed for and used by the Public Service,
- (c) The development needs for AI talent in the Public Service,
- (d) Opportunities for public procurement of AI, using public purchasing power to drive innovation and growth in the development of ethical and trustworthy AI.

⁶⁵ See <https://www.lawsociety.ie/gazette/top-stories/2024/may/human-oversight-key-to-fair-use-of-ai-in-legal-aid>

This submission has already discussed means by which the Government's implementation of the AI Act can boost a strong AI innovation ecosystem focusing on SMEs, including permitting SMEs access to regulatory sandboxes and aiding them in upskilling/reskilling. As noted before, the AI Act intends to enhance cross-border cooperation between Member States on AI. This international collaboration will greatly assist in the development of tools and methodologies to develop a framework for trustworthy AI governance (Page 19 of the Strategy). Ireland already has a good record of cooperating with other EU Member States, including on data protection matters and enforcement via the [European Data Protection Board](#); this level of cooperation should be continued and expanded by the Government in the area of AI given its strong contemporary relevance and potential impacts on fundamental rights.

The Law Society notes that the Government has also committed to encouraging higher level education institutions to take a coordinated approach to delivering AI education and training.⁶⁶ As a leading provider of higher level legal education, the Law Society welcomes this commitment and looks forward to cooperating on this coordinated approach in the future. It is noted that the configuration of national competent authorities under the AI Act will be important for this goal as these will likely be the primary organisation(s) steering this coordinated approach.

It is important that any national competent authorities receive the necessary funding and access to expertise so that their efforts to provide for AI education at higher level are successful. It is also acknowledged that the Government is undertaking the drafting of guidelines for teachers and other educators outside of higher level education.⁶⁷ These guidelines are being informed through discussion with other Member States, a trend that should continue in all aspects of the implementation, enforcement and development of AI regulation giving the inherent benefits of pooling resources particularly with larger Member States.

The AI Act gives Ireland substantial leeway to figure out the ideal configuration of national competent authorities, meaning that Ireland has the freedom to pursue the ideal infrastructure for AI regulation. Part of this secure infrastructure is physical infrastructure. As the Strategy notes, it aims to provide "*sufficient computing power and storage capabilities*" for the development and operation of AI. As noted in the answer to Question 3, there are some concerns about the suitability of Ireland's energy infrastructure that may limit the capability of the jurisdiction to fully embrace its potential as a leader in AI technologies. Over time, it is likely that newer AI models will become more and more efficient and environmentally friendly but this will not occur without a strong focus on the part of the Government in regulating the energy and water usage of these technologies. Fortunately, the AI Act provides a toolset of environmental impact assessments that must be utilised by the Government to help adapt Ireland's infrastructure to this new, fast-growing technology.

⁶⁶ See <https://www.gov.ie/en/press-release/87b43-minister-foley-pledges-commitment-to-establishing-guidelines-on-the-use-of-ai/>

⁶⁷ See <https://www.irishexaminer.com/news/arid-41365471.html>

Conclusion

With this submission, the Law Society appreciates the opportunity to contribute towards the Department of Enterprise, Trade and Employment's consultation on the national implementation of the EU AI Act.

The national configuration of AI regulation is particularly important to both the interest of the legal profession and the public. Therefore, it is hoped that the Department takes into account the considerations and suggestions that are mentioned in this submission. The Law Society aims to be supportive of the considered implementation of AI into public life provided that this implementation is safe and revolves primarily around the protection of fundamental rights.

The Law Society remains available to assist the Department on any aspect of the future national implementation of the AI Act including the drafting of regulations on foot of the adoption of the Act. We are willing to meet in order to respond to any queries on the content of this submission and we will continue to make available AI in Law specialists to the Government.

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LinkedIn response to the Irish Department of Enterprise, Trade and Employment
Public Consultation on National Implementation of EU Harmonised Rules on
Artificial Intelligence (AI Act)

Introduction

LinkedIn is pleased to contribute to the Irish Department of Enterprise, Trade, and Employment ('the Department') consultation on the EU AI Act with our insights and recommendations to help shape the future of AI regulation in Ireland. LinkedIn joins Microsoft, our parent company, in this effort; this submission provides LinkedIn's views and is supplemental to the views set out in Microsoft's submission.

At LinkedIn, we are committed to harnessing the transformative potential of artificial intelligence (AI) to benefit individuals, organizations, and governments. Our vision is to create economic opportunity for every member of the global workforce, and our mission is to connect professionals worldwide to make them more productive and successful. We actively support the responsible development, adoption, and use of AI both in Ireland and globally.

We support the European Union's AI Act with its risk-based approach and recognise the Department's efforts in developing the 'AI - Here for Good' national strategy, appointing an AI Ambassador, and establishing the AI Advisory Council. These initiatives, including this consultation process, demonstrate a commitment to navigating the evolving AI landscape with care and purpose.

We appreciate the opportunity to provide feedback on the following questions in the consultation paper and welcome any follow-up discussions with the Department.

LinkedIn submission to the Department's consultation:

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges. **What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?**

The EU AI Act mandates the establishment of national competent authorities for its effective implementation. Each model presents unique advantages and challenges that need to be balanced to achieve optimal regulatory outcomes. We agree that Ireland must carefully consider the configuration of these authorities.

A central consideration should be the EU's "country of origin principle," which is crucial for enhancing Europe's competitiveness and the single market's functionality. It ensures that service providers are regulated by their home country's authorities, promoting regulatory consistency. This principle creates a streamlined environment, fostering a competitive and dynamic market that drives innovation and growth throughout the EU.

We believe a centralised model involving a single authority responsible for overseeing AI regulation across all sectors has several key advantages. First, AI technologies are inherently complex from a technical standpoint as well as rapidly evolving. Currently, the expertise required to understand and regulate these technologies is often limited and concentrated. A centralised authority can pool this expertise, ensuring that regulators are well-informed and capable of making nuanced decisions. Second, centralisation can help avoid conflicting interpretations of regulations across different sectors. Consistent guidance and enforcement reduce legal uncertainty for businesses and facilitate compliance. For example, under the General Data Protection Regulation (GDPR), differing interpretations by Data Protection Authorities (DPAs) in various Member states have created compliance challenges. Third, a centralised authority can streamline the regulatory process, ensuring that regulated entities are clear on the lead authority that is responsible for ensuring Ireland's transposition of the AI Act and coordinating with any provisions in the Act that might fall within the remit of other regulatory agencies. By adopting this model, the centralised authority can coordinate with other agencies and involve them as appropriate in industry engagements, depending on their specific regulatory remit.

On the other hand, a distributed model assigns regulatory responsibilities to different sector-specific authorities. While this approach may offer certain benefits, it also poses significant challenges. Distributed authorities can leverage specialised knowledge within specific sectors, potentially leading to more tailored and effective regulation. For instance, a regulator with deep expertise in healthcare AI may be better equipped to address unique challenges in that sector. However, ensuring consistent regulatory standards and interpretations across multiple authorities can be difficult. This could lead to discrepancies and conflicting requirements, complicating compliance for businesses operating in multiple sectors. Furthermore, a distributed approach requires each sector-specific authority to develop and maintain its own expertise in AI technologies. Given the current scarcity of AI expertise, this could undermine the overall regulatory effectiveness and increase the burden on businesses to engage with multiple authorities. Distributing regulatory responsibility across different authorities seems to run counter to the trend in Ireland in recent years of centralising regulatory authority in a single agency e.g. regulatory authority for financial services is now exclusively exercised by the Central Bank of Ireland; legal services are now regulated by the Legal Services Regulatory Authority.

When deciding on the configuration of competent national authorities, the Department should consider several factors. Centralising AI regulatory functions can help concentrate expertise, allowing for more effective and informed regulation. Over time, as understanding of AI expands, this expertise can be disseminated to sector-specific regulators if a shift to a more distributed model is deemed beneficial. To avoid the pitfalls observed with the GDPR, where divergent interpretations by DPAs have caused compliance issues and considerable uncertainty, a centralised model can ensure uniform application of AI regulations, providing clarity and predictability for businesses. Additionally, a centralised authority can efficiently manage limited resources. This can streamline the compliance process. Finally, centralisation can help maintain impartiality and prevent sectoral biases, ensuring that AI regulations are applied fairly across different industries.

Given the current state of AI expertise and the need for regulatory consistency, a centralised model is the most effective approach for the initial implementation of the EU AI Act in Ireland. As the regulatory landscape evolves and expertise becomes more widespread, the Department may consider transitioning to a more distributed model to leverage sector-specific knowledge. For now, we believe centralisation offers the best balance of expertise, consistency, resource efficiency, and fairness, supporting the responsible development and deployment of AI technologies in Ireland.

2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Yes. As the prompt suggests, the Digital Markets Act (DMA), Digital Services Act (DSA), GDPR, and Copyright Directive (EUCD) all interact with AI technologies in numerous ways. Identifying potential synergies between these regulations and the AI Act is crucial for effective and coherent implementation and is consistent with the obligation of sincere co-operation imposed by Article 4(3) of the Treaty on European Union.

Given the overlapping scopes of these regulations, there is an increasingly pressing need for clear coordination mechanisms to avoid regulatory conflicts and ensure coherent enforcement. Establishing clear lanes where one regulatory body has authority--and another does not--is crucial. EU regulators need clearly defined roles to manage AI-related activities effectively. Coordination across regulations is essential in areas where multiple regulations speak to the same topic, such as recommendations, profiling, automated decision-making, and the use of data for training. A unified approach can help align regulatory objectives and reduce compliance burdens on businesses.

Ireland has a unique opportunity to provide clarity where the EU's regulatory framework presents ambiguity. Although only a select few companies are subject to all regulations (e.g. the GDPR, DSA, DMA, and the AI Act), the boundaries between these laws can be challenging to navigate. By defining clear obligations for technology service providers and specifying which regulatory body oversees each set of obligations, Ireland can reduce confusion and enhance compliance. Providing clear guidance on compliance requirements can help companies better understand their responsibilities, thus improving overall compliance rates and achieving the objectives of the regulations without unduly hindering innovation.

Identifying and leveraging synergies between the AI Act and other EU regulations can enhance the effectiveness of the regulatory framework. The GDPR's data protection rules can be harmonized with the AI Act's requirements for data usage in AI training, ensuring that data is used responsibly while recognising that interpretation of those rules will need to be consistent to foster innovation. The DMA's focus on fair competition can complement the AI Act's goals by preventing market abuses related to AI technologies, encouraging a competitive and innovative market landscape.

To address these complexities, we suggest the establishment of a regulatory forum to enhance cooperation among data protection, competition, and digital safety regulators, as well as other relevant bodies. This approach can foster greater coordination on online regulatory matters and ensure that AI technologies are regulated effectively and coherently.

The implementation of the AI Act offers a significant opportunity to create synergies with other EU regulations like the DMA, DSA, GDPR, and the EUCD. Through clear coordination mechanisms and defined regulatory boundaries, Ireland can lead in providing clarity and thus fostering compliance by regulated entities. This will not only enhance regulatory effectiveness but also promote innovation and ensure that AI technologies are developed and deployed responsibly. By aligning the objectives and requirements of these regulations, Ireland can help create a cohesive and efficient regulatory environment that supports the EU's goals of consumer protection, market strength, and technological leadership.

3. Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. **How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?**

One of the primary challenges in AI regulation is the ambiguity and lack of clarity in regulatory overlaps. Over the coming years, companies will struggle to understand compliance requirements, not only in the EU but at a global scale. To address this at the EU-level, Ireland should provide proactive guidance by issuing clear and detailed information on regulatory expectations and compliance requirements. This includes industry-specific guidelines that help companies understand their obligations and how to meet them. Additionally, initiating enforcement only after providing sufficient guidance and engaging with regulated entities will allow companies to adapt to new regulations without fearing immediate penalties, particularly when it is unclear to regulated entities how to meet the compliance standards of the regulator. This approach encourages voluntary compliance and fosters a cooperative and collaborative regulatory environment.

Ensuring a level playing field for businesses of all sizes is a critical aspect of effective regulation. Offering regulatory support and resources to both small and large companies ensures that smaller businesses can compete fairly. This may include providing free resources and support to SMEs, helping them navigate an increasingly complex regulatory landscape. Furthermore, regulatory scrutiny should be heaviest on AI systems with the highest potential for negative impact. This harm-focused approach, which aligns with the intent and language of the AI Act, ensures that regulatory efforts are directed where they are most needed, reducing risks associated with AI deployment.

To effectively regulate AI, it is essential that the regulatory framework considers the latest technological advancements and industry practices. Collaboration with technology experts, including from industry, in the development of best practices and guidance documents ensures that regulations are grounded in practical, and technical, realities. This collaboration can help create regulations that are both effective and feasible for companies to implement. Offering pre-deployment consultations to businesses can help identify potential compliance issues early and provide guidance on how to address them. This proactive approach can prevent regulatory breaches and promote safer AI deployment.

To attract investment and accelerate innovation, Ireland should strive to create a regulatory environment that supports and encourages AI development. By focusing regulatory efforts on desired outcomes and potential harms, rather than prescriptive measures and predetermined solutions, Ireland can create a flexible and innovation-supportive regulatory environment, while also ensuring the intent of the AI Act is upheld. This allows businesses to explore new AI applications while ensuring that they manage risks effectively.

Further, Ireland has the opportunity to become a digital leader by implementing the AI Act in a way that promotes clarity, fairness, and innovation. The Department could be proactive in providing guidance, ensuring a level playing field, leveraging technological expertise, and focusing on outcomes, to ensure that Ireland creates a regulatory environment that attracts investment and accelerates AI innovation. By offering SMEs and startups regulatory clarity and streamlined compliance processes, Ireland could further support innovation and growth in the AI sector. Excellence in AI regulation means establishing a framework that is clear, consistent, technologically informed, and focused on mitigating harm while fostering growth. This approach will further strengthen Ireland's position as a leading digital economy and support its goal of being a centre of regulatory excellence in Europe.

4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centered, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. **How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?**

Public trust is crucial for the widespread adoption of AI. To build this trust, the Department could play a key role in developing policy initiatives that support public education and awareness of the role of AI in society. Investing in demystifying AI and educating the public about its benefits and limitations is essential. Clear factual communication about how AI works, its potential impacts on various sectors, and its ethical considerations can help dispel myths and reduce fear of this technology. Additionally, ensuring transparency in AI development and deployment is key to building trust. For example, on LinkedIn, we take an open and transparent approach to Generative AI (GAI) by including prompts in AI-supported content, alerting our members about AI involvement. This allows our members to think critically about the content and invites members with knowledge on a specific topic to augment and correct AI-generated information. Transparency initiatives like these can go a long way in enhancing public confidence.

AI has the potential to drive significant economic growth and societal benefits. To harness this potential, Ireland should provide data on the positive impacts of AI on the workforce and the economy to highlight the benefits of AI adoption. This includes highlighting how AI can create new job opportunities, enhance productivity, and drive innovation. AI can help facilitate economic opportunity on a larger scale by redefining the worker based on their diverse skills and professional experiences rather than their last job title or specific academic qualifications. On a macro level, using AI in recruitment has massive benefits to the economy. Recent [research from Oxera](#) found that AI tools in recruitment generated \$168 billion in the USA, €104 billion in the EU, and £22 billion in the UK in 2019, or 0.79%, 0.74% and 0.98% of GDP in the USA, the EU and the UK, respectively.

Furthermore, AI can reduce search friction, accounting for up to 25% wage variation among equally productive individuals, thereby enhancing fairness and trust in labour markets and societies.

Ireland's implementation of the AI Act can drive support and accelerate progress by focusing on building public trust, leveraging AI for economic and societal benefit, and providing necessary enablers. Investing in public education, ensuring transparency and accountability, can build trust in AI. Leveraging AI for economic opportunities, including in recruitment, will harness AI's potential for growth. In line with Ireland's National AI Strategy and the Progress Report on implementation of the 'National AI Strategy: AI - Here for Good', particular attention should be given to developing AI education, skills, and talent. This includes promoting AI literacy from primary education through to higher education and ensuring upskilling and reskilling opportunities for the current workforce to adapt to AI-driven changes. Investing in comprehensive education and training programs to cultivate a highly skilled AI workforce will be crucial for maintaining Ireland's leadership in the digital economy. At LinkedIn, based on the activity of our members on our platform, we know there is huge demand and interest in AI technologies. In Ireland, from 2016-2023, we noted a 15x increase in the adoption of AI Skills amongst our 2M+ members, representing one of the highest adoption rates across the EU. In this regard, we note plans by the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) to actively promote and expand courses to educate the general public about AI. We believe this initiative will support the timely implementation of the AI literacy obligations under the AI Act, which will come into effect six months after the regulation is enforced, by February 2025.

5. The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above

One of the critical aspects in terms of effective implementation of the AI Act is ensuring regulatory clarity and consistency. Developing comprehensive guidelines that clearly outline compliance requirements for AI developers and deployers is essential. This includes making information accessible to all stakeholders. Additionally, providing regular updates and clarifications will help adapt to the evolving AI landscape and address emerging challenges.

To ensure that AI regulations are practical and effective, it is vital to involve technology experts in the policy-making process. Engaging AI experts, including from industry, in developing regulatory frameworks and guidance documents can provide valuable insights. Adopting an iterative approach to policy development, which allows for adjustments based on technological advancements and industry feedback, is also beneficial. Sharing best practices and case studies can further illustrate successful AI implementation and compliance strategies.

A fair and balanced approach to applying regulatory requirements is crucial for fostering innovation while mitigating risks. Focusing regulatory scrutiny on AI systems that pose the highest risks to public safety, privacy, and ethical standards ensures that resources are used effectively. Implementing enforcement actions that are proportionate to the severity of the compliance breach and the potential harm caused will promote fairness. Encouraging collaboration between regulators, industry stakeholders, and civil society will help ensure that regulations are applied thoughtfully and effectively.

The implementation of the AI Act should prioritise clarity and consistency in regulatory messaging, technology-informed policy guidance, and a neutral, thoughtful application of requirements. By focusing on these values, Ireland can create a regulatory environment that supports innovation,

protects public interests, and positions the country as a leader in the responsible development and deployment of AI technologies. These principles will ensure that the AI Act is implemented effectively, fostering a robust and dynamic AI ecosystem in Ireland.

Conclusion

LinkedIn is dedicated to supporting the responsible, productive, and sustainable adoption of AI in Ireland and around the world. By investing in and supporting training programs, research, and partnerships, we aim to further shore-up Ireland's capacity to seize the opportunities of the AI era. We will continue to work with the Irish government, the local AI industry, customers, members, educational institutions, civil society, and interest groups to ensure the continued adoption of AI in a safe, collaborative, and innovation-focused manner. We welcome further engagement with the Department in the important work it is undertaking to understand the opportunities and impacts of AI for Ireland.

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Mastercard's contribution to Ireland's public consultation on its implementation of the EU AI Act

Mastercard welcomes the opportunity to contribute to Ireland's Department of Enterprise, Trade and Employment's public consultation on the national implementation of EU harmonized rules on artificial intelligence (EU AI Act). We support efforts at national, regional, and international levels to adopt risk- and principles-based AI frameworks and ensure global convergence of AI policies and laws to the benefit of individuals and society.

Mastercard has been using AI for over a decade to enhance the safety and security of the payment ecosystem, strengthening the protection of our partners, suppliers, customers, and consumers. We harness AI to protect over 125 billion transactions per year, preventing billions of euros from being lost to cybercriminals, and detect fraudulent activity by verifying people are who they say they are. Our company is committed to responsible AI development and use, and we take a human-centric approach to AI. Our [Data & Tech Responsibility principles](#) guide the design, development, and application of all data-driven technology at Mastercard, including AI. Our principles are embodied in our robust AI governance and Privacy by Design frameworks, which include accountability tools and technical controls that advance AI principles such as transparency, fairness, and explainability.

We are pleased to offer the following remarks for your consideration.

1. Governance and designation of competent authorities

For the EU AI Act to be successful and benefit all, it is essential that its rules are interpreted, applied, and enforced uniformly across all Member States.

To ensure smooth regulatory oversight and to reduce unnecessary burden on the development of future trustworthy AI applications, we believe that the most efficient approach would be for all Member States to designate an existing authority (e.g., by expanding the remit of an existing regulatory body – such as the Irish Data Protection Commission, i.e., to cover AI in addition to data privacy) to take the lead and operate as a single point of contact towards the organizations and individuals concerned, with the possibility to collaborate with other authorities where necessary. For purposes of legal certainty, data protection authorities should retain general competence over AI applications involving the processing of personal data and/or impacting individuals' privacy and other fundamental rights. However, where AI does not involve the processing of personal data (e.g., AI used for manufacturing processes), it could be envisaged that the authority with the most relevant expertise (e.g., because of the sector in which the AI is deployed) takes the lead and cooperates with other authorities where needed.

While a sectoral approach may be helpful where sectoral regulators already have specific expertise in assessing AI systems within their specific domain or sector, there is a significant risk that a purely sectoral approach would lead to conflicting and inconsistent applications of the law, for example on the scope of prohibited and high-risk use cases – likely resulting in gaps, overlaps and legal uncertainty for all involved stakeholders. Such situation would create an overly complex environment for stakeholders to navigate, creating burdensome compliance situations for companies and leaving consumers uncertain about where to seek assistance and unable to effectively protect their rights. A single point of contact, for both organizations and consumers, will provide more legal certainty and clarity for all stakeholders involved, while having the possibility, depending on the use case and scenario, to involve one or several sectoral authorities for their specific knowledge and expertise.

2. Alignment with the EU GDPR

There is an inevitable need to clarify the alignment and interplay between the General Data Protection Regulation (GDPR) and the EU AI Act to the extent they both address the processing and protection of personal data.

The GDPR has established a robust and comprehensive framework for data protection across Europe, a model inspiring privacy standards worldwide and an essential underpinning for the effective implementation of the EU AI Act. Industry stakeholders have been calling for clearer interplay between both legislations to avoid the duplication of obligations for companies, leading to additional compliance costs and complexity.

For example, we would welcome clarification on the roles and related responsibilities of the new concepts of "deployer" and "provider" introduced by the EU AI Act and how these are aligned with the roles and responsibilities of "data controller" and "data processor" under the GDPR. While not the rule, in many instances, AI deployers will be data controllers. However, a substantial part of requirements under the EU AI Act lies with AI providers. This should be taken into account for the division of responsibilities in the implementation of the EU AI Act. Failing to do so risks weakening the accountability system and could lead to confusion amongst individuals.

We would also appreciate more clarity, at the EU level, on the interaction of the requirement to conduct data protection impact assessments (DPIA) under the GDPR with the requirement to perform conformity assessments and fundamental rights impact assessments (FRISA) under the EU AI Act. Organizations should be able to take into account the specific circumstances of each AI system when identifying if an assessment is needed and when assessing AI risks as part of those assessments. Consequently, even if a use case appears to be risky at a high level, its particular application can significantly reduce the risk and should therefore fall into a lower risk category e.g., an AI system which processes biometric data can be quite intrusive if used to identify an individual among an indiscriminate number of individuals without their knowledge, whereas the use of AI for verifying the identity of an individual based on a previously recorded and legally stored biometric template is less intrusive.

Further, it is important to recognize that existing data protection rules require some adaptation and evolved regulatory interpretation to align them with developments in AI technology. For example, Article 10(5) of the EU AI Act provides an exception to Article 9 of the GDPR by establishing a legal basis for processing special categories of personal data for the purpose of ensuring bias detection and correction in relation to high-risk AI systems. We would welcome further clarification on the scope of and conditions for this exception to apply, as well as a few examples of use-cases on when and how organizations should monitor and correct bias in compliance with EU legislations. Since the GDPR adoption in 2018, companies have significantly invested to achieve and maintain



GDPR compliance, implementing robust data protection processes and practices. Clearer interplay would bring companies more legal certainty, support streamlined compliance efforts and ensure common application of the rules across Member States. Ultimately, this clarification would also contribute to building trust and supporting uptake of AI technologies.

It would also be beneficial to consider the cooperation between enforcement authorities on both files, and more generally, consider appointing the Irish Data Protection Commission as competent authority for leading enforcement of the EU AI Act.

3. Excellence in AI regulation and innovation

To foster accelerated growth and responsible innovation in the AI sector, Ireland should actively promote public-private partnerships, leveraging regulatory sandboxes established under the EU AI Act. These partnerships enable collaborative efforts between government bodies and private enterprises to facilitate experimentation and development of AI solutions under regulatory supervision, fostering rapid iteration, testing of new ideas, and adaptation to regulatory requirements. We believe in continuous dialogue between the private and the public sector, as well as civil society, to make sure that any AI-specific policy is driven by respect for individuals' fundamental rights while remaining sufficiently flexible to evolve as AI evolves.

As a global technology company in the payments industry, Mastercard supports efforts to converge AI specific policies and laws globally. While countries may have distinct legal environments, legal convergence can help reduce divergent or contradictory legal frameworks and promote legal certainty and compliance. AI policy must be driven by respect for an individual's fundamental rights, health, and safety. As such, it should consider the potential negative impacts that any AI development or use may have on individuals and society yet should not lose sight of the potential benefits.

Mastercard looks forward to engaging with the Irish Department of Enterprise, Trade and Employment and contributing to the discussion related to implementation of the AI Act. For any questions or comments, please reach out to Karolina Walczak at [email address redacted].



Microsoft input to Irish Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Q1: For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

There are two key national competent authorities that Member States will need to designate or establish: (1) the market surveillance authority or authorities, that will be responsible for, among others, overseeing compliance for high-risk AI systems, including non-compliance investigation and correction, and (2) the notifying authority or authorities, which will be responsible for, among others, evaluating, designating, and recognizing conformity assessment bodies (CABs) and notifying CABs as “notified bodies” in accordance with the AI Act and other relevant EU harmonization legislation.

We agree that the selection of the enforcement model will involve trade-offs and depend on the local regulatory context. There are three potential scenarios for how national governments could structure their market surveillance authorities:

- **Option 1 - A new centralized agency.** Member States can create a new national agency for centralized oversight and enforcement, that would act as the central authority responsible for all tasks of a market surveillance authority.
- **Option 2 - Utilizing existing agencies through a sectoral approach.** Member States can assign AI enforcement to several existing agencies, utilizing current structures and sectoral expertise. This would still require Member States to designate one of the designated market surveillance authorities to act as a single point of contact vis-à-vis the public and other counterparts at Member State and EU levels.
- **Option 3 - Hybrid option, combining a centralized body with sectoral expertise.** Member States can designate an existing authority as the only market surveillance authority, while creating a mechanism within that authority to combine sectoral insights through interdisciplinary teams into centralized expertise. This new mechanism would bring together AI experts from different backgrounds, temporarily or permanently, to form interdisciplinary teams (e.g., with legal experts and computer scientists) on specific cases.

A potential shortcoming of the centralized approach through establishing a new agency under Option 1, could be that a new agency may lack sectoral expertise. A potential disadvantage of the decentralized approach under Option 2, could be that it may cause mandate disputes and potentially create silos between different agencies that would enforce various requirements under the AI Act, especially for areas where companies could be confronted with oversight by multiple authorities for a single product or service. We would therefore recommend a hybrid approach, whereby a single entity would act as the only market surveillance authority designated under the AI Act, while informally consulting sector- or topic-specific bodies, for example the Data Protection Commission if an enforcement case relates to data governance requirements for high-risk systems, or the Financial Regulator if a case relates to the use of AI systems in the financial services. Given the horizontal nature of the AI Act, the designated market surveillance authority will ideally possess a multi-disciplinary perspective.

Such a hybrid approach is also relevant and more appropriate when designating the national notifying authority, as required by the EU AI Act, which should ideally be centralized in the same authority as the designated market surveillance authority, while relying on sectoral expertise through the notified bodies. Centralizing regulatory oversight in a single authority would also allow for better coordination of the conformity assessment process.

It is important for national authorities to recognize the fact that notified bodies under existing EU product safety laws have traditionally focused on tangible products, leaving them inexperienced with digital technologies. Moreover, deployment of AI systems also brings sociotechnical aspects into the scope of enforcement, for example where risks could emerge at the intersection of system design decisions taken by AI systems providers and decisions taken by deploying organizations as to how, where and when to use AI systems in a final product or service. The notification process under the AI Act must be adaptive and responsive to the evolving requirements of assessing digital products and services, as conformity assessment bodies will need to conduct audits for AI technologies that previously fell outside their scope. Unlike the Medical Devices Regulation, where audits could occur well before a third-party conformity assessment was mandated, the AI Act reverses this process, requiring immediate and rigorous conformity assessments before third-party audits for AI Act compliance become widely available. Many existing notified bodies, currently specialized in evaluating physical products and organizational approaches to physical products, will need to quickly upskill and develop expertise to meet the great need and ask for auditing services for AI Act compliance.

Whilst the AI Act mentions in principle that compliance with its requirements shall be checked within relevant sectoral conformity assessment procedures, Art. 43(3) is insufficient to achieve this in practice and does not adequately address the potential misalignment with existing sectoral governance and enforcement frameworks. Art.

43(3) states that notified bodies which have been notified under existing EU product safety laws (listed in Section of Annex I) shall be entitled to control the conformity of the high-risk AI systems with the requirements under the AI Act, provided that the compliance of those notified bodies with requirements laid down in Article 31(4), (5), (10) and (11) of the AI Act has been assessed in the context of the notification procedure under those legal acts. This implies the need for redesignation under the AI Act of already designated notified bodies. Some sectors are already facing bottlenecks due to a lack of notified bodies' capacities, which could worsen if redesignation would lead to a long and burdensome process for such bodies. Companies should ideally be able to maintain their relationships with bodies familiar with sector and industry specificities also in the context of conformity assessments under the AI Act. We would therefore recommend national notifying authority/authorities to recognize existing sectoral conformity assessment bodies as 'notified bodies' without necessitating a burdensome redesignation process, to swiftly extend those existing conformity assessment bodies' conformity and compliance activities to the requirements and obligations set in the AI Act.

The AI Act mandates Member States to identify a list of national public authorities or bodies, that will supervise or enforce the respect of obligations under EU law protecting fundamental rights, including the right to non-discrimination, in relation to the use of high-risk AI systems referred to in Annex III. These authorities will have the authority to request and access any documentation created or maintained under the AI Act. Additionally, they can make a reasoned request to the market surveillance authority, to organize testing of the high-risk AI system through technical means if the documentation is insufficient to determine when an infringement of fundamental rights has occurred. We recommend that in providing that list, Member States take into consideration the desire to prevent uncoordinated enforcement actions and avoid duplication of efforts.

The AI Act also specifies that the AI Office will have the authority to monitor and supervise compliance of general-purpose AI systems ('GPAI systems') that are built on a general-purpose AI model, and whereby the model and the system are developed by the same provider. If a market surveillance authority has reason to believe that a GPAI system, which can be directly used by deployers for at least one high-risk purpose as defined by the AI Act, is non-compliant, they will cooperate with the AI Office to conduct compliance evaluations. In this context, it is crucial for the market surveillance authority to work closely with the AI Office and clearly delineate the responsibilities between national and EU-level authorities.

Q2: The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies. Are there

potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

The regulatory environment impacting AI in Europe is increasingly complex. The newly passed AI Act will coexist with a multitude of other requirements and competent authorities under EU law, which AI developers and deployers will have to comply with concurrently. These legal regimes include the GDPR, cybersecurity legislation such as the CRA and the NIS 2, algorithmic transparency rules under the DSA, the DMA, sectoral laws such as the Medical Devices or In Vitro Diagnostic Regulations, the updated Product Liability Directive applicable to AI, new rules on data sharing and cloud access in the EU Data Act, and others. This complexity makes enforcement activities less predictable, especially where multiple competent authorities are involved at the national or EU level enforcement. In turn, it increases the difficulty of companies' compliance efforts, especially in a quickly evolving area like AI governance, and could harm the competitiveness of Europe's AI ecosystem.

To streamline potential legal overlaps and complexity, we recommend Member States:

- Pursue increased coordination between Irish authorities enforcing EU AI and digital legislation. For example, the creation of an ad-hoc forum between Irish authorities coordinating the enforcement of the EU AI Act, DSA, DMA, GDPR, Data Act and cybersecurity legislation could help reduce regulatory complexity, increase coordination and strengthen the cohesion of the Single Market. An example of such fora is the Digital Regulation Cooperation Forum, set up by the UK government to ensure greater cooperation on online regulatory matters between data protection, competition and digital safety regulators, as well as sectoral bodies such as the Financial Conduct Authority, among others.
- Conduct an assessment of the national-level digital legislation applying to AI, with the aim of identifying legal overlaps and potential conflicts in enforcement. This assessment can be used to provide further compliance guidance to businesses, to promote coordination of different enforcement authorities as well as to inform future policymaking.
- Call for greater consideration and clarity from the European Commission on such policy overlaps and conflicts at the EU-level, e.g. through conducting, and asking the European Commission to conduct, a similar assessment for existing EU regulations as well as legislative proposals that are yet to be approved (e.g., to explore the interplay between the revised Product Liability Directive and the proposed AI Liability Directive).

Q3: Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe.

The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ensuring consistent and liveable regulatory experience for companies is crucial for fostering innovation, economic growth, and compliance. Clear and consistently enforced regulations allow businesses to plan strategically, allocate resources efficiently, and innovate with confidence, knowing they are adhering to the legal framework. Ultimately, a well-designed regulatory experience supports a healthy business ecosystem.

Ireland's implementation of the AI Act can bolster its position as a leading digital economy and accelerate innovation in AI by adopting a multi-faceted approach that emphasizes regulatory clarity, support for SMEs and startups, investment in research and development, and international collaboration.

For increasing investment and accelerating innovation in AI, it will be crucial to provide SMEs and start-ups with regulatory clarity and simplified processes for compliance. Many details of how the AI Act will need to be implemented will still be clarified by the European Commission through upcoming secondary legislation in the coming years. Regulatory uncertainty pending AI Act implementation guidance can particularly impact SMEs and startups, who often lack the capacity to navigate compliance in the absence of clarity. . In the short term, Member States can work towards providing SMEs and startups with clear and understandable guidelines on compliance, streamline administrative processes and reduce bureaucratic hurdles to reduce their barriers to entry.

In particular, we encourage policymakers to ensure the implementation of the AI Act aligns with international standards and complementary international initiatives, including through leveraging relevant ISO standards, collaborative work on evaluations by AI safety institutes, and ongoing efforts to foster accountability of the G7 Hiroshima Process international AI code of conduct.

Other recommendations for encouraging AI innovation include:

- Establishing funding programs and grants specifically for AI research and development can provide the necessary resources for SMEs and startups to innovate.
- Create innovation hubs and incubators can provide startups with access to mentorship, resources, and networking opportunities.

- Invest in education and training programs to build a highly skilled workforce in AI will ensure that Ireland has the talent necessary to sustain its leadership in the digital economy.

Q4: AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Our comments are based on the [Progress Report on implementation of the National AI Strategy: AI - Here for Good](#), which was published in August 2023 and updated in March 2024.

- **Standards:** Compliance tools, such as standards and certification, will be used to underpin both legal and ethical obligations with respect to AI. In Ireland, this work has been led by the Top Team on Standards for AI, which was established in 2020 by the National Standards Authority of Ireland (NSAI) to develop a standards and assurance roadmap for AI. The NSAI published the Standards and Assurance Roadmap for AI, developed by the Top Team in July 2023. We recommend the NSAI and other national standardization bodies to continue to play an active role in the Standardisation Roadmap for AI being progressed at the EU level, which will ensure a coherent approach to the implementation of the AI Act across the EU.
- **AI literacy:** Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) is in the process of promoting and expanding courses which educate the general public about AI. This will be helpful for a timely implementation of the AI literacy obligations under the AI Act, which enter into application six months after the regulation enters into force (by February 2025).
- **Regulatory sandboxes:** The AI Act requires Member States to ensure that their competent authorities establish at least one AI regulatory sandbox at national level, which shall be operational by two years after the AI Act enters into force (~August 2026) at the latest. We recommend that the National Standards Authority of Ireland, which is tasked with monitoring the progress of the EU regulatory sandbox pilot, to work closely with other government bodies such as [Enterprise Ireland](#) to establish regulatory sandboxes ahead of the 2-year deadline. It is worthwhile considering what role such a Regulatory Sandbox might play in providing a compliance and certification process for AI solutions from Irish businesses. The model operating in Spain is a useful reference point in this regard.



Ends
12/07/2024

ODRI – Office against Discrimination, Racism and Intolerance

Contribution regarding the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

15 July 2024

Introduction

ODRI - the Office against Discrimination, Racism, and Intolerance, is pleased to contribute with the work of the Department of Enterprise, Trade and Employment to strengthen the Digital Ireland Framework. This document focuses on issues that require the Department's attention, such as racial and gender-based discrimination, responsible business conduct of SMEs and investors, and the importance of meaningful consultations.

I. Racial and gender-based discrimination

An opportunity to eradicate racial and gender-based discrimination by artificial intelligence systems

1. The EU AI Act represents an important step to address the discriminatory impacts of artificial intelligence systems incorporating safeguards for high-risk artificial intelligence uses, and providing remedies for persons negatively affected or impacted. However, there are exceptions on such protections concerning immigration, border management and law enforcement.¹ Irish legislation and administrative measures, adopted by the Department of Enterprise, Trade and Employment and other bodies, should address such gaps, ensuring policy coherence with the anti-discrimination legal safeguards in place, reinforcing protections for migrants, persons of Asian, Arab and African descent, women, and persons with disabilities that are exposed to racial hierarchies by AI systems used by immigration, border management and law enforcement.

2. Additionally, it is fundamental that the Department develops and coordinates with overseeing bodies a plan to assess the inventory of artificial intelligence systems used by law enforcement, border governance and migration officers, as well in the protection of enterprise, trade, and development. Public procurement guidelines and studies commissioned by the Department can provide incentives and insights to understand the human rights risks of new technologies, such as the discriminatory effects of recruitment algorithms to the detriment of women, as well as, elaborate and rectify measurement studies and bias prevention methodologies, and mitigating measures.

¹ Privacy International submission; and Access Now, "The EU AI Act: a failure for human rights, a victory for industry and law enforcement", 13 March 2024.

II. SMES, investors and business and human rights obligations

National implementation should ensure responsible business conduct by SMEs and investors

3. Under the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), endorsed by Ireland and implemented nationally, the impact of business technological activities on human rights must be fully understood, integrated and addressed. The Department of Enterprise, Trade and Employment has responsibilities to respect, protect and fulfil human rights in the digital space. Furthermore, tech business enterprises are required independently to comply with all applicable laws and to respect human rights. In addition, victims and stakeholders affected should access to effective remedies, through grievance mechanisms, implemented by judicial and non-judicial proceedings.

4. According to the Guiding Principles on Business and Human Rights, Ireland has a duty to protect against human rights abuses within their territory and/or jurisdiction by business enterprises, including SMEs and investors. Such obligation entails to exercise due diligence to prevent and protect individuals from arbitrary or abusive activities committed by enterprises. To that end, it is important that during the discussions of the national implementation of the EU AI Act the Irish Department of Enterprise, Trade and Employment communicates clearly with the private companies the human rights expectations and safeguards provided by the EU AI Act, while also provides technical assistance to identify and address human rights risks, reporting requirements and independent oversight mechanisms to comply with the EU AI Act.

