

UiPath response to the consultation on the White Paper on Artificial Intelligence - A European Approach

Introduction

UiPath welcomes the European Commission's (EC) recognition of the strategic role that Artificial Intelligence (AI) plays for the European Union (EU) in addressing societal and economic challenges and creating opportunities for growth and progress. We strongly believe that digital technologies and AI will become critical factors, not only in determining Europe's competitiveness on the global markets but also in becoming significant drivers of the EU's recovery from the current health and economic crisis caused by COVID-19.

We are fully supportive of the need to develop and deploy AI systems that are compliant with applicable laws, are ethical, technically and socially robust, that ensure the trust of citizens and enable a wide-spread integration of AI into the EU society and economy. At the same time, leveraging digital technologies and AI to support economic growth and human wellbeing has never been a higher priority.

In this context, it is essential to take a gradual, proportionate, and risk-based approach to regulate AI. Any regulatory attempt should carefully balance potential harms posed by AI with the social and economic benefits created by such technologies. Future regulations should also take note of the nascent nature of AI technologies and its evolving nature. This approach would avoid creating unnecessary barriers and encourage innovation.

With this in mind, we would like to highlight a few key elements, which we consider fundamental for the envisaged regulatory framework.

1. A harmonized approach at the EU level

We believe that having a harmonized approach to AI is of the utmost imperative to ensure regulatory consistency across the EU. Divergent national approaches would lead to the fragmentation of the EU internal market. Uneven legal frameworks can create barriers to the development, scaling, and competitiveness of companies. Such barriers would harm the EU's overarching objective - to form a strong digital market and provide a boost to the EU economy stricken with the COVID-19 crisis. A harmonized approach is even more critical as AI producers and developers are usually present in more than one Member State. In this regard, we would strongly advise for the choice of a Regulation as the legal tool ensuring the highest consistency, coupled with a common EU governance framework. At the same time, as a company operating globally, we would like to raise awareness on the importance of maintaining a robust international dialogue for developing a harmonized global approach to AI.

2. A common European governance framework

UiPath strongly supports creating an EU Agency for AI ("**EU AI Agency**"), as such body would be able to ensure a harmonized approach on AI and work towards driving a stronger digital single market. The EU AI Agency could provide the much-needed interface between the EU institutions and stakeholders, including researchers, civil society, and the private sector. It could also prove instrumental in fostering the AI start-up community to scale faster and address a broader market.

More specifically, the EU AI Agency could:

- Manage and implement technical, scientific, and administrative aspects of AI compliance
- Gather a large pool of experts that could be mandated to supervise the application of AI regulatory frameworks
- Manage pilot projects and testing programs, given the nascent nature of the AI technology
- Develop an adequate risk grading system for high-risk AI and launch pilot programs, guidelines, and codes of conduct to test its efficiency and relevance
- Create a roadmap for the public sector (complemented by the required corresponding funding streams), to ensure sufficiently rapid and robust uptake of automation and AI technologies enabling the needed transition to digital government

- Act as the primary stakeholder in discussions and possible partnerships with the private sector, universities, and civil society members
- Act as a representative body in dialogues with other EU and national institutions and agencies, on topics related to AI
- Be the main point of contact for relevant competent authorities in specific sectors or on specialized issues (finance, pharmaceuticals, aviation, medical devices, consumer protection, data protection, etc.)

3. A gradual, risk-based, and flexible regulatory framework

As AI is embedded into almost every single tool we use in modern society— from business applications to personal handheld devices— overregulation could significantly impact the benefits offered by AI. To mitigate the potential risks posed by AI without hindering innovation and progress, any attempt to regulate AI needs to be gradual, proportionate, and flexible. The EU needs to provide a clear and concise definition of AI. A broad definition of AI may lead to considering numerous technologies as AI, which creates uncertainty. To avoid over-regulation, the EU should propose a narrow definition of AI systems.

Defining “high-risk AI” is the crucial next step to ensure the proportionality of any envisaged legal framework. We propose the following key aspects to be considered when defining “high-risk” AI:

- focusing on quantifiable and predictable risks
- assessing the probability and severity of the outcome, depending on the use case of the AI application, rather than a sector
- prioritizing the prevention of risks for safety and fundamental rights, e.g., physical harm and/or a breach of individuals’ fundamental rights

However, AI systems are often industry agnostic. The same AI application can pose low risks in one use case, and higher risk if it is deployed in a different environment. For such AI applications, the deployer should assess the risks following a case by case basis analysis and take industry-specific mitigation techniques. For an accurate and relevant assessment, a real-time risk calculator and risk grading/stratification system should be developed in collaboration with experts. A static definition of “high-risk AI” is therefore not appropriate.

