



# The European Tech Alliance Welcomes the Artificial Intelligence Act

June 2021



## Foreword

The European Tech Alliance welcomes the European Commission's proposed AI Act as a good balance between supporting much-needed AI innovation in Europe and having safeguards in place to ensure high safety standards and public trust in AI. We welcome the EU's leadership in creating an AI regulatory framework while supporting Europe's global competitiveness in that field. For EU businesses, many of whom operate cross-border, it is crucial to have a single set of EU rules on AI rather than a fragmented country-by-country approach.

With this in mind, we set out some key points that we believe are important for Council and Parliament to take onboard during discussions on the AI Regulation.



*Kristin Skogen Lund*

Kristin Skogen Lund  
President of the EUTA

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Chair of the EUTA

## Context

AI is a key technology used across areas as diverse as health, mobility and e-commerce. Within the EUTA there is a diverse and widespread use of AI technology. We use it to make our companies more efficient and productive while constantly improving the range of services that our customers can access. It is also crucial to our success in competing with other businesses around the globe. AI is key to creating skilled jobs and driving innovation in Europe as EUTA Members and other EU tech businesses implement and scale the technology.

As outlined in our previous statement on [high-level principles of AI](#), we very much support and welcome a differentiated approach to AI regulation and believe that risk is the right metric to define the scope of new AI rules.

A focus on regulating high-risk AI applications is the right way forward to ensure a balance between supporting AI innovation in Europe and ensuring the right safeguards are in place for AI uses that create more risks to society. It is important to maintain this narrow focus. Here below we include several points regarding the scope of the proposal which we believe would benefit from further clarity and legal certainty.

## Definitions

**Some key definitions of the draft Artificial Intelligence Act should be clarified:** The AI definition set out in the proposal is too broad and would include a vast amount of systems that may not always be considered AI *per se*. We therefore encourage the EU co-legislators to adopt the AI definition proposed by the High-Level Expert Group on Artificial Intelligence. Similarly, the process to assess whether some AI systems should be considered high risk is only vaguely defined in Annex 3, which would have a negative impact on product planning decisions. The definition of a “safety component” (Art. 3(14)) is also a good example of this lack of clarity, as the definition refers to ambiguous concepts which are not further defined (e.g. “safety function”). Similarly, the definition used for “*manipulative, exploitative and subliminal techniques*” in relation to prohibited AI systems and the exact definition of a “*bias*” should be made explicit to avoid legal uncertainty.

## Ensure a Level Playing Field

**AI is paramount to the EU competitiveness and the future AI regulation should ensure a level playing field between EU and third country developers:** It is important to note that the proposal lays down rules for *placing* an AI product onto the market, *putting the product into service* and the *use* of AI systems within the EU. The *training* of AI, however, is not part of the scope under Art. 1(a). Under the current proposal, it will be possible for third country developers to train their AI models in third countries with lower AI regulations, which may turn into a competitive advantage.

- Meanwhile, as AI developers, though we welcome the possibility to conduct conformity assessments internally, we would also welcome reassurances that the risk assessment procedure will not be too burdensome. We suggest that providers of AI systems should only be obliged to register high risk AI systems on the proposed EU data base, if they conclude they cannot mitigate risks and ensure compliance after conducting an internal conformity assessment.
- As EU companies develop robust AI models to keep them competitive on the market, having to wait for official approval may generate the need for continuous official certification. Innovation would be hampered if regulatory authorities could control AI systems before placing them on the market, as it may create “a bottleneck” and significantly slow down the development of new AI models. The authorities may conduct external audits to all of the documentation provided by the internal controlling entity.



## Avoid a Fragmented Approach

**The digital Single Market is crucial for EUTA members to scale-up and be competitive at a global level. We therefore stress the need to avoid a fragmented approach across Europe:** As per the enforcement powers, we note the Commission proposes that national competent authorities should conduct checks and assessments on an ex-post basis. As many of our business models can be regulated by various market authorities when we operate across markets, it will be essential to clarify which surveillance authority will be granted AI oversight over a specific sector. Moreover, penalties should be imposed based on a clear catalog of prerequisites, based on specific enumerated infringements. Increasing business risks around AI development in a disproportionate way may have a stifling result on AI development in the EU, because authorities would be able to act arbitrarily, without any specific administrative imperative.

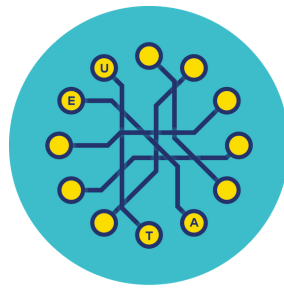
## Regulating Low-Risk AI

**Codes of Conduct for regulating low-risk AI applications should be the right way forward:** The EUTA is particularly pleased to see the role that Codes of Conduct will play in this future regulation. Several EUTA members are already developing their own internal codes and as the EUTA we stand ready and eager to work together with the European Institutions to develop these codes together.

## Final say

“The publication of the proposed AI Regulation comes at a pivotal moment for Europe and will have far-reaching implications and long-lasting effects. We will continue to provide use-cases and examples of AI applications in order to contribute to the ongoing policy debate and look forward to the clarification of key concepts and definitions to promote legal certainty to businesses and end-users alike.

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European Tech Alliance

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