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Technology Industries of Finland input to the Commission Impact Assessment on AI

Technology Industries of Finland (*TIF*) represents more than 1,600 companies, active in Finland in various sectors of technology industries. Our member companies cover both developers and deployers of AI.

Our main messages are:

- There is no one, overarching AI. AI is a set of technologies for processing and extracting value out of data, automating decisions and extracting insights.
- According to latest studies, solutions and tools of data economy, such as AI will play a major role in the green transformation of the industries.
- Existing Product Safety legislation is technology-neutral and has stood the test of time. We urge Commission to carefully analyse whether use of AI would call for a piece of technology-specific piece of regulation?
- Instead of technology, the attention should be on data and the purpose of its processing. These define the riskiness of the use case.
- On assessment of regulatory options, it is wise to apply legislation only when it is needed. However, singling out high-risk cases may prove problematic in terms of predictability and legal certainty.
- Green transformation and ramping up productivity of European industries are our major challenges. Technology plays a major role when solutions are developed. To achieve this, we need steady and predictable environment for investments.
- Europe needs to remain a predictable member in global value networks and not use regulation for short-sighted leaps. Excellence is best built by building on strengths and agile solutions for European data economy.

Support for the Single Market

TIF agrees with the Commission on the first point of the assessment: the EU-level is the right level of regulation in order to avoid legal fragmentation. We need streamlined digital single market, where regulation is in place when and where needed.

On the IIA document, the need for regulation is based on lack of trust and potential threats to Human Rights. This leads us to ask: is the link between trust and regulation as imminent as the Commission it depicts?

Objectives and Policy Options

High level of protection of privacy is one of the core values of EU and it is well established that the level of protection is indeed high in the EU. However, this does not seem to play in favour of European (digital) companies. Basically, regulation establishes for the companies a set of technical and organisational requirements. Regulation is justified and good if these requirements link directly to the objective that is desired and are proportionate to reach that end (e.g. requirements in nuclear power plants to advance nuclear safety).

It is very challenging to come up with proper set of requirements, though, when the objective is as broad as protection of human rights – even more challenging it is when the domain is AI. AI is

a technology that can be used in wide array of solutions, it can be used for different purposes and for processing of different sets of data.

The regulatory option of applying full-scale regulation only to high-risk cases (Regulatory option 3 b) of application of AI seems plausible at first. But when analysed in greater detail, it becomes very challenging to come up with a general criterion on how to single out cases where the risk is high. At the end, it is down to the data and the purpose of processing or usage of AI system that defines the risk on a meaningful way. Therefore, we need a framework that helps developers and deployers to identify, evaluate and mitigate the risks involved. In most cases, the risks stem from processing of personal data or the AI-driven systems/vehicles moving about freely among people, like autonomous cleaning robots or vehicles. On biometric identification (option 3 a) it is not the technology but the purpose that is decisive: it is ok to use it – properly executed – to make things easier, like opening one's phone or laptop but most of us feel unease if it is used for mass surveillance.

What are the cross-cutting key prerequisites for trust? People need to know who are in charge of the systems (this is already established in Product Safety Law of the EU), people need to know whether they are interacting with an AI system or a human being, people need to be able to understand what data (and why and how) is being processed. It may also be wise to tune the framework on a manner that serves for careful mode of development and running of AI systems where key decisions are documented – on a way that is justified and proportionate.

As written in the assessment, too many requirements are prone to lead to a situation where costs outweigh the benefits. Therefore, the regulatory option 1, and in some cases option 2, of the assessment are a solid starting point. We do recognise that there might be a need for actual legal requirements such as in cases where AI-driven vehicles interact with humans and human-driven vehicles. These need to be carefully analysed, on basis of existing legislation and keeping open the possibility to use existing, preferably technology neutral, regulatory base on a coordinated manner.

When setting up the regulatory framework, the Commission should keep in mind that many European AI companies tend to be of SME category, usually concentrating on one specific area of technology. If legal requirements are numerous, in very high detail and accompanied by extensive ex ante conformity assessment mechanisms, the big players will have the advantage. Therefore, as a general rule, we favour ex-post solutions for enforcement structures, when needed.

The same call for proportionality applies for the scope of future regulation. What would be the ratio of applying regulation to simple automated decision-making systems? Would this in fact produce an outcome – a relevant set of requirements – which help us to better protect human rights? – Or would it actually create an environment that encourages to use secondary solutions, such as an ever-going chain of 'if-commands' instead of adequate solutions.

The key requirements for regulation that encourages development of and investments to AI, are predictability and proportionality. It should also be remembered that European firms operate on a global market. The regulatory framework should not establish unfounded requirements that make development of global data solutions and transfers challenging.

Impacts

TIF does agree with the impact assessment as to the proportionality presented on economic impacts and likes to point out that in order to meet the decarbonisation and productivity goals,

we need to have proportionate and predictable legal environment to facilitate the necessary investments to the solutions of data economy.

As to the social impacts, it is not only use of AI, but the digitalisation of industries that calls for re-skilling of workforce.

As to the environmental impacts, there are various studies published in Finland pointing out that solutions of data economy, such as AI, algorithms and data-driven optimisation are the most readily available high-impact methods of bringing down co2 output throughout in the society, coupled to use of fossil free electricity to replace fossil-based processes. According to the TIF roadmap to fossil free technology industries by 2035, it is stated that the objective can be reached, if we are able to fully deploy the new technologies and the environment is stable enough to facilitate the required investments. The option of not being able to use the optimal technology should also be weighed.

As digital solutions facilitate new ways, we urge the Commission to look new kinds of co-operation between regulators and developers. New solutions, such as regulatory sandboxes facilitate transfer of crucial information and building of trust between regulators, developers and users of solutions.

Conclusion

In order to be able to create a future-proof and stable regulatory environment we still need to elaborate the objectives of the regulation and have enough fact-base combined to thorough analysis of the actual gaps of the existing regulatory framework. The great challenges of our generation – climate change and productivity – call for ability to use all available technical solutions on a rational manner in order to guarantee sustainable future for future generations. By having the facts in order and objectives clear, we can evaluate what is the proportionate and balanced regulatory approach.

Further information:

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