4. Safety & Liability

The current broad concept of product safety is sufficient, as (i) the existing product safety framework is technology-neutral and this rationale should not be amended, and (ii) the impact of new technologies on specific products are already subject to sector-specific legislative frameworks, such as medical devices or cars. AI is embedded in various products and services. Each of these products and services is already operating today on well-established safety frameworks. Legislating AI specifically will be elusive, too difficult, and a potential barrier to innovation. We do not see the need to amend the safety legislation at the source, but rather at the usage and output levels. The developers and deployers of such products and services can assess the safety of AI technologies based on existing legal frameworks.

The current concept of liability in the Product Liability Directive is adequate and remains fit for its purpose. We do not support the idea of broadening the definition of “product” in the Product Liability Directive to include software. It is hard to imagine a standalone software creating damage in the form of death, personal injuries, or property damage. Such unfortunate consequences are usually the result of human misconduct or faulty hardware.

At the same time, as mentioned above, AI algorithms are often industry agnostic. In such cases, any potential risks, and the underlying liability for potential harms, depend strongly on the AI use case. It is, therefore, impossible to define a general and holistic liability regime applicable to AI technologies. Liability aspects are covered in practice by existing legal frameworks and contractual liability, taking into consideration specific use-cases for AI deployment and context. Given the complexity and characteristics of AI technologies, we would strongly advise against the aim to assign liability via a regulatory framework and leave such issues to be determined via contractual arrangements.

5. Skills

The need to address the implications of digitalisation and the impact of AI on the future of work has never been more pressing. Developing and nurturing competences and digital skills (both basic and specialized) among EU citizens will be crucial for stimulating the development of AI systems, promoting the uptake among both public and private sectors (especially SMEs), and boosting the Digital Economy and Society Index. At the same time, updating competency frameworks and professional occupations and qualifications will be an essential step in meeting labour market needs and fostering an ecosystem of excellence within the EU. Continuing to build awareness continues to be a high priority, as citizens are not mostly aware of the opportunities that digitalisation, AI, and robotics can provide.

Partnerships between academic institutions and the private sector should also be encouraged, especially for ensuring a healthy exchange and transfer of know-how and expertise. To create a timely and efficient framework for education and skills development, close cooperation between the Member States, academia, educational stakeholders, businesses, NGOs, and social partners is crucial. Joint projects could take the form of common education and training programmes, including massive open online courses (MOOCs) that are scalable and easy to implement. As mentioned by the European Economic and Social Committee¹, MOOCs “can be used for example to increase general knowledge on AI (such as the Elements of AI course created in Finland) or to improve skills and competences in the application of AI and the use of e.g., virtual or augmented reality.” The activity of the Digital Skills and Jobs Coalition and the envisaged European Pact for Skills would also be vital to continue and strengthen. As lifelong learning becomes a necessity, mechanisms for assessing and validating the outcomes of non-formal education and informal learning will also be fundamental in supporting citizens in their career paths, while ensuring stability within the EU labour market.

Conclusion

The EU needs to encourage a competitive development and deployment of AI within its single market. To do so, we need to be sure we do not regulate a nascent technology that holds enormous potential for innovation and socio-economic growth. We recommend a prudent and gradual approach concerning regulation. At the same time, we encourage more pilot projects and testing programmes to determine and define the “high risk AI” category. By bringing together EU experts, the envisaged EU AI Agency will be well-suited to ensure a safe, trustworthy, and harmonized development and deployment of AI technologies in the EU.

Fostering AI and digital skills development and creating effective multi-stakeholder cooperation will also be crucial for the post-pandemic social and economic recovery and should be prioritized accordingly.

About UiPath

[UiPath](#) is leading the “automation first” era – championing a robot for every person and enabling robots to learn new skills through AI and machine learning. Through free and open training, UiPath is led by a commitment to bring digital era skills to millions of people around the world, thereby improving business productivity and efficiency, employee engagement and customer experience.

The company’s hyperautomation platform combines the #1 Robotic Process Automation (RPA) solution with a full suite of capabilities that enable every organization to scale digital business operations at unprecedented speed. The company has already automated millions of repetitive, mind-numbing tasks for businesses and government organizations all over the world including approximately 50% of the Fortune 500.

UiPath was recently recognized as the top company on [Deloitte’s 2019 Technology Fast 500](#), a ranking of the fastest public and private technology companies in North America, and #3 on the [2019 Forbes Cloud 100](#).

¹ Opinion of the European Economic and Social Committee on ‘Digitalisation, AI and Equity — How to strengthen the EU in the global race of future skills and education, while ensuring social inclusion’ (exploratory opinion at the request of the Finnish Presidency) (2020/C 14/06)