



Proposed EU Regulation on AI: Impact and Ripple Effect

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Proposal for Regulation on AI



Introduction

- The European Commission proposed the first ever legal framework on AI, which “addresses the risks of AI and positions Europe to play a leading role globally” on April 21, 2021.
- It is still a Draft!! It is a NFL Regulation (New Legislative Framework Reg. establishing number of requirements/objectives which the system needs to meet, but Reg. does not govern technical details)
- The Proposal is part of the European Commission’s larger European strategy for data, which seeks to “defend and promote European values and rights in how we design, make and deploy technology in the economy.”
- The Proposal is accompanied by the Coordinated Plan on Artificial Intelligence 2021 Review.
- Draft provides for severe penalties like GDPR, in part exceeding GDPR penalties

Proposal for Regulation on AI



Applicability

- Providers that market in the EU or put AI systems into service in the EU as well as users of AI systems in the EU including governmental authorities located in the EU.
- Providers and users of AI systems whose output is used within the EU, even if the producer or user is located outside of the EU.
- The Proposal would particularly affect high-risk AI system providers, as they are currently not subject to detailed compliance reviews under existing EU product regulations, but that would be under the AI regulation.



Scope

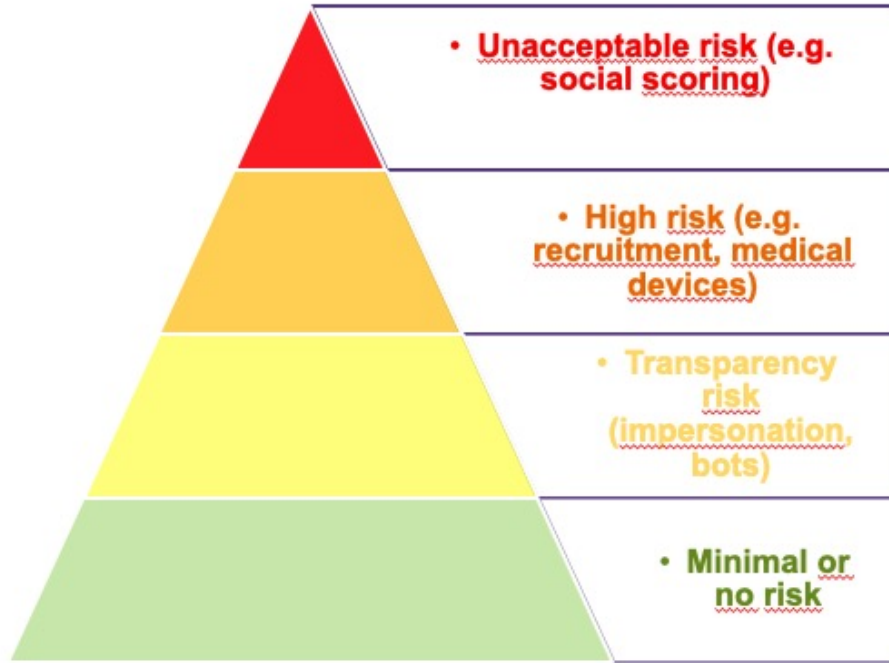
“(...) software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with” (Article 3 (1) of the Proposal).

- Definition is broader than what is currently viewed as AI, the Regulation could potentially cover e-commerce or social media platforms.
- The Proposal is subject to lawmakers that can revise the definition of AI Systems, the definition may be still adapted further in the process.

A risk-based approach



Commission is of the view that technology is beneficial
Draft does not govern technology as such but only use cases



Prohibited (risk not acceptable)

Permitted, but subject to comply with AI requirements and to conduct conformity assessments

Permitted, but subject to information/transparency obligations, requires disclosure (e.g. bots, emotion rec. systems)

Permitted with no restrictions

Such Applications are not affected by the Regulation (spam filters, applications in factories to optimize procedures)



- Safety Risks
 - Death
 - Injury
 - Damage to property

- Fundamental Rights Risks
 - Discrimination
 - Manipulation
 - Exploitation
 - Lack of control



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- **Completely prohibited AI Systems:**
 - Applications capable of inflicting **physical or psychological harm** resulting from subliminal techniques or exploiting the vulnerability of a group of people (due to age or any limitations) and **manipulate their behavior unnoticed.**
- **Partially prohibited AI Systems:**
 - **“Social scoring”** applications to evaluate the behavior or characteristics of people based on points, if public authorities or others on their behalf use social scoring and (i) this seems disproportionate or (ii) the findings are used in a context other than the one in which the data was collected.
 - **Real-time biometric identification systems in public spaces for the purpose of law enforcement**, to find missing victims of crime, to prevent serious and imminent danger to human life or public safety or a terrorist attack, or to track down criminals whose offences are punishable by a maximum sentence of at least three years. Except in cases of imminent danger, prior permission of a judge or an independent authority is required.



- Two Blocks:
 - Systems which intend to be used as safety components of **products that are already regulated** under existing product safety law (e.g. machinery, toys, or medical devices); they are subject to independent third party conformity assessments)
 - **Certain Stand Alone AI Systems (not being a component of an existing product) in the areas:**
 - Biometric identification and categorisation of natural persons
 - Management and operation of critical infrastructure
 - Education and vocational training
 - Employment and workers management, access to self-employment
 - Access to and enjoyment of essential private services and public services and benefits
 - Law enforcement
 - Migration, asylum and border control management
 - Administration of justice and democratic processes
- The draft mentions Use Cases under each area in Annex III, use cases will be updated over time, areas will not be updated (decided by legislative)

Requirements for High-risk AI Systems



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- Establish and implement risk management in the light of the intended purpose of the AI system:
 - High-quality training, validation and testing data
 - Technical documentation and logging capabilities
 - Appropriate degree of transparency and providing users with information on capacities and limitations of the system (and how to use it)
 - Human oversight
 - Robustness, accuracy and cybersecurity
- NFL approach allows flexibility for producers, the compliance with the provisions of the Regulation shall be achieved by a risk management system by the provider

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