THINK DIGITAL!

WORKSHOP ON
AI & LIABILITY
JUNE 20, 2018

Key Conclusions

There is no one-size-fits-all approach to AI regulation

AI has countless different applications and is used in several different industries. A clear understanding of different AI applications must be established prior to drafting coherent and balanced regulation. The legal framework would need to distinguish between learning versus non-learning machines, consumer versus producer liability, the use of public versus private data and product versus service. Horizontal legislation may fail to address these differences.

> "It's important to understand an industry approach when we are talking about liability. It's impossible to think that one regulation will solve all problems."
> — MEP Michał Boni, European Parliament

Data accessibility & integrity is key in AI development

Data access is paramount if the EU is to become a major player in the AI industry, as data is the basis for AI programming. The EU's recent agreement to allow the cross-border movement of non-personal data is a first step in curating the data sets needed for a robust European AI industry. Data must be continually tested for biases and challenged at a methodological level to build safe and quality AI.

> "What we need is to create data sets that have integrity in them. If we have a self-driving car, we need to have some kind of a driving test for its programmes."
> — Leo Kärkkäinen, Chief Officer Artificial Intelligence, Nokia

Keep people at the centre of AI development & policy

Public fear dominates the conversation as AI becomes more integrated into daily life, leading to calls for harsher legislation. There is a need for the private and public sphere to engage the public and educate them on the benefits of AI, how to handle their own data and how to adapt to the needs of a changing job market. Participatory forums like the AI Alliance can assist in drafting regulations fit for industry, consumers and citizens.

> "There is already a strong existing liability protection framework in Europe.... The Product Liability Directive is very consumer-focused."
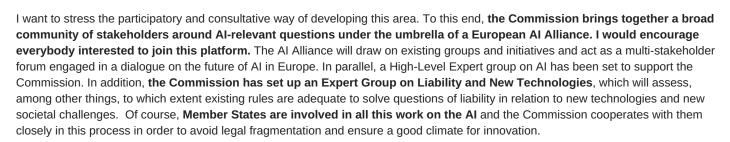> — Bartlomiej Telejko, EU Public Policy Manager, Google

What's on the EU agenda for AI & Liability?

Interview with Salla Saastamoinen, Director of Civil and Commercial Justice, European Commission

It has been suggested that an 'EU approach' to regulating AI is needed. How will the EU Commission facilitate the development of this new framework in cooperation with the Member States?

The Commission adopted on 25 April a European initiative on Artificial Intelligence. This initiative focuses on three work strands: (i) boosting Europe's technology and industrial capacity in artificial intelligence and its uptake, (ii) tackling socio-economic challenges in the labour markets and modernising Europe's education and training systems as well as (iii) addressing new ethical and legal issues. Thus it presents an integrated and comprehensive framework on how the Commission considers it best to approach on the development for the AI in the EU.

I want to stress the participatory and consultative way of developing this area. To this end, **the Commission brings together a broad community of stakeholders around AI-relevant questions under the umbrella of a European AI Alliance. I would encourage everybody interested to join this platform.** The AI Alliance will draw on existing groups and initiatives and act as a multi-stakeholder forum engaged in a dialogue on the future of AI in Europe. In parallel, a High-Level Expert group on AI has been set to support the Commission. In addition, **the Commission has set up an Expert Group on Liability and New Technologies**, which will assess, among other things, to which extent existing rules are adequate to solve questions of liability in relation to new technologies and new societal challenges. Of course, **Member States are involved in all this work on the AI** and the Commission cooperates with them closely in this process in order to avoid legal fragmentation and ensure a good climate for innovation.

Is a sector-specific approach to AI regulation needed?

At the current stage, we are not planning any concrete legislative initiatives. However, in order to fully reap AI's benefits, an environment of trust and accountability around the development and use of the technology is needed. Citizens and businesses alike need to have confidence on the technology they interact with. They also need to have a predictable legal environment guaranteeing investment security and to rely on safeguards protecting their fundamental rights. To this end, **we will explore to which extent adaptations to the legal regime are necessary and if so, whether these should be addressed horizontally or sector-specific.** If we identify a need for legislative action, we will definitely explore carefully not only the principles, which should apply, but also more precise terminology to be used. But as said this is not in the near future.

In terms of AI liability, where do you see the biggest gaps in the current EU framework and how do you think they should be addressed?

The EU already has strong regulatory frameworks on safety and product liability. However, we do not rest on our laurels and have started to evaluate whether the safety and liability frameworks are fit for the challenges of emerging technologies. **The Commission is currently assessing potential gaps in liability rules** with the assistance of the Expert Group on Liability and New Technologies. This group will examine whether and to what extent existing liability schemes at EU and national levels are adapted to the emerging market realities following the development of the new technologies such as artifical intelligence, advanced robotics, the IoT and cybersecurity issues.

"Think Digital!" 2018 is a project by the Konrad-Adenauer-Stiftung, the Zentralverband Elektrotechnik- und Elektronikindustrie (ZVEI), Google and Siemens. In a series of high-level political events in Brussels throughout 2018, we will bring together representatives from the European Institutions, think tanks, research institutions, civil society and the private sector.