5. To strengthen the position of Ireland as a centre of regulatory excellence and innovation, the Irish Department of Enterprise, Trade and Employment should develop regulation and legislation on environmental, social, and governance (ESG) sustainability that provide periodically updated data and available enforcement mechanisms to address human rights impacts. Current ESG mechanisms lack of disaggregated data that AI investors require to investigate and report on the actions of investees on preventive mechanisms and access to effective remedies for affected rights holders. The Department could lead the way to allows investors to make informed decisions on the attention to human rights risks in Ireland and ensures that AI developers, distributors and consumers are accountable for their actions.

IV. Meaningful consultations with stakeholders

Additional consultations are necessary to guarantee ownership of the process

6. We are glad that the Ireland government is conducting a consultation on the national implementation of the EU AI Act. This consultation should draw inspiration from other national participatory approaches employed by other national bodies involving regional consultations with a diverse array of stakeholders, including governments, the Irish Human Rights and Equality Commission - ENNHRI, the private sector, and civil society organizations, including human rights defenders.

7. Meaningful consultations are required to empower rights holders, promote accountability measures from duty bearers, and facilitated productive dialogues among stakeholders. Additionally, meaningful consultations can ensure implementation of responsible technological conduct and enhance the credibility of standards. To that end, it is key that the Irish government address the practical and social barriers to participate in this consultation, such as digital divide or the technical resources by different stakeholders impacted by AI.

Ireland's Implementation of the EU AI Act: Building Trust and Developing Enablers

Timeline

In October 2017 the EU Council requested that the EU Commission address the usage of emerging technologies and prepare an Artificial Intelligence framework. In December 2018 a “coordinated plan on AI” was presented and in April 2021 the Commission published the initial proposal of the Act. By December 2022 it had been evaluated by the member states and commonality agreed. The final version ('The Act Texts | EU Artificial Intelligence Act' 2024) was passed by the European Parliament in March 2024 and approved by the Council in May 2024.

All member states must establish the governance and supporting authorities described in the Act within the 12 months following its coming into force in June 2024.

In May 2024 Ireland's Department of Enterprise requested submissions addressing four questions in their document ('Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)' 2024). The final question is *“How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives [Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI] while meeting our regulatory obligations?”* and this limited paper reviews published observations on the Act and considers how they may contribute to the Irish implementation in the areas of public trust and AI enablers.

Building Public Trust in AI

Public trust requires a foundation of transparency, accountability and protection for the individual.

AI transparency will be established when the AI model has sufficient explainability and interpretability for the user to understand how the output was produced and what it means. In their paper on metrics (Sovrano *et al.* 2022) the authors explore the practicalities of measuring these features and recommend that they should be “risk-focused, model-agnostic, goal-aware, intelligible, and accessible” but conclude that further research is needed. Pavlidis's analysis of the Act with respect to explainability (Pavlidis 2024) confirms that the lack of it is a primary obstacle and recommends that the obligations of explainability on high-risk systems detail the methods and standards required to effect compliance. While acknowledging that determining a scientifically acceptable definition of explainability is likely to be impractical and difficult to verify in the real world, the Irish implementation should progress the research to score an AI model's transparency within a specific application as determined by a subject matter expert.

Although the Act emphasises accountability in practice there is little consensus on what kind of accountability is appropriate for each level of risk or type of application ('Futurium | European AI Alliance - A Practical Organizational Framework for AI Accountability' 2024). A significant vulnerability is that it requires self-assessment by the AI provider and there is no enforcement of compliance. The psychological impact of personal accountability is examined in Conceptual Bases of Employee Accountability (Han and Perry 2020) which concluded that “best practices associated

with high levels of each dimension of employee accountability... should be established for better outcomes". A requirement for a named person to be declared accountable for each risk level will be a deterrent of misconduct, enhance trust, ensure rigorous testing and improve quality assurance. In addition, regular performance measurement and reporting will demonstrate active and open communication.

The GDPR was a groundbreaking declaration and demonstrated that the EU strives to digitally protect its citizens and the rights of the individual. The implementation must build on that trust through the development of fast-acting and transparent complaint procedures with enforceable outcomes. The role of the Whistleblower is paramount ('Protection for whistleblowers - European Commission' 2024) and it must be promoted within AI provider organisations because designers and developers will most likely be first to become aware of breaches in the regulations.

Enablers for AI

Ireland already has many of the ideal attributes to take a lead in implementing the AI Act:

- Half of the six gatekeepers designated by the Digital Markets Act have their European headquarters here and the other half have a very significant presence ('Commission designates six gatekeepers under the Digital Markets Act - European Commission' 2024)
- Favourable cultural and legal environment
- Highest level of STEM educational attainment in the EU ('Tertiary education statistics' 2024)

These attributes underpin two key AI enablers: education and positive relationships with industry. In the same way that modern software is built with security and privacy at the core, AI models must be built with explainability and interpretability from the ground up. Increased collaboration between academia and industry should focus on the development of transparent models and value transparency over accuracy.

The regulatory sandbox ('Artificial intelligence act and regulatory sandboxes | Think Tank | European Parliament' 2024) will be used to stimulate innovation where startups and SME businesses can test without regulatory containment. Co-existing in that sandbox with the technology giants will exercise and evolve it most rapidly to become a world-class example of the environment where robust and responsible AI is produced.

Conclusion

While maximum harmonisation means that Ireland cannot exceed the terms of the legislation the implementation should emphasise and reward transparency and accountability. My key recommendations on how Ireland's implementation of the AI Act can drive support and accelerate progress are:

- Advance the development of explainability metrics and transparent models
- Name accountable persons
- Promote whistleblowing in AI provider organisations
- Evolve the regulatory sandbox quickly.

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From: Julia Palma <email address redacted>
Sent: 02 July 2024 17:43
To: ConsAI Regulation
Subject: Consultation on AI Regulation

EXTERNAL MAIL

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Dear Sir/Madam,

Thank you for your time considering my feedback.

QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

It is important to consider the potential of data and AI technologies for breaking up silos and developing trans-domain solutions and applications to solve societal and business challenges. For instance, AI systems can be included within the One Health initiative (considering environmental, animal and human factors), smart cities or the social (economics) determinants of health, in which different sectors are closely intertwined. The implementation of the AI Act must lower the barriers to access to responses to the challenges and ensure compliance regardless of the sector/s of the AI systems, facilitating access to the different bodies that regulate more complex applications (e.g. an IoT device with a healthcare claim). A centralised approach with the support and distribution to the relevant experts in different fields, similar to the triage process in a hospital, may be appropriate. In the case of considering a sequential approach, implement the services on a “low-hanging fruit” approach, reinforcing in the first stage the most manageable sectors to regulate to serve as encouragement for the most strategic sectors for Ireland as a second step, without delaying the implementation.

2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

The General Data Protection Regulation is the first one that comes to mind, but this is only an aspect of the proposed AI Act. The implementation of the AI Act must facilitate access to expert advice in different fields to comply with the seven pillars, including legal, technical and ethical aspects, together with the increasingly relevant environmental holistic assessment (sustainability), paving the way for the implementation of the Digital Product Passport (DPP) legislation.

3. Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act

will set out a requirement to promote innovation with regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Ireland must provide a rapid response to the needs of the AI innovators, by having a hands-on approach and considering the highly dynamic environment. The perfect of today will be the imperfect of tomorrow and the only way of advancing and being competitive is embracing imperfection with a kaizen mentality of continuous improvement.

4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this The strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

See responses above. Not regulating is dangerous, but blocking progress and AI developments for the common good is even more dangerous. Ireland requires a higher level of automatisisation and the ability to keep up pace with the competition from other regions to attract innovative companies that can provide solutions to existing and emerging environmental, health and economic challenges. In addition, Ireland must retain talent and investments.

The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

Ireland must adopt a pragmatic approach leveraging the existing AI ecosystem and networks in a collaborative approach that can cover the multi-faceted aspects of the new regulations to facilitate compliance and support companies, especially SMEs, that are working in the field and have to compete with the hyperscalers that have more resources and lobbying power. Creating mechanisms for networking and promoting the participation of these institutions in the AI Irish ecosystem in international committees related to standardisation and policymaking can also serve as a way to amplify the voice of the small/medium players in the field and public administration (including health services), that are relevant potential stakeholders as users of the AI systems, that don't have the resources or mandate to participate in these forums.

Thanks and kind regards,

Julia

An Post Submission to the Department of Enterprise, Trade & Employment Public Consultation on National Implementation of:

EU Harmonised Rules on Artificial Intelligence (AI Act)

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Executive Summary

An Post, Ireland's national postal operator and designated universal service provider, is advancing its operations through AI-driven initiatives, including improved customer care processes, personalised mail products, and a commitment to ethical AI deployment. An Post advocates for the need for a harmonised regulatory approach, a single competent authority for AI standards, and synergies with other EU regulations like NIS2 and GDPR.

An Post recommends the provision of grants to support Irish businesses in AI development; ensuring 'AI Friendliness' for an optimal and community-positive digital presence for Irish business, and leveraging AI for green and sustainable initiatives to support SDG goals and combat climate change.

Introduction

An Post is Ireland's national postal operator, ecommerce expert and provider of everyday banking and financial services, serving 2.2 million addresses every working day and more than 1 million post office customers every week. As one of Ireland's largest companies, An Post employs more than 9,500 people throughout its national collection and delivery networks and contracts with postmasters to operate most of its 900 post offices nationwide.

An Post plays an integral role in Irish life and society, connecting people, businesses and communities across the island and with the wider world. An Post is an essential national infrastructure as well as a vital partner, helping consumers and businesses to trade and transact both globally and locally.

An Post is guided by its purpose: *To act for the Common Good; and to improve the quality of life now for generations to come.*

Context

An Post aims to advance its operations through various AI-driven initiatives. It wishes to harness Generative AI to create innovative customer engagement solutions, such as personalised mail products featuring AI-generated images and text, faster customer care engagement and logistics solutions. In addition, An Post is embracing the use of AI as an efficiency tool with products like Microsoft Co-Pilot. AI adoption in An Post is overseen and guided by an AI User Forum chaired by our Chief Digital & Transformation Officer.

The organisation's Green Light 2028 strategy also reflects a commitment to AI, with a focus on using technology to benefit customers, transform operations, and create more capability for the market. This is done by striving to be a 'digital corporation' using a multifaceted approach, including upskilling employees with training on digital skills and new ways of working. This is aimed at fostering a culture of digital literacy and data fluency across the organisation, ensuring that employees are equipped with the necessary skills to drive the company's digital transformation. Automation and AI are key here.

Government policy and regulation regarding AI should equally promote AI innovation in both public and private sector companies. An Post is in a sector which is a significant technology innovator in European countries; but in the past Government has considered An Post to be an "offline" company, a serious misnomer.

Satya Nadella, CEO of Microsoft, called out An Post as an exemplar of AI innovation in a recent global investor call. The opportunities for AI to transform Semi-State companies should not be underestimated but pursued.

Recommendations

Competent Authorities

It is recognised that a framework of bodies at EU as well as national level will be involved in AI regulation and enforcement.

It is critical that there is a consistent and harmonised approach, across matters ranging from guidelines, accepted standards and best practices to enforcement. It is essential that businesses can plan activities with clear knowledge of the regulatory framework and principles in which it operates.

AI regulation will intersect with many other new and existing regulatory obligations, including data protection, cyber resilience as well as sector specific regulatory requirements.

This could lead to a very complex regulatory landscape where fragmented and unclear regulation could stifle innovation.

This complexity should not become an economic burden for business. Nor should it discourage innovation in the sector. Clarity and consistency in approach between

regulatory stakeholders in enforcing policies in accordance with a risk-based approach will be critical to making AI adoption successful and beneficial for all.

Based on this An Post recommends a single competent authority to set standards and give approvals rather than risk the confusion of different standards being set in different industries.

Synergies with other EU Legislation

An Post faces varied and increased regulatory responsibilities, ranging across fiscal, security, consumer protection and environmental objectives. Meaningful engagement to recognise the necessary balancing of interests and achieve innovative but satisfactory regulatory outcomes will be critical.

When used responsibly, AI can be a channel for achieving better service outcomes for consumers as well as business, potentially overcoming obstacles that arise when operating in a global, worldwide service network impacted by other more specific areas of regulation, such as customs and cyber security.

There are obvious synergies between the ethical and risk assessments in the AI Act and the second Network and Information Security Directive (NIS2) which is also currently in draft to be implemented. An Post recommends that consideration should be given to specific guidance about the usage of AI as it pertains to Essential or Important services as outlined in that directive. More specifically the implementation of Article 24(1)¹ of NIS2 where the certifications required for high risk AI tooling and cyber security may intersect.

In addition, the roles of the various players in an AI context will need to be balanced against obligations arising under GDPR and the responsibilities of each will need to be clear to ensure that all objectives can be met. Clear guidance in the area will be essential to avoid risks to innovation and gains from AI deployment.

Bolstering the Digital Economy in Ireland

To support the growth and competitiveness of Irish businesses in the rapidly evolving digital economy, An Post advocates for the provision of grants/funding to facilitate the

¹ Member States may require essential and important entities to use particular ICT products, ICT services and ICT processes, developed by the essential or important entity or procured from third parties, that are certified under European cybersecurity certification schemes adopted pursuant to Article 49 of Regulation (EU) 2019/881. Furthermore, Member States shall encourage essential and important entities to use qualified trust services.

implementation and development of AI solutions by Irish business. This would ensure additional support for Irish businesses to be competitive in AI research and to embrace and keep pace with the necessary skills in AI.

Grants would enable businesses to leverage AI for growth and innovation, fostering a culture of continuous learning and adaptation. This financial support could help bridge the gap between current operations and the cutting-edge capabilities that AI offers, ensuring that Irish businesses remain at the forefront of technological advancements. Moreover, such grants would empower businesses to navigate the ethical and practical challenges of AI integration, aligning with Ireland's National AI Strategy which recognises the importance of funding for AI adoption.²

For Irish businesses to thrive in the AI-driven marketplace, it is essential to be 'AI Friendly' in terms of searchability by AI on the internet. Without this new type of digital literacy, it is possible that small and medium Irish businesses could be disintermediated by large multinationals if not findable by AI. This would mean ensuring that the digital presence of Irish business is optimised for AI algorithms, which can enhance visibility and accessibility to potential customers and partners.

A key element of An Post's Green Light Strategy 2028 is to support Ireland's growing eCommerce sector. By embracing AI, businesses can improve their operational efficiency and expand their reach in the global market, driving innovation and growth.

Transparency Requirements

While the AI Act³ intends to develop labelling for artificially generated/manipulated products and systems at an EU level, An Post believes that a clear designation and communication at a national level is required for safe and ethical broad deployment of AI solutions. The label, symbol or stamp should be something the public can recognise easily and be consistent across all industries and technologies.

Training and Awareness as a Key Enabler

As outlined in Ireland's National AI Strategy, a key enabler for advancing AI in Ireland will be the ability to develop and build AI skills and competencies. A variety of skill-sets will

² <https://enterprise.gov.ie/en/publications/publication-files/national-ai-strategy.pdf> Page 8 - Strategic Action i b. "Developing an AI programme for enterprise of targeted funding and advisory measures for AI adoption"

³ Article 50.7

be required. A recent study by Deloitte⁴ shows that only 11% of people in Ireland have used generative AI. In order to accelerate progress and for Irish businesses to really leverage AI solutions, a level of consumer literacy will be required that cannot be achieved by businesses alone. The National AI Strategy recommends the building of specialist skills, expertise and competencies in AI, and An Post strongly supports this ambition. Funding for the acquisition of necessary skills as well as ensuring an innovative but inclusive AI approach is essential. An Post recommends that certifications are developed through the National Colleges and education schemes for new AI-related skills such as 'Prompt-Engineering' which will be a key skill in an AI-driven economy.

In addition, the implementation of the AI Act could provide an excellent opportunity to raise general awareness on the issue. Government advice specific to SMEs, particularly providing clarity on low or minimal risk AI usage, could help in the adoption of AI into these businesses. Similarly, online material on the safe and effective use of AI tools made available to the general public could be effective in raising awareness on the use of AI in both personal and professional contexts.

Incorporating AI into wide usage necessitates a vigilant approach to prevent its misuse, such as in consumer and business scams. AI can be exploited by cybercriminals to create sophisticated phishing schemes, fabricate convincing deepfakes, or generate synthetic identities, all of which can be used to defraud unsuspecting individuals and entities. It is crucial to educate the public on identifying and reporting such scams, as well as to have robust incident response plans in place. Building public trust in AI will require comprehensive strategies to combat AI-enabled scams, ensuring public safety in an increasingly digital world. In addition, there is potential for AI to be used to combat these types of scams which are currently far too common in the Irish market. An Post has extensive experience and expertise with which to collaborate with government on innovative solutions for the potential prevention of scams using AI.

Other Aspects for Consideration

Definition of AI

At present the Irish government's definition of 'AI' is not consistent with the definition in the EU AI Act which could have unintended consequences for the legislation. The current

⁴ <https://www.deloitte.com/ie/en/about/press-room/ai-technology-consumer.html> November 2023

definition used in the National AI Strategy appears to include machine learning wholesale which is a subset of AI.^{5 6}

Machine learning as a technology has been around for many years and doesn't, in itself, represent the same level of potential for harm as technologies like generative AI, which the Act seems primarily aimed. An Post believes that ensuring the definition of AI in national legislation is as close to that of the EU definition, rather than the one used in the strategy thus far, would avoid over-regulation of solutions which don't require this level of scrutiny.

Climate

An Post is a leader in Ireland and the wider postal industry in Sustainability and addressing Climate Change, having pledged to achieve net-zero carbon emissions by 2030, a commitment that surpasses the Paris Agreement's target by ten years. It has made significant strides, reducing its carbon footprint by 35% since 2009 and ensuring that almost a third of its fleet operates on alternative fuels. An Post's ambitious goal to cut emissions by half by 2025 and reach net-zero by 2030 is outlined in its sustainability reports. Energy-efficient technologies and renewable electricity is utilised across the Business, further diminishing environmental impacts. An Post was an inaugural Irish SDG champion, and continues in this role, sharing insights, expertise and information to support other Irish businesses in their sustainability journeys. These initiatives underscore An Post's commitment to environmental stewardship and their role as a leader in sustainable practices within the postal industry and Irish business.

To this end An Post asks the Department to give consideration and priority to green initiatives where AI can be used to help individuals, businesses and communities to reduce waste⁷, decarbonise industry⁸ and in general fight climate change.⁹

⁵ <https://enterprise.gov.ie/en/publications/publication-files/national-ai-strategy.pdf> Page 3 "Artificial Intelligence (AI) refers to machine-based systems, with varying levels of autonomy, that can, for a given set of human-defined objectives, make predictions, recommendations or decisions using data. Machine Learning, a subset of AI, is software which is able to learn from applicable datasets to self-improve, without being explicitly programmed by human programmers."

⁶ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401689 'AI system' means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments;

⁷ <https://www.greyparrot.ai/resource-hub/blog/wrapping-up-2022>

⁸ <https://blog.google/outreach-initiatives/entrepreneurs/how-4-startups-are-using-ai-to-solve-climate-change-challenges/>

⁹ <https://deepmind.google/discover/blog/using-ai-to-fight-climate-change/>



PwC responses to the [Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence \(AI Act\)](#) are below:

Question 1

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Response:

While the EU AI Act outlines some specific obligations and functions to be undertaken by the competent national authorities, it does not prescribe any particular structure or approach. We believe that this degree of flexibility is an opportunity for Ireland to adopt an implementation approach which supports the objectives of the broader national AI strategy by establishing a proportionate, balanced and agile regulatory ecosystem. It is against this backdrop that we have set out a number of key considerations below.

Clarity and regulatory certainty are essential to establish and support positive public sentiment and provide companies with the confidence to engage in innovation and experimentation with AI. Early and clear messaging, unambiguous guidance and consistency in enforcement across sectors are all key. Each of these objectives are more easily achieved through a single centralised body with a singular focus on AI regulation rather than a distributed regulation model.

Regardless of the approach adopted, the regulator(s) will need to build AI expertise to appropriately undertake the regulatory obligations. This places a demand on existing AI skills in the economy, and the Government will need to consider how to incentivise individuals adequately to take on roles within the regulator(s), while also expanding institutional capacity to build these skills on an ongoing and agile basis. In a distributed or sectoral model, this skills requirement is increased as each regulator will need to build this capability independently.

A centralised model also has the benefit of simplifying cross-border coordination and communication with the EU AI office and the competent authorities in other jurisdictions as well as providing a single point of contact for the public and other stakeholders dealing with cross-sectoral issues.

Cost and the speed with which a regulatory authority can be vested in a new or existing regulatory body are also key considerations. Amendments to existing legislation underpinning the remit and authority of existing regulators may prove to be more time consuming and costly than establishing a new central function.



As noted in your question, the distributed model brings the benefit of established sectoral and/or domain expertise. It also brings the benefit of existing forums and working practices for public and other stakeholder communications and engagement. A distributed model can also more easily facilitate an alignment of a proportionate regulatory enforcement approach with varying levels of AI adoption and maturity across different sectors.

A final point worthy of consideration relates to the nature of AI and the pace of change and development. By its nature AI is a learning system where the behaviours and uses today may not be the behaviours and uses of tomorrow. Therefore the ability for the regulatory authority to be agile is essential in order to maintain an appropriate regulatory environment on an ongoing basis.

Based on the considerations outlined above we make the following recommendations:

1. Establish a Centralised Authority with support for specific elements from other regulators
 - Whether as a standalone entity or augmented within an existing regulatory regime such as the Data Protection Commission (DPC), establishing a centralised authority responsible for enforcing the EU AI Act is essential to ensure consistency and to minimise duplication as outlined above;
 - To ensure the centralised authority remains agile we recommend utilising existing resources and expertise from other authorities where a density of specific knowledge is beneficial, for example in the evaluation of sector specific AI use cases in a regulatory sandbox environment
2. Collaborate with Other Member States
 - Identify opportunities for collaboration and synergies with other member states. Engaging in joint initiatives and sharing best practices can lead to a more harmonised and effective implementation of the AI Act across the EU;
 - For example, Spain has established an agency ¹for the supervision of AI within the Ministry of Economic Affairs and Digital Transformation. This body is tasked with raising awareness, disseminating information, providing training, promoting responsible AI use, defining advisory mechanisms, coordinating with other AI supervisory authorities, establishing regulatory sandboxes, and overseeing AI systems that pose significant risks to health, safety, and fundamental rights. This model of a centralised authority can be emulated to ensure consistency and efficiency
 - We also recommend looking at AI regulatory approaches outside of the EU. In particular the approach adopted in the UK which includes a centralised authority with a combination for specific responsibilities and a coordinating role for sectoral regulators.
3. Leverage the EU AI Office
 - Utilise the resources and guidelines provided by the EU AI Office to ensure that Ireland's implementation aligns with broader EU strategies. This includes participating in joint investigations, adopting best practices, and aligning national regulations with EU-wide standards.

¹ <https://www.dataguidance.com/opinion/spain-agency-supervision-ai-overview>



Question 2

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Response:

The series of Regulations issued by the EU are in support of its vision for a Digital Europe. As such they can share a common set of overarching principles and objectives. Therefore, there are a number of potential synergies between the implementation of the AI Act and other EU regulations applying to digital markets, services, and infrastructure. These synergies can enhance the effectiveness of existing digital regulations by aligning their objectives and creating a cohesive framework for digital innovation while safeguarding the fundamental rights of EU citizens. This comprehensive approach, outlined in Annex II of the AI Act, brings together various regulations to form a unified strategy for the digital economy.

Before discussing potential synergies, we have set out below areas of commonality between the EU AI Act and the following other Regulations:

- Digital Services Act (DSA)
- General Data Protection Regulation (GDPR)
- Digital Markets Act (DMA)
- Cyber Security Act
- European Data Act
- Network and Information Security Directive (NIS2)
- Corporate Sustainability Reporting Directive (CSRD)

1. Digital Services Act (DSA)²

- Safety
 - Alignment with DSA Goals
 - The DSA creates a safer digital space where users' fundamental rights are protected and businesses operate on a level playing field. Its main goal is to prevent illegal and harmful activities online and the spread of disinformation. The AI Act aligns with these goals by ensuring AI systems placed on the EU market are safe and respect fundamental rights, facilitating innovation, and emphasising interpretability to build transparent models and fair, unbiased decision-making.
- Accountability
 - Framework for Digital Services

²<https://enterprise.gov.ie/en/what-we-do/the-business-environment/digital-single-market/eu-digital-single-market-aspects/digital-services-act/>



- The DSA aims to establish an accountable framework for digital services, ensuring high protection for consumers and their online rights. The AI Act complements the DSA's goals by focusing on provider accountability and human oversight for ethical AI.
- Scope
 - Regulation of Intermediary Services
 - The DSA regulates intermediary services, including online platforms like marketplaces, social networks, app stores, and content-sharing platforms. These platforms increasingly adopt AI technologies, ensuring safety and protecting user rights through the interplay of both regulations.

In summary, the DSA and AI Act, though enacted separately, complement each other by addressing different aspects of the digital landscape while enhancing safety and trust.

2. General Data Protection Regulation (GDPR)³

- Transparency
 - GDPR Principles
 - GDPR emphasises lawfulness, fairness, and transparency in processing personal data, imposing purpose limitation, storage limitation, integrity, and confidentiality requirements. The AI Act enhances these transparency requirements for AI systems, ensuring no bias, retaining human-centred values, and emphasising explainability to foster trust.
- Scope
 - Applicability to AI Systems
 - GDPR applies to processors and controllers that use personal data, including AI systems that process personal data during training, validation, and input data stages. The AI Act applies to users, providers, and participants in the AI value chain regardless of location and data handling, building on existing GDPR principles by addressing AI-specific aspects.

In summary, GDPR emphasises individual privacy rights, whereas the AI Act ensures AI systems are safe, responsible, and trustworthy. Both regulations work together to enhance data protection, privacy, and security while fostering AI innovation.

3. Digital Markets Act (DMA)⁴

- Fairness
 - Preventing Anti-Competitive Practices
 - The DMA aims to make digital markets fairer, preventing anti-competitive practices and fostering contestability. The AI Act's emphasis on fairness and

³<https://www.citizensinformation.ie/en/government-in-ireland/data-protection/overview-of-general-data-protection-regulation/>

⁴ https://digital-markets-act.ec.europa.eu/index_en



unbiased AI systems complements DMA's goals, regulating large online platforms (gatekeepers) to foster fair competition.

- Interoperability
 - Data Sharing and Open Standards
 - The DMA emphasises data sharing and interoperability to prevent market fragmentation and ensure a level playing field. The AI Act encourages data sharing for high-quality training datasets, with transparency and open standard requirements that strengthen DMA principles.

In summary, while the DMA ensures fair competition among gatekeepers, the AI Act focuses on transparency, accountability, and risk management. Together, they create a fair and robust digital ecosystem.

4. The EU CyberSecurity Act⁵

- Security
 - Enhancing AI System Security
 - The Cyber Security Act supports the AI Act by enhancing the security of AI systems, ensuring they are resilient against cyber threats.
- Risk Assessment
 - Compliance for High-Risk AI Systems
 - High-risk AI systems must meet specific requirements to access the EU market. The Cyber Security Act provides risk assessment and compliance measures, emphasising security.

In summary, the AI Act and Cyber Security Act promote secure AI deployment, risk assessment, and harmonisation across the EU, contributing to a safer AI landscape.

5. The Data Act⁶

- Data Accessibility
 - Improving Data Access
 - The European Data Act aims to improve data access for individuals and businesses in the EU market. Facilitating access to high-quality data can enhance AI system training and performance, fostering better outcomes and innovation.
- Responsible Use
 - Addressing IoT Growth
 - The Data Act addresses the rapid growth of data from IoT devices, encouraging responsible data use while respecting European rules. Although not directly linked to AI, it can apply to AI-based IoT systems and data used for AI training.

In summary, the Data Act and AI Act work together to promote responsible data use, innovation, and competitiveness within the EU.

⁵ <https://digital-strategy.ec.europa.eu/en/policies/cybersecurity-act>

⁶ <https://digital-strategy.ec.europa.eu/en/policies/data-act>



6. Network and Information Security Directive (NIS2)⁷

- Risk Management and Incident Reporting
 - Boosting Cybersecurity
 - The NIS2 Directive provides legal measures to boost cybersecurity across the EU, applying to operators of essential services in various sectors. It emphasises risk management and incident reporting, aligning with the AI Act to ensure AI systems contributing to critical infrastructure are secure and resilient.

In summary, developing collaborative frameworks for sharing information on threats and vulnerabilities can benefit both the AI Act and NIS2 Directive.

7. Corporate Sustainability Reporting Directive (CSRD)⁸

- Sustainability
 - Environmental Impact
 - The CSRD requires companies to be transparent about their environmental impact and sustainability goals. The AI Act supports CSRD goals by assessing and minimising AI systems' environmental impact, including energy-efficient programming and AI system design.
- Risk Management
 - Aligning Risk-Based Approaches
 - The CSRD implements risk management processes to help organisations identify, assess, quantify, and manage risks. The AI Act's risk-based approach aligns with CSRD's aim of managing risks related to sustainable practices.

In summary, both regulations work together to create a balanced framework for responsible AI deployment and sustainable business practices in the EU.

While the commonalities outlined above exist, these regulations address distinct aspects of the digital landscape. Therefore, their simultaneous implementation requires careful planning, effective communication, and continuous adaptation. Providers of AI technologies must comply with stringent regulations, ensuring their systems are transparent, safe, and ethically sound. This includes conducting thorough risk assessments and implementing robust data management practices to prevent bias and discrimination.

⁷ <https://digital-strategy.ec.europa.eu/en/policies/nis2-directive>

⁸ <https://www.pwc.ie/services/audit-and-assurance/regulation/corporate-sustainability-reporting-directive-csrd.html>



By taking the steps outlined below, Ireland can build a cohesive and forward-looking regulatory framework that supports innovation, protects consumers, and fosters a competitive digital economy.

1. Proactive Compliance
 - Companies should conduct internal audits of AI systems to understand where they may fall within the AI Act's risk categories. Develop a clear plan to meet transparency requirements, such as informing users about AI interactions and labelling AI-generated content. High-risk AI providers should appoint an EU representative and maintain up-to-date technical documentation.
2. Cybersecurity Measures
 - Implement robust cybersecurity measures to protect AI systems and prepare to report incidents promptly. By taking these steps, companies can avoid penalties, build trust with customers and stakeholders, and position themselves as responsible and ethical players in the AI landscape.
3. Interdepartmental Coordination
 - Encourage coordination between different regulatory bodies to ensure a harmonised approach to implementing these regulations. This can include creating joint task forces or working groups to address overlapping areas and streamline compliance efforts.
4. Leveraging Existing Knowledge
 - Encourage organisations to leverage their existing compliance frameworks developed for regulations like GDPR and DSA to streamline their compliance efforts with the AI Act. This can help reduce costs and enhance efficiency in meeting regulatory requirements.
5. Stakeholder Engagement and Education
 - Promote stakeholder engagement and provide educational resources to help organisations understand and navigate the new regulations. This can include workshops, webinars, and guidance documents that explain the synergies and intersections between the AI Act and other digital regulations.



Question 3

Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Response:

In our response to Question 1 above we discussed a number of the characteristics of a proportionate, balanced and agile regulatory framework which we feel will ensure that Ireland continues to be a leader of the digital economies of Europe, attract investment and promote AI innovation among indigenous Irish firms. Excellence in AI regulation, with a view to remaining commercially competitive, can be summarised in the following areas:

Sandboxing

This refers to the development of testing environments where organisations can experiment and develop AI systems in a safe and controlled manner.⁹

Development of AI sandboxing environments can ensure Ireland becomes a leader in the EU from a safety and trust perspective on AI. Sandboxing is effectively a controlled environment where users can experiment with AI and test whether elements of AI are aligned with the legislation. As such testing is performed in a controlled environment, risks related to AI systems functioning in a non-desired fashion are mitigated. EU member states are encouraged to take up this initiative. For example, Spain has already legislated for AI sandboxing, which allows businesses to test products and services powered by AI. By putting a sandbox process in place, member states can establish best practices and guidelines for safe use of AI.¹⁰

Learnings from this can be applied in an Irish context, with potential for EU-wide collaboration in this space. Given Ireland’s reputation in Europe as a leader in the digital economy, there is an opportunity to influence best practice for the development and implementation of AI sandboxing initiatives. In particular, Ireland can help ensure that AI standards across the EU require the enforcement of transparency and accountability in decision making. By continuing to lead in this space, this can only further enhance Ireland’s reputation, leading to further investment opportunities and encourage the development of AI led indigenous companies, all grounded in a culture of the responsible use of AI.¹¹

⁹https://www.oecd.org/en/publications/2023/07/regulatory-sandboxes-in-artificial-intelligence_a44aae4f.html

¹⁰ <https://www.pinsentmasons.com/out-law/news/spain-legislates-for-first-eu-ai-act-regulatory-sandbox>

¹¹ <https://www.investeurope.eu/media/6884/eu-ai-act-investor-perspective-position-paper2.pdf>

**Stakeholder Engagement:**

The impact of AI will be seen across society. Therefore, the government needs to be closely aligned and engage on a continuous basis with stakeholders across society (e.g., industry, academia, civil society).

Effective implementation of the EU AI Act requires continuous engagement with impacted stakeholders. This cuts across all sections of society as AI systems will impact all individuals either directly or indirectly. A key cornerstone of the EU AI Act is the requirement to prioritise fundamental human rights on privacy and discrimination. As we move to an era of technology assisted decision making, it is vital that systems are designed effectively not to discriminate against any stakeholders.

The establishment of the AI Advisory Council is a good start in being able to provide advice to the government in this area. The council needs to be able to provide guidance on how the complexities of the EU AI Act legislation can be communicated to the public and industry. Continuous monitoring of the make-up of the council, such that it has a balanced panel in terms of professional backgrounds (i.e., industry, academia, civil society) and demographics will give the government a rounded and balanced view. While the government should take on board feedback from the council, any policy decisions that emerge from such discussion should always be rooted in trust and safety in AI.

AI Regulatory Authority

As noted in our response to question one, we recommend that Ireland establish an adequately resourced regulatory authority to provide guidance to businesses on adhering to AI regulation and enforce penalties for non-compliance. This office should have strong links to the proposed EU AI Office, ensuring alignment and coordination.

By aligning its terms of reference with those of the EU AI Office, the regulatory authority can facilitate a consistent regulatory approach across Europe, helping to streamline compliance for businesses operating in multiple EU member states. Additionally, this office should work closely with the EU AI Office to share best practices, regulatory updates, and coordinate on enforcement actions, ensuring a unified effort in promoting safe and ethical AI deployment.



Education

A highly educated workforce is frequently cited as a key reason for investment in Ireland, particularly from foreign direct investment. This principle should apply in the context of having a society that is educated on both the benefits and risks of AI.

Education of the population at large is critical to achieve sustained and positive societal outcomes in the AI space. AI literacy (Article 4) is noted as a key element of the EU AI Act. This extends not only to the providers and developers of AI, but also to those that consume the output from AI processes. A fundamental knowledge of AI amongst the population should be targeted, perhaps through public information campaigns as well as through formal education programmes. This could perhaps be performed in a similar manner to what worked effectively in recent years regarding matters of public health. Aligned with this is funding for AI literacy programmes in schools and third level, with the principles of trust, safety and the responsible use of AI at the heart. By equipping the workforce of the future with the tools needed to navigate a world where AI systems are omni-present, further investment opportunities will present themselves, much like what we have seen to date in other areas of the digital economy.



Question 4

AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Response:

The objectives of the AI - Here for Good: National Artificial Intelligence Strategy for Ireland are closely aligned with the main principles of the EU AI Act which aims to strike a balance between attaining the economic and societal benefits of widespread AI innovation and adoption with minimising the risks posed to the health, safety and fundamental rights of EU citizens. Therefore careful implementation of the EU AI Act can support the Government in their objectives, in particular where the implementation approach adopted includes transparency, fostering innovation, supporting SMEs, promoting sector-specific AI applications, and investing in digital infrastructure and talent development.

We have set out below a number of suggestions and matters for consideration in support of these objectives.

Building Public Trust in AI

This is essential to the successful widespread adoption of AI within the economy and requires a combination of enhanced transparency, accountability and strong clear communication.

- Clear Documentation and Explainability
 - AI systems must provide clear, understandable documentation on their decision-making processes to ensure transparency. This requirement is critical for high-risk AI systems to gain public trust. For example, the UK Information Commissioner's Office (ICO) provides detailed [guidelines](https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/artificial-intelligence/guidance-on-ai-and-data-protection/)¹² on AI transparency that could serve as a model .
- Public Engagement and Education
 - Similar to the GDPR's success, public education campaigns about AI technologies, their benefits, and risks should be initiated through workshops, online platforms, and collaborations with educational institutions. Finland's AI education initiatives¹³, which include public online courses and school programs, demonstrate effective public engagement .
- Robust Governance Frameworks
 - Establish an independent oversight body for AI, akin to data protection authorities under GDPR. This body would monitor AI deployments, handle complaints, and

¹²<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/artificial-intelligence/guidance-on-ai-and-data-protection/>

¹³ <https://www.politico.eu/article/finland-one-percent-ai-artificial-intelligence-courses-learning-training/>



ensure ethical compliance. Regular audits and compliance checks for AI systems, especially high-risk ones, are necessary to maintain trust and adherence to standards.

Leveraging AI for Economic and Societal Benefit

- Economic Growth and Innovation
 - Harnessing Generative AI
 - McKinsey reports¹⁴ that generative AI could add \$2.6 trillion to \$4.4 trillion to the global economy annually by 2030. Generative AI enhances productivity by automating tasks, improving customer service, and driving product innovation across industries like manufacturing, finance, healthcare, and retail.
 - Support for SMEs and Startups
 - Ireland could offer financial incentives, grants, and access to AI R&D resources. Similar to the Horizon 2020 programme¹⁵, a dedicated fund for AI innovation to help SMEs and startups develop and scale their AI solutions. The establishment of AI incubators and accelerators can provide infrastructure and mentorship. For instance, Germany's High-Tech Strategy 2025¹⁶ supports startups in AI with dedicated funding and resources.
 - Industry Collaboration
 - Foster partnerships between academia, industry, and government to drive AI innovation. Collaborative platforms and innovation hubs facilitate knowledge exchange and accelerate AI application development. France's AI for Humanity Strategy¹⁷, which strengthens ties between research institutions and industries, can serve as a model.
- Societal Benefits through Sector-Specific Applications
 - Healthcare
 - AI-driven healthcare innovations can improve diagnostic accuracy and personalised treatment plans. Predictive analytics in AI can forecast disease outbreaks, personalise treatment plans based on patient data, and streamline administrative processes. The UK NHS's integration of AI¹⁸ has significantly improved patient diagnostics and outcomes.
 - Education
 - AI tools can personalise learning experiences and improve educational outcomes. Adaptive learning platforms tailor educational content to individual

¹⁴<https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier>

¹⁵https://research-and-innovation.ec.europa.eu/funding/funding-opportunities/funding-programmes-and-open-calls/horizon-2020_en

¹⁶<https://stip.oecd.org/moip/case-studies/1?answerId=A1-1>

¹⁷https://ai-watch.ec.europa.eu/countries/france/france-ai-strategy-report_en

¹⁸<https://www.england.nhs.uk/long-read/artificial-intelligence-ai-and-machine-learning/>



student needs, enhancing learning efficiency and engagement. Finland's incorporation of AI into its educational system has resulted in improved student performance and engagement.

