

Response to EC roadmap consultation on ethical and legal requirements for trustworthy AI

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Contact person:	Arthur Hilliard, policy advisor Conduct of business	E-mail:	hilliard@insurancееurope.eu
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Insurance Europe welcomes the European Commission's initiative to encourage the ethical and responsible development of artificial intelligence (AI) in the EU and supports the creation of an ecosystem of trust to stimulate its uptake. A European approach is necessary to limit fragmentation of the digital single market, ensure fair competition and protect European citizens and businesses.

As noted by the Commission's high-level expert group (HLEG) on AI in its policy recommendations¹, the development and use of AI is already covered by a wide body of existing EU legislation, such as on fundamental rights, privacy and data protection, as well as product safety and liability. This is further complemented by national and sectoral regulatory frameworks. A horizontal, proportionate, principles- and risk-based framework that builds on this, addressing potential gaps where necessary, will help support the development and uptake of AI and avoid any unnecessary regulatory burden.

Insurance Europe believes that the EC's **option 1**² would therefore be the preferable policy option, as it provides for a soft-law approach to facilitate and spur industry-led intervention. It would also be the most relevant approach to encourage coordination on a single set of AI principles, while enhancing the enforcement of existing rules.

To promote the uptake of AI and prevent innovative technologies from being stifled by premature regulation, the ethical use of AI should be supported by, and reinforced through, voluntary and/or non-legislative instruments as far as possible. Voluntary certifications have traditionally proven to be an effective means of ensuring high and transparent standards (eg in the area of IT security). They enable customers to easily identify trustworthy products and allow companies to demonstrate and promote the quality of their products. Many companies would have an interest in voluntarily opting to certify their AI applications to enhance consumer confidence, stay ahead of the competition and demonstrate compliance with current standards and regulation.

Moreover, an approach that focuses mainly on voluntary instruments (eg industry-developed codes of conduct or guidelines) remains compatible with the option to introduce legislative instruments containing mandatory

¹ <https://ec.europa.eu/digital-single-market/en/news/ethics-guidelines-trustworthy-ai>

² Option 1: EU "soft law" (non-legislative) approach to facilitate and spur industry-led intervention (no EU legislative instrument)



requirements for certain AI applications, as set out in the EC's **option 3**³. However, it is important to ensure that any EU legislative instrument that may be introduced is horizontal, proportionate and risk-based, and limited only to "high-risk" AI applications that are determined on the basis of clear criteria (as suggested in the White Paper). Inclusion in the scope of such requirements of low-risk, common automation processes or applications that pose little or no risk to the rights of customers would hinder innovation and the uptake of new technologies, give rise to additional costs and create a disproportionate regulatory burden given their low risk.

The insurance industry has always made extensive use of data and algorithms, eg in the calculation of insurance premiums. Such methods of analysis are long-established and already subject to supervision. The development of AI tools can help insurers to improve underwriting as well as to better monitor and predict risk, and thereby advise policyholders on how to reduce risk, which can in turn help reduce the frequency and severity of losses over time.

Insurance Europe would also stress that monitoring the use of AI applications should continue to fall within the competence of the relevant sectoral supervisory or regulatory authorities, as they remain best placed to understand the market in question and the specific context of the AI application vis-à-vis the applicable regulatory framework.

Liability and product safety

The existing EU liability regime (the Product Liability Directive) is fit for purpose to address the risks posed by AI and other emerging technologies but could benefit from additional guidance in certain key areas. The fitness of existing product safety legislation should be reviewed. New legislation should only be adopted where clear evidence demonstrates a need for action and should be proportionate to the concrete risks posed by the AI application in question.

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies,

³ Option 3: EU legislative instrument establishing mandatory requirements for all or certain types of AI applications



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