BRIEFING - MEETING WITH [BLANK] ON THE AI ACT

Context of the meeting

- You are meeting with [BLANK] to discuss the AI Act and generative AI.

- In preparation of the meeting with you,
Meeting with [redacted] on the AI Act
Basis no: CNECT/10501

Regarding generative/general-purpose AI, it is important to note that it was notably the French Presidency [redacted] that raised for first time the topic of general-purpose AI (GPAI) and proposed special requirements and obligations for GPAI adapted to those for high-risk AI to rebalance the responsibilities across the AI value chain and help downstream providers of high-risk AI comply with the AI Act. As [redacted] pays special attention to SMEs and start-ups, there was an SME exception that the new rules would not apply to SMEs. The French compromise proposal [redacted] was approved with minor modifications by the Council in its general approach agreed on 6th December 2022.

LTT

• Remercier [redacted] pour sa contribution essentielle et les progrès réalisés sur les dossiers numériques, y compris la loi sur l'IA, sous la présidence française au cours du premier semestre de 2022.

• La législation sur l'IA entre maintenant dans une étape clé des trilogues. Il existe un sentiment commun de l'urgence politique de finaliser les négociations avant la fin de cette année.

• En ce qui concerne l’IA générative, le Conseil et le Parlement semblent en consensus sur le fait que des règles ciblées sont nécessaires pour les grands modèles/systèmes d'IA à usage...
général puissants. La Commission agira en tant que courtier impartial pour aider les collégiateurs à trouver un compromis.

- Rassurer sur le fait que la Commission est consciente de ses préoccupations quant à l'incidence potentielle des nouvelles exigences sur les petits acteurs de l'UE, en particulier les Petites et Moyennes Entreprises et les start-ups.

- Dans ce sens, le règlement IA adopte une approche proportionnée et équilibrée pour prendre en compte les risques posés par l'IA sans décourager l'innovation. Le texte inclut également des dispositions spécifiquement destinées aux innovateurs, en particulier les PMEs, telles que les SAS réglementaires. L'utilisation de standards techniques pour obtenir la présomption de conformité devrait aussi faciliter l'implémentation du règlement par les PMEs.

- Nous convenons également pleinement qu'une approche réglementaire agile et une gouvernance solide (avec une autorité de l'UE) est essentiel pour rester compétitif et maintenir le leadership de l'UE dans cette technologie clé en évolution rapide.

- Nous devons nous efforcer d'agir dès maintenant en amont de l'implémentation du règlement. C'est pour cela que la Commission a appelé au lancement d'un pacte pour l'IA, afin que les développeurs des systèmes IA puissent anticiper l' mise en œuvre des obligations du règlement là où c'est possible.

- La mise en place d'un cadre de gouvernance international commun et d'un consensus sur l'IA générative est également une priorité pour l'UE, en particulier dans le contexte du Conseil UE-États-Unis sur le commerce et la technologie et du G7 Hiroshima processus.

- La Commission vise à promouvoir l'émergence d'une communauté de recherche et startups autour de modèles très puissants d'IA, en ligne avec le règlement d'IA.

- Dans ce but, la Commission est en train d'évaluer les actions possibles sur le court, moyen et le long terme, y compris les besoins de supercalculateurs (adaptés à l'IA) et les besoins de financement et de levée de fonds.

**BACKGROUND**

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2. **General purpose/generative AI in the AI Act**

The *Commission* proposal follows product safety approach and regulates AI systems when they are placed on the market as downstream AI applications. General Purpose AI (GPAI) systems are not expressly regulated, but the requirements related to high-risk AI systems would kick in if GPAIs are used in the context of high-risk use cases. In addition, there are transparency requirements for generative AI systems intended to interact with humans (e.g. chatbots) and obligation for users to label deepfakes (audio, video, images).

The *Council* proposes to subject GPAIs to adapted requirements and a similar procedure as for high-risk AI (conformity assessment, registration, post-market monitoring), unless the GPAI provider has explicitly excluded the GPAI’s use for all high-risk use cases. Furthermore, GPAI providers should cooperate, as appropriate, with downstream providers of high-risk AI systems to enable their compliance with the AI Act. GPAI providers which are SMEs would not be subject to the new rules. Commission should adopt implementing rules to adapt the requirements and specify the cooperation obligation.

The *EP* developed a three-pillar approach for GPAI/ foundation models/generative AI including:

i) Obligation for upstream providers of GPAIs to provide information and cooperate with downstream providers of high-risk applications to enable compliance with the AI Act;

ii) For foundation models: new requirements in the development stage, including logging capabilities, risk management, due diligence, using good data and environmental standards; and

iii) For generative AI: three additional obligations to ensure transparency and mark AI-generated content, put safeguards against illegal content and provide detailed summary of the training data protected under copyright law.
3. **EU landscape in generative AI**

Europe has become increasingly reliant on non-European companies (Google, Meta, Microsoft, OpenAI etc.), to access general-purpose AI systems. With 73% of AI foundation models coming from the US and 15% from China, the dependence on external companies limits the EU’s control over its technology and put its AI capabilities at risk. Europe will need to ensure “sovereign” artificial intelligence (AI) models.
Developing large European AI models in the EU would provide greater control over the data used to train them, enhance transparency and data security and ensure that these AI models are trustworthy. It could provide Europe with greater control over its technology and ensure that its AI capabilities are not dependent on non-EU countries or companies.

4. **AI Pact and Code of conduct**

There is a sense of urgency to protect our citizens against the risks of this fast-developing technology, therefore the Commission identified two related, short-term actions with regard to the deployment and governance of Artificial Intelligence:

- Firstly, the **AI Pact** convening AI companies active on the EU market and seeking their early implementation of key provisions of the AI Act in Europe, once it has been agreed by co-legislators, to bridge the time until the provisions enter into application. Companies would have to agree to frontload the implementation of key AI Act provisions on a voluntary basis.

- Secondly, promoting, at a **global level**, guardrails in particular for generative AI (i.e. creating content like text), or advanced general-purpose AI models which bring about new societal challenges that will need to be addressed as a matter of urgency. At the EU-US Trade and Technology Council ministerial meeting in Luleå, it was discussed to work on this strand and to feed into the G7 Hiroshima AI Process, agreed in Japan on 29-30 April (Code of Conduct).

5. **G7 Hiroshima AI Process**
The Ministerial Declaration following the G7 Digital and Tech Ministers’ Meeting of 30 April included the intention to organise G7 discussions on generative AI.

The G7 Hiroshima Leaders’ Communiqué of 20 May endorsed this, recognising “the need to immediately take stock of the opportunities and challenges of generative AI” … “and encourage international organizations such as the OECD to consider analysis on the impact of policy developments and Global Partnership on AI (GPAI) to conduct practical projects.”

The G7 Leaders tasked relevant ministers to establish the Hiroshima AI Process, through a G7 working group in cooperation with the OECD and GPAI, for discussions on generative AI by the end of this year.

The discussions could include governance, safeguard of intellectual property rights including copyright, promotion of transparency, response to foreign information manipulation, including disinformation, and responsible utilization of these technologies.