- Environmental Sustainability
 - AI can optimise resource use, reduce waste, and predict environmental changes. AI-powered systems can monitor air and water quality, predict weather patterns, and optimise energy consumption in smart grids, contributing to sustainability goals. The Netherlands' use of AI in water management to predict and mitigate flood risks exemplifies AI's potential in enhancing environmental sustainability¹⁹.

Enablers for AI

- Investing in Digital Infrastructure
 - High-Speed Internet and Cloud Computing
 - Ensure widespread access to high-speed internet and cloud computing services. Investments in these areas are crucial for supporting AI development, similar to initiatives seen in Germany²⁰ and France²¹.
 - National Broadband Plan (NBP) Rollout
 - The NBP aims to provide high-speed broadband to every home, business, and school²². Accelerating the NBP rollout is essential to prevent delays and ensure timely access to high-speed internet, which is fundamental for AI development.
 - Developing Data Centers and AI Research Facilities
 - State-of-the-art data centres and AI research facilities are essential for providing the computational resources necessary for AI innovation. These facilities support high-performance computing, foster collaboration, and attract international investment. Germany's Cyber Valley²³ and France's INRIA²⁴ are examples of successful AI research hubs.
- Leveraging Ireland's Attractiveness for Tech Companies
 - Government Incentives
 - Offering tax breaks, grants, and other financial incentives can enhance Ireland's attractiveness to tech companies. Portugal's tax breaks and financial assistance through the Non-Habitual Resident regime and Spain's Startups Act²⁵, which provides tax breaks and reduces regulatory hurdles, are effective models.
 - Talent Attraction and Retention

¹⁹ <https://www.aquatechtrade.com/news/wastewater/unlocking-wastewater-using-ai>

²⁰ <https://technologymagazine.com/cloud-computing/amazon-in-europe-committing-to-german-cloud-ai-expansion>

²¹ <https://digital-strategy.ec.europa.eu/en/policies/broadband-france>

²² <https://nbi.ie/>

²³ <https://cyber-valley.de/>

²⁴ <https://www.inria.fr/en>

²⁵ <https://www.lawants.com/en/spain-startup-law/>

- Implement programs to attract and retain tech talent. The European Innovation Agenda's Erasmus+ Alliances for Innovation²⁶ and the EIT Deep Tech Talent Initiative²⁷ develop and attract deep tech talent across Europe. Austria's "Work in Austria" initiative offers comprehensive support for international experts²⁸.
- Continuous Professional Development
 - Offering continuous professional development opportunities ensures the workforce remains up to date with AI advancements. Developing industry-aligned curricula in collaboration with leading tech companies and offering specialised AI programs at universities and technical colleges can meet market demands.
- Supporting Economic Growth and Innovation:
 - Financial Incentives and R&D Support for SMEs and Startups
 - Provide targeted financial incentives, grants, and access to research and development resources to support the growth of SMEs and startups in the AI sector. Establish AI incubators and accelerators to offer infrastructure, mentorship, and networking opportunities.
 - Fostering Industry-Academia-Government Collaboration
 - Facilitate partnerships and collaborative platforms that bring together academia, industry, and government to drive AI innovation. Encourage the creation of innovation hubs and collaborative projects that leverage AI to solve real-world problems.
 - Harnessing Generative AI for Productivity and Innovation
 - Promote the adoption of generative AI technologies across various industries. Support research and development in generative AI applications, which can enhance productivity by automating complex tasks, improving customer service, and driving innovation in product development.
- Promoting Sector-Specific AI Applications:
 - Healthcare Innovations
 - Invest in AI-driven healthcare technologies to improve diagnostic accuracy, personalise treatment plans, and streamline administrative processes. Support the integration of predictive analytics and AI tools in healthcare systems to enhance patient outcomes and reduce costs.
 - Education Enhancement
 - Implement AI tools in education to create personalised learning experiences that cater to individual student needs. Support the development and deployment of adaptive learning platforms that adjust educational content based on student performance and engagement.

²⁶ <https://erasmus-plus.ec.europa.eu/programme-guide/part-b/key-action-2/alliances-innovation>

²⁷ <https://www.eitdeeptechtalent.eu/>

²⁸ <https://www.workinaustria.com/en/blog/why-look-so-far-away-novel-approaches-to-the-search-for-international-skilled-workers/>



- Environmental Sustainability Initiatives
 - Utilise AI technologies for environmental monitoring, resource optimisation, and waste reduction. Support projects that employ AI to monitor air and water quality, predict weather patterns, and optimise energy consumption in smart grids. Promote AI applications that contribute to environmental sustainability and resilience.

ADAPT Centre Contribution on Implementation of the AI Act and Fundamental Right Protection

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1 Context

- The EU AI Act introduces a blanket protection of fundamental rights for specific applications of AI that it classifies as high-risk, which is implemented under the existing single market harmonised product certification mechanisms for health and safety protection, i.e. the New Legislative Framework.
- This protection of fundamental rights places many AI issues previously covered by voluntary trustworthy or ethical AI frameworks into a framework with independent and

legally binding accountability for harmful characteristics of products grounded in the same human rights framework underpinning Union Law and many national laws.

- However, this major change in accountability also introduces many legal uncertainties on how AI providers and deployers can identify and manage risks to fundamental rights.
- Contrast this to the introduction of GDPR, which focussed on the protection of rights of privacy and data protection but benefitted from the development and employment of data protection principles under the data protection directive which had been in force beforehand. The protection of fundamental rights in AI systems however benefits from no such breakdown of principle, nor from prior deployment or compliance experience with such principles. This presents an extremely high level of legal uncertainty for providers and deployers of AI systems once the Act comes into force. The associated burden or chilling effects may fall disproportionately on public bodies wishing to deploy and reap the benefits of AI in high risk areas, and indigenous companies and especially SMEs that wish to market products into such applications.
- Public bodies, for example, face a new requirement to undertake a fundamental right impact assessment (FRIA) before considering the deployment AI in high risk applications (AIA Article 27(1)), but the acceptable form and content of such an assessment remains to be defined (AIA Article 27(5)), as does its role, if any, in the public procurement of such AI systems (AIA Article 62(3)(d)).
- While the AI Act does specify requirements for bodies such as the European Commission and the newly formed AI Office to develop guidance that will address some of the Act current legal uncertainties, it also relies on a complex network of competent authorities at national and union level to cooperate on regulatory learning to resolve these uncertainties.
- We maintain, however, that the relative immaturity of the state of the art in identifying, assessing and treating risks to fundamental rights from AI, combined with the rapidly advancing capabilities of the technology and the highly fluid modalities in how AI can be used will require extremely high levels of coordination in how relevant regulatory learnings are captured and shared.
- The dispersed and continually evolving nature of state-of-the-art expertise across various disciplines, government departments, public bodies, industry sectors, and civil society organisations necessitates the creation of effective and open multi-stakeholder mechanisms. These mechanisms are crucial for gathering, comparing, and synthesising new guidance and advanced understanding of technology, its risks to fundamental rights, and strategies for mitigating those risks.
- The broad scope and complex avenues by which AI may impact fundamental rights, and the ability of individuals to report such impacts, means that the regulatory learning mechanisms and multi-stakeholder deliberations on risks to and protections of fundamental rights must be conducted with an unprecedented ability to transparently communicate, update and explain their status and direction to the public, in order to build and maintain trust in AI innovation and use, especially in public service.
- Regulators and stakeholders must engage in rapid and effective regulatory learning and collaboratively develop a state-of-the-art understanding of risks to fundamental rights and their management. These insights should be transparently shared with the public. By making these processes accessible and treating them as public goods,

they can also establish a gold standard to underpin voluntary codes of practice. This strategy not only aids AI value chain actors in building trust with customers and consumers but also promotes ethical standards and accountability across the industry. Moreover, it extends the benefits beyond the regulatory scope of the Act, fostering a collaborative environment and enhancing public confidence in AI technologies.

2 Mapping the Space of Current Legal Uncertainty

The above issues represent a complex and highly interconnected set of challenges for the implementation of the AI Act. It will require comprehensive communication and expert consensus built at a cross-EU level if the Act is to be successful in combining the protections needed to ensure public trust in AI while enabling competitive, effective and efficient value chains for AI systems, data and components across the single market.

Competent authorities in Ireland must, therefore:

1. Engage effectively with the EC and AI Office, European standards organisations involved in developing harmonised standards and with peer authorities in other member states to communicate and ensure timely progress on items requiring legal certainty that reflect national priorities and the implementation of the national AI strategy;
2. Identify and adequately resource mechanisms within Ireland that can contribute to resolving legal uncertainty within its jurisdiction and also offer influential regulatory learning outcomes to the EC and peer competent authorities.

Below we present a problem space for potential legal uncertainties in implementing the Act as a guide to positioning and prioritising instruments for regulatory guidance and regulatory learning.

The problem space for addressing legal uncertainty under the AI Act, can be mapped along the following three axes:

- **Protections:** These may include protection of health and safety as established in existing harmonised legislation under the new legislative framework, but also the novel protections for the full range of fundamental rights as laid out in the EU Charter of Fundamental Rights, including protection for equality, democracy, the rule of law and the environment.
- **Types of AI Systems defined in the AI Act**, including prohibited systems, high-risk AI (HRAI) systems as defined in Annex I and in Annex III, and high-risk AI systems declared as non-high risk
- **Use cases representing different AI value chains**, ranging from the central case of high risk AI provision, General Purpose AI (GPAI) model provision, AI provision under public procurement regime, provisional AI system assessment under regulatory sandboxes or human trials, use cases involving substantial change to the deployed AI system and use cases where unanticipated risks materialise after deployment as identified in incident reporting and reporting by impacted stakeholder.

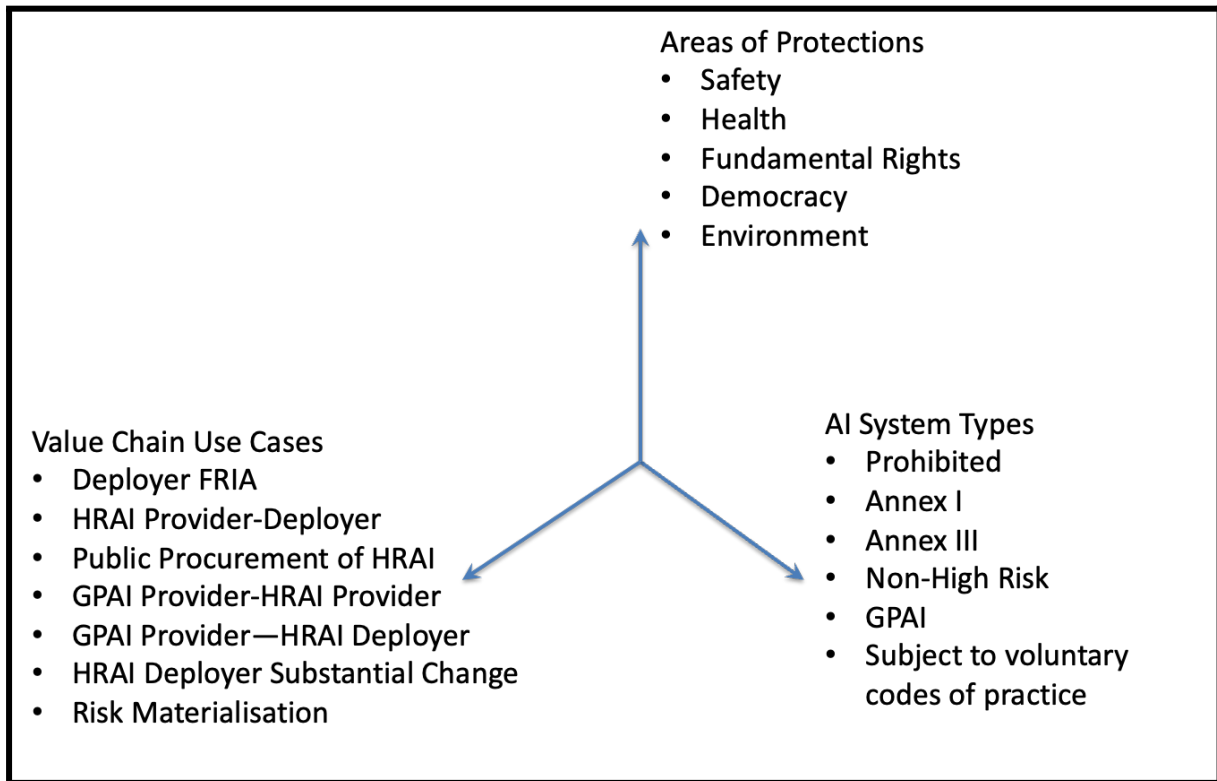


Figure 1: Major axes defining the uncertainty space of the AI Act within which regulatory elaboration and learning mechanisms could be placed.

2.1 Protections related to Fundamental Rights

When referring to fundamental rights protection in AI governance, the EU AI Act has largely followed the language of the EU Charter of Fundamental Rights (CFR). The Preamble to the AI Act, in Recital 48, specifically mentions 17 rights, which translate into 23 Charter Articles, as presented in the table below:

Right to human dignity	Art 1 CFR
Respect for private and family life	Art 7 CFR
Protection of personal data	Art 8 CFR
Freedom of expression and information	Art 11 CFR

Freedom of assembly and association	Art 12 CFR
Non-discrimination	Art 21 CFR
Right to education	Art 14 CFR
Consumer protection	Art 38 CFR
Workers' rights	Arts 15, 27, 28, 29, 30, 31 and 32 CFR
Rights of persons with disabilities	Art 26 CFR
Gender equality	Art 23 CFR
Intellectual property rights	Art 17(1) CFR
Right to an effective remedy and to a fair trial	Art 47 CFR
Right of defence and the presumption of innocence	Art 48 CFR
Right to good administration	Art 41 CFR
Children's rights	Art 24
Environmental protection	Art 37 CFR

However, it appears that other fundamental rights protected by the Charter, which have not been explicitly mentioned in the AI Act, may also be impacted by the new legislation. For example, the prohibition of using biometric categorisation systems that categorise individually natural persons based on their biometric data to deduce their religious or philosophical beliefs is grounded in the right to freedom of thought, conscience and religion enshrined in Article 10 CFR, which is not explicitly mentioned in Recital 48 to the AI Act. Preliminary research into this area suggests that the AI Act may potentially impact all the substantive rights included in 50 Articles of the Charter (excluding the so-called horizontal provisions laid down in Articles 51-54), whether directly or indirectly. Importantly, in accordance with Article 52(1) of the EU Charter of Fundamental Rights, any limitations on the exercise of fundamental rights must not only be made subject to the principle of proportionality, but it must also respect the essence of those rights.

The potential impact of fundamental rights on the AI governance in the EU is particularly visible in Article 27 of the AI Act, which introduces the requirement to carry out an *ex ante* fundamental rights impact assessment (FRIA), which will be mandatory for most deployers of high-risk AI systems. While a template for a questionnaire, including through an automated tool, will be developed by the future AI Office, the implementation of Article 27 is likely to pose significant challenges in practice. Even though impact assessments related to various fundamental rights are a commonly used methodology, including in EU Law, the existing methodologies to date have focused on assessing the impact on one isolated right or a group of related rights (e.g. environmental impact assessment, data protection impact assessment, gender, disability or equality impact assessment). Conversely, by introducing a duty to conduct a fundamental rights impact assessment, the EU is laying down a requirement of a comprehensive review, presumably taking account of all the fundamental rights that may potentially be affected in varied contexts and impacting differently situated individuals by a given AI system.

Another challenge in the implementation of the AI Act is going to be the extent of the impact of different fundamental rights on the deployment of AI systems. The legal basis of the AI Act is twofold: 1) Article 16 TFEU, which lays down the EU's competence concerning the protection of the right to privacy, and 2) Article 114, which concerns harmonisation for the internal market. Thus, the protection of the fundamental right to privacy will be a priority concern for the implementation of the AI Act. The same, however, cannot be said about the remainder of Charter rights, which have been positioned merely as overriding reasons of public interest, justifying restrictions to the free movement on the internal market. It seems unclear how AI innovation is to be balanced against fundamental rights concerns under the AI Act. It appears that – except for the right to privacy – every measure taken to protect fundamental rights will have to be balanced against the overarching objective of facilitating the free movement of AI systems in accordance with the principle of proportionality. This gives an idea of how complex and uncharted this territory is for competent authorities, the EU institutions, and by extension, firms falling within the AI Act's relevant provisions.

2.2 AI System Types:

The provisions of the AI Act are targeted at specific types of AI systems defined in terms of the application area the system intends to address, with large AI systems not intended for specific application addressed separately as these present different forms of potential legal uncertainty.

Class of AI system	Potential uncertainties	Body to direct questions on uncertainty
Prohibited Applications (Art.5)	What qualifies as a 'subliminal technique' under Art.5.1(a)? What qualifies as a 'purposefully manipulative or deceptive technique' under Art.5.1(a)?	

High Risk AI Systems subject to Union Harmonised Legislation Annex I (Art 6(1))	What fundamental rights are relevant/not relevant to a given harmonised legislation scope? How does the FR for life (CFR Art 2) and integrity of the person (CFR Art 3) relate to the interpretation of health and safety protections, e.g. in an FRIA?	Initially notified bodies (they all need external conformity assessment under the AI act?) and then the relevant market surveillance authority
AI Systems listed in Annex III (Art 6(2))	AI systems included in Annex III are potentially classified as high-risk, subject to complex and overlapping conditions and exceptions outlined in Articles 6(3) and 6(4).	The Commission, with consultation from the European AI Board (EAIB), will provide guidelines specifying the practical implementation no later than 2 Feb 2026. To resolve uncertainty, the Commission also has power to amend Art 6(3) subpara 2 and Annex III (Arts 6(6), 6(7), 6(8), 7).
AI Systems listed in Annex III self-assessed to be not high risk (Art 6(4))	What regime will be in place for checking such self assessment correctly interpret risks levels?	-
AI Systems listed in Annex III that does not pose a significant risk of harm to the health, safety or fundamental rights of natural persons (Art 6(3))	What regime will be in place for checking such self assessment correctly interpret the stated derogations in Art 6(3)	-
AI Systems listed in Annex III that performs profiling of natural persons (Art 6(3) subpara 3)	What qualifies as profiling, especially if integrated into more complex AI processing and inference ?	-

Regulated Sector	Harmonised legislation	Responsible Irish Body
machinery	2006/42/EC	Health and Safety Authority
toys	2009/48/EC	Competition and Consumer Protection Commission

recreational/personal watercraft	2013/53/EU	Dept of Transport
lifts	2014/33/EU	Health and Safety Authority
explosive gases	2014/34/EU	Health and Safety Authority
radio equipment harmonised legislation	2014/53/EU	ComReg
pressure equipment harmonised legislation	2014/68/EU	Health and Safety Authority
cableway installation harmonised legislation	2016/424	Commission for Railway Regulation
personal protective equipment harmonised legislation	2016/425	Health and Safety Authority & Competition and Consumer Protection Commission
burning gaseous fuels harmonised legislation	2016/426	Health and Safety Authority & Competition and Consumer Protection Commission
medical devices harmonised legislation	2017/745	Health Products Regulatory Authority
in vitro diagnostic medical devices harmonised legislation	2017/746	Health Products Regulatory Authority
civil aviation harmonised legislation	300/2008	Irish Aviation Authority
two- or three-wheel vehicles and quadricycles harmonised legislation	168/2013	Under consideration
agricultural and forestry vehicles harmonised legislation	167/2013	Minister for Agriculture, Food and the Marine
marine equipment harmonised legislation	2014/90	Department of Transport. Marine Survey Office
rail systems harmonised legislation	2016/797	Commission for Railway Regulation
motor vehicles and their trailers and components harmonised legislation	2018/858	Road Safety Authority of Ireland
civil aviation safety harmonised legislation	2018/1139	Irish Aviation Authority

2.3 AI Value Chain Use Case

Developing structures and support for effective and efficient implementation of the AI Act requires careful consideration of interactions that need to occur between

Mapping and Engaging AI Value Chain Actors:

- Identify Key Stakeholders: Map all relevant stakeholders across the AI value chain, including:
 - Different configurations of AI value chain actors,
 - Notified bodies and market surveillance authorities serving that chain and
 - The stakeholders whose health, safety and fundamental rights are potentially impacted by AI systems and who must interact relevant value chains and regulatory actors

AI Value chain interactions addressed by the act include:

- High-risk AI provider interacting with an AI deployer
- High-risk AI provider interacting with a public sector AI deployer through a public procurement process
- GPAI provider interacting with a high-risk AI provider
- GPAI provider interacting with a high-risk AI deployer
- Supplier of AI systems, tools, services, components, or processes interacting with an high-risk AI provider

For high-risk AI systems that require certification by a notified body or undertaking self-assessment should differentiate between:

- Support existing certification assessment bodies in Ireland that aim to act as notified bodies under the AI Act, both in obtaining and maintaining notified status and in attracting parties seeking certification from them.
- Determining the ambition to establish new notified bodies in Ireland, and then support those bodies
- Support for enterprises based in Ireland in preparing to seek certification from a non-Irish notified bodies (e.g. when an appropriate body is not established in Ireland)

Considering

- Support for enterprises based in Ireland in offering GPAI to a high risk provider or deployer in the Union
- Support for enterprises based in Ireland undertaking a contract to supply AI system, tools, services, components, or processes to a high risk AI provider in the Union

3. Consideration for configuration of National Competent Authorities

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Taking a centralised approach to configuring competent authorities in the form of an AI Authority (or Digital Regulator as Italy is doing) may have advantages. First, it would allow for cross-cutting expertise and resources to be built up and harnessed in one entity who would be a credible super-regulator for AI. Secondly, it would create a visible, streamlined one-stop shop approach that would appeal to firms of all sizes rather than having to approach a variety of regulatory bodies with the potential for inconsistencies of approach. This approach would be pro-innovation and regulatory learning. A single AI regulator is seen in Spain and is likely to emerge in the UK. An alternative would be to have an efficient formal cooperation forum between digital regulators for regulatory learning and consistency. It

would also make sense to harness lessons learned from the Central Bank's planned roll-out of a regulatory sandbox.

3.1 Implementing Fundamental Rights Protections:

On the basis that the state of the art in mechanisms and measures for protecting fundamental rights in AI product lifecycles is relatively immature and experience in conformity testing against fundamental rights is extremely rare, implementation of the AI Act must prioritise efficient and timely development of applicable knowledge, accessible resources and guidance, deployable expertise, key competencies and channels for stakeholder engagement.

The AI Act, as a Regulation, will have direct effect. Most Charter rights do not have direct effect, except the ones that are already protected in other legislation with direct effect (e.g. discrimination or data protection). A prerequisite therefore for legal certainty for the implementation of the Act is that the value chain, regulatory and stakeholder representative actors in any high-risk sector must have understanding of the relevant EU and national legislation that does have a direct effect in protecting fundamental rights. Further, in theory, this seems to imply that in future litigation under the AI Act will override those Charter rights that don't have direct effect, eg. the right to freedom of expression. This would seem to place a lot of interpretive power on the protection of some fundamental rights within the remit of current systems for product regulation. It is not clear if this is an explicit intent of the Act or even if this is a desirable outcome, raising broader questions about the role of the Act in the protection of fundamental rights in general.

Recommendations:

- The National Competent Authorities must liaise with the EC, AI Office and European AI Board (EAIB) to seek guidance on the set of Union law that have a direct effect on the protection of fundamental rights and their relevant application to the different areas of AI covered by the Act, e.g. prohibited, high-risk, non-high risk, GPAI
- The National Competent Authorities should analyse the Union-level guidance on relevant legislation with a direct effect on protection of fundamental rights and map that into the implementation of that Union legislation in national legislation. They should also assess which other national legislation offers direct effect in the protection of fundamental rights in the sectors covered by the AI Act. This should be undertaken in collaboration with the Irish Human Rights and Equality Commission. Cooperation between relevant government departments is also recommended in undertaking this analysis, such as the Workplace Relations Commission, Department of Social Protection, Health Insurance Authority, International Protection Office and the Data Protection Commission. As this is a potentially large legal analytical task, we suggest the following sectors are prioritised:
 - Employee recruitment, promotion, evaluation & termination of employment,
 - Eligibility for social security payments, grants & benefits
 - Pricing of life or health insurance
 - Examination of applications for asylum, visa or residence permits
- The National Competent Authorities must liaise with the EC, AI Office and the EAIB to seek clarity on the intended scope of the Act in protecting fundamental rights, especially for rights that are not protected by other Union legislation or national legislation with direct effect. As part of this, the mechanism for resolving possible

conflict between protections for different fundamental rights need to be clarified, in particular the role of the principle of proportionality in this.

3.2 Implementing National Responses to EU-level updates:

Integrated legal and technical guidance is required to address the legal uncertainties currently presented by the AI Act in the near and medium term. The Act already indicates where specific guidance and resources will be developed by the AI Office; by the EC through implementing and delegated acts or common specifications; by European Standards Organisation for harmonised standards, and by the EU AI Board through ongoing guidance and opinions.

Recommendations:

- National Competent Authorities should ensure that the likely wide range of implementation guidance is clearly contextualised for and communicated to local value chain, regulatory and stakeholder actors in a timely fashion, ideally through a single, searchable communication portal. Therefore, to prioritise clear and consistent communication during a wide and complex phase of regulatory learning, fragmentation of communication functions across different authorities should be avoided.
- National Competent Authorities should liaise closely with Union level bodies to assemble a running schedule of when guidance, standards, opinions and implementing or delegated acts will be appearing, including the timing of opportunities to be consulted on their preparation.
- The AI Advisory Council, the Enterprise Digital Advisory Forum, and the GovTech Delivery Board should provide oversight and be able to make recommendations on the form, quality and timing of communications in relation to the implementation of the AI Act by National Competent Authorities.

3.3 Regulatory Learning mechanisms: Sandboxes, Testing in real-world conditions, and Incident reporting:

The current high level of legal uncertainty associated with fundamental rights protections and the rapid development of AI technology and its ability to impact those rights points to the critical importance of making effective and responsive use of the regulatory learning mechanisms in the Act, namely regulatory sandboxes, testing in real world conditions, and sharing of information on serious incidents. Uncertainties make it difficult to predict the optimal priorities for investment in such regulatory learning mechanisms.

Recommendations:

- The National Competent Authorities should liaise closely with the EC, AI Office and EAIB on the development of guidance for the implementation of regulatory learning mechanisms, contribute and encourage the open and timely sharing of learnings from the implementation of such mechanisms between Member States. The scope and focus of past and active mechanisms in other Member States should be closely monitored to ensure Irish planning and investment in such mechanisms does not needlessly duplicate those elsewhere.

- The National Competent Authorities should recognise that a single learning mechanism (i.e. a single sandbox) will be insufficient to address the wide range of uncertainties facing the implementation of the Act, and therefore an agile approach to establishing, operating and retiring multiple regulatory learning mechanisms should be adopted. A rolling strategic plan for managing the lifecycle of such mechanisms should be established, adopting a paradigm of a *regulatory learning mechanism factory* that aims to continuously improve the learning productivity, and minimise the lifecycle cost, of each mechanism (including the use of data sharing mechanisms - see section 4). We suggest that such mechanisms be positioned to serve as spaces at the intersection of AI system types and AI value chain types outlined in section 2, in order to best convene the relevant sectoral expertise from regulatory, value chain and stakeholder actors. For example, a sandbox to address the public procurement of a system employing AI in higher education and vocational training could be convened by DFHERIS, involving the HEI, education software providers and stakeholder groups including staff and student unions, professional accreditation bodies.
- The National Competent Authorities, in collaboration with other Member States, should develop effective mechanisms, including guidelines, template, and a common incident taxonomy, for collecting, sharing, and analysing serious incident reports. As informed by best practices from more mature cybersecurity incidents and vulnerabilities response communities.

4. Synergies with Other Digital Regulation

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

4.1 GDPR

For AI Deployers, synergies may be possible between the need to undertake a Data Protection Impact Assessment (DPIA) under GDPR and the broader based requirement for a FRIA if planning to deploy an AI system in a high risk application. GDPR has a structured process for undertaking a DPIA: 1) assess need for DPIA, 2) carry out the DPIA, 3) determine whether processing should take place. We can express the FRIA process in a similar manner:

1. assess need for FRIA - which will be based on high risk categorisation;
2. carry out the FRIA - where we will need to identify what are inputs, and what the outputs will be e.g. analysis of the impact on specific fundamental rights, the assessment of the level of risk and its acceptability, tradeoff consideration between

different risks and the expected benefits of the intended purpose of the AI system; and then

3. what should the FRIA lead to e.g. a halt to the intended use of AI, further legal and stakeholder consultation to consider viable treatments for unacceptable levels of residual risk and detailed requirements for building and procurement of the AI system.

Currently, we note that there is some variation in the formats of DPIA suggested and accepted by different member state GDPR supervisory authorities. While under GDPR such variation only impacts organisations with major data processing activities in multiple member states, for FRIA national variations in recommended/accepted formats may undermine the goal of fundamental rights protections that can be implemented in AI products that can be deployed seamlessly across the single market.

Recommendations:

- The National Competent Authorities should liaise closely with the DPC to ensure efficient alignment of FRIA and DPAI processes and guidelines, especially to minimise the requirements for duplication in bodies undertaking the assessments
- The National Competent Authorities should liaise closely with the AI Office to ensure strong normalisation of FRIA guidelines (Art 27.5) and with the European AI Board (EAIB) to ensure good coordination and interoperability on FRIA between market surveillance bodies, especially for the specific high-risk sectors.

4.2 Data Governance Act (DGA)

The DGA offers a legal grounding for organising data sharing for non-profit purposes. Given the need to rapidly develop guidance, benchmarks and measurement methodologies in areas of fundamental rights protections in the face of relatively immature state of the art, using DGA to facilitate the rapid and widespread sharing of information and data on FR risk assessment and mitigation testing.

Recommendations:

- National Competent Authorities, in coordination with the DPC, should liaise with the AI Office and the EAIB to seek best practice on employing DGA measures to support controlled data sharing for regulatory learning to support AI Act mechanisms, including sandboxes (Art 57, 58) and user testing in real world consideration (Art 60), including for the appropriate protection of shared personal data (Art 59) and consent of test subjects (Art 61). Such liaison should also address the use of or interaction with existing data space infrastructure for regulatory learning mechanisms, including the European Health Data Space¹ and the Public Procurement Data Space².
- Consideration should be given to establishing altruistic data sharing bodies in Ireland to support public interest interaction and exchange of measurement methodologies and benchmarking data between relevant: competent authorities; public sector actors; their private sector supplier value chains; the stakeholder groups most vulnerable to fundamental rights risks, e.g. patients, employees, those accessing public benefits/services; and groups that represent them, such as IPOSSE, the Irish Council for Civil Liberties and labour unions.

¹ https://health.ec.europa.eu/ehealth-digital-health-and-care/european-health-data-space_en

²

https://single-market-economy.ec.europa.eu/single-market/public-procurement/digital-procurement/public-procurement-data-space-pdds_en

4.3 General Product Safety Act and the Product Liability Directive

These new legal instruments expand the scope of some product liability to cover impacts from AI. A further EU AI liability directive is also under development. These legal instruments may interact with the AI value chain in new ways that need to be reflected in contracts with upstream suppliers. There is already an upstream contractual requirement for high risk AI providers and any suppliers of AI systems, tools, services, components, or processes (Art.25.4) as well as on upstream information provision from GPAI provider (Art.53).

Recommendations:

- National Competent Authorities should liaise closely with the AI Office and EAIB on central guidance provided on supplier-high risk AI providers contract templates and information provision from GPAI providers.
- Consider adapting this guidance to provide templates and guidance for third party suppliers and GPAI provision contracts that are grounded in common law familiar to importers or distributors from North America.

5. Excellence in AI Regulation

Harnessing Digital - The Digital Ireland Framework³ establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

- Dimension 1 Digital Transformation of Business
 - 1.1 Digitalisation of Enterprise: AI has major potential for improving economic productivity, but its uptake may be impeded by uncertainty about the regulatory obligations and associated legal and reputation risks, especially by SMEs which are less well resourced to resolve these legal uncertainties. By focussing on reducing these uncertainties and improving communication, our recommendations aim to ensure implementation of the AI Act minimises any chilling effect on AI adoption.
 - 1.2 Ireland as a location for leading digital enterprises: By focussing mechanisms for regulatory learning in Ireland on the interactions that occur

³ <https://www.gov.ie/en/publication/adf42-harnessing-digital-the-digital-ireland-framework/>

across value chains, our recommendations aim to make Ireland attractive as a location where issues of contractual liability, fundamental rights risk assessment and generation of upstream technical documentation are well supported. This builds on Ireland's existing leading position as a host location to many US firms that will operate as GPAI providers or as third party system/tool/data/process providers to AI providers in the European single market.

- 1.3 Broader Economic Digital Dividends Dimension: By highlighting the relative immaturity of the state of the art in protection of fundamental rights compared to prior health and safety and personal data protection, our recommendations highlight the high potential to leverage the research and innovation expertise in Ireland in the areas of trustworthy and ethical AI and data governance. Close collaboration between National Competent Authorities and Ireland's research centres, technology centres and innovation hubs offers strong opportunities for mutual benefits. This includes transferring research results and regtech innovations between these centres and the regulatory mechanisms for the AI Act operating in Ireland such as regulatory sandboxes and real-world testing. . In particular, the expertise available in research centres for engaging in human-facing assessments and undertaking engaged research with relevant societal stakeholders may dramatically reduce the lead time in identifying and resolving uncertainties in managing risks to fundamental rights. Our recommendation also contributes to participation by local enterprises in public procurement of high-risk AI systems. This will help reduce barriers for enterprises exporting AI systems or related components to downstream customers across the single market. Finally, alignment with national R&I activities will open opportunities for enterprises to collaborate with researchers to access EU-funding aimed at improving the digital single market adoption of AI in compliance with the AI Act and to meet goals of the twin digital and green transition.
- 2 - Digital Infrastructure Dimension: The primary impact of the AI Act on digital infrastructure is the need for AI products to process and be monitored for appropriate levels of cyber security resilience., This is a requirement for high risk AI systems (AIA article 15) and for digital products in which they are contained under the new EU Cyber Resilience Act. Cyber security is also central to underpinning protections for many other rights, especially those related to personal data and its processing by AI.
- 3 - Skills Dimension: Our recommendations support several aspects of the skills dimension of the Digital Ireland Framework. Protection of the right to decent employment is one of the rights protected under the Charter as is protection against discrimination in both employment and education, with the impact of AI-based decision making in these subject to high risk FRIA. This provides a formal legal grounding for deliberating on the impact of adopting AI in the workplace and in education. Further, the complex needs of the regulatory process is itself part of the digital transition, and one that in Europe is not likely to diminish. Therefore the development of regulatory learning mechanisms in Ireland may also serve to catalyse the demand for and the provision of skills in AI regulation and governance. The strength both in the existing governance, risk and compliance sector in Ireland and the HEI research in this area indicate the potential for developing a skills hub in AI regulation. Our recommendation of prioritising regulatory learning for public sector

procurement of AI points to the potential for public sector leadership in developing workforce skills in governance, risk and compliance roles across all sectors.

- 4 - Digitalisation of Public Services Dimension: our recommendation suggest prioritising regulatory learning mechanisms for public procurement of AI, as a focus for accelerating and maximising the propagation of learning on fundamental rights between the public sector, its commercial supplier and its sector-relevant societal stakeholders.

6. Alignment with the Objectives of the AI strategy for Ireland

AI - Here for Good: National Artificial Intelligence Strategy for Ireland⁴ sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

The following expand how the above recommendations align with and can support actions proposed under the different Strands of the National Ai Strategy

- **Strand 1: AI and Society:** Our recommendations focus on the need to ground activities on engaging the public on AI and building trust in the first instance in clear and consolidated communication about the guidance, decisions, standards and specifications that are required to be developed at a Union level, but with careful explanation and contextualisation of this into the Irish context. A core message to build here is that the AI Act in essence places AI more accountability into the remit of existing Union legislation, including harmonised product regulation, GDPR and the charter of fundamental rights. A core part of the trust building communication will be in developing awareness of the Charter, how the AI Act and other acts with direct effect protect those rights in practice and how those impact on people's everyday lives. While concrete case law from the AI Act may take a long time to emerge, strong transparency and communication on how fundamental rights are being protected in the public sector use of AI, e.g. through FRIA and public procurement activities, may offer an important source of explanatory stories. In addition, specific public concerns about AI can emerge rapidly based on media attention on the release of a new AI application or a novel type of incident which indicates AI-based harms. A useful communication function may be one that can respond rapidly to a story in the context of the fundamental rights being harmed, the likely acts with direct effect and related competent authorities in play, and an assessment of the

⁴ <https://enterprise.gov.ie/en/publications/national-ai-strategy.html>

uncertainty involved or new questions raised, so as to seek responsive public engagement to the liveness of these issues. In short, raising public literacy in the protection of their fundamental rights is a key component in delivering literacy and critical citizen skills that will underpin trust in AI deployment.

- **Strand 2: A Governance Ecosystem That Promotes Trustworthy AI:** Our recommendations align strongly with the call in this Strand for an agile approach to AI governance and the regulatory framework. In particular we advocate an agile, repeatable and responsive approach to managing the life cycle of regulatory learning mechanisms such as sandboxes and testing in real-world conditions. We advocate that attempts to support voluntary ethical code of practice in the adoption of AI should be clearly seeded from and responsive to the rules and decisions related to protection of fundamental rights for high-risk AI systems. In this way, self-assessment approaches to ethical AI can be more credibly grounded in the legal decision around the Charter of fundamental rights, the AI Act and other acts with direct effect on protection of rights. Where such decisions are not available, or relevant ethical issues cannot be directly grounded in known legal effect on the development and use of AI, then additional ethical principles or guidelines should be structured as self-administered extensions to know legal fundamental right protections, rather than as an alternative ethical framing, which ultimately will lack a grounding for enforcement as part of the legal framework, and the societal legitimacy that imparts. Further, as we already see open access online tools emerge to support self-assessment or voluntary codes of practice^{5 6 7}, there may be benefit to a common labelling mechanism indexing the capabilities of tools to the potential protection of fundamental rights so that their capabilities can be compared to the 'gold-standard' of legally enforceable fundamental rights risk and mitigation measures. The successful use of UN SDG to label a wide variety of voluntary practice. Similarly, a major component in the implementation of the AI Act is the technical guidance offered by future harmonised standards or common specifications, however existing candidates for adoption in the form of international standards from ISO/IEC JTC1 SC42⁸ do not, due to their international nature, have a specific grounding in fundamental rights protections⁹. This current mismatch between technical specification and the Act's focus on fundamental right protection would also benefit from a means of labelling technical measures in standard with their relevance to fundamental rights. Such a mapping from standards to fundamental rights could be integrated into the action laid out in the NSAI AI Standards and Assurance Roadmap¹⁰.
- **Strand 3: Driving Adoption of AI in Irish Enterprise:** Our recommendations address readiness and the driving of adoption of AI by enterprises by structured mechanisms for communication and regulatory learning to optimise the minimisation of the current legal uncertainties. In addition, proposal for shared data spaces on addressing fundamental rights risk and management information in specific sectors using the facilities of the DGA would offer enterprises a regulated and privacy-aware forum for

⁵ <https://regtech.adaptcentre.ie/>

⁶ <https://altai.insight-centre.org/>

⁷ <https://artificialintelligenceact.eu/assessment/eu-ai-act-compliance-checker/>

⁸ <https://www.iso.org/committee/6794475.html>

⁹ <https://publications.jrc.ec.europa.eu/repository/handle/JRC132833>

¹⁰ https://www.nsai.ie/images/uploads/general/NSAI_AI_report_digital.pdf

interacting with societal stakeholder representing groups whose rights need protection in a particular sector..

