

Response to EC White Paper on AI consultation

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Introduction

Insurance Europe welcomes the opportunity to provide input to the European Commission on its White Paper on Artificial Intelligence (AI). This paper contains Insurance Europe's responses to the Commission's online survey and should be read in conjunction with its [position paper](#) on AI.

Section 1 - An ecosystem of excellence

To build an ecosystem of excellence that can support the development and uptake of AI across the EU economy, the White Paper proposes a series of actions.

- 1. In your opinion, how important are the six actions proposed in section 4 of the White Paper on AI (1-5: 1 is not important at all, 5 is very important)?**
 - **Working with Member states - 5**
 - **Focussing the efforts of the research and innovation community - 4**
 - **Skills - 5**
 - **Focus on SMEs - 3**
 - **Partnership with the private sector - 5**
 - **Promoting the adoption of AI by the public sector - 4**

2. Are there other actions that should be considered?

Limited access to public sector data that would offer invaluable data sources for developing AI, due to the comprehensiveness and quality of the datasets. To provide as much societal benefit as possible, such datasets should be made available free of charge and in a machine-readable format to would allow their subsequent use in AI applications. Technical issues such as interoperability and standardisation of data should be addressed to ensure that datasets can be used to their full extent.

Revising the Coordinated Plan on AI (Action 1)

The Commission, taking into account the results of the public consultation on the White Paper, will propose to Member States a revision of the Coordinated Plan to be adopted by end 2020.

3. In your opinion, how important is it in each of these areas to align policies and strengthen coordination as described in section 4.A of the White Paper (1-5: 1 is not important at all, 5 is very important)?

- **Strengthen excellence in research - 4**
- **Establish world-reference testing facilities for AI - 4**
- **Promote the uptake of AI by business and the public sector - 5**
- **Increase the financing for start-ups innovating in AI - 3**
- **Develop skills for AI and adapt existing training programmes - 5**
- **Build up the European data space - 5**

4. Are there other areas that that should be considered?

The EC should focus on a strategy that ensures access to data from the public sector and supports data partnerships between public & private sectors. This could facilitate future prevention work in the insurance industry.

Members states should align policies and strengthen coordination on the development of global labels or certifications regarding levels of data protection, privacy, etc.

An additional area could focus on the creation of European libraries of open source codes for AI algorithms.

A united and strengthened research and innovation community striving for excellence

Joining forces at all levels, from basic research to deployment, will be key to overcome fragmentation and create synergies between the existing networks of excellence.

5. In your opinion how important are the three actions proposed in sections 4.B, 4.C and 4.E of the White Paper on AI (1-5: 1 is not important at all, 5 is very important)?

- **Support the establishment of a lighthouse research centre that is world class and able to attract the best minds - 3**
- **Network of existing AI research excellence centres - 4**
- **Set up a public-private partnership for industrial research - 5**

6. Are there any other actions to strengthen the research and innovation community that should be given a priority?

The EU should have a more ambitious approach to AI research and be able to retain or attract experts in this field. It could be useful to learn from the practices of other countries, to further develop European AI laboratories, etc. It could also explore how cooperation could be arranged with universities to attract new employees.

Focusing on Small and Medium Enterprises (SMEs)

The Commission will work with Member States to ensure that at least one digital innovation hub per Member State has a high degree of specialisation on AI.

7. In your opinion, how important are each of these tasks of the specialised Digital Innovation Hubs mentioned in section 4.D of the White Paper in relation to SMEs (1-5: 1 is not important at all, 5 is very important)?

- **Help to raise SME's awareness about potential benefits of AI - 2**
- **Provide access to testing and reference facilities - 4**
- **Promote knowledge transfer and support the development of AI expertise for SMEs - 3**
- **Support partnerships between SMEs, larger enterprises and academia around AI projects - 5**
- **Provide information about equity financing for AI start-ups - 3**

8. Are there any other tasks that you consider important for specialised Digital Innovations Hubs?

Digital Innovation Hubs could promote and focus on use cases (being customer-minded and business-oriented to help move faster from R&D to practical and industrialised applications); promote customer-centric and ROI focus; and play a role in demystifying, explaining and evaluating the valuable contributions of AI. It is important that data protection authorities and financial regulators are also on board when creating digital innovation hubs.

