

BTO Meeting with Google on the AI Act - 28 June 2022

Participants:

- Google - [REDACTED]
- Commission – Maurits-Jan Prinz (CAB-Breton), [REDACTED]

Google requested the meeting to present its internal policy on AI and to discuss the latest developments on the AI Act negotiations.

Google's AI policy

Google is 'AI first company' with AI driving all their products (search engines, Android, health, cloud, youtube etc.). General purpose AI models (e.g. natural language and machine vision) are also very important but come with significant responsibilities to manage the technology implications for its business users, consumers and the society at large. For this reason, in 2017 Google adopted Google's AI principles that are applicable to all of its products, even prohibiting some applications (e.g. facial recognition for third parties). The principles are put into practice following a 4-pronged approach:

- 1) Culture and education for everyone in the company from lowest to the highest management level and all functions
- 2) Tools and infrastructure - addressing issues like what does fairness, accuracy, robustness, explainability and security mean in practice; how to measure and validate compliance and assess risks associated with AI.
- 3) Accountability structures and processes across the company with 3 tier function:
 - embedded function in all products (in product's user experience, privacy, security etc.)
 - centralised support function with a central AI principles Review Committee, which guides teams how to make adjustments and mitigate risks in all different AI applications
 - Advance Technology Review Council – directly reporting to CEO on the implications of all AI-driven products that affect the company to ensure consistency
- 4) External engagement – getting input from CSOs, affected communities, academia, governments, but also sharing information and learnings with others

Discussion on the AI Act

The AI Act intersects with many of these principles and how Google puts them into practice. Google indicated that it has been very supportive of the Commission proposal on AI. Google raised three main issues that are related to the latest developments in the Council:

- 1) **General purpose AI (GPAI)** – Google understands that providers of general purpose AI applications also have some responsibilities to enable downstream users to comply with the AI Act. However, in their view the FR compromise proposal completely shifts the burden to GPAIs providers. They are not against some obligations (like documentation and duty to cooperate with downstream users), but think that the main responsibility should be for the downstream users who determine the use cases and therefore the risks. According to Google, the proposed obligations for GPAIs could also have a negative impact on innovation as there is a wide variety of business models for GPAIs and how they are distributed (open source, pre-trained models or commercial APIs models developed by vendors). Mitigating measures can be different for these three models and their development should not be disincentivised.

While abstaining from taking a position on the latest changes in the Council, the Commission explained the concerns that the FR Presidency proposal tries to address and their approach to apply to GPAIs only part of the requirements that were considered feasible and proportionate (e.g. documentation, information to users etc.) with a horizontal duty to cooperate. The objective is not to disincentivise but to re-balance the responsibilities across the value chain as otherwise providers of high-risk AI may not be in a position to comply with the AI Act and to mitigate problems in the design of GPAIs that can only be addressed by GPAIs providers. Derogation from these obligations is also possible if the GPAI provider states that the system cannot be used for high-risk with an anti-circumvention clause which was of concern to Google.

2) Definition of substantial modification – Google was also concerned with the latest changes made to the definition of substantial modification which could cover any change to the performance of the AI system, thereby requiring a constant re-iteration of conformity assessments. They preferred to stick to the Commission proposal, or limit it to changes that have implications for fundamental rights or safety or change the risk profile of the system.

3) High-risk AI (Annex III) – Google was concerned that the co-legislators might add too many new criteria for the risk assessment to add new use cases to the list of Annex III or expand the list already now. In their view, the list should remain targeted similar to the Commission proposal.