- Strand 4: AI Serving the Public: Our recommendations prioritise the development of regulatory learning mechanisms targeting the protection of fundamental rights in the public sector use of AI, which feature prominently in the high risk AI categories of Annex III of the Act. This can accelerate the understanding of risks to fundamental rights as public bodies have a direct responsibility to ensure protection of citizens fundamental rights, and are more able to employ high levels of transparency in procurement and compliance actions with peer public bodies, nationally and internationally, than is feasible in competitive commercial markets. Our recommendation of public procurement information data spaces provides a forum for accelerating the sharing of learning from the public sector with regulators, commercial AI providers and societal stakeholders and their representatives. Health, education, public service provision and general public sector functions in employment and cyber security represent possible priorities for initial public sector regulatory learning mechanisms,
- Strand 5: A Strong AI Innovation Ecosystem: Our recommendation prioritise regulator learning in public procurement of high risk AI as an ideal opportunity to rapidly propagate resolution of legal uncertainties on fundamental rights protection to the private sector. The Irish research and innovation ecosystem offers rich opportunities for collaboration of innovation of AI and its new governance, risk and compliance needs around a set of research centres and spokes, innovation centres and innovation hubs which are thematically aligned in human centric, AI, data analytics, software engineering, networking, data governance, medical devices, learning technology and ICT and AI innovation. Developing the capacity of existing SFI and EI funded centres/hubs as facilitators of engagement between SMEs and start-ups, multinationals, public bodies and societal stakeholder groups may allow them to play an important role in resolving legal uncertainties and developing skills and knowledge capabilities in Ireland and for participation in relevant international R&I collaborations.
- Strand 6: AI Education, Skills and Talent: A successful cooperation between regulatory learning mechanisms and Irish R&I Centres also offers an opportunity to rapidly develop responses to the impact of AI on skills and training. The HEI driving these centres are at the leading edge to grappling with the changes in teaching and learning, especially as advances in generative AI raises profound questions for institutes and their professional accreditation partners about the viability of current teaching and assessment methods of skills and knowledge in fields most likely to be benefited from AI, e.g. engineering, medicine, law, media, creative industries and science. They must also grapple with the use of AI in learning access and assessment itself being a high risk area, in which fundamental rights need to be protected. HEI should be encouraged to place themselves at the forefront internationally in developing new more flexible approaches to learning, both in the use of AI in these different disciplines and the integration of governance, risk and compliance requirements into these new AI-based practices. If this leads to a robust and viable HEI sector, Ireland will be much better placed to build AI skills, attract the best international talent and ensure equality and diversity as AI becomes widely adopted in the workplace.
- Strand 7: A Supportive and Secure Infrastructure for AI: As with national digital infrastructure, robust skills and capacity in securing AI systems in the public and

private sector will be a critical prerequisite to securing public trust in those systems. This is of particular relevance in Ireland nationally due to the disproportionately high distribution of data centres in Ireland, where international MNC serve the Single Market.



Submission by SIPTU
to the Public Consultation
on the National
Implementation of EU
Harmonised Rules on
Artificial Intelligence
(AI Act)

July 2024

Introduction

Services, Industrial, Professional and Technical Union (SIPTU) represents over 180,000 workers from virtually every category of employment across almost every sector of the Irish economy. SIPTU provides the expertise, experience and back-up services necessary to assist workers in their dealings with employers, government and industrial relations institutions. It is the largest trade union in Ireland.

SIPTU provides education and training services through its college and also through the IDEAS Institute, a wholly owned company of SIPTU.

SIPTU was established in 1990 - with the merger of the country's two largest unions, the Irish Transport and General Workers' Union and the Federated Workers' Union of Ireland. The two founding Unions of SIPTU have since been joined by other Unions including – the Irish National Painters' and Decorators' Trade Union (INPDTU), the Marine, Port and General Workers' Union (MPGWU), the Irish Print Union (IPU), the Irish Writers' Union (IWU) and the Automotive, General Engineering and Mechanical Operatives' Union (AGEMOU), Musicians Union of Ireland (MUI), Irish Equity and MLSA.

Since its foundation SIPTU has played a leading role in a number of campaigns to improve workers' rights including a quadrupling of minimum statutory redundancy payments for workers losing their jobs, the establishment of the National Employment Rights Authority and the outlawing of mass redundancies by employers trying to replace existing workers with lower paid non-union labour.

Given the significance of developments in Artificial Intelligence and Digitalisation, SIPTU recently established an Artificial Intelligence Committee. The SIPTU AI Committee feel that a submission to the public consultation is important to ensure that the voice of workers is heard.

Background and context

Artificial intelligence (AI) is at the core of the digital revolution we are currently undergoing and has established itself in almost all sectors, becoming an integral part of everyone's lives. Most people are familiar with the term AI but there are many different views as to what it is and how it will impact work and society in the future.

AI has the potential to transform organisations by introducing automation, efficiency improvements, data-driven insights and innovative solutions. These include automation of repetitive tasks, enhanced decision-making, improved customer experience, resource allocation, predictive maintenance, personalised marketing, data analysis and insights.

From the trade union perspective, the area of most concern is how AI will impact on workers and their families. SIPTU welcomes the implementation of the EU AI Act as, together with other legislation such as GDPR and Health & Safety, the Act provides a framework for the deployment of AI on a fair, ethical and transparent basis.

In the context of the workplace, recently published research by Government (June 2024) estimates that while the economic benefits of technologies such as AI systems are potentially large in terms of higher productivity, efficiency gains and greater levels of innovation, there are also potential downsides such as labour market displacement (in the short and medium term) as well as unequal distribution of gains

resulting from the new digital and technological revolution.

The report by Government acknowledges that in the past, the benefits of technological advancement were not shared equally with "winner and loser dynamics at play, most notably in the labour market". The research found that 63% of jobs are potentially exposed to AI. Of the high exposure occupations, 33% of jobs (c. 890k) are in occupations where AI is likely to complement labour (to boost productivity). However, 30% of jobs (c. 810k) are in occupations where there is a risk that AI could substitute for labour.

In either scenario, SIPTU believes that workers, through their union at national, sectoral and at workplace level, must be partners in embracing, in a real and meaningful way, in the change that will undoubtedly be visited upon us through the technological advancement that is rapidly unfolding. In this context, worker voice in workplace participation and decision-making, will bring huge benefits to the organisations who will be required to undergo fundamental change.

SIPTU agrees with the view that a key policy objective must be to harness the benefits of AI and other new technologies while avoiding the emergence of a digital divide which will leave sections of society behind or feeling disenfranchised.

Issues and concerns

A recent workshop of trade union officials and activists highlighted a number of issues of concern around the question of AI. It may be worth noting them in this submission.

Job Losses

Potential job losses emerged as an issue in all of the groups. A number of points were raised under this heading, including:

- The situation facing older workers who may not have the capacity to avail of retraining opportunities if their current position is affected by the introduction of AI.
- There may also be a tendency for AI to contribute to the creation of a gender imbalance particularly in clerical jobs and call centres.
- There was a real concern about situations where AI is taking control of the decision-making process.
- The propensity for a growth in inequality in the quality of jobs open to lower skilled workers is seen as a real

risk; not all workers will have the academic ability or qualifications to pursue a job in the 'high tech' sector of the economy.

- Some members of the groups were sceptical about the argument of a potential 'win-win' scenario in the context of the development of AI systems. There is a real concern that automation will tip the scales too much in favour of AI and physical/manual labour will suffer, resulting in job displacement.
- There is a perception of a gap in the vision/responses to the growth of AI. The age differential of workers represents 2 visions – that of younger workers and that of the older generation(s).

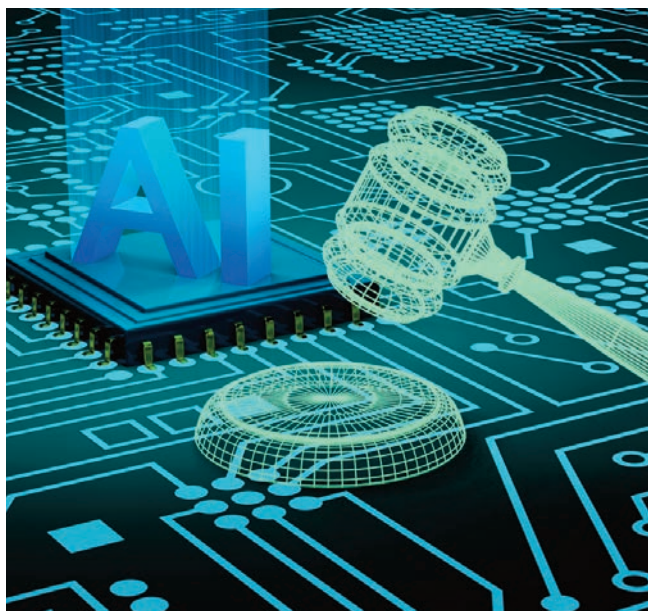
Security and monitoring

- There was considerable concern in all of the groups about the loss of the human factor in decision-making about important elements of work. This already starts from pre-screening in the recruitment process, through performance management, worker profiling and selection processes for appointments and promotion.
- Automated warnings to workers issued by a system makes it harder to take into account personal circumstances that might impact performance that a human manager could take into account – i.e. mitigating circumstances (illness, bereavement etc.). If there is no human element or human oversight, this can lead to significant increases in stress.
- Apart from selection and assessment criteria, numerous sectoral examples were given of the loss of worker autonomy in doing their jobs. Members gave by way of example mail centres being automated with optimised delivery routes where no diversion is tolerated. There is a perceived loss of pride in 'knowing the best route'.
- In retail, self-service checkouts have displaced workers, while delivery drivers are questioned when their vehicles are found to be stationary for any period of time.
- Indeed, this constant monitoring of every minute of working time (and often leisure time) was identified as a stressor, alongside the loss of autonomy in using skill and experience to decide how a job might best be done.

Regulation

The third area of concern was about how AI in the workplace might be regulated. While it was acknowledged that regulation was part of the broad political/business discussion, there were a number of concerns expressed.

- The implementation of AI in so many spheres of our working lives suggests that the genie may already be out of the bottle and there is a concern that any regulation will always be in catch-up mode, particularly given the fantastically rapid pace of AI development and roll-out.
- The development of any regulatory framework inevitably takes time, particularly given the need for widespread consultation. By the time solutions are deployed, there is a concern that they may already be redundant in the context of how AI may have developed in the interim.
- Aside from this consideration there were also concerns about how effective the regulation of AI will be and how robust any legislation will be in practice. Successful regulation relies on enforcement and penalties; systems relying on voluntary compliance without these are worthless.
- There was a perception among workers that much of our regulatory framework often feels as if it is designed to defend the interests of business. Given the presence in our economy of so many of the major players in AI, there is a fear that the political will may not exist to have truly effective regulation. Financial penalties may make little impact in the context of the huge turnovers and massive wealth of the companies and individuals.



Framework Agreement on Digitalisation

The Framework Agreement on Digitalisation was agreed in June 2020 by a number of social partners including the ETUC, Business Europe and SME United. Both ICTU and IBEC are signatories to the agreement.

SIPTU believes that the Framework Agreement on Digitalisation should be promoted within workplaces with particular emphasis on the partnership process between employers and workers representatives which is set out in a number of stages as follows:

The first stage. 'Joint exploration/preparation/underpinning.' is about exploring, raising awareness and creating the right support base and climate of trust to be able to openly discuss the opportunities and challenges/risks of digitalisation, their impact at the workplace and about the possible actions and solutions.

The second stage. 'Joint mapping/regular assessment/analysis.' is a mapping exercise looking into the topic areas in terms of benefits and opportunities (how successful integration of digital technology can benefit the workers and the enterprise) and in terms of challenges/risks. Possible measures and actions are also identified at this stage. SMEs may need external advice/support.

The third stage. 'Joint overview of situation and adoption of strategies for digital transformation.' is the result of the above steps. It is about having a basic understanding of the opportunities and challenges/risks, the different elements and their interrelationships, as well as agreeing on digital strategies setting goals for the enterprise going forward.

The fourth stage. 'Adoption of appropriate measures/actions.' is based on the joint overview of the situation. It includes: the possibility for a testing/piloting of the envisaged solutions; priority setting; timing, implementation in sequential time-bound phases; clarifying/defining the roles and responsibilities of management and workers and their representatives; resources; accompanying measures such as (expert) support, monitoring, etc.

The fifth stage. 'Regular joint monitoring/follow-up, learning, evaluation.' is where we come full circle to a joint assessment of the effectiveness of the actions and discussion on whether further analysis, awareness-raising, underpinning or actions are necessary.

Workers' representatives will be provided with such facilities and information as necessary to effectively engage in the different stages of the process.

Questions

Q1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose co-ordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

The requirement under the AI Act is that each Member State will establish or designate as national competent authorities at least one notifying authority and at least one market surveillance authority.

SIPTU favours a single centralised model with a sectoral structure within it. The centralised model will allow for efficient overall coordination while, within that model, a sectoral or divisional structure will allow for specific expertise to be developed where this is required.

A centralised competent authority should have an oversight board that includes relevant stakeholders including GDPR, Health & Safety, Digital Services, Cyber Security, consumer rights, employers, trade unions and Government Departments as appropriate. The board should have an oversight role of the activities of the competent authority and the surveillance authority to ensure compliance with the Regulation.

The national competent authority must be constituted so as to be able to exercise their powers independently, impartially and without bias. Clear terms of reference will be required to ensure transparency, an essential component of building the trust of the public and to provide clarity for those developing systems and deploying AI as to the parameters within which they are operating and what the requirements are that they need to meet.

The competent authority will require resources that have technical and regulatory expertise together with expertise that will allow for the development of appropriate frameworks which will allow for monitoring, evaluating and enforcing the Regulations. Among the issues to be addressed in establishing a competent authority will be developing:

- Operational frameworks to ensure the effectiveness of the authority.
- Transparency models and ensuring accountability and openness.
- Communication strategies to build

public trust and engagement.

A stakeholder engagement strategy.

Models to ensure ethical oversight, preventing bias or discrimination and ensuring human rights.

Q2 The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to Digital markets, services and infrastructure?

SIPTU believes that there are potential synergies between the AI Act and other EU legislation that can provide a robust regulatory framework that can support innovation while, at the same time, supporting workers' rights, consumer protection, market equity, data protection, Health & Safety and the ethical considerations envisaged in the AI Act.

Key legislation would include the Digital Services Act and Digital Markets Act, both of which support the objective of transparency, fairness and accountability in digital services. Both the AI Act and the Digital Services Act seek to protect citizens from harmful or manipulative practices.

In common with GDPR legislation, the AI Act has a strong focus on the importance of data privacy and security of data, and also in terms of user consent and rights. The AI Act's requirement for transparency and human control over AI driven decisions is very much in line with the objectives of GDPR legislation.

The NIS Directive and the NIS 2 Directive align to a great extent with the ambition of the AI Act to ensure that AI systems are secure and resilient against cyber threats.

The Regulation of European Data Governance may also have potential synergies with the AI Act in helping to facilitate secure data sharing and this could be useful for AI developers.

The Cyber Security legislation may provide a road map or framework for the development of standardising and certification of AI systems, especially those deemed 'high risk'.

The EU Strategic Framework on Health and Safety at Work 2021-2027, announced in the European Pillar of Social Rights action plan undoubtedly has a potential synergy with the AI Act.

The Framework sets out the key priorities and actions necessary for improving workers' health and safety. Of particular relevance is that the framework takes a tripartite approach, focusing on three key objectives: anticipating and managing change, improving prevention and increasing preparedness.

There are a number of existing OSH and related legal tools at EU level which give workers' rights that are relevant in the context of AI. Chief among these is Occupational Safety & Health legislation based on the 1989 Framework Directive (transposed as the Safety, Health and Welfare at Work Act 2005 in Ireland).

There are a number of additional OSH-related pieces of legislation that are also of interest, while the Directive on Platform Working also envisages specific measures arising from the advent of AI and Algorithmic Management.

Under the Framework Directive/Directive 89/391/EEC: "The employer shall have a duty to ensure the safety and health of workers in every aspect related to the work" (Art 5. Dir 89/391/EEC). This Directive was transposed into Irish law as the Safety, Health & Welfare at Work Act 2005, Section 8 of which details these employers' obligations.



The Platform Work Directive states that "Without prejudice to Council Directive 89/391/EEC and related directives in the field of safety and health at work, digital labour platforms shall:

(a) Evaluate the risks of automated monitoring and decision-making systems to the safety and health of platform workers, in particular as regards possible risks of work-related accidents, psychosocial and ergonomic risks.

(b) Assess whether the safeguards of those systems are appropriate for the risks identified in view of the specific characteristics of the work environment.

(c) Introduce appropriate preventive and protective measures. They shall not use automated monitoring and decision-making systems in any manner that puts undue pressure on platform workers or otherwise puts at risk the physical and mental health of platform workers" Art 9(1) of the directive should ensure information and consultation of platform workers' representatives, or the platform workers concerned by digital labour platforms, on decisions likely to lead to the introduction of or substantial changes in the use of automated monitoring and decision-making systems.

Under the European Framework Agreement on Telework (2002), the employer is responsible for the protection of the occupational health and safety of the teleworker in accordance with Directive 89/391 and relevant daughter directives, national legislation and collective agreements.

Other legislation that may provide potential synergies include:

Framework Agreement on Work-Related Stress (2004)

Framework Agreement on workplace bullying and violence at work (2007)

Framework Agreement on Digitalisation (2020)

The Framework Agreement on Digitalisation sets out a methodology and structure that provides a model approach of involving stakeholders, especially workers, in the process of the major change that AI will undoubtedly bring.

The full implementation of existing EU regulations will go a long way to protecting the fundamental rights of citizens such as health, safety, well-being and the environment while encouraging AI innovation. This approach allows for the ethical and sustainable regulation and monitoring of medium to high-risk AI systems and prohibits harmful uses and would ensure that technological advancements benefit society as a whole.

Encouraging transparency, accountability and stakeholder involvement, for example, through mandatory fundamental-rights impact assessments and robust governance structures, will not only mitigate risks but also deliver a positive return for workers and citizens alike.

Q3 Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

In implementing the AI Act, Ireland can provide funding and grants for AI research and development. A policy approach may need to be developed that will provide a higher level of support for labour-augmenting technology rather than labour replacing technology as well as focussing support on initiatives that build trust and confidence in AI systems. Ensuring equality of access to AI technology and investment in upskilling and reskilling will be vital to maintain Ireland's position as a leading Digital Economy.

Strengthening public trust and ensuring high ethical standards are essential to providing leadership. Transparency through clear and well communicated messaging is a key element of bolstering Ireland's position as a leading Digital Economy. Ensuring the implementation of clear ethical oversight such as ethics committees and impact assessments will help to ensure that AI systems are developed and used responsibly and in line with the intention of the legislation.

Supporting research and development is another way in which Ireland can lead the way in the development of AI systems. The use of centres of excellence, innovation hubs and regulatory sandboxes, will allow for the creation of a supportive and collaborative structure of AI developers. Continued investment in digital connectivity will be vital as will active support and delivery of education and training initiatives to ensure that citizens are equipped with the necessary skills. This may not simply involve technical skills (although they are undoubtedly needed), but skills to help workers to deal with and embrace change.

By way of example, the IDEAS Institute, a wholly owned subsidiary company of SIPTU, has developed specialised

programmes to help workers involved in industries in transition (e.g. Bord Na Móna). These programmes focus on helping workers who find themselves at a crossroads to identify their options and to develop a pathway to changing their career.

In the context of maintaining it's position as a leading Digital Economy, it will be vital to implement effective monitoring and evaluation regimes. Conducting impact assessments will be necessary, especially in the context of AI systems that are deemed 'high-risk'. Feedback mechanisms for all stakeholders will also be necessary.

The key elements of AI regulation must be inclusive and equitable giving fair consideration to all stakeholders, but particularly to those most likely to be impacted by AI systems. Regulation must foster and demonstrate transparency and accountability in order to build public trust. A collaborative and innovative approach to regulation based on these principles will go a long way to ensuring that Ireland is a leader in the Digital Economy.



Q4 AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting or regulatory obligations?

In terms of building public trust, SIPTU believes that transparency lies at the heart of the trust that is required for deployment of AI systems in a credible way. Regulations must require clear documentation of AI systems with full disclosure of AI systems functionalities, data usage and decision-making processes. Users and others impacted by AI systems need to know how those systems work and a mechanism for questioning AI-based decisions is vital or else public trust will dissipate very quickly.

Ethical guidelines must be established as part of a regulatory framework. It is vital that ethical guidelines for AI development and deployment are established that address issues of fairness, accountability and protecting against discrimination.

Education and training about AI systems is necessary, especially for groups affected directly, e.g. workers and other citizens (public service users).

The facility to question AI-based decisions, to pursue a grievance and to seek redress must be made available to citizens. The method of challenging AI systems insofar as they might impact unfairly on citizens, must be clearly understood and be accessible without unfair or insurmountable barriers.

In the context of leveraging AI for economic and social benefit, investment in training, research and development will be necessary. Funding should be more easily accessible to organisations that involve their workforce in all stages of the development and deployment of AI systems. Where such systems are geared towards labour augmentation rather than labour replacing, there should be added incentives.

Without doubt education and training will be an essential component in leveraging AI for economic and social benefit. AI literacy programmes would be very helpful in

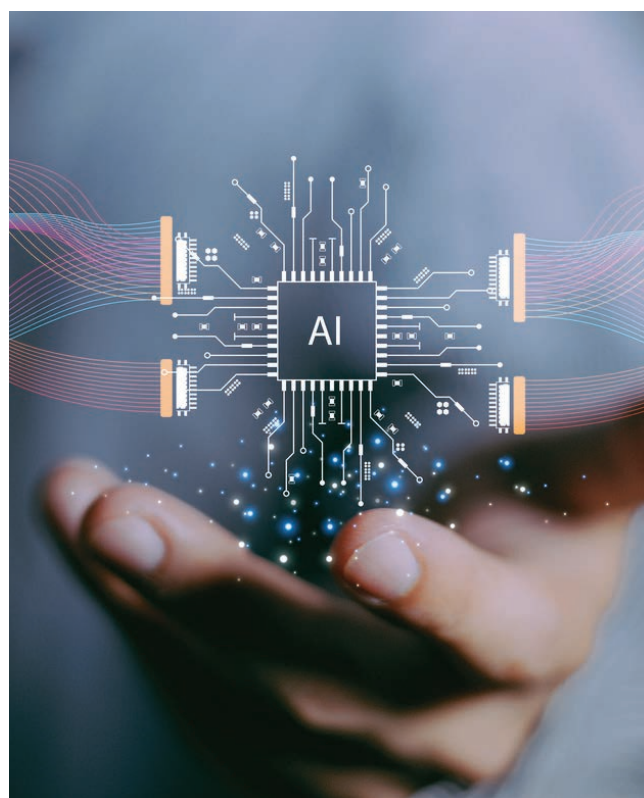
ensuring that all citizens, not just students, are equipped with the necessary skills to fully participate in an AI driven economy.

In the public sector, AI could be used to augment services in the area of healthcare (e.g. advanced diagnostics) and for predictive maintenance of public infrastructure. Projects involving the full participation of public sector workers could deliver practical benefits through AI.

The development of AI systems will undoubtedly lead to some job displacement. Government research estimates that, although new jobs may be created, somewhere in the region of 800,000 jobs could be displaced through the development and deployment of AI systems. To offset some of the negative impact on employment, an objective of moving to a four-day week for workers should be seen as a prerequisite to encouraging workers to actively participate in the deployment of AI in the workplace.

Regular impact assessments will be necessary to monitor the effect of AI systems particularly from the social and economic perspective as well as the ethical implication of AI deployment. Such monitoring and assessment will help Government to adjust policies and regulation of AI development and deployment as time goes on.

Ultimately, a balanced approach will ensure that our regulatory obligations are met while also fostering a thriving AI ecosystem.



Conclusion

SIPTU has a rich history of advocating for worker rights and in our submission, we want to emphasise the importance of including workers' perspectives in AI-related changes. SIPTU supports the EU AI Act, acknowledging its potential to ensure fair, transparent AI deployment. While recognising the potential benefits and risks of AI, the Union believes that workers' active participation in the transition process is essential in both the implementation and regulation of the legislation.

Our key concerns include job displacement, potential gender imbalances and loss of worker autonomy due to AI's role in decision-making and monitoring. The need is clear for effective regulation to mitigate these risks, and it is essential that regulation keeps pace with AI development as well as being robust enough to protect workers' rights.

The adoption of a comprehensive, worker-inclusive approach to the implementation and regulation of the EU AI Act provides the best opportunity for achieving robust regulation, transparency and ethical oversight. SIPTU supports measures that will ensure that AI's benefits are maximized while its risks are mitigated.

We believe that the Union's proposals for a centralised competent authority with sector-specific expertise is the appropriate model for Ireland. Oversight of the Competent Authority and the Market Surveillance Authority must include key stakeholders, of which workers are one.

Our support of strategic investment in AI development and education reflects a commitment to balancing innovation with social responsibility. Through this balanced approach, SIPTU envisions Ireland not only as a leader in AI but also as a model for integrating technological advancements with equitable and ethical practices, thereby securing both economic progress and workers' rights.



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Department of Enterprise, Trade and Employment

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Scale Ireland Submission

Question 1 - Configuration of Ireland's national AI authorities

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Introduction

We welcome the opportunity to contribute to this public consultation on behalf of Scale Ireland, a body representing tech start-ups and scaling companies in Ireland. We believe that the AI Act is a landmark piece of legislation that will shape the future of AI development and deployment in Europe and beyond. We support the objectives of the Act to ensure that AI is trustworthy, human-centric, and respectful of fundamental rights and values. We also recognise the potential of AI to drive innovation, competitiveness, and social good across various sectors and domains.

We understand that Ireland is obliged to establish or designate as independent national competent authorities ("**MSA**") at least one:

- market surveillance authority ("**MSA**") which will be responsible for monitoring and enforcing the compliance of high-risk AI systems on the market, as well as cooperating with other authorities and the Commission; and
- notifying authority ("**NA**") which will be responsible for assessing, notifying and monitoring conformity assessment bodies that can certify high-risk AI systems.

We urge the Department to devise a configuration of NA and MSA for implementation of the AI Act that balances the need for effective oversight and enforcement with the need for flexibility and support for the AI ecosystem in Ireland. We have outlined below some general considerations on the configuration of the MSAs and our view on the most apt model for configuration of the MSAs for our tech SME stakeholders. Our comments below focus on the configuration of the MSAs but where applicable apply equally to the configuration of the NAs (e.g. in terms of resourcing and expertise).

General Considerations

The Department should also consider the following factors that are crucial for ensuring that the national AI authorities are multidisciplinary, expert, accessible, efficient, adaptable, diverse, and commercially aware. These factors are based on the insights and recommendations we gathered from our consultations with relevant stakeholders in the start-up and scaling companies AI ecosystem.

- Resourcing: AI is rapidly developing, and the regulator will need to be able to adapt to keep with the developments. To achieve this there will need to have adequate resource both in terms of capital and people.

- Multidisciplinary: In order to meet the AI Act's requirements in relation to the MSA's competences in AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks, and existing standards and legal requirements, the MSAs will need to have multidisciplinary teams with a mix of expertise and backgrounds including sociologists and behavioural science expertise. The MSAs will need to have the resources to enable them to engage in continuous development and training.
- A strong understanding of the technology and regulation: The MSAs should have a solid grasp of the technical aspects of AI, such as the data, algorithms, and systems involved, as well as the legal and ethical implications of AI, such as the compliance requirements, the risk assessment, and the fundamental rights and values at stake and should have the resources to support horizon scanning for the next impactful AI development. This would enable the MSAs to apply the AI Act in a consistent, coherent, and proportionate manner, as well as to communicate effectively with the AI providers and users, the European Commission and the European Artificial Intelligence Board, and the public at large.
- Commercial awareness: The MSAs should have a keen sense of commercial relevance of AI, the market dynamics and the innovation potential of AI, as well as the challenges and barriers faced by the AI providers and users, especially the start-ups and scaling companies that are the backbone of the Irish AI ecosystem. This would enable the MSAs to foster and facilitate AI innovation and adoption, while ensuring that the AI Act is implemented in a way that does not unduly hamper the competitiveness and growth of the AI sector in Ireland and in Europe. This would also entail a close engagement and dialogue with the industry and the venture capital community, as well as with the academic and research institutions, to understand their needs, expectations, and feedback.
- Diversity: Diversity among the personnel populating the MSAs and/or regular consultations with representative groups is pivotal in order to mitigate against the risk of bias within the MSAs and ensure that diverse views are adequately represented within the MSAs. A representative MSA should help with transparency and building trust.
- Move fast: In order to provide effective support to tech SMEs in connection with compliance with the AI Act, the MSAs need to be accessible and able to provide timely guidance as the combination of the risk of non-compliance and funding constraints mean many tech start-ups and scaling companies need to address potential compliance matters quickly.
- Joined up thinking: The MSAs should adopt a holistic and integrated approach to the implementation of the AI Act, taking into account the interconnections and interdependencies between different sectors, domains, and use cases where AI is applied, as well as the broader economic, social, and environmental impacts and opportunities of AI. This would require a high level of coordination and cooperation among the MSAs, as well as with other relevant actors.
- Barriers to Entry: Care and thought should be taken to tech start-up and scaling companies and to their resources in being able to implement the AI Act correctly. There are barriers to entry in the technology sector and Ireland's implementation of the AI Act should aim to lower the barriers to entry at all levels while continuing to ensure efficient and effective enforcement of the AI Act.
- Feedback: The MSAs should provide a mechanism for tech SMEs to provide feedback on the MSAs approach to regulations. This could include suggestion boxes, meetings with representative bodies and available for individual meetings.

Hybrid Model

When devising the configuration of MSAs for the implementation of the AI Act, the Department should consider the balance between sectoral expertise and coordination efficiency. A

distributed approach may leverage sector-specific knowledge, enhancing regulatory effectiveness, but it could pose challenges in terms of harmonisation and communication. Thus, robust mechanisms for coordination and information sharing across authorities will be essential to maintain consistency and coherence in the enforcement of the Act.

We propose that the Department adopts a hybrid model that combines a centralised MSAs with a network of sectoral AI authorities. The centralised MSA would be the main point of contact and coordination for the European Commission and the European Artificial Intelligence Board. It would also provide guidance, training, and best practices for the sectoral AI authorities, as well as for AI providers and users across the economy and society. The sectoral AI authorities would be the existing regulators or agencies that have expertise and jurisdiction over specific domains or sectors where AI is applied, such as the Central Bank of Ireland for financial services and the regulators of products falling within the scope of the Annex I of the AI Act. The sectoral AI authorities would be responsible for the supervision and enforcement of the AI Act within their respective domains or sectors, as well as for the promotion and facilitation of AI innovation and adoption in line with the national AI strategy and the Digital Ireland Framework but would be supported by the MSAs through access to relevant expertise either seconded to the sectoral AI authority and/or consultations with the sectoral AI authority in each case on an "as needed" basis.

We believe that this hybrid model would offer several advantages over a purely centralised or decentralised approach. It would:

- leverage the existing regulatory structures and expertise that are already in place for different sectors and domains, avoiding duplication and fragmentation of responsibilities and resources;
- allow for a more tailored and proportionate application of the AI Act to the specific risks and opportunities that arise in different contexts and use cases, taking into account the diversity and complexity of AI systems and their impacts;
- foster a more collaborative and constructive relationship between the national AI authorities and the AI stakeholders, enabling dialogue, feedback, and learning from each other's experiences and perspectives;
- enable the centralised arm of the MSAs to attract and develop a specialised skillset that would enable the MSAs to recognise patterns across different domains and identify harms; and
- enhance the credibility and legitimacy of the MSAs, both at the European and the international level, by demonstrating Ireland's commitment and capacity to implement the AI Act in a comprehensive and coherent manner.

Dedicated SMEs Team

To address the specific needs and challenges of the tech start-ups and scaling companies that are the providers or deployers of AI systems, we propose that the Department establishes a dedicated team within the MSAs that would focus on supporting and promoting these companies. This team would aim to facilitate tech start-up and scaling companies doing business via the provision of guidance, advice, and assistance to the start-ups and scaling companies on how to comply with the AI Act in a proportionate and timely manner.

Creating a culture of non-adversarial engagement between the MSAs and with these companies which recognises the limited resources of these companies is essential to foster the adoption, development and promotion of AI by these companies. For example, the SME dedicated team within the MSAs should make its best endeavours to ensure that there is clarity, ease and accessibility to the AI Act, essentially providing a "road map" for SMEs on how to comply with the AI Act. The first question for all SMEs will be "do I fall within the scope of the AI Act?" The MSAs could provide a practical, online toolkit to enable SMEs to form a preliminary view on this fundamental question. An example of a comparable tool made available by the English the Information Commissioners Office ("**ICO**") is the following online tool which is designed to assist with determining whether or not registration with the ICO is mandatory [For organisations |](#)

[ICO](#). Informal access to MSAs representatives on a request/on demand basis is an important pillar of building a collaborative working relationship between regulator and regulated tech SMEs which does not either stifle innovation or prejudice the MSAs efficient and effective enforcement of the AI Act. To ensure a level playing field amount tech SMES within Europe, guidance, advice and assistance provided by the Irish MSAs should be, at least, comparable to that provided by MSAs in other EU Member States.

The Irish MSA SME team would also act as a liaison and advocate for the tech start-ups and scaling companies within the MSAs, as well as with the European Commission and the European Artificial Intelligence Board, ensuring that their voice and interests are heard and represented. This team would also monitor and evaluate the impact of the AI Act on the start-ups and scaling companies and provide feedback and recommendations for improvement.

Regulatory Coordination and Collaboration

To address tech SMEs concerns in relation to potential for uncertainty as to which is the appropriate regulator and duplication among regulators, some international stakeholders have referred to a regulatory model whereby different regulators with overlapping or parallel competencies come together and decide which regulator will be the lead regulator for a particular matter or investigation, based on their sectoral expertise, resources, and jurisdiction. The regulated entity would then have the option of only dealing with the lead regulator, which would coordinate the responses and input from the other regulators. This would reduce the regulatory burden and duplication for the regulated entity, while ensuring that the relevant perspectives and interests of the other regulators are taken into account. The primary regulator would also be responsible for ensuring transparency and accountability in the decision-making process, and for communicating the outcomes and actions to the regulated entity and the public.

Conclusion

We believe that by adopting these considerations and factors, the Department would devise a configuration of MSAs for implementation that would reflect Ireland's ambition and vision to be a leader and a centre of excellence in AI, both in Europe and globally.

Question 2 - Synergies arising from Implementation of EU Regulations

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Our discussions with founders have highlighted the importance of harmonious enforcement between the AI Act and other EU regulations. Some natural advantages occur around Digital Services Act ("**DSA**") / Digital Markets Act ("**DMA**") where applicable, the GDPR, the Data Act and the Data Governance Act. Aligning regulatory frameworks can streamline compliance for businesses, reduce administrative burdens, and foster a cohesive digital ecosystem. By leveraging these synergies, we can ensure a more integrated and efficient regulatory environment that supports innovation and protects consumer rights effectively.

Ireland could leverage co-ordination and/or shared enforcement mechanisms among the MSAs and other digital regulations. This would streamline the oversight process and reduce the administrative burden both on MSAs and tech SMEs. For example, the Data Protection Commission under the GDPR and the Digital Services Coordinator under the DSA could work in tandem with the MSAs, ensuring a coordinated approach to enforcement.

While there are synergies, it is important to acknowledge the challenges faced by tech SMEs when subject to multiple regulations. The complexity of navigating different regulatory requirements can be daunting, and the cost of compliance can be disproportionately high for smaller entities. Moreover, the experience of companies, particularly tech SMEs, under multiple regulations can vary significantly depending on their resources, the nature of their business, and the markets they operate in. There is also a clear sense of “regulation fatigue” where companies have been expected to consistently pivot to a rapidly evolving set of regulations and frameworks, so in addition to the potential synergies, the need for a bedding in period when it comes to considering further national regulations – or highlighting our position when it comes to potential further regulations from the next Commission – should be considered as a priority.

Question 3 – Harnessing Digital

The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Introduction

Ireland’s ambition to be a digital leader and a centre of regulatory excellence is both commendable and strategically significant in the context of the European Union’s digital economy. The implementation of the AI Act presents a unique opportunity for Ireland to reinforce its position as a frontrunner in the digital domain. By fostering an environment that is conducive to innovation while ensuring effective regulation, Ireland can attract investment and accelerate the development of AI technologies, especially within tech SMEs.

Promoting Innovation through Tailored Regulation

To bolster Ireland’s position as a leading Digital Economy, the implementation of the AI Act must be approached with a dual focus: promoting innovation and ensuring the protection of fundamental rights and safety. Excellence in AI regulation would involve creating a framework that is both flexible and precise, providing clear guidance to AI developers and deployers while allowing for the agility needed in a rapidly evolving technological landscape.

- **Risk-Based Approach:** The AI Act’s risk-based regulatory approach is pivotal. By tailoring enforcement to the level of risk posed by different AI systems, Ireland can ensure that tech SMEs are not overburdened by compliance costs, which can stifle innovation. This approach should be nuanced to differentiate between AI applications that pose significant risks to fundamental rights and those that are benign or beneficial. To the extent permitted by the AI Act, in line with its risk based approach and in recognition of SMEs limited resources, SMEs should be allowed a grace period to remedy any deficiencies with the AI Act.
- **Regulatory Sandbox:** Establishing regulatory sandboxes across different applications of AI would allow tech SMEs to test and refine AI technologies in a controlled environment with regulatory oversight. This would encourage experimentation and innovation, while also enabling regulators to gain insights into the practical challenges faced by AI

developers and deployers. Sandboxes should, at least, be comparable to equivalent offerings by MSAs in other EU Member States.