Section 2 - An ecosystem of trust

Chapter 5 of the White Paper sets out options for a regulatory framework for AI.

9. In your opinion, how important are the following concerns about AI (1-5: 1 is not important at all, 5 is very important)?

- **AI may endanger safety - 3**
- **AI may breach fundamental rights (such as human dignity, privacy, data protection, freedom of expression, workers' rights etc.) - 3**

- The use of AI may lead to discriminatory outcomes - 3
- AI may take actions for which the rationale cannot be explained - 3
- AI may make it more difficult for persons having suffered harm to obtain compensation - 3
- AI is not always accurate - 3

10. Do you have any other concerns about AI that are not mentioned above? Please specify.

The future regulatory framework should not be an obstacle for innovation but an enabler. Certain issues related to GDPR should be carefully considered and clarified during the legislative process to avoid overlaps or contradictions. GDPR establishes limits on data usage, which does not take into account the needs of reliable AI development and may inhibit the aim to make Europe a world leader in the development and deployment of AI. Further guidance on the application of GDPR in relation to new technologies would be welcome (eg clarification of controller/processor).

11. Do you think that the concerns expressed above can be addressed by applicable EU legislation? If not, do you think that there should be specific new rules for AI systems?

- ~~Current legislation is fully sufficient~~
- ~~Current legislation may have some gaps~~
- ~~There is a need for a new legislation~~
- Other
- ~~No opinion~~

Other, please specify:

The development & use of AI is covered by a wide body of existing EU legislation addressing many of the potential risks & challenges, further complemented by national & sectoral regulatory frameworks. A proportionate, principles- and risk-based framework that builds on this, addressing potential gaps where necessary, will help support development & uptake of AI and avoid unnecessary burden. Policymakers should also examine where existing legislation may create barriers to AI use or development.

12. If you think that new rules are necessary for AI systems, do you agree that the introduction of new compulsory requirements should be limited to high-risk applications (where the possible harm caused by the AI system is particularly high)?

- Yes
- ~~No~~
- ~~Other~~
- ~~No opinion~~

13. Do you agree with the approach to determine “high-risk” AI applications proposed in Section 5.B of the White Paper?

- ~~— Yes~~
- ~~— No~~
- Other**
- ~~— No opinion~~

Other, please specify:

Insurance Europe believes it is important to ensure that the framework is risk-based and proportionate. Only those AI applications with proven high risk and producing significant effects for the rights of individuals should be in the scope of the future framework.

New rules would be pertinent if, and only if, current rules and regulations are not sufficient. Any changes should be limited to clearly identified problems for which gaps exist and overlapping or contradictory texts should be avoided.

14. If you wish, please indicate the AI application or use that is most concerning (“high-risk”) from your perspective.

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15. In your opinion, how important are the following mandatory requirements of a possible future regulatory framework for AI (as section 5.D of the White Paper) (1-5: 1 is not important at all, 5 is very important)?

- The quality of training data sets - **5**
- The keeping of records and data - **4**
- Information on the purpose and the nature of AI systems - **4**
- Robustness and accuracy of AI systems - **4**
- Human oversight - **4**
- Clear liability and safety rules - **5**

16. In addition to the existing EU legislation, in particular the data protection framework, including the General Data Protection Regulation and the Law Enforcement Directive, or, where relevant, the new possibly mandatory requirements foreseen above (see question above), do you think that the use of remote biometric identification systems (e.g. face recognition) and other technologies which may be used in public spaces need to be subject to further EU-level guidelines or regulation? Please specify your answer.

- ~~— No further guidelines or regulations are needed~~
- Biometric identification systems should be allowed in publicly accessible spaces only in certain cases or if certain conditions are fulfilled (please specify)**

- ~~— Other special requirements in addition to those mentioned in the question above should be imposed (please specify)~~
- ~~— Use of Biometric identification systems in publicly accessible spaces, by way of exception to the current general prohibition, should not take place until a specific guideline or legislation at EU level is in place.~~
- ~~— Biometric identification systems should never be allowed in publicly accessible spaces~~
- ~~— No opinion~~

The use of such technologies in public spaces should be permitted but their use needs to be supervised, subject to strict legal control and limited to certain cases only. New technologies using biometric identification systems are evolving rapidly without any limitations or guidelines for their operation. Clear rules and signposting, including ensuring effective mechanisms for consent, would enhance trust and ensure greater legal certainty for both businesses and individuals.

