

From: [REDACTED]
Sent: mardi 16 mars 2021 20:58
To: BUSA Lucrezia (CAB-REYNDERS)
Cc: [REDACTED]
Subject: 16 March 2021 - Call Cab Reynders - Google on AI

16 March 2021 - Call Cab Reynders - Google on AI

Google: [REDACTED]
Cab Reynders: Lucrezia Busa; DG JUST: [REDACTED]

- Google asked about the links between the upcoming horizontal AI legislation and a possible initiative on AI liability. Cab Reynders confirmed that the horizontal proposal is currently foreseen for 21 April 2021. For liability, preparatory work is still ongoing. COM intends to revise the Product Liability Directive. In addition, COM will check if targeted adaptations of national civil liability will be necessary in view of opacity of certain AI systems and the effects this may have on the effectiveness of national civil liability rules. The approach will be coordinated and complementary between the horizontal proposal and liability initiative.
- Google recalled their response to the AI white paper consultation of 2020: AI regulation is needed. Risk based approach is good. Risks should not be over-emphasized, need to look also at opportunity cost of not using AI, not only severity but also probability of harm should be taken into account, some types of AI are explainable, Google uses risk-mitigating measures in its business practices, enforcement should be proportionate to the risk, there is already legislation applying to what the upcoming AI law tries to achieve (GDPR already covers data protection, there is already non-discrimination law). Need to be clear on the goals. Concerning liability, need to be careful with introducing new concepts and not to create disincentives for innovation.
- Cab Reynders confirmed that the aim is to only regulate what is necessary and to follow a risk-based approach. The aim is to ensure that existing legislation can be enforced. Opacity of AI systems is a challenge. Authorities need to be enabled to enforce the law also in the face of such challenges. Need to be able to have access and test a system where necessary. Need for relevant documentation of AI systems.
- Google asked about the granularity of risk categories envisaged following the risk based approach and about possible prohibitions of certain AI use. Cab Reynders explained that this is under discussion.
- Cab Reynders explained that the informational needs of an enforcement authority might be satisfied differently by providers and user of AI and asked about Google's views on what responsibilities users should have, for example to show how they avoid discrimination. Google emphasized that the users bear the obligation not to discriminate and are therefore obliged to make sure they understand a system they use and that their use of a system is compliant.
- Cab Reynders asked how Google would apprehend the use of AI for the detection of emotions. Google considers such use (for example in job interviews) to be highly sensitive and sees a need for very stringent scrutiny and strong safeguards if such systems should be used.