Synergies with MSAs

The enforcement of the AI Act by Ireland's MSAs must be synergistic and supportive of tech SMEs. This can be achieved through:

- Unified Guidance: Providing unified and clear guidance on compliance with the AI Act including providing guidance on standardised templates provided by the EU AI Office. This would reduce the administrative burden on tech SMEs that are often subject to multiple regulatory frameworks.
- Collaborative Enforcement: Encouraging collaboration between different regulatory bodies to streamline enforcement processes. This would prevent duplication of efforts and reduce the compliance burden on tech SMEs.

Learning from International Experience

Ireland can draw valuable insights from its engagement with international bodies and leading global AI companies. The experiences of these entities in navigating multiple regulatory environments can inform Ireland's approach to implementing the AI Act.

- Best Practices: Adopting best practices in the implementation of the AI Act from jurisdictions with advanced AI regulatory frameworks can help Ireland position itself as a centre of regulatory excellence.
- International Standards: Aligning with international standards can facilitate cross-border cooperation and ensure that Irish tech SMEs can compete effectively in the global market.

Irish Example of Regulatory Excellence

The Irish Aviation Authority ("**IAA**") has been cited as an example of an Irish regulator which exemplifies regulatory excellence through its strategic engagement with the entities under its oversight. It has a stated ambition of facilitating unmanned aircraft system ("**UAS**") innovation and competitiveness with the highest safety and security standards, ultimately providing benefits to consumers at the end of the supply chain and has been attributed with supporting the drone industry including providing the Irish drone industry with pathway to new markets.¹

It is the designated Irish authority responsible for assessing applications for 'light UAS operator certificated' ("**LUC**") pursuant to EU drone regulations introduced at the end of 2020. A LUC issued by the IAA is recognised in all EU Member States and provides Irish LUC holders with access to a potential European market of over half a billion customers. The IAA issued its first LUC to the Irish drone delivery operator, Manna Aero in 2021. The successful application was the culmination of Manna Aero's two year engagement with the IAA, trials of drone delivery services in rural Ireland and a rigorous assessment of Manna Aero's operational capabilities in line with the EU drone regulations.

The IAA adopts a proactive stance, fostering open communication channels and offering immediate access to its personnel to resolve any queries from the regulated companies. This collaborative method of regulation is carefully balanced with a firm commitment to uphold the integrity of enforcement. The IAA's impartial enforcement of regulations is not compromised by its interactive approach. The IAA's balanced approach ensures that while entities it regulates benefit from a supportive regulatory environment that facilitates compliance and business advancement, the enforcement of regulations remains rigorous and unbiased.

Conclusion

The key piece to regulatory excellence which enhances Ireland's reputation is resourcing Ireland's MSAs and key to this is understanding what is needed by way of finance, what talent

¹ <https://www.iaa.ie/media/2021/01/07/new-aviation-regulator-supports-drone-industry> and <https://www.iaa.ie/media/2021/05/21/aviation-regulator-provides-irish-drone-industry-with-pathway-to-new-markets>

is needed, what headcount is needed and what is the plan to put them in place in time. This is what will drive successful implementation regardless of whether it's a relatively centralised or decentralised model chosen. If appropriately resourced, excellence in AI regulation in Ireland would be characterized by a supportive, risk-based regulatory framework that encourages innovation while ensuring the protection of fundamental rights and safety. By leveraging synergies with MSAs and learning from international experiences, Ireland can create a regulatory environment that is both conducive to innovation and attractive to investment. This, in turn, will accelerate the development of AI technologies within Ireland, supporting the country's ambition to be a digital leader and a centre of regulatory excellence. Please also see our response to Question 1 for relevant considerations in AI regulatory excellence.

Question 4 – AI here for good

National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Driving Public Trust in AI

Ireland's implementation of the AI Act can significantly bolster public trust in artificial intelligence. By ensuring that AI systems adhere to high standards of transparency and reliability, the public can be more confident in the technology's applications. An approach to regulation which focuses on building awareness and preventing harm and bias is crucial for building trust. This includes clear communication from the MSAs about how AI systems function and the decisions they make, making the technology more accessible and understandable to the general public while simultaneously providing tech SMEs with the necessary regulatory support and guidance to adopt, develop and drive AI adoption.

AI is a new area in which there is a need for constant learning, perfection will not be achieved in the first instance, but it is important to acknowledge this and carry all those effected along. It is important to understand bias and how it can be accelerated by AI and without care these issues will create further gaps in society.

Leveraging AI for Economic and Societal Benefit

The potential economic and societal benefits of AI are immense, and Ireland can leverage AI to drive innovation and competitiveness. By creating a supportive environment for AI businesses, including startups and scale-ups, Ireland can stimulate job creation and economic growth. This involves providing incentives for research and development, facilitating access to finance, and offering a stable and predictable regulatory environment that encourages investment and innovation in AI. Ireland can promote the use of AI in critical sectors such as healthcare, agriculture, and energy to address societal challenges. By supporting the development and deployment of AI solutions that improve efficiency and outcomes in these areas, Ireland can enhance the quality of life for its citizens and contribute to sustainable development.

The Department should be cognisant of the need to ensure that MSAs personnel have diverse backgrounds to cater to the needs of the public and could, for example, use quotas to ensure there is diversity in the MSA teams. Consultation with bodies representing stakeholders with diverse backgrounds would also assist with ensuring equitable AI regulation that is representative to society.

Enablers for AI

To enable the full potential of AI, Ireland can invest in key areas such as education, funding and infrastructure.

Education: By integrating AI literacy into the education system, Ireland can equip its workforce with the skills necessary to engage with AI technologies effectively. This includes not only technical skills but also an understanding of the ethical and social implications of AI. This should be done from as early as primary schools through to third level such as introducing changes to the curriculum to include AI.

The Department needs to give consideration to how best we can have a talented workforce ready for this moment as it continues to arrive in waves. Looking across the Irish education system: what are we offering from a technical, legal and policy perspective when it comes to further education around AI? A comparative review of the approach taken in other countries to all levels of education may help to inform potential developments within Ireland including what can be done with the Department of Further and Higher Education, Research, Innovation and Science to incentivise further upskilling initiatives with a specific AI lens around three specific silos of technical, legal and policy.

We have seen in other jurisdictions programmes for re-education of overs 40s to be taught about AI how to be tech literate. Investing in education and research will strip away the uncertainty surrounding this area. The department should also show the public how AI can be used to solve issues in society i.e., climate change, improving healthcare costs and allowing for greater access to university.

The Department also needs to ensure that there is long-term investment in research and in the training of researchers in order to provide Ireland with the talent base need to capitalise on the opportunities arising in connection with AI in a safe way. The need for startups and scaleups to be aware of the implications of and having regulatory compliance with the AI Act will necessitate new skills but also the adaptation of existing systems in use by these companies to accommodate the provisions. Ways to get our startups and scaleups ready include executive education options from a business/technical standpoint, full courses at diploma or master's level, training offered through the European Digital Innovation Hubs along with services/proof of concept development for companies that are AI Act-compliant. Science Foundation Ireland ("**SFI**") and Enterprise Ireland funded researchers, cognisant of responsible and transparent use of AI in research, should also be involved so that targeted (industry) and (disruptive) innovation projects can also take these aspects into account.

Funding: The lack of funding for university research spinouts which seek to commercialise their research has been highlighted as hindering innovation in Ireland. The development of AI platforms and infrastructure are R&D intensive, and this sort of activity is not well supported by existing financing activities. So longer duration VC funds should also be supported.

Grants: Grants for business exploring deep tech AI, exploring using AI in their products (applied AI) and/or use of AI for efficiency gains within their businesses would make AI more accessible to all tech SMEs.

Agility: The availability of relatively agile supports and regular updating and iterating of the plan are key. This sector is so nascent and early-stage that it's not entirely clear where supports will be needed when it comes to innovation, when it comes to state adaptation and when it comes to SMEs pivoting into making AI work for them.

Digital Infrastructure: Ireland can invest in digital infrastructure to support the development and deployment of AI. This includes high-speed internet access, data storage and processing capabilities, and platforms for data sharing and collaboration. By providing these foundational elements, Ireland can create an ecosystem that is conducive to AI innovation.

Example of Harness AI for Good

The ELEVATE programme is an example of an existing programme which seeks to harnesses the power of AI for good to make significant strides in the field of cerebral palsy ("**CP**") and is funded by SFI and The Cerebral Palsy Foundation ("**CPF**"). ELEVATE aims to prevent, detect, improve, and intervene in early brain injury and CP through four comprehensive work packages.

These include creating cutting-edge screening algorithms and novel detection methods, developing Ireland's first CP registry, exploring potential new treatments, and actively involving families affected by CP in ongoing trials, education, and information platforms. Central to ELEVATE's mission is the design of algorithms aimed at preventing the specific causes of CP. The programme is being led by the Irish Centre for Maternal and Child Health Research (INFANT) at UCC, partnering with RCSI University of Medicine and Health Sciences, Trinity College Dublin and all the tertiary-level maternity hospitals in Ireland. Leveraging Ireland's unique national initiative, which began in 2017, to collect electronic data from all national births, alongside extensive and meticulously characterised INFANT databases, the programme seeks to predict and prevent CP through AI-enhanced foetal monitoring during pregnancy, labour, and the neonatal period.

Meeting Ireland's Regulatory Obligations under the AI Act

While meeting its regulatory obligations under the AI Act, Ireland can ensure that AI systems are developed and used in a manner that is compliant with EU standards. This involves conducting assessments of high-risk AI applications, enforcing requirements for transparency and accountability, and monitoring the market for any potential issues. By doing so, Ireland not only adheres to its legal obligations but also contributes to the creation of a harmonized AI market within the EU, facilitating the cross-border flow of AI technologies and expertise.

Ireland's practical application of the AI Act can serve as a catalyst for public trust, economic growth, societal benefits, and the enablement of AI technologies. By focusing on transparent regulation, support for AI businesses, education, and infrastructure, Ireland can meet its regulatory obligations while also positioning itself as a leader in the responsible and beneficial use of AI.

Question 5 – General

The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

Some stakeholders have raised the need for the Department to ensure the availability of funding and infrastructure for AI blue-sky research/AI research for research's on the basis that this will attract the best researchers and lead to the most impactful developments in the AI arena. CERN's approach to research and the collaboration between US universities and funders have been cited as models which drive innovation. Others have highlighted the importance of joined up thinking beyond the configuration of regulators, such as leveraging AI to help optimise energy use and sustainable energy practises and the creation of digital twins .

Schneider Electric response to public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Schneider Electric welcomes the opportunity to respond to the public consultation on the Irish implementation of the EU AI Act.

Schneider Electric is a global industrial technology leader. Together with our fully owned subsidiary AVEVA, we bring world-leading expertise in electrification, automation and digitisation to support some of Ireland's most important infrastructure, buildings and industries, such as power and grid, rail, and public sector buildings.

Schneider Electric has deep roots in Ireland, stretching back to the creation of 'Schneider Electric Ireland Limited' in 1984 and its acquisition of APC, including the Galway manufacturing facility, in 1994. Schneider Electric Ireland currently employs approximately 400 people across Northern Ireland and the Republic of Ireland with Dublin, Galway, and Belfast facilities.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Schneider Electric welcomes the EU's efforts to create the right regulatory conditions for deploying responsible AI and innovation in emerging technologies. The EU AI Act must be understood in the context of the wider EU digital strategy. It's critical that national implementation of the AI Act recognises the synergies and interplays between the various EU digital regulations in order to ensure a successful implementation. As a provider of integrated solutions for homes, buildings, data centres and critical infrastructure, Schneider Electric is firmly committed to strengthening the cybersecurity level in the EU. We welcome the decision that high-risk systems (as defined by the AI Act) will be deemed compliant with the Act's cybersecurity requirements if they already comply with the Cyber Resilience Act. Ireland should make sure that the interplay between the two texts is clear in practice as well.

With respect to the Data Act, Schneider Electric believes that particular attention should be paid to the potential contradiction between the data minimisation principle highlighted in the AI Act, and the intent of the Data Act to unleash the power of data in the EU. While one does not prevent the other, it's critical that implementation of the AI Act recognises the equilibrium. The same care should be taken when considering overlaps between the AI Act and:

- The Digital Services Act, regarding transparency and accountability in content moderation and recommendations, mitigation measures.
- The Critical Entities Resilience Directive, in the case of the reporting obligation of "serious incidents" affecting critical infrastructure and directly or indirectly caused by an AI system), and
- The AI Liability Directive.

Implementation of the AI Act must also clearly define the interaction with the General Data Protection Regulation (GDPR) to avoid legal uncertainty in the market. Since AI systems often process personal data and would as such be subject to the GDPR, the parallel requirements of the fundamental rights impact assessment under the AI Act and the data protection impact assessment under the GDPR should be complementary. The AI Act addresses this overlap and Ireland should ensure that the two processes are integrated in order to reduce the burden on entities subject to both the AI Act and the GDPR.

Overall, the core principles of the AI Act – such as transparency, fairness and accountability – are aligned with other EU regulations. Schneider Electric urges Ireland and the other Member States to ensure that this alignment is preserved during the implementation of the AI Act. The multiplication of new enforcement authorities both at EU and national levels – including the European Data Innovation Board, Data Protection Authorities, the European Data Protection Board and the European Artificial Intelligence Office - could hinder the growth of AI if it creates redundancies and delays in the process. Cooperation between regulators is thus imperative for the swift implementation of the AI Act.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Regulatory excellence is all about striking the right balance between government regulation and innovation. Schneider Electric supports the EU's risk-based approach that addresses legitimate concerns whilst allowing the AI ecosystem to thrive. To bolster EU competitiveness and innovation-capacity, it is critical that various digital regulations are interoperable.

Ireland has an opportunity to position itself as an active promoter of interoperability of digital regulations and standards across the EU and internationally. It should continue to strengthen its engagement with the Global Partnership on AI and reach out to industrial stakeholders – in the spirit of the EU AI Pact. The same approach should be applied at the enforcement level, given that many AI systems would fall in scope of several pieces of EU legislation.

Schneider Electric warns against the risk of fragmentation created by the multiplication of entities participating in AI governance. Cooperation and constant exchanges between regulators will be key to achieve the consistency and certainty required to make the EU a fertile ground for AI innovation. To do this, national authorities must be sufficiently equipped in terms of funding and expertise to fulfil their mandate.

Finally, supporting and guiding start-ups and SMEs will be necessary to protect innovation as the AI Act enters into force. Schneider Electric encourages Ireland to consider the UK Alan Turing Institute's pilot programme which supports SMEs to develop innovations through AI and data science. Overall, a firm commitment to harmonisation and clarity is key to facilitate the implementation of the AI Act and avoid duplications that could hinder national and European competitiveness.

AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Schneider Electric strongly believes that the implementation of the AI Act will be an enabler and an accelerator of the principles highlighted in the National Artificial Intelligence Strategy for Ireland. Guardrails provided by the AI Act regarding privacy, transparency and accountability address the legitimate concerns regarding the potential abuses associated with AI. Thus, enforcing the AI Act's requirements – such as record-keeping, risk management and incident reporting – will allow Ireland to build trust in AI and acceptability. Coupled with Ireland's commitments to trustworthy data availability and protection, the AI Act can unlock the social and economic potential of AI for Ireland.

Schneider Electric sees sustainability as a key driver of innovation and competitiveness and believes that AI should benefit individuals and communities. AI can make us more resilient, for instance by helping us manage our energy consumption more efficiently. However, we should also pay special care to increasing concerns about its environmental impact – especially the increasing pressure it puts on our resources and the emissions it generates. Schneider Electric supports initiatives to promote environmentally responsible AI at the European and global levels such as the French standardisation body AFNOR's Spec on Frugal AI. We encourage Ireland to pursue its efforts in favour of the convergence of AI and sustainability, as emphasised in its National AI Strategy, and in line with the Ethics Guidelines for Trustworthy AI developed by the High-Level Expert Group on Artificial Intelligence.

To address potential concerns about the environmental impact of AI, Ireland must continue to invest in resilient and robust electricity networks, computing power and storage infrastructure. Schneider Electric also encourages Ireland to consider the opportunities of microgrids and private wires. Anticipating the future pressure put on critical infrastructure, in particular the need for new and adapted data centres able to accommodate a growing flow of data and to function in an energy-efficient manner is crucial. Ireland is already active in this field and has made 5G, High Performance Computing and cybersecurity core focuses of its digital strategy and is involved in European initiatives. Innovation in data centre technologies should also be a priority. Building on the framework provided by the AI Act, Ireland is well-positioned to become a global leader in the twin digital and sustainable transitions.

Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Submission by the Social Democrats – July 2024

The Social Democrats welcome the opportunity to take part in this very important consultation on the implementation of the AI Act into the Irish regulatory space.

Should any of the points made within this document require further clarification, we would be happy to discuss in person. Please contact Eamon Murphy, the party's Policy Director, at [email address redacted] with any questions.

The submission is structured by setting the scene with an analysis of the regulatory landscape in Ireland and the reasons that Ireland should seek a holistic approach to regulation here in this jurisdiction.

We then address the four questions outlined in the consultation documentation.

Introduction

The European Union (EU) finds itself in a pivotal position as humans deal with the opportunities, challenges, and fundamental societal questions posed by Artificial Intelligence (AI).

Leading in the regulatory space but still lagging significantly in terms of what the safe development of this technology requires, the EU is in pole position to build a progressive and holistic framework to harness the positive impacts of AI, while mitigating the fundamental crises that it presents.

AI is transforming our lives, and will continue to do so in ways that we cannot yet imagine. But our legal and political systems are not yet ready for the transformational impact that we are experiencing. Globally, the EU is leading China and the US in proactive regulation, but it still lacks balance in terms of taking into account the needs of society as a whole, and not just the industry, investment and innovation consequences of AI regulation.

The implementation of the EU AI Act into the Irish regulatory landscape is a key opportunity to address this, and to position Ireland as a leader within Europe, willing to be brave and to implement a holistic approach to AI regulation.

The Regulatory Landscape in Ireland

Despite a lack of consistency across state agencies, and under-resourcing of many of them, there is a strong network of established regulatory bodies in Ireland, in a strong position to

come together and offer a holistic approach to the implementation of AI regulation in this jurisdiction. If we consider the key candidates for taking part in the regulation of AI, we must look across the breadth of state agencies available with the appropriate mandates, powers and maturity to offer a comprehensive solution.

Appropriate competent authorities could include:

- Coimisiún na Meán
- Citizens Information Board
- Data Protection Commission
- Environmental Protection Agency
- Garda Síochána Ombudsman Commission
- Irish Human Rights and Equality Commission
- Office of the Ombudsman
- Office of the Ombudsman for Children
- Workplace Relations Commission

Although the landscape is complex, the ingredients are there to bring together a positive and holistic solution. Agencies will need:

- Additional resources;
- Mandate adjustments, through legislative change or statutory instruments; and
- Political Leadership to bring them together with this new focus.

The State should also not rule out the need for a new body within the proposed solution, although our preferred solution would be to use existing structures.

The Potential for a More Holistic Approach

The narrative around regulation for AI in Europe is focused on competitiveness, innovation and industry. The technology that we're seeing evolve will be increasingly and exponentially life-changing in ways that are existential for humans. The potential for discrimination, and for unintended consequences to wreak havoc on livelihoods, communities and protected groups is rampant.

For this reason, we need to see a shift in the narrative and indeed the approach to regulation which deprioritises the industry-related factors, and instead looks at the issue holistically, taking into account the impact of AI – good and bad – on the lives of European citizens, particularly those who are already marginalised. If left unchecked the technology will otherwise only deepen the divisions in society across class, gender, and age.

While the AI Act promotes a risk-based methodology, this should be balanced with an opportunity mechanism to back those elements of the technology which can address societal challenges and enrich our lives.

Consultation Questions

1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

We propose that a distributed model of designation of competent authorities is appropriate, but with a centralised point of accountability, with enhanced independence.

The State could look at the proposed model of the National Preventive Mechanism in the Inspection of Places of Detention Bill, which is based on the New Zealand model of the same mechanism. This mechanism allows for proactive inspection and early detection of issues that relate to torture and inhumane treatment in places of detention within the State.

The new model will identify a National Preventive Mechanism (NPM) coordinator designation, which goes to the Irish Human Rights and Equality Commission, and then individuals NPMs that will be designated and operate in their specific jurisdictions - the Inspector of Prisons for the justice sector (prisons, Garda stations, etc), HIQA for the health sector and direct provision (DP centres, old persons homes, etc) and so on. None of these are yet confirmed but once established, they will create a network of sector-specific operators who can do the work on the ground, and then an overseer who has the independence and requisite reporting powers to surface the relevant issues.

What is certain is that human rights, and the appropriate bodies in the existing state infrastructure, should form some part of the component. This is outlined clearly in the Council of Europe's Commissioner for Human Rights work on the role of National Human Rights Institutions (NHRIs) in the regulatory framework required for AI:

“Civil society and NHRs¹ should be closely involved in the set-up and operation of oversight mechanisms to ensure full transparency and accountability. NHRs can provide important guidance to member states to ensure that the oversight mechanisms deployed to oversee AI systems, be that through the creation of separate agencies, the integration into existing institutions, or the establishment of well-coordinated multi-institution mechanisms have an adequate mandate and powers to properly reflect the variety of ways in which human rights harms can be caused by AI systems.”

Representatives from civil society must also form part of the regulatory framework, as mentioned above, to ensure that those groups most impacted by any given feature of the developing technology and its regulatory responses, are heard within the process. For example, people with disabilities, people in education, workers representative bodies, etc.

¹ They use the term 'Structure', rather than 'Institution', hence they are NHRs, not NHRIs.

Are there potential synergies between the implementation of the AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

All EU law must be taken into consideration when developing the framework.

Recent legislation, such as the Digital Services Act, stopped short in developing strong legislation for this area but it is a positive start.

We must also learn from previous legislation, such as the GDPR Act, and learn from our response that we need strong investment and appropriate independence and power in our regulatory framework to harness this technology.

3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI?

What would excellence in AI regulation look like?

Excellence in AI regulation looks like a trusted, effective and transparent harness on the development of this technology to allow society to catch up with the consequences of it on our lives.

Ireland is currently President of the D9+ Group and in this capacity, we need to promote, as a State, a strong regulatory stance, and the principle of 'constraint breeds creativity'. **Creating a false economy of a lenient regulatory landscape that facilitates innovation above all else does not model the required leadership for this Presidency.** Instead we need to demonstrate that the parameters established around regulation will allow European players to develop technology that is fit for purpose, that works effectively in society without unintended consequences, and which takes into account the full range of impact that it can have.

Europe has developed a reputation for itself as a regulatory leader, and we must build on this, and not try and compromise it by moving towards regions like the US and China who are taking more lenient, and sometimes absent, approaches.

4. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

A holistic and ethical approach to AI regulation is crucial and key steps should be taken to achieve this.

We can first elevate the importance of this framework by moving it away from the Department of Enterprise, Trade and Employment to the Department of the Taoiseach. While industry, labour and innovation are a huge part of the response, it will skew the development of this framework to locate it in such a department.

Instead it should be under the remit of the Department of the Taoiseach, which will demonstrate our commitment in this area, and will grant the appropriate authority to the

final body or network of bodies, providing the means and seniority to draw on all relevant players in the design and development of the regulatory framework.

Adopting a holistic approach, as outlined above, is critical, ensuring all voices are heard, and that innovation is effectively balanced alongside societal needs. This will allow us to not only protect against risk but to identify ways in which the technology can help address societal challenges and to do so in a way that does not discriminate and does not introduce unintended consequences.

Appendix 1

This appendix is the *Regulating Artificial Intelligence* section from the Social Democrats' European Manifesto 2024. It is included to give a broader idea of party policy in relation to Artificial Intelligence.

Law and politics are playing catch up with artificial intelligence (AI) and its consequences. There are major areas of concern related to the development of AI, including:

- Civil Liberties Infringements
- Labour Displacement
- Bias and Discrimination
- Barriers to Justice
- Misinformation
- Intellectual Property
- Climate, and even
- Existential Risk.

Big tech firms are the only global actors with the data, staff, and computing capabilities to drive progress in this area. This creates an unhealthy dynamic between member states and multinational corporations where much of the development of the technology that affects our lives is being done elsewhere. There is a critical need for global regulators to join forces in harnessing the societal impacts of AI, and potential for the EU to be a global legislative leader.

Meanwhile, the potentially positive impacts of AI are being lost in the discussion:

- Improved Efficiency and Effectiveness in Industry
- Technological Advancements for the Consumer
- Fairer Distribution of Labour across the Population, and
- Improvements in work/life Balance.

Social Democrat MEPs will provide the balanced leadership that is required to ensure we don't stifle European innovation while also expanding the scope of influence on AI regulation beyond just industry, to include citizen's concerns.

In Brussels, our MEPS will:

- Build on the 2023 Artificial Intelligence Act for stronger regulation of the development of AI in Europe, with particular attention to the relationship between large technology companies and member states.
- Monitor the use of AI by member state governments, particularly in the areas of surveillance, facial recognition, censorship, and civil liberties.
- Impose sanctions where member states are wrongfully deploying AI to infringe on civil liberties.
- Investigate the potential labour displacement that the development of AI will bring about, and explore frameworks and mechanisms to deal with it, including EU-wide

labour creation and redistribution, basic income, shorter-working weeks, and retraining.

- Develop law and policy that addresses the risk areas of artificial intelligence in relation to bias and discrimination, including with meaningful consultation with minority and marginalised groups.
- Develop law and policy that addresses the risk areas of artificial intelligence in relation to intellectual property, copyright, and the climate crisis.
- Investigate the broader existential risk posed by the development of AI that can ultimately threaten us as a species, and develop law and policy to mitigate.
- Ensure that the progress of automation and AI doesn't remove or distort access to, or affect administration of, justice.
- Develop and implement EU-wide citizen information and awareness programmes to bridge the digital divide, increase digital literacy, and mitigate the rise of misinformation.
- Increase cybersecurity efforts to prevent AI-based hacking attacks, with a special emphasis on protecting critical infrastructure.
- Update and enforce legislation to promote the safe use of digital technologies by children, address the digital divide, and promote digital skills.
- Ensure the design and use of AI systems is transparent.
- Collaborate with US, Asian and global leaders to ensure a unified response to the development of AI in regulatory terms, and position Europe as the legislative leader in this area.

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Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

July 2024

1. Introduction

The Society of Actuaries in Ireland ("the Society") is the professional body representing the actuarial profession in Ireland. The Society welcomes the opportunity to engage with the Department of Enterprise, Trade and Employment ("DETE") through this consultation process. The response has been prepared by a cross section of members of the Society and does not purport to reflect the views of industry.

We believe that a skilled workforce is essential for achievement of excellence in AI regulation. The journey from understanding the AI Act to achieving actual compliance will present significant challenges, demanding a broad range of skills. These include experience with complex models, a deep understanding of the commercial and regulatory environments, effective stakeholder communication, and managing ethical issues. All of these competencies are already central to the actuarial profession, which numbers over 2,000 members in Ireland.

Our responses are presented below according to the questions asked by the DETE in the Consultation Paper.

At an overall level the Society supports a sector-based approach to the implementation of the AI Act that will facilitate an integrated approach by financial services firms operating in Ireland.

Key points

There are a number of key points in our responses to the questions below which it is worth summarising:

- The Central Bank of Ireland (CBI) should be heavily involved, if not entirely responsible, for the implementation of the AI Act in respect of financial services firms operating in Ireland. We therefore advocate either a sector-based approach, or a centralised model that delegates responsibility to the Central Bank of Ireland for sector-specific issues relating to financial services.
- Proportionality is key in regulating AI so that the approach is neither too lax (damaging public trust) nor too rigorous (hampering economic competitiveness or consumer benefits). The Central Bank has extensive experience in regulating financial services in Ireland in a proportionate manner.
- There already exists financial services legislation which overlaps with the aims of the AI Act or with some of its requirements (i.e. The Consumer Protection Code, Solvency II in the case of insurance companies, etc). We believe that the Central Bank of Ireland is well placed to successfully manage any issues that may arise as a consequence.

2. Responses to Specific Questions

2.1. Question 1

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Response:

The Central Bank of Ireland (CBI) should be heavily involved, if not entirely responsible, for the implementation of the AI Act in respect of financial services firms operating in Ireland. We therefore advocate either a sector-based approach, or a centralised model that delegates responsibility to the Central Bank of Ireland for sector-specific issues relating to financial services.

Existing regulation in financial services has already been mostly sector specific for good reason, given its critical role in society. Putting it under the umbrella of a one-size-fits-all centralised body could make AI regulation and supervision in financial services move too slowly or lack focus.

Complying with the AI Act will be a very nuanced discipline for companies. Specialist expertise will be needed to ensure compliance and to supervise compliance. There are many horizontal regulations to be considered alongside the AI Act (GDPR, DORA, Digital Services Acts, and industry specific legislation such as Solvency II, IDD, etc. in the case of insurers.) Many companies are adopting integrated assurance approaches (coordination of risk, compliance and internal audit functions) to ensure they can adequately cover the increasingly vast array of regulations that insurers must adhere to. It is imperative that AI Act governance should form part of this same integrated assurance programme and not become a standalone effort.

Noting that such integrated assurance programmes are typically designed towards managing regulatory relations with the CBI, and that the CBI possess industry specific capabilities (including actuarial, IT and compliance) it will likely make sense that the CBI acts as the National Competent Authority for both existing legislation and the AI Act simultaneously. Appointing another body, other than the CBI, could result in inconsistent supervision, duplication of supervision, increased costs in terms of regulatory fees, and increased costs in terms of staff deployed to manage relations with different regulators. Ultimately these costs will all pass to consumers.

A clear split of responsibilities would be desirable with a centralised body focusing on generic, cross-sectoral aspects of AI while the CBI focuses on the specific considerations in insurance and the wider financial sector. This would also enable the CBI to coordinate with the European Insurance and Occupational Pensions Authority ("EIOPA") to make sure that there is a level playing field for insurance in the EU (and similarly to coordinate with other EU regulatory bodies within financial services).

We also suggest that the CBI and the Data Protection Commission find a formal arrangement to increase their collaboration in respect of insurance supervision in order to avoid duplication of effort under GDPR / AI Act.

2.2. Question 2

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Response:

For insurers, the Digital Services Act, GDPR, DORA, Consumer Protection Code, Insurance Distribution Directive, Solvency II, Differential Pricing Regulations are all relevant along with voluntary codes of conduct such as 'The Right to be Forgotten'.

Ensuring a consistent supervisory approach by the CBI will help ensure proportionate supervision and eliminate unnecessary duplication.

We note that (non-binding) sector-specific guidance on artificial intelligence has already been issued by the European Insurance and Occupational Pensions Authority ("EIOPA") in 2021:

[EIOPA publishes report on artificial intelligence governance principles - European Union \(europa.eu\)](#)

These governance principles cover a wide range of topics from fairness, non-discrimination and transparency to explainability, human oversight, data governance in an insurance context. They are consistent with the premises and requirements of the AI Act. Also, they developed toolkits for an AI use case impact assessment framework (Appendix B) and non-discriminatory regulatory framework in insurance (Appendix C).

EIOPA also recognised the generic developments in AI affecting all sectors (see e.g. Section XI. Conclusions) but at the same time they advocate for sector-specific guidance due to the characteristics and regulated nature of the insurance sector.

2.3. Question 3

Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a "centre of regulatory excellence" in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Response

Ireland is a technology hub with European headquarters of big tech companies and also a vibrant insurtech sector (facilitated by organisations such as www.insurtechireland.org or InsTech.ie Home). However, due to the growing concern over the risks of AI systems, effective regulation is essential to

enable further growth in this domain. Due to the complexities of both AI and the insurance domain, we believe that sector-specific regulation is essential.

The AI Act includes specific provisions on innovation. It is proposed to include “Artificial Intelligence and its application in financial services” in the CBI Innovation Sandbox Programme.

Given the pace of technological innovation, the most effective approach is likely to be a principle-based one coupled with in depth reviews, very much like the Central Bank’s approach to regulation post the 2008 financial crisis. The Central Bank has experience and a solid reputation in this regard, which could be leveraged to support Ireland’s efforts to become an EU centre of excellence for responsible AI in financial services. Given AI development has accelerated recently, the CBI may need to source or bolster specialist expertise, in the same way that financial services firms are having to pivot to hire people proficient in this area.

2.4. *Question 4*

AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Response:

The Society is giving specific consideration to this topic and the role that actuaries can play in advancing this strategic goal. Actuaries have a long history of ensuring that companies make safe, ethical decisions based on complex models and that the underlying assumptions, dependencies and limitations of the models are clear to decision makers. The profession has the potential to play a significant role in this regard.

With regards to AI benefiting society, we consider that AI has the ability to benefit the users of financial services in a number of ways such as enhanced fraud detection and making advice more accessible (which is especially relevant for those consumers with lower economic resources).

There is also potentially a specific role that insurers can play in enabling AI in risk prevention to the benefit of their end consumers. For example:

- Telematics in car insurance;
- Early warning indicators in the case of extreme weather events in property insurance;
- Biometric data in the case of wearable tech and the preventive impact this could have on health and life insurance;
- Computer vision for automatic loss assessment and faster claims payout;
- Parametric insurance (e.g. based on weather indices);
- Embedded insurance (insurance purchased as part of buying another product such as phone)

These are just a few examples of where insurers could go beyond just providing financial protection but into risk mitigation for consumers, and convenience. However, there are many ethical constraints and considerations in the use of AI in such technology.

The list and complexity of use cases is probably beyond what can be considered in this consultation. However, insurers would benefit from a framework where innovative firms can gain clarity (quickly) on how such innovations would be viewed by Ireland's AI Act regulator in the insurance domain.

Effective regulation is required to serve the public good and to help reduce inequality across regions. Proportionality is key in regulating AI so that the approach is neither too lax (damaging public trust) nor too rigorous (hampering economic competitiveness or consumer benefits).

END

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Submission from Oliver Tattan.

The EU has a good record of influencing global regulation: GSM mobile telephony, Solvency II Insurance and GDPR Privacy regulation have been cited as examples.

However, **regulation alone can stifle innovation** unless combined with a forward-looking **sectoral policy** that specifically seeks to drive investment and innovation. A risk-based approach that only seeks to protect consumers can reduce investment if it is not combined with an “industrial policy” approach to **grow the indigenous sector**. Free market dynamics without a supportive sectoral policy will not be enough.

In the case of AI, **regulation without a sectoral policy** will mean that US companies will dominate the supply of AI services in Ireland and the EU. The same has happened in all the sectors in which the FAANGs operate, there are few European champions.

Large US companies have the **scale and capital** to ultimately meet whatever regulation the EU and Ireland throw at them. However, in this process of regulation, local EU indigenous AI companies will be disadvantaged. They must attract investors and customers in the more highly regulated and fragmented EU whereas their **US competitors attract deeper pools of capital and more homogenous consumers in an unregulated market**. Investors looking to back AI companies already bias strongly towards the US.

At stake is the issue of EU and Irish AI sovereignty. By **regulating without a clear sectoral innovation policy**, we hand over the exploitation of the emerging AI sector to the US. Just as in the case of the FAANGs, the EU risks having **few European AI champions**. And the few that do emerge will soon be bought out by larger better capitalised US players.

A Risk based approach only makes sense if it is matched by attention to **the flip side of risk: Opportunity**. Unless enlightened sectoral industrial policy is developed for AI, Ireland and the EU are guaranteed to fall behind the US. **EU consumers will remain safe through regulation, but they will all be buying US AI products and services.**

Any attempt at combining **Regulation** and **Sectoral Policy** should set itself **metrics for innovation**. The most simple and obvious metric is how many **AI unicorns** the EU creates compared to the US. A simple internet search shows that **the EU, despite some successes, is already falling behind.**

In addition, see below brief answers to your questions:

QUESTIONS

1.

For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-

based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Consider setting targets for competition and innovation in the AI sector. Encourage investment and the emergence of EU AI companies by setting metrics. Avoid creating Regulators which effectively only police US AI companies.

2.

The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Yes, the simplest synergy is to set the same metrics and targets across all relevant EU Regulators, namely, to encourage the creation of EU domiciled AI unicorns.

3.

Harnessing Digital - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a "centre of regulatory excellence" in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Excellence in AI regulation would not just protect consumers from risk but drive entrepreneurship, innovation and investment in the European AI sector, thereby bolstering EU sovereignty and reducing dependence on US AI companies.

4.

AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

Unless targets are set for innovation and entrepreneurship in AI, the sector will perform below its potential. Regulation alone risks reducing to the ethical policing of US companies dominating the EU AI scene unless an enlightened sectoral policy promotes the creation of indigenous European AI companies.

Some examples of EU AI companies:

One-year-old **Mistral AI**, a Paris-based foundation large language model company, raised a Series A funding of \$415 million at a \$2 billion valuation. But the funding was led by Andreessen Horowitz, a US private equity company.

A few of the scale-ups:

- Dixa, from Denmark, has created a conversational customer service platform that combines powerful AI with a human touch.
- Musixmatch, from Italy, is the world's leading music data company, using AI to enrich music experiences.
- Corti also from Denmark has applied AI to improve healthcare outcomes.

Oliver Tattan is a serial Entrepreneur in technology and financial services. He is a founder of several health insurers in Ireland, another sector which is extensively regulated but could benefit from a Sectoral Innovation Policy. Oliver also chaired a DETE SME Taskforce, was an Entrepreneur in Residence at Trinity College and has worked extensively with private equity investing in European technology companies.

Technology Ireland priorities on National Implementation of EU Harmonised Rules on AI Act



16 July 2024

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Executive summary

Technology Ireland, the Ibec group representing the technology industry, welcomes the opportunity to respond to DETE's consultation on national implementation of EU harmonised rules on artificial intelligence (AI). We recognise 'trust and excellence'¹ in AI as both an imperative and opportunity for Ireland. We see investment in our AI readiness and effective national implementation of the AI Act as a competitiveness issue.

Technology Ireland supports the Government's aims in the National AI Strategy and the National Digital Strategy and the ambition for Ireland to become a digital leader at the heart of European and global digital developments. Irish startups and SMEs should see the AI Act and its implementation as a facilitator to their innovation, rather than a hindrance. This will help Ireland to continue progressing up the ranks of the DESI index. Ensuring Irish AI startups and SMEs flourish in Europe is good for the ecosystem and ensuring a sound regulatory environment is key. Showcasing best-in-class AI in Ireland across all sectors, including public and civil services can demystify and build trust in the technology. Ensuring Ireland, and Europe more broadly, maintains a competitive environment consecutive to AI innovation is integral if the region is going to become a serious player in this technological wave.

Technology Ireland policy recommendations for the national implementation of the AI Act:

1. Configure national competent authorities to enable effective implementation of the EU AI Act and shared strategic ambitions:

- Ensure implementation enables Ireland, Europe and the AI ecosystem to meet the objectives, scope requirements and timelines set out in EU AI Act; and shared strategic ambitions on responsible AI.
- Take a hybrid approach in choosing between a centralised or distributed regulatory model.
- Ensure national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively.
- Reflects authorities' dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks and enablement of responsible innovation and embracing the opportunities of AI.
- Enable and demonstrate leadership at national, EU and international levels on evolving AI governance and regulation.