17. Do you believe that a voluntary labelling system (Section 5.G of the White Paper) would be useful for AI systems that are not considered high-risk in addition to existing legislation?

- ~~— Very much~~
- Much**
- ~~— Rather not~~
- ~~— Not at all~~
- ~~— No opinion~~

18. Do you have any further suggestion on a voluntary labelling system?

The voluntary labelling system should be legible, easy to use and recognised across the EU. It is also important to ensure proportionality is incorporated into such approach. If an AI application is considered non-high risk, and not subject to mandatory requirements, the same or similar requirements should not be introduced via a labelling system. Further issues also require clarification, eg responsibility for the system, industry participation, practical arrangements, etc.

19. What is the best way to ensure that AI is trustworthy, secure and in respect of European values and rules?

- ~~— Compliance of high-risk applications with the identified requirements should be self-assessed ex-ante (prior to putting the system on the market)~~
- ~~— Compliance of high-risk applications should be assessed ex-ante by means of an external conformity assessment procedure~~
- ~~— Ex-post market surveillance after the AI-enabled high-risk product or service has been put on the market and, where needed, enforcement by relevant competent authorities~~
- A combination of ex-ante compliance and ex-post enforcement mechanisms**
- ~~— Other enforcement system~~

20. Do you have any further suggestion on the assessment of compliance?

No.

Section 3 – Safety and liability implications of AI, IoT and robotics

The overall objective of the safety and liability legal frameworks is to ensure that all products and services, including those integrating emerging digital technologies, operate safely, reliably and consistently and that damage having occurred is remedied efficiently.

21. The current product safety legislation already supports an extended concept of safety protecting against all kind of risks arising from the product according to its use. However, which particular risks stemming from the use of artificial intelligence do you think should be further spelled out to provide more legal certainty?

- **Cyber risks**
- **Personal security risks**
- ~~Risks related to the loss of connectivity~~
- ~~Mental health risks~~

22. In your opinion, are there any further risks to be expanded on to provide more legal certainty?

From an insurance perspective, major changes to the legal regime could result in challenging insurability issues. In general, we are of the view the existing system works well. In the future there may be a need to further explore the risks associated to the opacity of AI in-use, as well as the role & liability of the vendor/platform that sold AI goods to the consumer.

23. Do you think that the safety legislative framework should consider new risk assessment procedures for products subject to important changes during their lifetime?

Yes. The current applicable EU legislations on product safety only cover products at the time they are placed on the market. However, AI systems will evolve and change over time. It therefore seems sensible to consider adapting existing procedures to be flexible to evolutions and changes related to AI, and in order to comply with the safety principle.

24. Do you have any further considerations regarding risk assessment procedures?

The ability to track software updates is worthy of consideration. This ability would assist in determining the version of software that was installed and in-use at specific points in time and would have use in

determining liability. In addition, an adaptable and flexible governance will be relevant as the AI systems will change and evolve over time.

25. Do you think that the current EU legislative framework for liability (Product Liability Directive) should be amended to better cover the risks engendered by certain AI applications?

No. In European insurers' experience the current liability framework is fit for purpose, implementing a well-balanced system of liability that provides a high level of protection to consumers while taking into account manufacturers' legitimate interests, thereby encouraging growth and innovation. Any change to this balance could negatively impact the cost and availability of insurance. Guidance documents may prove useful, addressing certain perceived risks posed by AI applications.

26. Do you have any further considerations regarding the question above?

It will be crucial to implement a clear and unified taxonomy in general.

27. Do you think that the current national liability rules should be adapted for the operation of AI to better ensure proper compensation for damage and a fair allocation of liability?

No. Different national approaches are taken, and different national rules, contract or tort law are specific to individual markets. With the PLD at European level, the existing framework is broadly fit for purpose. It should in any event be kept in mind that consumers have additional liability compensation options through co-existing civil liability regimes (contractual and extra-contractual) for cases where the PLD may, for one reason or another, not apply.

28. Do you have any further considerations regarding the question above?

Consideration should be given to improve access to information on liability cases and procedures.