2. Find regulatory synergies in the implementation of the EU AI Act

- Deepen and underscore a coordinated governance approach to delivering a shared AI agenda:

¹ See [European approach to AI](#). Trustworthy AI is defined as lawful, ethical and robust throughout its lifecycle. Excellence in AI refers to boosting the national and EU technological capacities and AI uptake across the economy in both the private and public sectors.

- Retain and amplify the political commitment, framework, and resources co-ordinating driving and implementing our AI agenda.
 - Ensure effective governance in implementation of the AI Act. Introduce common statutory duties for concerned regulators so they can act in concert on AI.
 - Create and/or deepen formal links, mechanisms, and work between the EDAF, the AI ecosystem and other relevant elements of our governance structures.
- Ensure effective engagement in the implementation of the AI Act
 - Regulators should engage stakeholders and develop and deliver a joint overarching National AI Regulatory Strategy. Maintain momentum and engagement by delivering regular reports on progress.
 - Develop and implement a whole of government advocacy strategy to systematically engage and influence the development, shape and outcomes of evolving international AI governance. Secure full and active Irish representation in shaping any further AI policy and secondary regulation/standards at EU and international levels.
 - Uphold regulatory principles, reflected in the AI Act.
 - Double down on scalable compliance solutions.
 - Provide guidance and advice to support compliance with the AI Act, in particular to SMEs including start-ups.
 - Reflect international best practice and strengthen global governance.
- 3. Boost regulatory excellence and competitiveness.**
- Bolster Ireland's ambition to be an AI frontrunner by further embracing our role as an international regulatory hub.
 - Secure full and active Irish representation in shaping any further AI policy and secondary regulation/standards at EU and international levels. Develop and implement a whole of government advocacy strategy to systematically engage and influence the development, shape and outcomes of evolving AI governance.
 - Balance authorities' dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks and enablement of responsible innovation and embracing the opportunities of AI.
 - Develop and leverage an early and accessible national regulatory sandbox that can enable and promote the readiness of our policy/regulatory capacities in AI and AI ecosystem.
- 4. Drive national strategic aims for AI**
- Ensure effective national implementation of the AI Act in concert with an updated National AI Strategy (NAIS) and active engagement with the AI ecosystem.
- 5. Other views**
- Ensure national implementation of the AI Act in concert with investment that enables our AI ecosystem and AI adoption. National implementation of the AI Act, in isolation, will not be enough to deliver shared EU and national ambitions in AI. We

must invest in our AI readiness *and* leverage the AI Act to enhance our competitiveness.

- Invest and foster the skills, talent, and inclusion necessary to enhance Ireland's AI opportunity.
- Invest in capacities necessary to enable adoption and further opportunity in AI for all businesses.

1. Introductory remarks

Technology Ireland, the Ibec group representing the technology industry, welcome the opportunity to respond to the Department of Enterprise, Trade and Employment (DETE) consultation² on national implementation of EU harmonised rules on artificial intelligence (AI). Our response to the consultation questions and additional views on Ireland's approach to AI are outlined in Section 2 of this paper.

Technology Ireland has worked closely with Ibec in developing this submission and wishes to support and echo the priority areas outlined in the Ibec submission. Technology Ireland has taken on board the feedback of our sectoral AI Industry Ireland Working Group, in developing this submission.

Ibec, of which Technology Ireland is a sectoral association, is a member of EDAF³ and has a longstanding Digital and AI Affairs Committee⁴ with a track-record of both direct⁵ and joint engagement with partners⁶ on international and national initiatives on the future approach to governing AI. We recognise that building trust and excellence in AI is both an imperative and opportunity for Ireland (see Annex I of this paper). We see investment in our AI readiness and effective national implementation of the AI Act as being central to boosting the long-term competitiveness of the economy.

² DETE (May 21, 2024) [Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence \(AI Act\)](#)

³ The Government's [Enterprise Digital Advisory Forum](#)

⁴ Ibec's cross-sectoral Digital and AI Affairs Committee (DAIAC) aims to co-ordinate engagement across enterprise and promote awareness, and build trust and capacities that enable organisations and individuals to embrace further Digital and AI opportunities.

⁵ For example, see Ibec priorities on the [EU Commission White Paper on AI](#), the EU Act ([proposal](#) and [trilogue](#) stages), and a [National AI Strategy](#).

⁶ For example, [B9+](#), [BusinessEurope](#) and Business at the OECD ([BIAC](#)).

2. Technology Ireland Response to the DETE Consultation

2.1. Configure national competent authorities to enable effective implementation of the EU AI Act and shared strategic ambitions.

Consultation question: What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Recommendations:

Government should:

1. Ensure the establishment/designation and functions of national competent authorities **enables Ireland, Europe and the AI ecosystem⁷ to meet the objectives, scope requirements and timelines set out in EU AI Act (See Annex 2 of this paper); and shared strategic ambitions on AI⁸**. Avoid gold-plating in national implementation, to ensure national rules do not extend or diverge from EU rules, to avoid fragmentation, to support legal certainty and ensure a level playing field for Irish businesses across the EU digital single market⁹.
2. **Take a hybrid approach in choosing between a centralised or distributed regulatory model.** There are several government departments and statutory bodies who, with EU and OECD partners, may influence the direction and pace of our AI readiness and the policy/regulatory structures on which it relies. Technical and innovation expertise, domain expertise and regulatory experience in designated domains will be required in implementation of the AI Act. Annex 2 of this paper outlines the National Market Surveillance Authorities (MSAs) in EU harmonisation legislation specified in Annex I of the EU AI Act. It is acknowledged that different approaches to the designation of national competent authorities, ranging from a centralised model¹⁰ to a more distributed, sector-based will likely involve trade-offs¹¹.

⁷ Includes “national or European standardisation organisations, notified bodies, testing and experimentation facilities, research and experimentation labs, European Digital Innovation Hubs and relevant stakeholder and civil society organisations”.

⁸ Shared National and EU targets of 75% Enterprise adoption of AI by 2030.

⁹ The Omnibus Directive (implemented via the Consumer Rights Act 2022) significantly extended consumer protection law to digital services including those provided without monetary consideration. AI doesn't introduce anything novel that would change how this law applies so we should counsel against any revision of domestic law in that regard. It is also worth noting that the EU consumer acquis is currently being reviewed so Government should await the outcome of that process so that companies have a consistent, pan-EU framework which would better support investment in the single market.

¹⁰ Create a new national agency for centralised oversight and enforcement, that would act as the central authority responsible for all tasks of a market surveillance authority.

¹¹ For example, a distributed approach may provide better access to sectoral expertise but may pose potential coordination challenges or mandate disputes leading to silos between agencies. On the other hand, a centralised approach may offer enhanced co-ordination but may face challenges in sectoral understanding/expertise and may require more time to establish (which may be a challenge in meeting EU deadlines).

A hybrid approach¹² would offer the benefits of both worlds¹³ i.e., take a centralised expertise approach to horizontal technical issues like model training, bias, benchmarking models, compliance with GP-AI Code of Practice¹⁴; with a distributed domain-expertise based approach for sectors¹⁵ and AI consumers.

- a. Ensure transparency, consultation and coordination between regulatory bodies. The regulatory model will need to be structured and operate in a way that drives consistency as well as stability and predictability in the application of the AI Act. This requires not only close coordination between the relevant regulatory bodies but transparency and consultation with stakeholders to inform decisions that are proportionate and support innovation, competitive markets and investment.
- b. Ensure the notification process under the AI Act is adaptive and responsive to the evolving requirements of assessing digital products and services, as conformity assessment bodies will need to conduct audits for AI technologies that previously fell outside their scope.
- c. Recognise existing sectoral conformity assessment bodies as ‘notified bodies’ without necessitating a burdensome redesignation process, to swiftly extend those existing conformity assessment bodies’ conformity and compliance

activities to the requirements and obligations set in the AI Act¹⁶. Companies should be able to maintain relationships with bodies familiar with sectoral/industry specificities in the context of conformity assessments under the AI Act.

3. **Ensure “national competent authorities are provided with adequate *technical, financial and human resources, and with infrastructure to fulfil their tasks effectively* under this Regulation¹⁷”. The authorities must have the mandate, expertise,**

¹²For example, a hub and spoke model, where existing ‘distributed’ sectoral authorities retain their specialised domain expertise, while a ‘central’ AI authority coordinates the oversight and enforcement provisions of the AI Act, develops deep AI expertise and guidance to regulated entities, and acts as the single point of contact and resource (internally to relevant authorities and externally with other stakeholders).

Member States can designate an existing authority as the only market surveillance authority, while creating a mechanism within that authority to combine sectoral insights through interdisciplinary teams into centralized expertise. A single designated entity would act as the only market surveillance authority designated under the AI Act, while consulting sector- or topic-specific bodies, for example the DPC if an enforcement case relates to data governance requirements for high-risk systems, or the Financial Regulator/CBI if a case relates to the use of AI systems in the financial services. This new mechanism would bring together AI experts from different backgrounds, temporarily or permanently, to form interdisciplinary teams (e.g., legal, sectoral and technical experts) on specific cases.

¹³ Enhanced co-ordination and use of resources.

¹⁴ Recital 116 and Article 56 (3) of the AI Act.

¹⁵ For example, the Medical Device sector is one example area, where sectoral approach is particularly important.

¹⁶ Article 43(3) implies a redesignation of existing designated notified bodies for the purposes of the AI Act (to meet requirements in Article 31 (4, 5, 10 and 11)).

¹⁷ “In particular, the **national competent authorities shall have a sufficient number of personnel permanently available** whose competences and expertise shall include an in-depth understanding of AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks and knowledge of existing standards and legal requirements. Member States shall

and resources to understand and keep pace with the evolving issues; engage technically with partners/AI ecosystem in a meaningful way; and meet the goals¹⁸ and procedural standards expected in the AI Act.

- a. Ensure relevant Government departments have adequate resources to understand and drive implementation that bolsters our regulators and AI ecosystem.
- b. “Establishing [regulatory] authorities should also ensure that the AI regulatory sandboxes have the adequate resources for their functioning, including financial and human resources.”¹⁹ Member States shall ensure that the competent authorities...allocate sufficient resources to comply with this Article effectively and in a timely manner²⁰.
- a. Notified bodies will need to acquire new skills/upskill to meet new requirements. Notified bodies under existing EU product safety laws have traditionally focused on evaluating physical products and approaches to physical products. The AI Act is a regulation which covers both product safety and the protection of fundamental rights. The regulatory mandate should support businesses in understanding their obligations from both perspectives.

assess and, if necessary, update competence and resource requirements” on an annual basis (Article 70(3) of the EU AI Act).

¹⁸ See Recommendation 1 in this Section of the paper.

¹⁹ Recital 138 of the AI Act.

²⁰ Article 57(4) of the AI Act.

4. Ensure the establishment/designation and functions of national competent authorities (and their implementation) **reflects authorities' dual mandate/obligation in the AI Act i.e. *supervision and enforcement that mitigates risks*²¹ and *enablement of responsible innovation and embracing the opportunities of AI*²²**. The authorities need clear statutory duties to have regard for innovation, competitiveness, and growth in exercising their supervision and enforcement powers. Enable Ireland to both safeguard people *and* enable further opportunities through responsible use of AI for the benefit of society. Risks can be consistently identified and addressed through affirmative, structured operations, and accountability. It is through these operations and assessments that we must also consider the benefits that this transformative technology can bring to users, society and the economy.
5. **Enable and demonstrate leadership** at national, EU and international levels on evolving AI governance and regulation (See Section 2.3 of this paper).

²¹ Trust in AI

²² Excellence in AI

2.2. Find regulatory synergies in the implementation of the EU AI Act

Consultation question: Are there potential **synergies** between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

Recommendations:

6. **Government should deepen and underscore a coordinated governance approach to delivering a shared AI agenda.** How the national regulatory model should operate in practice needs a great deal of careful thought to ensure that Ireland harnesses the opportunities that AI can bring, while mitigating potential risks, and providing companies the clarity and stability they require for beneficial innovation and for effective AI deployment in what is a very fast-moving market and noting that some business activities may span more than one regulator. Articulating a shared vision, actions and ensuring adequate resources, stakeholder engagement, co-ordination and momentum in delivery are acknowledged as key challenges for implementation of horizontal digital policy by the OECD²³. **Specifically, Government should:**
 - a. **Retain and amplify the political commitment, framework, and resources co-ordinating driving and implementing our AI agenda** in any iterations to Government/Departmental responsibilities and functions and future Programmes for Government.
 - b. **Implement the OECD recommendation²⁴ to re-establish the ‘Better Regulation Unit’ in the Department of An Taoiseach** and establish a new arms-length regulatory oversight body. Retain better regulation at the heart of Government.
 - c. **Ensure effective governance in implementation of the AI Act. Introduce statutory duties for concerned regulators so they can act in concert on AI.** These duties should include a duty to have regard to the impact on innovation, competitive markets and investment/growth. Establish an overarching duty of co-operation between the concerned regulators enhancing shared regulatory knowledge and stability for trust, investment, and innovation. Technology Ireland acknowledges the importance of the Digital Regulators Group (DRG)²⁵ and the separate Market Surveillance Authorities Forum (MSAF)²⁶. However, formally creating and/or clarifying regulatory roles, links and co-operation and identifying a single point of contact required by the AI Act would enhance integrated communication between Government, regulators and the AI ecosystem and drive regulatory coherence, trust and excellence in national implementation of the AI Act. Government should require both bodies to consult on and publish

²³ OECD (2020), "Going Digital integrated policy framework", *OECD Digital Economy Papers*, No. 292, OECD Publishing, Paris, <https://doi.org/10.1787/dc930adc-en>.

²⁴ OECD (2023) ‘[Strengthening Policy Development in the Public Sector in Ireland](https://www.oecd.org/policy-development/2023/04/strengthening-policy-development-in-the-public-sector-in-ireland/)’. Recommendation would ensure better quality and independent oversight of regulatory processes and in line with other EU countries ensure adequate impact assessments and ex-post evaluation.

²⁵ <https://www.dataprotection.ie/en/news-media/latest-news/regulators-welcome-national-digital-strategy> This group talks to the Government’s Senior Officials Group on Digital Issues

²⁶ Annex 2 of this paper.

annual programmes of work and processes for engagement with regulated entities²⁷.

- d. **Create and/or deepen formal links, mechanisms and work between the EDAF, the AI ecosystem and other relevant elements of our governance structures²⁸** in driving and delivering implementation of the AI Act and shared AI ambitions.
- e. **Assess (and/or encourage the European Commission to assess) the digital legislation applying to AI, with the aim of identifying legal interplay, overlaps and potential conflicts in enforcement.** Use this assessment to inform co-ordination of enforcement and policy-making. This will deliver greatest certainty for investors in Ireland, eliminating overlapping or conflicting rules and ensuring important continuity in the application of the existing EU digital rulebook.

Regulators should ensure effective engagement in implementation of the AI Act, building and delivering national trust and excellence in AI. Transparency and consultation in how designated regulatory authorities work together (and with our AI ecosystem and international partners²⁹) should ensure consistency and predictability that safeguards people and supports responsible innovation and commercial decisions in AI deployment. **Specifically, Regulators should:**

- a. **Engage with Government and the AI ecosystem³⁰ and develop and deliver a joint overarching ‘National AI Regulatory Strategy’.** Reinforce Ireland’s ambition as a key international digital regulatory hub. The expansion of Ireland’s AI (and digital) regulatory roles will be complex, cross-sectoral and interconnected to implement in practice³¹. The proposed Strategy would act as an investment signal and support and demonstrate our whole of government approach and international leadership and influence in evolving AI (and digital) governance. The Strategy would support regulatory coherence and alignment between co-dependent government/regulatory initiatives. Consider the creation of a formal cross-structural mechanism/workstream in the existing National AI and Digital Strategies’ governance structure to support engagement and implementation of this regulatory strategy and facilitate the further development of Ireland as an international AI (and digital) hub and a source of high-quality employment, subject to appropriate regulation.
- b. **Maintain momentum and engagement by delivering regular reports on progress** made through the Regulatory Strategy, in the implementation of the AI Act and the achievement of shared AI ambitions.

²⁷ For example, the evolving Digital Regulatory Cooperation Forum (DRCF) in the UK publish an [annual plan of work](#).

²⁸ For example, the elements may include representation from the Digital Issues Senior Officials’ Group, the Digital Regulators Group (DRG), National Market Surveillance Authorities (MSA), the National Cybersecurity Centre (NCSC) and GovTech Delivery Board leading digital transformation of Public Services.

²⁹ For example, European Commission AI Office and other National Competent Authorities.

³⁰ We welcome the co-regulatory approach suggested in the codes of practice. For those to be successful it is important that the mandate of the code is aligned with the AI Act and that those who will have to implement them - providers and regulators - are part of a meaningful process.

³¹ See IAPP (2024) [EU AI Act: The web of regulatory intersections](#).

- c. **Uphold regulatory principles, reflected in the AI Act**, of a technology neutral, future-proofed, risk-based approach; proportionality; confidentiality and trade secret protections; and non-duplication of regulation³² or regulatory requests. Enforcement should reflect technical feasibility³³ and best/state of art practices; and focus on the level of risk posed by its application and the context of its application. Ensure Ireland's framework recognises that AI is a multi-purpose technology that calls for customized approaches and proportionate allocation of compliance responsibilities across the AI value chain.
- d. **Double down on scalable compliance solutions.** The importance of oversight is acknowledged. However, the state and rate of change in both EU regulation, technology and our digitalised economy means regulators need to prioritise consultation on actionable guidance and scalable compliance solutions. Both the AI Act and other EU laws, such as the GDPR, provide a path for codes, seals, and certifications which we haven't fully utilised yet so there are ways to get to useful solutions in parallel to oversight.
- e. **Provide guidance and advice on the implementation of the AI Act, in particular to SMEs including start-ups**, taking into account the guidance and advice of the Board and the Commission, as appropriate (Article 70 (8) of the AI Act).
- f. **Reflect international best practice** and strengthen global governance. Implementation may impact the extent that we will be able to influence others or benefit from the opportunities AI can bring, foster [investments](#) and the number of [startups](#).

³² Avoid unnecessary duplication and conflicts between the AI Act provisions and other EU Regulation (e.g., DSA, Copyright Directive, Corporate Due Diligence Directive, and GDPR). Ensure the stated purpose of AI Act is met and avoid unnecessary duplication or legal uncertainties.

³³The requirement to publicly disclose a 'sufficiently detailed summary' about the content used for training must be matched with proper protections for confidential business information and trade secrets. This requirement must also be underpinned by a shared understanding of the practical infeasibility of disclosing and summarising the entirety of content on the open web.

2.3. Boost regulatory excellence and competitiveness.

Consultation question: How can Ireland's implementation of the AI Act **bolster** Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Recommendations:

7. **Implementation of the AI Act can bolster Ireland's ambition to be an AI frontrunner if it positions Ireland to further embrace its role as an international regulatory hub** and meet requirements for regulatory co-operation outlined in the Act and international co-operation³⁴ i.e., excellence in implementation of AI regulation³⁵ should:
 - a. Ensure Ireland garners, retains and demonstrates **first mover advantage and influence** in the evolution of associated secondary regulation and standards that impacts Ireland's AI ecosystem and competitiveness. Ireland has a unique opportunity, to lead by example and establish pro-innovation guidance and oversight, given its proximity to the UK and US and status as a digital frontrunner, to promote mutual recognition between UK/US AI Safety Institutes and the AI Office.
 - b. Ensure that we have a common understanding of risk and do not diverge on how to conduct risk assessments and model evaluations. Compliance, testing, or documentation efforts of providers towards one of these institutes should be recognised as equivalent by others. Leverage this advantage and influence in the changing EU political cycle, the D9+forum/work, Ireland's upcoming EU Presidency and the OECD.
 - c. Encourage and enable **innovation and investment** in AI in Ireland and Europe.
 - d. **Safeguard** Irish and EU citizens.

8. **Secure full and active Irish representation in shaping any further AI policy and secondary regulation/standards at EU and international levels.** Develop and implement a whole of government advocacy strategy to systematically engage and influence the development, shape and outcomes of evolving international AI governance. Ensure close co-operation with industry in the development of standards. Leverage the experience of our regulatory, industry and research communities in driving policy and regulation that enhances national and EU competitiveness. Ensure implementation of the AI Act aligns with international standards and complementary international initiatives³⁶. Ireland is a proving ground for international digital regulation, implementation and governance.

³⁴ For example, co-operation around the development and/or supervision of Codes of Practice, Regulatory Sandboxes, Market Surveillance (e.g., ADCO), Standards and Secondary Legislation associated with the AI Act.

³⁵ See Annex 3 of this paper.

³⁶ ISO Standards, OECD and G7 work.

9. Balance **authorities' dual mandate/obligation in the AI Act i.e. supervision and enforcement that mitigates risks³⁷ and enablement of responsible innovation and embracing the opportunities of AI³⁸**. Enable compliance, adoption, innovation and investment.

10. **Develop and leverage an accessible national regulatory sandbox that can enable and promote the readiness of our policy/regulatory capacities in AI and our AI ecosystem³⁹**. Mandate the early development of a regulatory sandbox (well ahead of the AI-Act's deadline), where regulators and other stakeholders can work together on compliance, innovation, and developing best practices. Boost and demonstrate our status as both a regulatory and AI hub - encourage innovation and attract investment in AI. Objectives should include:
 - a) Ensure clarity legal certainty to achieve Ireland's regulatory compliance with this Regulation or, where relevant, other applicable Union and national law.
 - b) Share best practices through cooperation (with other authorities and the AI ecosystem).
 - c) Enhance our AI ecosystem and regulatory capacities. A sandbox may play an important role in a compliance and certification process for AI solutions from Irish enterprise⁴⁰.
 - d) Accelerate access to the internal market for AI systems and models, particularly when provided by Irish firms, big and small alike⁴¹.
 - e) Help address divergent rates of adoption and obstacles to AI adoption⁴².

³⁷ Trust in AI

³⁸ Excellence in AI

³⁹ Recital 138-139, Article 57 of the AI Act

⁴⁰ For example, the [Spanish](#) AI regulatory sandbox initiative, [Danish](#) AI regulatory sandbox initiative and [ICO](#) regulatory sandbox for personal data.

⁴¹ Article 57(13) of the AI Act.

⁴² DoF and DETE (2024) [Artificial Intelligence: Friend or Foe?](#)

2.4. Drive national strategic aims for AI.

Consultation question: How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives [below] while meeting our regulatory obligations?

Recommendation:

11. Ensure effective national implementation of the AI Act in concert with an updated National AI Strategy (‘NAIS – Here for Good, 2021’) and active, deep engagement with the AI ecosystem. Ireland should be well placed⁴³ to realise further opportunity⁴⁴. However, there is still a competitive imperative to address gaps in the state and rate of our relative progress and meet 2030 targets⁴⁵. Technological change and global competition in digital transformation are dynamic and intensifying. Ireland (and Europe) must position itself to safeguard its longer-term position and to best compete for new investment and opportunities⁴⁶. Last year (2023) saw groundbreaking advances and interest in AI⁴⁷. The European Commission has highlighted that our future competitiveness has dependencies on further digital adoption and leadership in key digital technologies including AI⁴⁸. Some digital frontrunners/D9+ members are already reacting to recent technological developments⁴⁹. The overarching themes of our current NAIS remain valid, but Government should ensure the Strategy and associated initiatives reflect technological and industry developments⁵⁰ as well as the recent developments in EU and international governance of AI. Position Ireland with a leadership role in AI and emerging technologies. Table 1 outlines how national implementation of the AI Act can support strategic aims on AI.

⁴³ Ireland is recognised by the [OECD](#) as being part of a group of top global hubs for digitally deliverable services and a [European digital frontrunner](#) by the European Commission.

⁴⁴ The potential to harness the benefits of further digitalisation of the economy and society for enhanced competitiveness, resilience, public services, inclusion and regional development.

⁴⁵ European Commission (2024) [Digital Decade Country Report 2024, Ireland](#); and EIB (2023) [Digitalisation in the European Union: Progress, challenges and future opportunities](#). While progress is being made, we have a competitive imperative to enhance our performance relative to other digital frontrunners, rather than compare ourselves to the EU average.

⁴⁶ [a] IMD (2023) [Incorporating AI technology from the top down will build digital nationhood in 2024, says new IMD report](#); and [b] IMD (2023) World Digital Competitiveness Ranking.

⁴⁷ [Stanford AI Index Report 2023](#); CB Insights (2024) [State of AI 2023](#); Economist (2023) [Generative AI will go mainstream in 2024](#); ACM Technology Brief (Leslie and Rossi, 2023) [Generative Artificial Intelligence](#); Global AI-related patents have accelerated since 2012 due to greater availability of data, computing power and connectivity ([WIPO](#), 2019).

⁴⁸ European Commission (2023) [Long-term competitiveness of the EU: looking beyond 2030](#). The Communication highlights the need for further digital adoption in the economy and leadership in key digital technologies including Artificial Intelligence (AI), Quantum Computing, microelectronics, web 4.0, virtual reality and digital twins, and cybersecurity.

⁴⁹ Government of the Netherlands (2024) [The government-wide vision on Generative AI of the Netherlands](#)

⁵⁰ Some digital frontrunners/D9+ members are already reacting to recent technological developments e.g., Government of the Netherlands (2024) [The government-wide vision on Generative AI of the Netherlands](#).

Table 1: How national implementation of the AI Act can support strategic aims on AI.

Perspectives in National AI Strategy [highlighted in DETE consultation]	How can implementation of AI support/accelerate progress on these perspectives?
Building public trust in AI	1. Provide a transparent, coordinated approach to AI regulation and AI literacy that develops and enables/safeguards public trust in AI ⁵¹
Leveraging AI for economic and societal benefit	2. Provide a proportionate, coordinated approach to AI regulation that enables adoption, innovation, and investment in AI across all businesses ⁵² 3. Leverage the NSAI Standards and Assurance Roadmap for AI at national and international levels. 4. Deliver and leverage an accessible national AI regulatory sandbox in concert with AI ecosystem to enable and promote the readiness of our policy/regulatory capacities in AI and a competitive AI ecosystem.
Enablers for AI	5. Deliver and leverage a national AI regulatory sandbox to enable and promote the readiness of our policy/regulatory capacities in AI and a competitive AI ecosystem. Enable adoption, innovation and investment across all businesses. 6. Provide guidance and advice on the implementation of the AI Act and on the effective adoption of AI, in particular to SMEs including start-ups. Enable compliance, adoption and access to market across all businesses.

⁵¹ A governance framework that promotes trustworthy AI.

⁵² A governance framework that promotes excellence in AI.

2.5. Other views.

Consultation question: The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.

The Government should ensure national implementation of the AI Act in concert with investment and trade policy that enables our AI ecosystem and effective AI adoption.

This is a multi-faceted challenge. National implementation of the AI Act, in isolation, will not be enough to deliver shared EU and national ambitions in AI. We must invest in our AI readiness *and* leverage the AI Act to enhance longer-term competitiveness. The European Commission has recommended that Ireland increase investment in AI take-up at all levels and “develop targeted programs and incentives to encourage enterprises and SMEs to adopt Big Data and AI and leverage their potential for innovation and growth”⁵³. Finally, because AI is by its nature a cross-border technology, individual policy efforts must be tethered to strong trade and investment policies that support trusted international collaboration on AI, including cross-border data flows essential to AI development and deployment.

Recommendations:

13. Invest and foster the skills, talent, and inclusion necessary to enhance Ireland’s AI opportunity:

- **Pursue a strategic approach to addressing AI skills that mobilises and coordinates the whole education and training system around three key pillars:** responding to existing skills needs of industry through upskilling and reskilling programmes; building a strong talent pipeline with multiple and varied opportunities to develop AI skills; and supporting digital (including AI) inclusion through lifelong learning and AI literacy so that a wide diversity of talent and workers can participate in an evolving labour market.
- **Ensure AI skills are in place across all government departments and regulatory bodies so that they can fulfil their functions.** Support upskilling in functions becoming increasingly digitised in their area of remit.
- **Double down on the commitments in the Digital Strategy for Schools⁵⁴** to ensure that digital (and AI) literacy is embedded in education from an early age.
- **Unlock the surplus in the National Training Fund (NTF). This must be used to deliver on its intended promise to upskill Ireland’s workforce** if the country is to successfully navigate the twin digital and green transition. Treating NTF spending like other specific purpose funds would support this. Technology Ireland is recommending the introduction of a National Training Voucher scheme to underpin a strategic approach to lifelong learning, boost in-company training and widen participation in upskilling and reskilling in areas including AI.
- **Attract and retain mobile AI talent.** Ensure Ireland remains a top location for mobile business investment. Resource and continue the reform of visa and work permit processes.

⁵³ European Commission (2024) [Digital Decade Country Report 2024, Ireland](#)

⁵⁴ Department of Education (2022) [Digital Strategy for Schools](#)

Invest in capacities necessary to enable effective adoption and further opportunity in AI⁵⁵:

- **Scale public investment in research and innovation** in AI.
- Continue funding for digital transition measures currently funded via the NRRP. **Introduce a new €500M National Digital Acceleration Fund to meet commitments in national and EU AI (and digital) targets** in the period 2025-2030. Funding streams should support: the development of AI skills and literacy at all levels, research and development capacities, adoption and ecosystem development. Support all businesses to innovate.
- **Leverage investment and procurement of AI in the public sector as a catalyst for broader economic growth⁵⁶**. Enhance the procurement framework and address any administrative barriers. Leverage the €210m provided for in the agreed National Recovery and Resilience Plan (NRRP) to drive further digital transformation in public sector projects.

⁵⁵ Ibec (2024) [Sharpening our edge, Budget Submission 2025](#)

⁵⁶ Act on the Cruinniú GovTech report findings for enhanced public services.

3. Annexes

Annex I: The imperative and opportunity from trust and excellence in AI

The digital (including AI) readiness of our infrastructure, services, businesses, and people matters to our longer-term competitiveness and resilience, to better public services, regional development, and our well-being. This readiness can enable further (AI and digital) opportunities for government, business, and individuals. For example:

- I. **Competitiveness:** AI is potentially transformative for digitalised economies like Ireland. AI readiness is a strategic cross-sectoral issue. In 2020, 41% of goods and services produced in the economy were transacted digitally. This can take the form of being digitally ordered, digitally delivered or both⁵⁷. In 2022, there was an estimated 270,000 employed in our “digitally intensive”⁵⁸ sectors⁵⁹. In 2019, there were 90,766 employed in our ICT sector itself, almost half (40,746) of those employed by domestic firms⁶⁰, making a significant contribution to output in Ireland⁶¹. Approximately 29% of our manufacturing jobs are in high technology sectors. This is four times the EU average⁶². Ireland’s labour market is marginally more exposed to AI than the advanced economy average⁶³. It is estimated that Generative AI could boost productivity and Ireland’s annual GDP by €40-45 billion, amounting to +8% GDP in peak year if widespread adoption is achieved⁶⁴. Building capacities that help organisations adopt and innovate with AI is an important policy consideration.
- II. **Resilience:** Trusted digital (including AI) innovation⁶⁵ and international co-operation proved critical to sustaining our economic and societal well-being throughout the pandemic and will be essential to our future success and resilience. Green and trusted digital transitions can be mutually reinforcing, securing, and sustaining physical and digital environments that sustain us. The EIB (2023) found that recent shocks accelerated digital adoption and that “*digitalisation drives firms’ resilience to economic disruption and climate change, and it has helped European businesses resist repeated shocks*”.
- III. **Services:** AI innovation can enhance public services and the digitalisation in public services can also act as a *catalyst* to develop our indigenous digital ecosystem and capacities⁶⁶. Trusted AI innovation can augment healthcare provision and with our

⁵⁷ CSO (2022) [Digital Transactions in the Irish Economy 2020](#)

⁵⁸ Technology Ireland, 2022. ‘Digitally intensive’ describes industries that use high shares of digital inputs (>80%) relative to other inputs and produce digital goods and services.

⁵⁹ Technology Ireland (2022) [Technology Ireland submission to the Joint Committee on Enterprise, Trade and Employment on challenges facing the technology sector](#)

⁶⁰ CSO (2022)

⁶¹ Central Bank of Ireland (2023) [Q1 Bulletin: The Role of the ICT Services Sector in the Irish Economy](#)

⁶² Ibec (2022) Manufacturing in Ireland

⁶³ DoF and DETE (2024) ‘Artificial Intelligence: Friend or Foe’

⁶⁴ <https://implementconsultinggroup.com/article/the-economic-opportunity-of-generative-ai-in-ireland>

⁶⁵ The development and deployment of trusted digital and data innovation safeguards people and the environment that sustains them (e.g., safeguards human rights, sustainability, safety, market fairness and security).

⁶⁶ DPER (2020) ‘Connecting Government 2030’

comparative and sectoral advantages, Ireland has the potential to become a recognised global hub for digital health⁶⁷.

IV. **Inclusion:** Connectivity, digital education, and digital (including AI) literacy (digital inclusion) enables social inclusion and regional development⁶⁸. This is a question of positioning AI for augmentation of the future workplace. The latest national and international research points to a net positive story, however building the necessary skills in organisations and individuals across our economy and society is an important policy consideration:

- A 2022 report⁶⁹ by Ireland's Expert Group on Future Skills Needs (EGFSN) on the skills needed for Ireland to fully benefit from the opportunities presented by Artificial Intelligence found AI is not likely to bring about a net loss of jobs, but it will replace certain tasks within many jobs over time.
- The WEF (2023)⁷⁰ expect the impact of most technologies on jobs to be a net positive over the next five years, driven by the twinned digital and green transitions. In the WEF research almost 75% of companies surveyed are expected to adopt AI. Some 50% of the firms expect jobs to be created as a result, while 25% expect job declines. In other words, the WEF predicts AI adoption will result in disruption, but also net job creation.
- Research by the OECD (2023) on the impact of AI on the workplace⁷¹ shows that, to date, job reorganisation appears more prevalent than job displacement, with automation prompting the reorientation of jobs towards tasks in which humans have a comparative advantage.
- In 2023, International Labour Organisation (ILO)⁷² assessed the impact of Generative AI and reported that is likely to augment rather than destroy jobs.

⁶⁷ <https://www.ibec.ie/digitalhealth>

⁶⁸ NESC (2021) [Digital Inclusion in Ireland: Connectivity, Devices & Skills](#)

⁶⁹ EGFSN (2022) AI Skills: A Preliminary Assessment of the Skills Needed for the Deployment, Management and Regulation of Artificial Intelligence

⁷⁰ WEF (May, 2023) Future of Jobs

⁷¹ OECD (March, 2023) The Impact of AI on the Workplace

⁷² ILO (August, 2023) Generative AI and jobs: A global analysis of potential effects on job quantity and quality

Annex 2: Objectives, scope, requirements, and timelines of AI Act in relation to establishment/designation and functions of national competent authorities

1. The **objectives of the AI Act**, include improving the functioning of the internal market; promoting the *uptake* of human-centric and trusted⁷³ AI while *protecting* health, safety, fundamental rights⁷⁴; and *supporting innovation* in the EU. The Act also aims to ensure that the EU remains *competitive* for AI investment and innovation.
2. The **scope of the AI Act** includes risk-based regulation of AI usage across a variety of domains and actors (organisations and people) across the AI value chain. For example, AI systems intended for use as a safety component of a product in certain regulated frameworks (Article 6 and Annex I of the AI Act⁷⁵) and specific usage of AI systems that pose a significant risk to health, safety, or fundamental rights across 8 areas (Article 6 and Annex III of the AI Act) are classified as high-risk for the purposes of the Act.
3. **The AI Act requirements for the establishment/designation of national competent authorities and associated timetable for implementation:** The AI Act requires member states, including Ireland, to establish establish/designate national competent authorities with *at least*:
 - One **notifying authority** to select and monitor conformity assessment bodies ('notified bodies')⁷⁶ to test compliance with the rules before the AI is used⁷⁷.

⁷³European Council, Special meeting of the European Council (1 and 2 October 2020) – Conclusions, EUCO 13/20, 2020, p. 6. The **human-centric approach** to AI outlined by both the AI HLEG and OECD **encourages beneficial outcomes from AI for both humans and the planet that sustains them**. This approach encourages a respect for law, human rights and democratic values as well as a consideration for the natural environment and sustainability. '**Trustworthy AI**' refers to AI systems that **respect value-based principles**, it has **3 components** (it is lawful, ethical, and robust) **and meets 7 requirements** (1. Human agency and oversight; 2. Technical robustness and safety; 3. Privacy and Data governance, 4. Transparency, 5. Diversity, non-discrimination, and fairness, 6. Societal and environmental well-being, and 7. Accountability). See [Ethic guidelines for trustworthy AI of the High-Level Expert Group on AI](#) (AI-HLEG, 2019).

⁷⁴**Rights** enshrined in the [Charter of Fundamental Rights of the EU](#), including democracy, the rule of law and environmental protection.

⁷⁵**Article 6(1) and Annex I** of the Act provides two lists of regulated frameworks categorised as high risk:

- **Section A:** List of EU harmonisation legislation based on the **New Legislative Framework (NLF)** including machinery, toys, recreational/personal watercraft, lifts, protective systems for potentially explosive atmospheres, radio equipment, pressure equipment, cableway installation, personal protective equipment, gaseous fuel burning appliances, medical devices, in vitro medical devices.
- **Section B:** List of other sectoral EU harmonisation legislation including: civil aviation security and safety, two or three wheel vehicles and quadricycles, agricultural and forestry vehicles, marine equipment, interoperability within EU rail system, motor vehicles and trailers.

⁷⁶**Articles 28-39** of the Act covers establishment and rules for notifying authorities and notified bodies.

⁷⁷**Article 43** of the Act (Conformity Assessment).

- One **market surveillance authority** to test compliance during the AI lifecycle⁷⁸. If there are several authorities, one single point of contact must be chosen⁷⁹.

Member States must communicate this (and single points of contact) to the European Commission *within 12 months* the Acts entry into force. These authorities will have oversight powers at national level.

Nationally, DETE is a Notifying Authority for a number of EU product laws⁸⁰. Only safe products may be placed on the EU market. Market Surveillance Authorities (MSA) are already responsible for ensuring product safety at a national level. Ireland has a **Market Surveillance Forum** (established in 2009) with representatives from all national MSAs. It meets regularly to discuss market surveillance issues and to coordinate a national response to EU market surveillance issues⁸¹. National MSAs in EU harmonisation legislation specified in Annex I of the EU AI Act are outlined in Table 2.

⁷⁸ **Article 74** Market surveillance and control of AI systems in the Union market.

⁷⁹ **Article 70** Designation of national competent authorities and single point of contact.

⁸⁰ <https://www.inab.ie/news-resources/news/notified-bodies-in-ireland.html>

⁸¹ <https://enterprise.gov.ie/en/what-we-do/consumer-competition/product-safety-/>

Table 2: National MSAs in EU harmonisation legislation specified in Annex I of the EU AI Act

EU harmonisation legislation specified in Annex I of the EU AI Act	Existing national Market Surveillance Authority / Competent Authority in this EU harmonisation legislation ⁸² .
Directive 2006/42/EC (machinery)	Health & Safety Authority (HSA)
Directive 2009/48/EC (on the safety of Toys)	Competition and Consumer Protection Commission (CCPC)
Directive 2013/53/EU (recreational craft and personal watercraft))	Department of Transport/Marine Survey Office (MSO)
Directive 2014/33/EU (relating to Lifts and safety components for lifts)	HSA
Directive 2014/34/EU (relating to equipment and protective systems intended for use in potentially explosive atmospheres)	HSA
Directive 2014/53/EU (relating to the making available on the market of radio equipment)	Commission for Communications Regulation (ComReg)
Directive 2014/68/EU (relating to the making available on the market of pressure equipment)	HSA
Regulation 2016/424 (on cableway installations)	Commission for Railway Regulation (CRR)
Regulation 2016/425 (on personal protective equipment)	HSA and CCPC
Regulation 2016/426 (on appliances burning gaseous fuels)	HSA and CCPC
Regulation 2017/745 (on medical devices)	Health Products Regulatory Authority (HPRA)
Regulation 2017/746 (on in vitro diagnostic medical devices)	HPRA
Regulation 168/2013 (on the approval and market surveillance of two- or three-wheel vehicles and quadricycles)	Under consideration
Regulation 167/2013 (on the approval and market surveillance of agricultural and forestry vehicles)	Minister for Agriculture, Food and the Marine (DAFM)
Directive 2014/90/EU (on marine equipment)	MSO
Regulation 2018/858 (on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles)	Road Safety Authority of Ireland (RSA)
Regulation 2018/1139 (on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency)	Irish Aviation Authority (IAA)

⁸² DETE (2022) [National Market Surveillance Authorities/ Competent Authorities in Ireland and the Relevant Legislation](#) provides details of the Irish Market Surveillance Authorities along with their responsibilities under various pieces of EU product safety legislation.

4. **The requirements of national competent authorities under the AI Act**, may include capacity building, national/international collaboration, oversight, enforcement, guidance and enabling innovation e.g.,
- **Regulatory oversight and enforcement** of provisions in the Act. This includes:
 - Pre-market certification of High-risk AI systems' conformance with standards.
 - Surveillance of High-risk AI systems after they are deployed or made available on the market.
 - **Collaboration with the EU AI office in drawing up, reviewing and adaption of codes of practice for general-purpose AI models** (and those presenting systemic risks), consulting with relevant domestic stakeholders and taking into account international approaches⁸³.
 - **Establishment and supervision of at least one sufficiently resourced AI regulatory sandbox** to promote innovation at national level. This involves engagement with other relevant regulators and actors in the national ecosystem and relevant authorities involved in the supervision of sandboxes in other Member States [to support regulatory coherence]⁸⁴.
 - **Guidance and advice on the implementation of this Regulation**, in particular to SMEs including start-ups, taking into account the guidance and advice of the Board and the Commission, as appropriate.
 - Take appropriate measures to **ensure an adequate level of cybersecurity**.

⁸³ Article 56(3) and Recital 116.

⁸⁴ Article 57 and Recitals 138-139.

Annex 3: Ireland's important roles in AI governance and regulation

Ireland has critically important roles in AI governance and regulation. Ireland plays a key role in EU data governance – as lead regulator on behalf of all EU citizens in the data protection, cybersecurity and online content space⁸⁵ – and should be at the forefront of policy design. Embracing Ireland's role as an international digital regulatory hub and ensuring continued effective engagement with EU and other international partners are key to demonstrating our digital leadership internationally and influencing evolving governance, impacting our digitalised economy⁸⁶. The National AI and Digital Strategies rightly reflect an ambition to be both a European and global AI (and digital) leader and a '*centre of regulatory excellence in Europe where both industry investments and European consumers are the winners*'⁸⁷. This ambition matters because leadership in AI (and digital) policy and regulation acts as an investment attractor⁸⁸ and is '*a perquisite to our ambition to be a leading digital economy*'⁸⁹. Effective EU and International engagement are '*critically important*'...

- '*...to ensure that we **retain influence** in the development of policies and regulation that impact Ireland's economic and business environment.*'⁹⁰
- To position Ireland (and the EU more broadly) at the forefront of evolving international digital regulation, with a potential '**first mover advantage**' in digital and data matters⁹¹. This is because the EU⁹² can '*significantly influence and/or take the initiative in relation to regulatory developments in a broader international context.*'⁹³
- To fulfil **Ireland's lead role in promoting EU values and safeguarding both Irish and EU citizens**⁹⁴ under both existing⁹⁵ and evolving EU digital regulation in data, markets, safety, AI, cyber security and resilience⁹⁶.

⁸⁵ Acknowledging other regulators have competency in these areas also e.g. European Commission for DSA.

⁸⁶ Ibec (2021) Backing our digital future. DETE (2022) White Paper on Enterprise 2022-2030

⁸⁷ Department An Taoiseach (2022) Harnessing Digital - The Digital Ireland Framework p41

⁸⁸ William Fry and Amarach (2021) [Ireland is a Leading Location for Data-Related Investment in the EU](#)

⁸⁹ DETE, 2022 White Paper on Enterprise 2022-2030, p 38

⁹⁰ DETE, 2022 Ibid

⁹¹ DETE, 2022 Ibid

⁹² EU influence on international regulation/governance is sometimes referred to as the '[Brussels Effect](#)'.

⁹³ DETE, 2022 Ibid

⁹⁴ European Commission (2022) [Address by President von der Leyen to the Joint Houses of the Oireachtas](#). The speech highlights Ireland's virtues as both a digital and regulatory hub and notes that '*Europeans depend heavily on Irish authorities to ensure that the many tech giants based here comply with our common privacy rules. Ireland can be the home base for the human-centred internet Europe wants to build*'.

⁹⁵ General Data Protection Regulation ([GDPR](#))

⁹⁶ Zenner, Marcus and Sekut, 2023 [A dataset on EU legislation for the digital world](#).

Technology Ireland welcomes the progress made to date with the introduction of Ireland's National AI strategy (NAIS)⁹⁷ and associated National Digital Strategy (NDS)⁹⁸ with commitments to:

- a whole-of-government governance approach⁹⁹ and business engagement¹⁰⁰,
- *'a modern, cohesive and well-resourced digital regulatory system'*,
- *'being a strong voice in Europe for a balanced approach to digital regulation'*¹⁰¹ and *'advocating for the benefits of the country-of-origin principle... essential to the functioning of the single market'*¹⁰².

While progress is being made¹⁰³, there are still imperatives to further embrace and strengthen Ireland's EU/international roles as both an AI and a regulatory hub.

⁹⁷ DETE (2021) [AI- Here for Good: National Artificial Intelligence Strategy for Ireland](#)

⁹⁸ Department of the Taoiseach (2021) [Harnessing Digital - The Digital Ireland Framework](#)

⁹⁹ It is understood that this whole of government approach is led by the Cabinet Committee on Economic Recovery and Investment (CCERI), with supporting official-led sub-structures including: (a) the Digital Issues Senior Officials' Group, chaired by the Department of the Taoiseach, and (b) the [Digital Single Market Group](#), chaired by the Department of Enterprise, Trade and Employment. The Cabinet Committee also engages with the 'Digital Regulators Group' (DRG) i.e., Commission for Communications Regulation (ComReg), the Data Protection Commission (DPC), the Competition and Consumer Protection Commission (CCPC), and [Coimisiún na Meán](#) (CnM, previously known as the Broadcasting Authority of Ireland, BAI).

¹⁰⁰ [Enterprise Digital Advisory Forum \(EDAF\)](#) established to support the government in driving the digitalisation of enterprise across Ireland.

¹⁰¹ Department of the Taoiseach (2021) [Harnessing Digital - The Digital Ireland Framework](#)

¹⁰² DETE, 2022 The White Paper on Enterprise 2022-2030. The country-of-origin principle *'provides that regulated enterprises must comply with just the one legal regime of the Member States in which they are established, as opposed to the laws of every Member States into which they sell, when it comes to cross-border services such as digital.'*

¹⁰³ DETE (2023) [Minister Calleary publishes progress report on National AI Strategy](#) and Government of Ireland (2024) [Harnessing Digital Progress Report 2023](#)



19 July 2024

Dear DETE colleagues,

RE: Trinity College Dublin response to the Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Please find below the response from Trinity College Dublin to the consultation regarding implementation of the AI Act. Note that, as per the provision in the consultation document, we have commented on aspects of implementation outside of the scope of the four questions posed therein, and focus primarily on implications of the Act's implementation for educators and researchers in Higher Education Institutions.

1. Research outputs with commercial potential

Although it is clear that, once the results of research are put on the market or into service they are subject to the provisions of the Act, it would be beneficial if national guidance or policies could be produced (perhaps by SFI, EI and KTI) to address the stage before research outputs reach that point. Specifically, it is possible that if – at this prior stage – attention is not appropriately paid to potential AI-related risks, then the ability to commercialise the results of the research might materially be impacted. That is to say, while results in such a precommercial/predeployment stage are not subject to the provisions of the Act, ignoring the potential that they may become so may ultimately reduce the value of the research output. It is therefore likely to be beneficial –from a technology transfer and research return of investment perspective – if researchers and innovators are guided, where appropriate, to voluntarily undertake some level of checks and preparation as part of the work of the project. Advice and assistance from the bodies named above would be required in this regard.

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2. Open source research outputs

Related to point 1) above, while the Act does not impose specific requirements on open source research outputs or results, failing to attend to its provisions may ultimately make such output less valuable to future users as they would be required to bear additional compliance costs if they wished to use them in areas designed as high risk. It would therefore be beneficial for researchers and their funders if policies were developed to include some risk assessment that can be packaged with open source results. This would make such outputs relatively more attractive for other to reuse in downstream research/innovation that may result in products going on the market or into service.

3. Teaching and learning resources

It is important that Higher Education Institutions receive clarity on the extent to which AI models used for teaching and learning purposes have the potential to be classified as high risk. This is particularly crucial for Virtual Learning Environments as they may be thought to fall within the scope of the Act as systems which *'evaluat[e] learning outcomes of persons'* and therefore would be deemed to be high risk should they start to contain AI components. An immediately useful action would be the provision of information on which current offerings with AI features would meet the high risk definition. (This could perhaps occur under the umbrella of wider public procurement data sharing across the EU, see: https://single-market-economy.ec.europa.eu/single-market/public-procurement/digital-procurement/public-procurement-data-space-ppds_en).

4. Broader issues

More broadly, there are strong requirements for:

- A national strategy for e-infrastructure
- A federated compute and data ecosystem for the AI research community.



- Training on AI system for researchers beyond computer scientists - domain experts such as neuroscientists, engineers and humanities scholars also require training to be able fully to engage with the potential of AI for research.

In addition, it is important that CASPiR is recognised as vital for our national computing infrastructure, in particular as it facilitates the use of AI for industry.

Please do not hesitate to contact me should you require elaboration or augmentation of any of the above points.

Yours sincerely,

Sally Smith

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UCD Centre for Digital Policy

Ionad um Bheartas Digiteach UCD

**UCD Centre for Digital Policy Submission to the Department of Enterprise, Trade and Employment
Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence
(AI Act)**

15 July 2024

Centre Authors

Elizabeth Farries, Thompson Kwarkye, Susan Leavy, Labhaoise Ní Fhaoláin, Alexandros Minotakis, Eugenia Siapera, Courtney Ford

The above Centre members are pleased to respond to the Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act). We present the following issues to inform Ireland's approach to implementing the Act and, specifically in relation to the configuration of national competent authorities required for implementation.

About the Centre

UCD Digital Policy Centre builds digital policy capacity amongst the public and private sector in Ireland and across the EU. Our interdisciplinary membership believes that policy making and evaluation must be deliberative, emergent, and iterative, with sociocultural values at their core. Such an ambitious agenda will require working with stakeholders and beneficiaries to: (1) To develop effective and evidence-based formal and informal regulation and institutional digital policies, (2) to maintain such policies over time, and (3) to foreground urgent issues of sustainability, equity, and human rights.

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I. Researching sustainability as an AI risk

Our Centre advocates prioritising AI and sustainability risks in Ireland. The AI Act relies on knowing and being able to foresee risk. High-risk cases were identified due to extensive research and evidence of harm. Supporting new research into potential risks of AI will ensure that regulation keeps pace of fast moving technologies.¹ Research in Ireland is a priority because for over 150 years, it has played a crucial role in the growth of tech communications systems including global connectivity and cable networks from early telegraph to future fibre optic.² Now, automated versions of these communications strategies through datafied infrastructure leads to the reliance on critical minerals, fossil fuels and carbon based energies, water-supplies, and wastes - the infrastructural burdens of which are often exported to rural Ireland or global majority countries.³

While environmental protections supporting sustainability are described in the AI Act's preamble, the Act as drafted is more optimistic about the as-yet unproven ability of AI to solve sustainability concerns rather than managing 'the steep cost of AI models to the environment'.⁴ Ireland's tech hub leadership role requires our research leadership into the AI sustainability questions that impact us

¹ Alistair Knott and others, 'The EU's Digital Services Act must provide researchers access to VLOPs' experimental protocols' (*informationdemocracy*, June 2024) <<https://informationdemocracy.org/wp-content/uploads/2024/06/The-EUs-Digital-Services-Act-must-provide-external-researchers-access-to-companies-experimental-platforms-2024.pdf>> accessed 24 June 2024

² Hunter Vaughan, "'Weaving Networks From Valentia Slate to Silicon Docks": Workshop with Visiting Newman fellow Hunter Vaughan' (2024. <<https://digitalpolicy.ie/2550-2/>> accessed 24 June 2024

³ See Centre member Pat Brody's research here, including Patrick Bresnihan and Patrick Brodie, 'From Toxic Industries to Green Extractivism: Rural Environmental Struggles, Multinational Corporations and Ireland's Postcolonial Ecological Regime' (2024) 32 *Irish Studies Review* 93

⁴ See ICCL fellow Dr Kris Shrishak's writing on the topic: Zuzanna Warso and Kris Shrishak, 'Hope: The AI Act's Approach to Address the Environmental Impact of AI' (*TechPolicy.press*, 21 May 2024) <<https://www.techpolicy.press/hope-the-ai-acts-approach-to-address-the-environmental-impact-of-ai/>> accessed 24 June 2024

all, and some more than others. A crucial regulatory instrument to inform Ireland's implementation of the AI Act is the European Corporate Sustainability Reporting Directive (CSRD). Experts argue that alignment with both regulations is necessary to truly assess the sustainability of AI systems.⁵

II. Entrenching multistakeholder perspectives

Further efforts are required to entrench multistakeholder perspectives. Following the Social Construction of Technology (SCOT)⁶ paradigm, stakeholders emerge as “relevant social groups” that attribute to technological artefacts different expectations and fears⁷, creating points of tension and potential conflict as well as opportunities of new societal consensus. In that respect, new technologies do not carry immanent meaning and functionality but rather are engaged in an open-ended process of negotiation between different stakeholders that play a crucial role in their future development and deployment.

Overall, according to the SCOT perspective, the trajectory of AI development is not solely determined by technical feasibility or economic incentives but is profoundly influenced by the expectations held by various stakeholders, including researchers, developers, policymakers, industry leaders, and the public. As new AI systems are an emerging field, they still are in a phase of interpretative flexibility⁸ regarding their potential application and integration. In that sense, a multistakeholder perspective is necessary to identify contested views and open up the way for a new consensus.

a. Stakeholder perspectives on sustainability

This entrenched stakeholder perspective approach is crucial in two respects: (1) identification of a wider range of risks and opportunities as well as (2) engagement with novel regulatory mechanisms. Firstly, different stakeholders potentially hold unique perspectives on the “hidden costs” of new technologies, engaging with issues of sustainable development in ways that are often overlooked by AI developers themselves or by institutional actors. For example, the AI Act (Art.51) uses, among others, the number of floating-point operations (FLOPs) as a criterion to categorise an AI as General Purpose AI with systemic risk. However, this only serves as a partial understanding of AI's impact to sustainability; local communities, closely tied with AI's infrastructure potentially carry a deeper understanding of AI's “hidden cost” and need to be empowered as a regulatory agent.

⁵ See for example Angela Salmeron and Marija Misić, ‘AI and sustainability: A European View’, (IDC, June 2024) <<https://www.idc.com/getdoc.jsp?containerId=EUR152304524>> accessed July 7 2024

⁶ Traver J. Pinch and Wiebe E. Bijker, ‘The social construction of facts and artefacts: Or how the sociology of science and the sociology of technology might benefit each other’ (1984) 14 *Social studies of science* 399

⁷ Harro van Lente, ‘Navigating foresight in a sea of expectations: Lessons from the sociology of expectations’ (2012) 24 *Technology Analysis & Strategic Management* 769; Aphra Kerr, Marguerite Barry and John D. Kelleher. ‘Expectations of artificial intelligence and the performativity of ethics: Implications for communication governance’ (2020) 7 *Big Data & Society* 1

⁸ Wiebe E. Bijker, *Of bicycles, bakelites, and bulbs: Toward a theory of sociotechnical change* (first published 1997 MIT Press) 390

b. Labour perspectives on work and AI

In a similar vein, the AI Act (Art. 26) identifies the need for prior notification of employees when a high-risk AI system is introduced in the workplace, while simultaneously banning (Art. 5) AI systems that are used to infer emotions of natural persons in the workplace. While these aspects are undeniably significant, the past year indicates a wider range of points of tension. Labour representatives across various sectors expressed their concerns regarding AI, leading into collective agreements that included terms ranging from free job retraining⁹ to protection of personal copyrights from Generative AI¹⁰ to inclusion of unions and labour representatives into negotiations with AI deployers¹¹. In that sense, acting as regulatory agents, labour representatives identified a broad range of risks and addressed them through concrete measures and the effective expansion of collective agreements into issues of new technologies¹². These sectoral agreements need to be conceptualised as emergent decentralised governance structures that can complement the AI Act.

III. Enshrining national Competent Authorities in multi-stakeholder engagement: distributed systems (decentralised governance)

We suggest that the involvement of multiple stakeholders be clearly specified in the designated Competent Authorities' (CA's) tasks which are notified to the Commission. We note that this section refers to the designation of CAs under Art. 70 of the AI Act. The Member States (MS) are obliged to designate at least one notifying authority and one market surveillance authority. More than one authority can be designated depending on the organisational needs of the MS. These CAs are charged with the "*application and implementation*" (Art 70(1)) of the AI Act). The designation of the market surveillance authority in respect of prohibited categories is particularly urgent given the prohibitions under Art. 5 apply six months after the entry into force of the AI Act.

MS are obliged to notify the Commission of the tasks which are to be carried out by the CA (Art 70 Cl 2). We consider it critical that multi-stakeholder engagement and multi-stakeholder oversight be enshrined in the specified tasks of the CA. As regards the importance of this we refer to recent work on reflexive governance of AI¹³ and decentralised governance of AI¹⁴. Ní Fhaoláin et al. (2023) suggest that a reflexive governance framework allows for the inclusion of multiple stakeholders which affords all those affected by the regulatory framework a voice which is an important element

⁹ Ian Kullgren, 'Las Vegas Union Scores AI, Daily Cleaning Wins in Caesars Pact' (*Bloomberg Law*, 9 November 2023) <<https://news.bloomberglaw.com/daily-labor-report/las-vegas-union-scores-ai-daily-cleaning-wins-in-caesars-pact>> accessed 24 June 2024

¹⁰ Tom Jones and Angela Fu, 'Writers Guild wins protections against artificial intelligence' (*Poynter*, 28 September 2023) <<https://www.poynter.org/commentary/2023/writers-guild-wins-protections-against-artificial-intelligence-newsroom-unions/>> accessed 24 June 2024

¹¹ Juliana Jiménez J and Noticias Telemundo, 'Latino casino, service workers in Nevada fear AI could replace them' (*NBCnews*, 2 February 2024). <<https://www.nbcnews.com/news/latino/latino-casino-service-workers-nevada-fear-ai-threat-jobs-rcna13620>> accessed 24 June 2024

¹² Valerio De Stefano and Simon Taes 'Algorithmic management and collective bargaining' (2023) 29 *Transfer: European Review of Labour and Research* 21

¹³ Labhaoise Ní Fhaoláin, Vivek Nallur and Colin Scott, 'Promoting Social Justice through the Reflexive Governance of AI' in Karine Gentelet (eds), *Considering Artificial Intelligence Through the Lens of Social Justice* (Presses de l'Université Laval 2023)

¹⁴ Joan Lopez Solano and others, 'Governing data and artificial intelligence for all: models for sustainable and just data governance' (European Parliamentary Research Service 2022)

where there is a power differential, such is the case in AI. The system also includes feedback and monitoring loops which allows for different perspectives to be included and, in the reflexive mode, for parties' positions to be altered. Decentralised governance of AI fits within a reflexive governance framework and Solano et al. (2022) propose a distribution of oversight activities across societal groups which would be complementary to the centralised regulatory system. The authors suggest that the involvement of groups from all facets of society would increase capacity to identify incremental harms. This work highlights how democratising oversight would lead to accountability which is more representative of society, and which would engender trust in the AI governance system.

In suggesting clearly specified multiple stakeholders' involvement in the designated CA's tasks, we argue for representation throughout the lifecycle of CA decisions. If the goal is to ensure that sectoral knowledge is captured and utilised and societal groups are engaged, the most efficient and effective way of doing so is to ensure representation is a CA decision lifecycle approach, rather than designating multitudinous CAs. This lifecycle approach would include the formalised engagement with the "authorities protecting fundamental rights" which are to be nominated by MSs within three months of the entry into force of the Act, under Art. 77.

a. Addressing resource burden and administrative challenges for a distributed sectoral based system

The MSs are obliged to *"ensure that their national competent authorities are provided with adequate technical, financial and human resources, and with infrastructure to fulfil their tasks effectively under this Regulation"* (Article 70 (3)). A further requirement is that the CAs be provided with a *"sufficient number of personnel permanently available"* and that these staff members' competencies and expertise shall include in-depth knowledge of : AI technologies, data and data computing, personal data protection, cybersecurity, fundamental rights, health and safety risks, knowledge of existing standards legal requirements.

This is a specific obligation to adequately resource the CA with wide ranging expertise on a permanent basis, which will be a challenge even in the case of one or two CAs. If there were multiple sectoral based CAs then the State would be obliged to ensure that each and every CA be sufficiently resourced with all of these teams on a permanent basis. This would not be an inefficient allocation of resources.

Having multiple CAs would also increase the administrative burden on the State. Every two years the State is obligated to report to the Commission on the financial status and human rights resources of the CAs.

Further, unless every Regulatory Body were appointed as a CA then there would be bodies excluded from the process whose expertise would need to be canvassed in any event.

b. Challenges to the consistency of the implementation of the AI Act for distributed sectoral based systems

Given that CAs can provide guidance on the implementation of the AI Act (Art70(8)), if there were multifarious CAs then the process of issuing guidance would be challenging as different CAs could issue contradictory guidance in overlapping domains.

Upon a reasoned request from a CA, a provider must *“provide that authority all the information and documentation necessary to demonstrate the conformity of the high-risk AI system...”* If operating on a distributed sector-based system, the question arises whether each sector based CA would be in a position to assess whether conformity with the Act had been established. A further issue may arise if differing decisions were being reached in different domains and may result in a type of forum shopping, if one CA is seen as being more permissive than another.

This potential for forum shopping for more lenient treatment may also arise if differing levels of fines are being imposed by different CAs, depending on the sector.

III. Competent Authority candidates, with sectoral observations

The obvious candidates for CA are drawn from the Competition and Consumer Protection Commission (CCPC), the Data Protection Commission (DPC), the National Standards Authority Institute and the Central Bank.

- The CCPC has competencies applicable to the role of CA through consumer representation, established legal teams, dawn raids, market surveillance experience, experience as a notifiable body, EU law application and responsibility. Relevant competencies include Dawn Raids, Consumer representation, Established legal team, National market surveillance experience, Notifiable body, EU Law, regulatory investigations, enforcement.
- The NSAI has experience as a national surveillance body through conformity assessments and both national and international standards.
- The DPC applies national and EU Law regulatory investigations, decision making and enforcement in the data domain and is also active in producing guidance. Challenges include a remit focused on compliance and data and less so on societal impact outside matters of individual privacy - not all AI applications use data. Further, leading domestic civil society organisations in Ireland have critiqued the DPC’s lack of capacity to enforce existing regulation.¹⁵
- The Central bank operates in the relevant field of regulation of conduct and services provided in the financial sector.

If designated as a CA, all of these bodies would face challenges, to a greater and lesser extent, including a lack of expertise in technology law, AI and data science, insufficient emphasis in their

¹⁵ See: Irish Council for Civil Liberties, ‘Europe’s enforcement paralysis: ICCL’s 2021 report on the enforcement capacity of data protection authorities’ <<https://www.iccl.ie/news/2021-gdpr-report/>> Accessed July 7 2024

remit on the societal impact of their decisions, an innate focus on their own domain and in increased pressure on all parts of the organisation. As regards the latest challenge referred to, leading domestic civil society organisations in Ireland have already critiqued the DPC's lack of capacity to enforce existing regulations. Without increasing resources significantly, existing capability issues will be exacerbated¹⁶.

In any event, the involvement of the DPC is unavoidable as a result of Art 74(8) GDPR. Further, The European Data Protection Board and European Data Protection Supervisor (EDPS) issued Joint Opinion 5/2021¹⁷ suggesting that data protection authorities should take on the role as national authorities under the AI Act and this position was reiterated by the EDPS in 2023¹⁸.

At the time of writing, a power struggle is ongoing in Italy between Agency for Digital Italy (*Agenzia per l'Italia Digitale*, AgID), National Cybersecurity Agency (*Agenzia per la cybersicurezza nazionale*, ACN) and Data Protection Authority (*Garante per la protezione dei dati personali*, **Garante**). A draft proposal had seen the obligations under Art 70 divided between AgID and ACN. However Garante is calling for it to be the single supervisory authority for both AI and Data. Garante has also noted that:-

- National data protection authorities are to be appointed as market surveillance authorities pursuant to Art. 74.8 of the AI Act
- Under Art 5.3 of Act, biometric identification in the context of law enforcement activities requires prior authorization of a judicial authority (or an independent administrative authority) and which must comply with data protection regulations and in certain circumstances must be notified to the national data protection authority
- In any event national data protection authorities have oversight of algorithmic processes using personal data.

In the Netherlands, the Dutch Data Protection Authority and the Dutch Authority for Digital Infrastructure issued a joint proposal on the designation of market surveillance authorities within the CA category¹⁹. Given the role of the market surveillance authority in the assessment of Annex III high risk, the proposal links the categories with a relevant authority: Dutch Data Protection Authority (as default), the Dutch Authority for the Financial Markets and Dutch Central Bank (financial and insurance products) and the Dutch Authority for Digital Infrastructure/Human Environment and Transport Inspectorate (critical infrastructure). For relevant sector and domain specific authorities, the proposal emphasises the need for close coordination, cooperation and knowledge sharing between the sectoral and domain specific authorities with the Market Surveillance Authority. The importance of coordination with the Authorities Protecting Fundamental Rights is also highlighted.

¹⁶ See: Ibid

¹⁷ EDPB and EDPS, 'Joint Opinion 5/2021 on the proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)' (2024)

¹⁸ EDPS, 'Opinion 44/2023 on the Proposal for Artificial Intelligence Act in the light of legislative developments' (2023)

¹⁹ Dutch Data Protection Authority and Dutch Authority for Digital Infrastructure, '2nd (interim) advice on the Dutch supervisory structure for the AI Act' (2024)

IV. Synergies between AI Act and other EU Regulations applying to digital markets, services, and infrastructure

The EU has adopted a series of regulations in recent years aimed at protecting consumers, strengthening the internal market, and ensuring that the EU remains at the forefront of innovation and the adoption of advanced technologies. The implementation of the AI Act can synergise with these regulations to create a more cohesive and efficient regulatory environment that fosters trust, fairness, and innovation. As follows:

The **General Data Protection Regulation (GDPR)**²⁰ provides robust safeguards for personal data, which is crucial for AI systems handling sensitive data. Aligning the AI Act with GDPR's provisions, such as **Article 22**²¹, which grants individuals the right not to be subject to automated decisions without human intervention, ensures that AI systems provide transparency and options for human oversight. Additionally, by enforcing **Article 15**'s²² right to access by the data subject, the AI Act can mandate that AI systems clearly inform users about their data's usage and processing purposes, thereby enhancing transparency and trust.

The **Digital Services Act (DSA)**²³ aims to create a safer digital environment by regulating online intermediary services. This regulation's focus on transparency in content moderation and the prompt removal of illegal content²⁴ is relevant to the AI Act's goals. Although AI technologies like recommender systems, typically covered under the DSA, fall into the minimal risk category under the AI Act, the intersection of these regulations ensures that AI systems involved in content moderation are transparent about their decision-making processes. Furthermore, the DSA's requirements for regular risk assessments on the dissemination of illegal content²⁵ align with the AI Act's emphasis on risk management, promoting a safer digital environment.

In ensuring fair competition, the **Digital Markets Act (DMA)**²⁶ regulates gatekeeper platforms, preventing anti-competitive practices. The AI Act can synergise with the DMA by incorporating principles that prevent AI systems from unfairly disadvantaging competitors. By facilitating data portability and ensuring users can transfer their data between services, as mandated by the

²⁰ Intersoft Consulting, 'General Data Protection Regulation GDPR' <<https://gdpr-info.eu/>> accessed 24 June 2024

²¹ Intersoft Consulting, 'Art. 22 GDPR Automated individual decision-making, including profiling' <<https://gdpr-info.eu/art-22-gdpr/>> accessed 24 June 2024

²² Intersoft Consulting, 'Art. 15 GDPR Right of access by the data subject' <<https://gdpr-info.eu/art-22-gdpr/>> accessed 24 June 2024

²³ Directorate-General for Communication, 'The Digital Services Act Ensuring a safe and accountable online environment' (*European Commission*) <https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en> accessed 24 June 2024

²⁴ European Commission, 'The impact of the Digital Services Act on digital platforms' (30 April 2024) <<https://digital-strategy.ec.europa.eu/en/policies/dsa-impact-platforms>> accessed 25 June 2024

²⁵ Cyber Risk GmbH, 'The final text of the Digital Services Act (DSA)', <https://www.eu-digital-services-act.com/Digital_Services_Act_Article_34.html> accessed 25 June 2024

²⁶ European Commission, 'The Digital Markets Act' <https://digital-markets-act.ec.europa.eu/index_en> accessed 25 June 2024

DMA²⁷, the AI Act enhances user control and fosters a competitive market environment. This alignment ensures that AI technologies contribute to a fair digital marketplace.

The **Data Governance Act (DGA)**²⁸ facilitates the sharing and reuse of data across sectors and borders within the EU. The AI Act can leverage the dataspace established under the DGA to access high-quality data for AI training and development. By aligning with DGA's standardised data sharing protocols, the AI Act ensures that AI systems can securely and efficiently share data, promoting innovation and interoperability.

As a significant final priority, the **European Corporate Sustainability Reporting Directive (CSRD)** seeks to strengthen rules about the social and environmental information that companies have to report, creating transparency for investors seeking to assess financial risks and opportunities arising from climate change and other sustainability issues.²⁹ Alignment with CSRD and the AI act is necessary to assess sustainability of AI systems.

The alignment of the AI Act with these existing regulations not only streamlines compliance for businesses but also supports the development of trustworthy, ethical, sustainable, and innovative AI systems. This coordinated approach will bolster Ireland's position as a leader in the digital economy, enhancing consumer protection, market fairness, and cybersecurity across the EU.

V. Public trust through transparency and education

To address how implementing the AI Act can drive support and accelerate progress while meeting regulatory obligations, we argue that government activities should build public trust by increasing transparency and improving literacy on AI. Public trust in AI is crucial because it influences investment decisions, societal acceptance, political support, knowledge development, and innovation.²⁶ A cornerstone for building public trust in AI is transparency obligations that ensure AI systems do not pose a risk to human safety or fundamental rights. These transparency obligations include informing users when interacting with AI systems and providing clear and accessible information on how their data is used and how AI systems make decisions, and develop answers, recommendations, diagnoses, and other outputs.²⁷ AI systems – including algorithms and data

²⁷ Regulation (EU) 2022/1925 of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) [2022], OJ L 265/1 <[https://www.concurrences.com/en/dictionary/digital-markets-act#:~:text=The%20Digital%20Markets%20Act%20\(%E2%80%9CDMA,ex%2Dante%20rules%20in%20the](https://www.concurrences.com/en/dictionary/digital-markets-act#:~:text=The%20Digital%20Markets%20Act%20(%E2%80%9CDMA,ex%2Dante%20rules%20in%20the)> accessed 1 July 2024

²⁸ Cyber Risk GmbH, 'The European Data Governance Act (DGA)' <<https://www.european-data-governance-act.com/>> accessed 24 June 2024

²⁶ Patrick Bedué and Albrecht Fritzsche, 'Can we trust AI? An empirical investigation of trust requirements and guide to successful AI adoption' (2022) 35 Journal of Enterprise Information Management 530

²⁷ KPMG in Ireland, 'Why AI systems hallucinate facts and figures: Unravelling the enigma' (*Insights*, 6 June 2024) <<https://kpmg.com/ie/en/home/insights/2024/06/why-ai-hallucinate-facts-figures-art-int-rd.html>> accessed 25 June 2024

²⁹ Directorate-General for Financial Stability, Financial Services and Capital Markets Union, 'Corporate sustainability reporting' <https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en> accessed 7 July 2024

sources – should be understandable, enabling users to make informed choices about using these tools. This includes verifying whether AI tools have been trained in compliance with the AI Act and a clearer understanding of how the model arrived at specific conclusions. For instance, in the health sector, it is crucial to understand the rationale behind an AI model's diagnosis to ensure that it aligns with a doctor's approach and to allow the physician to verify the model's conclusions. Additionally, establishing an entity independent from the government, like Spain's Agency for the Supervision of Artificial Intelligence (AESIA),²⁸ can promote the adoption of transparency best practices and ensure an ethical approach can be recognised and governed by everyone whose lives and livelihoods are impacted.

The UCD Centre for Digital Policy [report](#) on Public Perceptions of Data, Artificial Intelligence, Use and Regulation set out to understand public knowledge, attitudes to, and perceptions of artificial intelligence in Ireland, discovering important gaps in knowledge.³⁰ Engaging the public through consultations and educational campaigns to raise awareness and understanding of AI technologies can support alleviate fears and misconceptions, leading to broader acceptance and support from public sector workers, private corporations and citizens.²⁹ This may include consultations, workshops, and informational campaigns to educate citizens about AI, its benefits and potential risks. We at the Centre for Digital Policy understand the roles of AI literacy as a key consideration for Ireland. While we would agree with the Minister for Finance that it is “essential that workers are supported” with skills in the AI transition, we would add that there is also a demand for AI ethics skills and capacity in Ireland to govern the risks and opportunities of AI in manners that are harmonious with EU rules. Our Centre is responding to this demand via our [educational programmes](#). They are designed to produce future or support existing professionals with a deep understanding of both theoretical and applied issues in digital policy, including Artificial Intelligence. These programmes are available at the MSc, Grad Dip Professional Certificate, and Microcredential level.

While the regulation intends to mitigate potential harms such as biased algorithms or job losses, their practical implementation and ability to keep pace with rapid technological advancements will be critical factors in their success. To harness AI's social and economic potential, Ireland should establish clear guidelines and standards that balance innovation with regulatory compliance. This will ensure that AI technologies are developed and deployed responsibly, fostering trust among businesses and the public.³⁰ One notable proposal within this framework is establishing a "national AI seal," based on the guidelines (as it exists in Spain)³¹, certifying that AI systems deployed within the island adhere to Irish/European standards. This seal will signify compliance with the Act requirements and underscore a commitment to ethical AI practices. It could also allow companies to self-assess whether their systems comply with the Act and continue to monitor compliance with the products on the market.³² This certainty can attract investment, encourage the adoption of AI across various sectors, promote best practices and position Ireland as a leader in ethical AI development.

Additionally, it is essential to establish an observatory focused on the algorithmic impact on society and the economy (as it exists in Germany and Canada).³³ Such an initiative would serve as a

³⁰ UCD Centre for Digital Policy (2023) PUBLIC PERCEPTIONS of Data, Artificial Intelligence Use and Regulation <https://digitalpolicy.ie/wp-content/uploads/2023/05/PublicPerceptionsofDataArtificialIntelligenceUseandRegulation.pdf>

dedicated platform to monitor, analyse and evaluate the effects of AI technologies across various sectors. It could have in-built functions to carry out informal audits on systems considered high risk. By systematically collecting data and insights, the observatory can provide policymakers, businesses, and researchers with valuable information to make informed decisions and shape future policies. For example, the observatory would be crucial in tracking how algorithms influence employment patterns, income distribution, and overall economic growth. It would monitor shifts in labour markets driven by automation and AI adoption, identifying both opportunities for job creation and areas vulnerable to displacement. The observatory should be accessible to agency staff and companies using high-risk AI systems.

²⁸ Pablo Jiménez Arianda, 'What to expect from Europe's first AI oversight agency' (*Algorithm Watch*, 2024) <<https://algorithmwatch.org/en/what-to-expect-from-europes-first-ai-oversight-agency/>> accessed 25 June 2024

²⁹ Shane Tews, 'Building Trust in AI: The Crucial Role of Education and Partnerships' (*AEI*, 14 May 2024) <<https://www.aei.org/technology-and-innovation/building-trust-in-ai-the-crucial-role-of-education-and-partnerships/#:~:text=Proper%20education%20can%20also%20help,to%20unleashing%20AI's%20positive%20impact>> accessed 25 June 2024

³⁰ Mariaosaria Taddeo and Luciano Floridi, 'How AI can be a force for good—an ethical framework to harness the potential of AI while keeping humans in control' in Luciano Floridi (ed), *Ethics, governance, and policies in artificial intelligence* (Springer International Publishing 2021)

³¹ Arianda, footnote 28

³² Ibid

³³ Lucia Russo and Noah Oder, 'How countries are implementing the OECD Principles for Trustworthy AI', (*The AI Wonk*, 31 October 2023). <<https://oecd.ai/en/wonk/national-policies-2>> accessed 25 June 2024



Údarás na
Gaeltachta

Aighneacht i dtaobh Forfheidhmiú Náisiúnta ar Rialacha Comhchuibhithe maidir leis an Intleacht Shaorga (Acht IS)

Meitheamh 2024

udasas.ie



Rialtas na hÉireann

Réamhrá

Fáiltíonn Údarás na Gaeltachta roimh an deis chun cur leis an gcomhairliúchán poiblí ar chur i bhfeidhm náisiúnta an Achta um Intleacht Shaorga (IS) an Aontais Eorpaigh. Mar an t-údarás forbartha réigiúnach atá freagrach as ceantair Ghaeltachta, is é ár misean forbairt teangeolaíoch, cultúrtha, sóisialta, fisiciúil agus eacnamaíoch na réigiún seo a chur chun cinn, i dtreo neartú na Gaeilge mar theanga phobail. San aighneacht seo, leagfaimid amach comhthéacs uathúil ár n-oibríochtaí, leagfaimid béim ar an tionchar féideartha atá ag IS ar ár misean, agus cuirfimid moltaí ar fáil le haghaidh cur i bhfeidhm éifeachtach an Achta IS in Éirinn.

Comhthéacs

Eagraíocht forbartha stáit is ea Údarás na Gaeltachta ar a bhfuil freagracht reachtúil i dtaca le forbairt chomhlánach na Gaeltachta. Tagraíonn an Ghaeltacht do na ceantair sin, a bhformhór lonnaithe ar chósta thiar na hÉireann, ina maireann an Ghaeilge fós mar ghnáth-urlabhra an phobail áitiúil. Is é cuspóir foriomlán Údarás na Gaeltachta ná a chinntiú go mbíonn an Ghaeilge mar phríomhtheanga phobal na Gaeltachta i gcónaí.

Is don Roinn Turasóireachta, Cultúir, Ealaíon, Gaeltachta, Spóirt agus Meán atá an tÚdarás freagrach. Mar chuid de chur chuige na heagraíochta, déantar infheistíocht i réimse leathan de bheartais fhorbartha ar a n-áirítear: forbairt ar an mbunsraith fhostaíochta agus fhiontraíochta in earnálacha éagsúla eacnamaíochta; idirghabháil a mhaoiniú agus a reáchtáil i dtaca le tograí agus tionscadail forbartha pobail agus áitiúla; agus tionscnaimh mhaoinithe agus forbartha do ghníomhaíochtaí straitéiseacha teanga-bhunaithe, pobail agus cultúir. San áireamh anseo tá na beartais shaincheaptha a bhaineann leis an bpróiseas pleanála teanga sa Ghaeltacht a bhfuil mar aidhm acu an Ghaeilge a chaomhnú, a chosaint agus a fhorbairt mar theanga phobail.

Tá straitéis forbartha na heagraíochta ar fáil ag www.udaras.ie agus tá na cúraimí reachtúla faoina bhfuil An tÚdarás ag feidhmiú sonraithe sna forálacha a eascraíonn ó Acht na Gaeltachta (2012).

Ráiteas Misin agus Fís Údarás na Gaeltachta

Tá sé léirithe ag Údarás na Gaeltachta le breis agus 40 bliain anuas go bhfuil ról rathúil aige i dtaca le forbairt teanga, eacnamaíochta agus shóisialta na Gaeltachta agus tá obair na heagraíochta fréamhaithe i saol eacnamaíochta, cultúir agus sóisialta na gceantar sin. Tá cúraimí agus freagrachtaí straitéiseacha uathúla ar an eagraíocht as an nGaeltacht agus tá cur chuige comhtháite aige i leith fhorbairt na Gaeltachta. Lena chinntiú go mbeidh Gaeltacht rathúil inbhuanaithe ann níor chóir go mbreathnófaí ar an teanga, ar an eacnamaíocht, ar an bpobal agus ar an timpeallacht mar nithe atá scartha óna chéile. Creidimid go bhfuil gá le cur chuige forbartha comhtháite chun tionchar inmharthana, straitéiseach a imirt ar dheiseanna forbartha agus fostaíochta a chruthú do na pobail logánta sin ar a bhfuilimid ag freastal.

Is é ráiteas misin an Údaráis ná: “Pobal inbhuanaithe Gaeltachta a chothú, ina bhfuil an Ghaeilge mar phríomhtheanga, agus ina bhfuil saol den chéad scoth ar fáil, idir fhostaíocht, shochaí agus chultúr”. Is í fíís Údarás na Gaeltachta ná: “Pobail bhríomhara inbhuanaithe tuaithe atá fréamhaithe sa dúchas ina mbeidh an Ghaeilge mar an príomhtheanga phobail a chothú”.

Straitéis Forbartha agus Infheistíochta Údarás na Gaeltachta

Is trí rath a bheith ar chúrsaí eacnamaíochta, ar mheanma an phobail agus ar mhórtas teanga is fearr is féidir linn ceantair uathúla eiseamláireacha Gaeltachta a chothú ina bhfuil an Ghaeilge chun cinn mar theanga labhartha an phobail. Tá sé mar fhís ag an Údarás go mbeidh na pobail Ghaeltachta inbhuanaithe i ngach gné den saol agus go mbeidh ról lárnach againn i gcumasú agus i neartú na bpobal chun an méid sin a bhaint amach. Tacófar le hinmharthanacht na gceantar Gaeltachta trí infheistíocht a dhéanamh in acmhainní daonna, in acmhainní nádúrtha agus in acmhainní caipitil na Gaeltachta ar bhealach a bhíonn chun leasa na bpobal agus na timpeallachta ina maireann muid. Tá tábhacht ar leith le glúin óg a spreagadh agus a chumasú chun bheith mar cheannairí don todhchaí. Is féidir é seo a bhaint amach trí thimpeallacht, áiseanna agus scileanna a fhorbairt, i gcomhpháirt le geallsealbhóirí eile, a chumasaíonn aos óg na Gaeltachta.

I láthair na huaire tá an tÚdarás ag tabhairt feidhm do Straitéis reatha na heagraíochta don tréimhse 2021-2025. Tá fáil ar straitéis na heagraíochta ag www.udaras.ie

Tionchar na hIntleachta Saorga ar an nGaeltacht

Aithníonn Údarás na Gaeltachta go bhféadfadh tionchar suntasach bheith ag an Intleacht Shaorga (IS) ar a cuid oibre féin, ar an nGaeilge agus ar fhorbairt na Gaeltachta. I measc na réimsí ina n-aithníonn muid deiseanna, tá:

Caomhnú agus Cur Chun Cinn Teanga

Is féidir le teicneolaíochtaí IS ról ríthábhachtach a imirt i gcaomhnú na teanga trí uirlisí foghlama teanga ardteicneolaíochta, seirbhísí aistriúcháin, agus giniúint ábhair a fhorbairt, agus ar an gcaoi sin tacaíocht a thabhairt dár misean chun an Ghaeilge a neartú agus a chur chun cinn sa nGaeltacht.

Forbairt Eacnamaíoch

Is féidir le IS nuálaíocht a chur chun cinn i bpríomhearnálacha amhail TFC, déantúsaíocht, agus meáin dhigiteacha, ag cruthú fostaíochta agus ag cur le hiomaíochas fiontair Ghaeltachta.

Seirbhísí Pobail

Is féidir leas a bhaint as IS chun cur le seirbhísí pobail trí Ghaeilge, chomh maith le cur le caighdeán soláthar na seirbhísí sin.

Moltaí

Agus Údarás na Gaeltachta ag aithint an tionchar ionchasach atá ag an Intleacht Shaorga agus an digitiú ar ár bpobail Ghaeltachta sa ngearr-théarma agus sa bhfad-théarma, aithnítear go gcaithfear gnímh shonracha a fhorbairt chun a chinntiú go mbainfidh pobal na Gaeltachta leas as tairbhí na hintleachta saorga ar bhealach cothrom, sábháilte agus eiticiúil, agus chun a chinntiú go mbeidh an Ghaeilge ábhartha agus san áireamh i bhforbairtí i leith na teicneolaíochta seo.

Aithnítear tábhacht na hintleachta saorga don Ghaeilge agus do phobal na Gaeltachta. D'fhéadfadh acmhainní IS cur le hábhar ardchaighdeán a chruthú, rochtain níos fearr a chur ar fáil i dtaobh seirbhísí trí Ghaeilge, chomh maith le féidearthachtaí i dtaobh dúshláin forbartha pobail agus pleanála teanga a shárú sna blianta amach romhainn.

Ach ní mór aghaidh a thabhairt ar na dúshláin a bhaineann leis freisin. Ní mór a chinntiú go bhfuil córais IS in ann an Ghaeilge a láimhseáil i gceart ar chomhchéim leis an mBéarla agus teangacha móra eile. Caithfear aird ar leith a thabhairt ar rioscaí claonadh agus fabhtanna i gcórais IS i gcásanna mionteangacha.

Tá Údarás na Gaeltachta ag moladh go dtabharfadh an tAcht IS aghaidh ar a chinntiú:

- go ndéanfar acmhainní agus uirlisí IS a fhorbairt go cothrom don Ghaeilge agus do mhionteangacha eile
- go ndéanfaí forbairt bunachar sonraí agus corpais don Ghaeilge a chur chun cinn

-
- go gcuirfí cúram ar sholáthróirí/ forbróirí IS a chinntiú go bhfeidhmíonn a gcórais go cruinn agus gan claonadh i gcás na Gaeilge
 - go gcuirfí cúram ar sholáthróirí/ forbróirí IS a chinntiú go dtugtar an Ghaeilge san áireamh i bhforbairt a gcuid córais

Conclúid

Creideann Údarás na Gaeltachta gur deis í an IS i dtaobh cur chun cinn na Gaeilge sa Ghaeltacht, ach go gcaithfear bheith airdeallach cúramach go bhfaigheann an Ghaeilge aird chothrom san Acht IS. Aithníonn muid go bhfuil ról thábhachtach ag an Údarás i bhfeidhmiú Plean Digiteach na Gaeilge thar ceann an Rialtais, agus go bhfuil ról thábhachtach ag an Údarás i gcur chun cinn agus i bhforbairt IS trí Ghaeilge, ní hamháin ar mhaithe leis an Ghaeltacht, ach ar mhaithe leis an teanga trí chéile.



Údarás na
Gaeltachta

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AI and Copyright

April 2024



Executive summary

1. Video Games Europe supports the responsible development of AI technologies and a thriving and robust AI economy. As with many technological advances, the opportunities presented by the continuing development of AI systems are tremendous for consumers of video games products and services, but come with challenges and new legal questions surrounding both the copyrightability of works produced with assistance from AI systems and the use of copyrighted works as inputs.
2. The video games industry and its overall value chain rely inherently on both advances in technology and an effective copyright regime to allow creativity and investment in new works to be sustained over the longer term. Copyright law has been carefully scoped to achieve this balance and includes exceptions and limitations to permit rightsholders to prevent the copying of their works while allowing new ideas and concepts to develop. We believe that it is critical that the underlying goals, purposes and balance of the existing copyright regime are upheld to support innovation and to protect the rights of creators. This balance is, we believe, reflected in Articles 3 and 4 of the DSM Copyright Directive (Directive 2019/790).
3. AI applications in video games do not encroach on fundamental rights or the safety of individuals. We believe that the regulation of both generative and non-generative (i.e., analytic) AI should take a risk-based approach, where the sorts of uses in video games should be considered the lowest risk and subject to the least restrictive transparency, disclosure and reporting requirements. We also believe that transparency obligations must be reasonable and proportionate, and should take into account the protection of trade secrets.
4. We also believe that where foundation models (i.e., large AI models trained on enormous quantities of unlabeled data) are developed and used exclusively in internal, non-high-risk settings (i.e., not available to the public nor placed on the market), used for example to generate short pieces of dialogue in an open-world game, transparency and disclosure obligations should definitely not apply.
5. We do not believe that creative works should be burdened with labelling obligations in contexts where users already expect to interact with AI-assisted and AI-generated content, such as in video games. To demand otherwise could be highly disruptive to the user's in-game experience. Concerns over synthetic media and fraud, misinformation, invasion of privacy and other harms are not present in expressive works for entertainment that depict fictional worlds, such as video games.
6. AI technologies and how video games companies use them are still evolving, and until the surrounding issues have come into much clearer focus, we would encourage policy makers to continue to engage with industry stakeholders and to proceed with caution before making or recommending changes to either law, regulations or policy.

Learn more about:

- [AI and video games](#)
- [Generative AI](#)
- [Training the models: Text and Data Mining](#)
- [Content produced by generative AI](#)
- [Player-generated contributions](#)
- [Transparency](#)
- [Labelling](#)
- [International collaboration](#)

AI and video games

AI has been used in video games for at least a decade as a tool for the generation of backgrounds and terrain, for the processing and analysing of data within games, for quality control purposes and for online safety purposes, such as advanced word filtering and URL filtering tools. The use of AI opponents in games goes back to classics like *Pac-Man* with its autonomous ghosts, each having distinct patterns and strategies, made possible through software. Today, AI including machine learning is widely used in video games to improve content creation, animation, sound and music, natural language processing, as well as to automate repetitive and tedious development tasks. For example, some game publishers and developers use image, text and code generator tools, both proprietary and licensed third-party, to generate output, whether to facilitate content generation, for ideation, concept testing and development, generating mock virtual worlds or short pieces of computer-controlled character dialogue.

Generative AI

Generative AI systems are models that use machine learning algorithms to train on existing content and then create new content, often with regard to user-provided parameters.

Generative AI is widely expected to take video game development to the next level by enabling developers to automate content creation processes, reducing development time, and offering a broader range of creative possibilities and user experiences. Generative AI can be used to generate many of a video game's components, such as code, narratives and visuals, accelerating many aspects of game development. Generative AI tools have the potential to vastly improve workflow and to reduce more redundant development and production costs (e.g., a script writing tool that frees writers to focus on the core plot and narrative rather than on NPC (non-player character) dialogue that is often short and mundane. Generative AI tools allow artists to spend more time on the creative aspects of making in-game artwork, while freeing up time from more tiresome aspects by, for example, fleshing out backgrounds once the general artistic direction has been set. Generative AI tools also show promise in facilitating safer experiences for players of video games online, as they can be used in connection with moderation of ancillary features like text chat to improve the quality, accuracy and speed of moderation.

Video games companies are today becoming sources for generative AI input, creators of generative AI output, developers of generative AI models and users of third-party generative AI tools. They see tremendous potential in AI and generative AI to expand creativity, to facilitate and make more efficient the development of games, and to improve the player experience. It is nevertheless important to emphasise that most AI applications used in video games to date are not generative, and that those that are, are usually

proprietary, rather than third-party, though the trend is toward increasing use of generative AI tools, both proprietary and third-party.

Training the models: Text and Data Mining

As in other creative sectors, generative AI in video games brings up questions regarding the use of copyrighted data for training and the protection of the new creations enabled by the technology. The first question is whether at the input layer of AI, machine learning on pre-existing datasets infringes copyright. Until quite recently, a developer or publisher's use of machine learning for non-creative use cases usually relied on data derived from the games themselves (such as a game's telemetry), and mostly analysed players' behaviour. Copyright issues were not relevant as the data was likely to be already owned by the video games company concerned, and the output of the machine learning was not usually a creative work. Where companies trained AI models using their own creative assets as inputs, the copyright infringement risk associated with the training process was non-existent or manageable.

More recently, AI development was taken into account in the mandatory text and data mining (TDM) exceptions to copyright infringement provided under the DSM Copyright Directive (Directive 2019/790), regulated in Articles 3 (Text and data mining for the purposes of scientific research) and 4 (Exception or limitation for the purposes of text and data mining). TDM is defined in Article 2(2) of the Directive as "*any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations*", as well as "*the automated computational analysis of information in digital form, such as text, sounds, images or data*" enabled by new technologies (Recital 8).

The TDM exceptions introduced by the DSM Copyright Directive allow the reproduction of copyright-protected works for scientific research or for other purposes. Where TDM is carried out for purposes other than non-commercial research, the rules provide rightsholders with the choice of opting out in order to prevent their works being mined. This framework provides creators and other rightsholders with the ability to opt out of the use of their works by commercial AI developers. Our member companies are committed to fully respecting the law and the rights of creators who choose to opt out.

We think that the TDM exceptions in the DSM Copyright Directive provide a suitable legal framework at the input level and that policy makers should avoid the creation of a new layer to the EU legal framework that could distort competition, lead to a lack of clarity, the risk of legislative contradiction and legal uncertainty for businesses.

Content produced by generative AI

At the output level, the video games industry believes that the copyright status of content produced by generative AI should follow the same rules for copyright eligibility as any other content: if AI is used as a tool by an author – such as a game developer – in the creation of a work which still expresses his or her own creativity in an original way, then this new work should enjoy copyright protection.

Copyright law in the EU is centred around the original author as a human being. To obtain copyright protection, a creation must be a "work" and one must be the original author or have obtained the copyright by transfer. The concept of "work" is an autonomous and harmonised concept of EU law. The subject matter must be "original", meaning that it must reflect the author's personality and must also be "identifiable with sufficient precision

and objectivity” (Case C-683/17 *Cofemel*). There must be a link between an author’s creativity and the work produced. Where there is no human author, a work cannot be original and without originality, a work cannot be protected by copyright.

The European Commission has suggested a four-step test to determine copyright protection for AI-assisted output:

- Step 1 – The output must be a production in the literary, scientific or artistic domain
- Step 2 – It must be the result of human intellectual effort
- Step 3 – It must be original and reflect human creative choices
- Step 4 – It must be the expression of the human creator’s creativity.

Player-generated contributions

Game players’ contributions are expected to be a significant advancement of the games industry enabled by generative AI. Within this framework, game players are most likely to use AI tools provided by the games company or potentially third-party tools integrated into a game via an API. Insofar as copyright in any resulting outputs vests in the player, including in the player’s prompts, securing the transfer of ownership or the licensing of player copyright to the video game company may be achieved under contract (e.g., the relevant EULA or other terms of use).

Additional infringement risks may arise in this context as players seek to input prompts inspired by third party assets, for example to create characters, environments or items that exist in third-party games, films, TV programs or books. The risk of players creating UGC that infringes third-party rights already exists today. However, the introduction of generative AI tools may increase the incidence of infringement by making creation easier or, depending on the facts, may affect a publisher’s ability to rely on the hosting defence.

Transparency

Consistent with our position that policy makers should encourage a robust marketplace for emerging technologies, such as generative AI, we believe that any mandated disclosure of the use of copyrighted works used in machine learning would need careful consideration and balancing of priorities. For example, there should be no mandated disclosure when the AI developer owns or licenses the works at issue or the resulting output, or when mandated disclosure could jeopardise confidential information, trade secrets or other protected data.

Transparency and record-keeping mandates with respect to generative AI models also raise questions of feasibility. Any such requirements should be narrowly tailored to the particular purpose. Training materials for foundational models may constitute millions, or even billions, of data entries, the maintenance of which may become onerous for developers. We would recommend that any such mandates must consider both feasibility and relevance to the objective that they seek to achieve.

As stated above, we also believe that, in situations where foundation models are developed and used exclusively in internal, non-high-risk settings (i.e., not available to the public nor placed on the market), used for example to generate short pieces of dialogue for non-playable characters in an open-world game, transparency and disclosure obligations should not apply.

We also believe that information about the use of AI to generate content should not be mandatory when the AI is used merely as a tool in the creative process or is used in an ancillary manner or for purposes unrelated to the generation of the content itself. Indeed, as AI becomes more and more intertwined in production processes, a transparency obligation extending to the disclosure of the methods of creative processes could lead to disproportionate and counterproductive effects, with limited benefit to users who expect this already. We also believe that transparency obligations must take into account the protection of trade secrets.

Labelling

Creative works, including works created through the process of a player interacting with a video game, should not be burdened with labelling obligations in contexts where users are already expecting to interact with AI-assisted and AI-generated content. To demand otherwise would, we believe, be disruptive to a user's in-game experience.

International collaboration

Recognising the global nature of the video games industry, we believe that fostering international collaboration is essential. The EU should actively engage with other jurisdictions to establish common principles and standards for AI and copyright, facilitating a cohesive global framework that both encourages innovation and properly protects creators.

Contact

Ann Becker

SVP, Head of Policy and Public Affairs
[email address redacted]

About Video Games Europe

Since 1998, Video Games Europe has ensured that the voice of a responsible games ecosystem is heard and understood. Its mission is to support and celebrate the sector's creative and economic potential and to ensure that players around the world enjoy the benefits of great video game playing experiences. Video Games Europe represents 19 European and international video game companies and 13 national trade associations across the continent. Europe's video games sector is worth €24.5bn, and 53% of Europeans are video game players. We publish a yearly Key Facts report with the latest data on Europe's video games sector.



Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

Version: Non-Confidential

Date: 16/07/24

Introduction

Vodafone Ireland welcomes the opportunity to engage in this important consultation on the National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act).

The EU ambition is to play a leading role globally in AI innovations, hence the need for consistency across the EU the setting of clear requirements and obligations and the need to reduce administrative and financial burden for business.

The national objective for Ireland aligns with EU ambitions and is set out in the National AI Strategy. This aims for Ireland become an international leader in using AI. Core to that strategy is the need to build public trust with a strong innovation ecosystem, a workforce that is prepared for AI and a secure data, digital and connectivity infrastructure.

About Vodafone

Vodafone is Ireland's leading total communications provider with 2.4 million customers and employs over 2,000 people directly and indirectly in Ireland.

- **Vodafone is an enabler of AI strategy.** Vodafone networks, and in particular future 5G standalone technology will be critical to the success of Ireland's AI strategy. However, there is a challenge to all stakeholders, if we are to achieve our AI ambitions as the investment leap required for future enabling technology cannot be justified with the level of sector returns at current unsustainable levels.
- **Vodafone are an adopter of AI solutions** and we have provided examples below of use cases within Vodafone Ireland.
- **AI is a priority for our customers.** Irish business and public sector organisations want to innovate more effectively, to streamline process and gain a competitive edge and these organisations now look to enabling organisations, such as Vodafone, in driving their AI strategy. Vodafone faces regular and increasing numbers of questions on its approach to AI, and in particular how we are developing and deploying network capability to support AI use cases, understanding benefits that AI will bring to different organisations, and the associated risks and mitigation plans. It is important there is a clear and consistent approach across EU borders and across industries in this respect.

Summary of Position

The advancement of the EU Harmonised Rules approach is welcome.

- A regulatory framework that is consistently applied across European markets can assist innovation and faster deployment of AI systems while also ensuring AI remains trustworthy and safe, and is developed and used in accordance with fundamental rights obligations.

The competent authority deemed appropriate for Ireland must adopt a wider policy objective.

- The designation of one agency as the competent authority will likely be decided based on its fit to an existing remit. In this regard the agency will have considerable expertise and resource in place to deal with the issues arising. For example, it is clear the Data Protection Commission has developed considerable expertise in AI and has engaged with several global platforms on AI matters. The engagement of the Data Protection Commission is important to ensure that we build trust and drive ethical decision making in the deployment of AI solutions.
- The rulebook on the non-infrastructure elements of AI will only be successful if the policy aligns to the infrastructure considerations. AI strategy requires broader engagement across sectoral regulators to ensure all the national objectives can be achieved. Vodafone believes it is now vital that policy makers and stakeholders engage to ensure our connectivity and networks are supported to deliver the aims of the National AI Strategy.

The wider AI policy cannot ignore the infrastructure challenge.

- There has been an inadequate focus on how to address the fundamental issues regarding the digital infrastructure which underpins the national Digital ambitions set out in the Digital Ireland Framework and the National AI Strategy. Europe has fallen behind in the deployment of advanced network infrastructure such as 5G standalone which is needed to support AI ambitions. The investment required cannot be left to the telco sector to source.
- 5G standalone represents a step change in transforming the communications networks to be not just for people, but for devices and machines, thereby propelling a new era of productivity growth and industrial transformation, so-called industrial internet. For instance, 5G standalone can support one million devices per square kilometre, compared to only 2,000 with 4G. This ever-growing number of connected sensors and devices will, in turn, generate exponentially greater quantities of data within and across various sectors of the economy. From this, various AI tools can generate valuable insights, from which economic and social value can be created. The latest advancements in Gen AI, and its potential to radically improve productivity across the whole economy, depends on low latency and mass-capacity modern mobile networks.

Connectivity must not become the AI bottleneck.

Please find below some information on Vodafone AI applications and our response to specific consultation questions raised below. We remain at your disposal to discuss any aspect of this submission in more detail.

How is Vodafone working with AI?

AI supports network maintenance and performance.

We are using AI to power applications that help us operate our networks smartly or optimise them across markets. For example, AI can assist by:

- Identifying anomalies in our radio networks through the detection radio interference and identification of the interference source.
- Predicting future problems with equipment, enabling faster response and advance preventative maintenance.
- Prediction of changes in network traffic, enabling adaptation to variable demand and continuity in network experience for our customers.

AI helps keep our customers and businesses secure.

AI technology sits at the heart of various security technologies produced by Vodafone, while also assisting our teams in areas such as fraud detection.

AI helps us engage with our customers and manage enquiries.

TOBi, Vodafone's virtual customer assistant, is a good example of how we're using AI technology to help improve our customer experience across our markets. TOBi offers 24/7 customer support and uses AI to help answer customer queries in a matter of seconds, enabling our customer call teams to focus on supporting customers with more complicated needs or requests.

What is the future of AI at Vodafone?

We are developing new AI technologies and innovations to support our business activity and customers in a range of areas. For example, AI innovations could play an active role in reducing our carbon footprint by supporting intelligent energy saving in operational networks and datacentres, or within new hardware and chipsets that operate more efficiently than current systems.

Vodafone's Responsible Artificial Intelligence Framework

We are committed to ensuring our approach to working with AI technologies and the applications we create are responsible, respectful of data privacy and security, and able to make AI-driven decisions which are fair and free of any harmful bias.

Since 2019 Vodafone have had in place an [Artificial Intelligence \(AI\) Framework](#) which sets out our approach to working with AI technologies and outlines how we intend to develop and employ AI in a responsible manner across our business. This Framework is currently under substantial review and is being updated to reflect our understanding of the responsibility Vodafone has to consider how this technology affects our customers, employees, and wider society. The updated framework will set out how we intend to deploy AI across our business in an ethical manner and how AI use cases will be reviewed, monitored, and governed.

Response to Consultation Questions

Question 1: For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

Suggested considerations for the Department in devising the configuration of national competent authority:

- In as much as possible, **a coordinated, joined up approach**, which avoids unnecessary duplication should be prioritised. The configuration should take account of other new data regulation which is due to come into effect soon, such as the Data Act, and how the relevant competent authorities for these regulations will work together in a coordinated and streamlined manner. A competent authority should also engage across sector and at an EU level to ensure an alignment to drive investment AI technology underpinned by a clear and consistent EU wide rules-based AI strategy.
- It is acknowledged that in terms of the existing regulatory authorities in the State, **there is no one perfect fit**, however some synergies do exist, for example consideration could be given to the extent to which the GDPR governs AI and the role the Data Protection Commission will play in this space.
- Additionally, as an international business that has operations in several EU countries, we would welcome a mechanism equivalent to the One Stop Shop under GDPR; which would permit us to deal with one lead supervisory authority in the EU.

Question 2: The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

There are synergies with the Digital Services Act, which includes several provisions for providers of online platforms to ensure transparency and safety by design for algorithmic recommender systems (which are essentially powered by AI).

It will be important to ensure coordinated enforcement of these two rule books and indeed other data related regulations, so that companies are not subject to overlapping/duplicative requirements. Consideration should also be had for the timing of implementation of these regimes, some of which come very close together, and the burden this will place on companies to comply with these significant new rules.

As discussed above, there are also clear synergies with the GDPR; where possible national authorities should seek to implement the AI act in a way that augments the obligations that already exist in law, rather than looking at the AI Act in isolation.

Question 3 Harnessing Digital: - The Digital Ireland Framework establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland’s implementation of the AI Act bolster Ireland’s position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

New laws to address AI must strike a careful balance between incentivising the adoption of use of this transformational technology and ensuring that its potential risks are effectively identified and mitigated, with a particular focus on human safety, wellbeing, and fundamental rights.

Our primary ask of policy makers globally in relation to AI is to adopt a proportionate and risk-based approach to this technology, one that encourages adoption but seeks to minimise harms for our customers and wider society. We support the introduction of laws which clearly and fairly allocate responsibilities for the development and deployment of AI which is safe and respects fundamental right, and the use of innovative new regulatory models like sandboxes and cross-functional regulatory teams to promote and support adoption in a safe environment.

Question 4: AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland’s implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

There are several strategies Ireland can adopt:

1. Public and Private Sector Collaboration

- **Multi-Stakeholder Forums:** Create forums where government, industry, academia, and civil society can collaborate to discuss and develop ethical guidelines for AI.
- **Funding for Ethical AI:** Provide grants and funding for research projects focused on ethical AI, ensuring that ethical considerations are embedded in AI innovations from the outset.

2. Economic Benefits and Competitiveness

- **AI Innovation Hubs:** Establish AI innovation hubs in key cities to support startups and SMEs working on AI technologies. These hubs can offer resources, mentoring, and access to funding.
- **Regulatory Sandboxes:** As referenced above, create regulatory sandboxes that allow companies to test AI applications in a controlled environment, fostering innovation while ensuring compliance with the AI Act.

3. Societal Benefits and Education Initiatives

a. AI Literacy and Education

- **AI Curriculum Development:** Integrate AI literacy into educational curricula at all levels, from primary schools to universities. This can ensure a broad understanding of AI among the population.
- **Lifelong Learning Programs:** Promote lifelong learning initiatives to help the workforce reskill and upskill in response to AI-driven changes in the job market.

b. Public Awareness and Engagement

- **Public Awareness Campaigns:** Launch campaigns to educate the public about the benefits and risks of AI, fostering an informed and engaged public. The absence of such programmes can result in misinformation spreading as we've seen with 5G in the past.

By strategically implementing the AI Act, Ireland can ensure that AI development and adoption are economically beneficial and socially responsible. This involves creating an environment that fosters innovation while prioritising ethical considerations, enhancing AI literacy, and maintaining robust regulatory frameworks. Through coordinated efforts, Ireland can position itself as a leader in ethical AI, driving progress that benefits both its economy and society.

ENDS

From: KARL Weinmann <email address redacted>
Sent: 04 July 2024 17:20
To: ConsAI Regulation
Subject: 4th July 2024 | Open Consultations Karl Weinmann

EXTERNAL MAIL

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4. AI - Here for Good: National Artificial Intelligence Strategy for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

To The Department of Enterprise, Trade and Employment.

Some ideas about computer networking and advanced console programs

AI wording might confuse the topic through blocking the appropriate classification of ?

AI - (notes about understanding this topic. AI... I'm smiling but don't understand the topic).

AI is a coding word which carries everything from Desktop home pc categories for example other means also ai like blue ghostly artistic figures with fake stars and is bald. There is also an ai medicine sector tag. Healing, mortality...!

AI is everything. And of course the word will mean very mechanical software article content and creation with open source placeholders to the kelvin. All of that in one tag....

Designs should be Simplified. Minimalist, big change on the devices.... Where there is clutter at home and very high maintenance and cost now, it's already linked to cloud programming. Spacey. To build a portfolio of AI idea's its' worth making designs of lists about household services and then occupations for home jobs. Design a list of problems at home and research what works already on YOUTUBE . Drawing and video tutorials sourced , linked by a server where spreadsheets and CPU in the center send pop-ups and become available linked to the library. computers at home. are going to be more like fuse boxes in the future.

Kind Regards

Karl Weinmann



Comments on the public consultation on national implementation of EU harmonised rules on Artificial Intelligence (AI Act)

July 2024

Workday is a leading enterprise platform that helps organisations manage their most important assets - their people and money. The Workday platform is built with AI at the core to help customers elevate people, supercharge work, and move their business forever forward. Workday is used by more than 10,500 organisations around the world and across industries — from medium-sized businesses to more than 60% of the Fortune 500. Workday has more than 4,375 employees in 19 European offices and more than 2,150 customers headquartered in Europe. In Ireland, Workday has 2,100 employees with more than 78% of the Irish site engaged in Product & Technology software development engineering roles.

At Workday, we've [embedded artificial intelligence \(AI\) and machine learning \(ML\) into the very core of our platform](#). This allows us to rapidly deliver and sustain new ML-infused capabilities into our applications. Workday now has more than 50 AI use cases in production and 25 generative AI use cases on its roadmap. We believe that for AI and ML to deliver on the possibilities that it offers, it must be trustworthy and it must augment humans rather than displace them. We provide our customers with a clear understanding of how our ML products are developed and assessed to help mitigate any risks associated with their use; while our [responsible AI](#) pillars serve as the cornerstone of our work in this space, guiding us in the development of AI and ML technologies that drive positive societal outcomes and expand growth opportunities for our customers and their employees.

Workday has been a strong supporter of the EU's policy efforts on AI, including the AI Act, since 2019. We agree that a horizontal framework for AI in the EU is required that builds trust and supports innovation. We welcome the AI Act's political agreement in December 2023 and formal adoption by the European Parliament and Council in June 2024. Organisations in scope, EU and national governments and European Standards Organisations must now act quickly to implement the AI Act in a timely and consistent manner.

Workday welcomes the public consultation by the Department of Enterprise, Trade and Employment to inform Ireland's approach to implementing the AI Act, including as regards the configuration of national competent authorities. For more information, please contact Marco Moragon [email address redacted]

Questions

1. What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

A. Ownership and responsibility

AI providers need clear guidance on which authority oversees each AI system and its use case. This is critical for compliance and accountability. The EU AI Act categorises AI systems differently across vertical and horizontal applications. As no single supervisory authority or market surveillance authority has the expertise for every application, the involvement of various authorities will therefore be required. For example, for employment applications identified as high-risk under Annex III, both the Department of Enterprise, Trade and Employment (DETE) and the Data Protection Commission (DPC) may need to be involved. However, AI applications related to e.g. motor vehicles may require the involvement of different authorities.

To provide AI providers with clear direction, the government should map each category in Annex I and III to specific departments and market surveillance authorities. This mapping must be public, straightforward and easily understandable to ensure that AI providers in scope know which authorities lead the regulation of each application.

Given the complexity and evolving nature of AI technologies, disagreements among authorities in developing or implementing regulatory guidance are inevitable. Therefore, the government should consider establishing a dispute resolution mechanism to address conflicts between authorities. This mechanism would ensure efficient resolution of disputes, facilitate smoother implementation and adaptation of the AI Act.

B. Capacity building and funding

Supervisory authorities and market surveillance authorities need to develop extensive knowledge, expertise, and experience, particularly concerning AI's risks to fundamental rights, in order to correctly supervise the AI Act. The AI Act expands traditional market surveillance oversight to a broad array of fundamental rights. This extension requires authorities to enhance their capabilities significantly.

To support these expanded responsibilities, the government must allocate adequate funding promptly. This funding should cover:

- Training and development programmes to build AI-specific expertise among staff.
- Hiring additional personnel with specialised skills in AI and fundamental rights.
- Developing and implementing advanced tools and technologies for effective supervision and risk assessment.

C. Cooperation among authorities

Effective supervision requires close cooperation between supervisory authorities and market surveillance authorities, building on existing sectoral and domain-specific oversight mechanisms. This ensures that AI's effects are comprehensively supervised without overlaps or gaps.

Authorities must exchange information seamlessly to ensure cohesive supervision. This requires:

- Establishing a clear legal basis for information sharing to avoid legal ambiguities.
- Developing or expanding existing systems for secure and efficient information exchange.
- Implementing robust security and confidentiality controls to protect sensitive information during inter-authority communication.

2. Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services and infrastructure?

Yes, there are various synergies that can and should be leveraged between the implementation of the AI Act and other EU regulations. These include:

- Inter-agency collaboration
 - The government should consider establishing and/or updating regular coordination meetings and joint committees between supervisory bodies to discuss overlaps, conflicts, and collaborative opportunities across new and existing regulations. These should take place across the government. Equally, the Government of Ireland must fully participate in EU-level coordination groups e.g. NIS Cooperation Group, European AI Board, European Board for Digital Services etc. to support EU-wide consistency and oversight.
- Capacity building and training
 - The government should leverage the learnings and best practices it has obtained from prior capacity building and training programmes for existing laws, rather than starting from scratch for the AI Act.
- Stakeholder engagement and transparency
 - Stakeholder feedback can help identify potential conflicts or synergies with existing regulations. That is why we would recommend the government take steps to ensure transparency of their activities to proactively consult with stakeholders during this implementation phase.

3. How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

Below are some of the best practices we recommend:

- Support for businesses - the government's support for businesses that will be directly and indirectly impacted by the AI Act, especially SMEs, is fundamental. We would recommend:
 - The development of clear and legally consistent guidance on the AI Act, especially relating to areas under Annex III as providers of these AI systems will likely not have prior experience with EU NLF legislation and its functioning.
 - Workshops between the government and local trade associations can raise awareness and education on the AI Act and its impacts and point participants to resources to support them in their future compliance.
 - The use of sandboxes to allow AI providers to test applications prior to placing them on the market formally. These sandboxes should be developed, resourced adequately and promoted by the government.
- Leading by example - the government should take a modern and progressive approach to integrating AI into its own technology strategy for the public sector and set out an ambitious adoption plan. This approach must make use of best-in-class technologies, such as cloud-based SaaS applications infused with AI.
- Legal certainty and consistency - the government should devote resources to ensuring the enforcement of the AI Act is consistent with the Level 1 legislation and secondary acts/guidance and standards that will be produced. This certainty and consistency is needed to enable an EU-wide application and understanding of the law.
- Capacity and speed of authorities to supervise the law to ensure that providers of compliant AI systems aren't prevented from placing their products on the Irish (and EU) market.
- Buy-in from the public - obtaining trust in the use of AI is a key factor to its takeup and use. That is why we support the government's development of websites on the AI Act with Q&As, clear contacts for the public to reach out for questions and support, FAQs, step-by-step instructions or guides, and links to EU-level resources.
- International leadership - the government should continue to take a visible/leading role on AI governance internationally e.g. through the OECD, U.S.-Ireland / UK-Ireland, D9+ dialogue/cooperation, and by having government leaders speak and participate in international conferences on best practices for AI governance/enforcement.

4. How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

As we have stated above, proactive transparency is required by the government to the public about the benefits of adoption and use of AI and the benefits the AI Act will bring to improving trust in the use of the technology across Ireland.

We also recommend the development/continuation of partnerships between the government, private sector and academia to collaborate on AI initiatives that can build public trust and leverage economic and societal benefits - focus should be on areas of greatest importance to citizens where AI can make a difference. Public surveys could help to select these priority areas.

Workday has direct experience with such collaboration. In April 2022, Workday established a strategic long term academic partnership with TU Dublin. Built around three key pillars of R&D, community outreach and workforce development, this partnership involves a number of key AI initiatives:

- Workday is funding a 7 year Chair of Technology and Society co-hosted with Trinity College and TU Dublin which will examine research at the intersection of technology and society, across topics ranging from AI to future of work.
- Workday has undertaken a strategic upskilling programme for its Ireland-based employees involving a postgraduate certificate in applied machine learning (level 9 30 ECTS) at TU Dublin for 80 software engineers and developers. This program is now on its third and final cohort and is over-subscribed.

Additional views

Workday welcomes the EU's AI Act; this legislation is a necessary step to ensure that the technology is used in a responsible, trustworthy and safe way in the EU. Workday is eager to support efforts to properly implement the AI Act and accordingly, has also developed the following EU-level recommendations.

- Deliver secondary acts, guidance and standards in a timely and transparent manner
 - The AI Office must quickly scale up and produce the required secondary acts under the AI Act on time, in full transparency and consultation with stakeholders.
 - European Standards Organisations must quickly develop technical standards to give businesses time to adopt them. Technical standards should, as much as possible, integrate the work done by international standards organisations, to ensure consistency internationally.
- Enforcement of the AI Act must be consistent across EU Member States
 - The AI Office must actively support and coordinate national authorities to ensure a consistent interpretation and enforcement of the AI Act across the EU. This is especially important given the potential variety of national authorities designated to enforce the AI Act.