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Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Public Consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act)

21 May 2024

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1. Introduction

The Department of Enterprise, Trade and Employment invites submissions to a public consultation on the implementation of the EU Artificial Intelligence (AI) Act¹, which was formally adopted by the EU on 21 May 2024 and is expected to enter into force in June 2024.

This consultation is intended to inform Ireland's approach to implementing the Act and, specifically in relation to the configuration of national competent authorities required for implementation.

OBJECTIVE OF THE REGULATION

The provisions of the Act will apply on a phased basis over a 36-month period after the Act enters into effect.

An overview of the Act and an explanation of its key provisions are available [here](#).

The purpose of the EU AI Act is, *“to improve the functioning of the internal market by laying down a uniform legal framework ... for the development, the placing on the market, the putting into service and the use of artificial intelligence systems... in accordance with Union values, to promote the uptake of human centric and trustworthy artificial intelligence while ensuring a high level of protection of health, safety, fundamental rights as enshrined in the Charter of fundamental rights of the European Union..., including democracy, the rule of law and environmental protection, against the harmful effects of AI systems in the Union, and to support innovation”*.

In parallel with protecting peoples' health, safety, and fundamental rights, the Act is designed to promote the adoption of trustworthy, human-centric AI to ensure that the EU reaps the *“potential economic, environmental, and societal benefits across the entire spectrum of industries and social activities”*.

A further key objective of the Act is to ensure that the EU remains competitive for AI investment and innovation.

¹ [Regulation laying down harmonised rules on artificial intelligence \(artificial intelligence act\), 21 May 2024](#)

KEY ASPECTS OF THE EU ACT

The AI Act adopts a risk-based approach to the regulation of AI systems so that the obligations it introduces are targeted and proportionate. Obligations apply to providers, deployers, importers, distributors, authorised representatives of High-risk AI systems.

The AI Act prohibits certain practices with unacceptable risks. It provides for two distinct stages of regulation of High-risk AI systems:

1. Pre-market certification of High-risk AI systems' conformance with standards, and
2. Surveillance of High-risk AI systems after they are deployed or made available on the market.

An assessment of the impact on fundamental rights is required for public sector uses of high-risk systems.

There are special obligations for providers of General Purpose AI (GPAI) models to be enforced by the Commission, with additional obligations for GPAI models with systemic risks.

The default date for application of the measures in the Act will be 24 months after it enters into force. However,

- The prohibitions on uses with unacceptable risk apply from six months.
- The provisions on General Purpose AI, Notifying Authorities and Notified Bodies; EU Governance and National Competent Authorities; and Penalties apply from 12 months.
- The provisions on High-risk AI systems apply from 36 months.

2. Submissions

The Department of Enterprise, Trade and Employment welcomes submissions in general on this topic and, in particular, respondents are requested to address the specific questions at Section 4.

Respondents are requested to make their submissions by email. Submissions should be sent by email to [**ConsAIregulation@enterprise.gov.ie**](mailto:ConsAIregulation@enterprise.gov.ie)

The deadline for receipt of submissions is **5pm on Tuesday, 16th July 2024**.

3. Publication of Submissions

Respondents should be aware that all submissions will be placed in the public domain and published on the Department's website after the conclusion of the consultation process.

CONFIDENTIALITY OF SUBMISSIONS

Contributors are requested to note that it is the Department's policy to treat all submissions received as being in the public domain unless confidentiality is specifically requested. Respondents are therefore requested to clearly identify material they consider to be confidential and to place same in a separate annex to their response, labelled "confidential". Where responses are submitted by email, and those emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential.

FREEDOM OF INFORMATION ACT 2014 AND PUBLICATION OF SUBMISSIONS

The Department may decide to make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

GENERAL DATA PROTECTION REGULATION

Respondents should note that the General Data Protection Regulation (GDPR) entered into force in Ireland on 25 May 2018 and it is intended to give individuals more control over their personal data. The Department of Enterprise, Trade and Employment is subject to the provisions of the regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 - 2018.

4. Consultation Questions

The AI Act is an EU Regulation and consequently, has direct effect in all Member States of the EU. However, the Act requires Member States to provide for the supervision and enforcement of the Act at national level. For example, Member States must designate or establish at least one Notifying Authority, and one or more Market Surveillance Authorities, as National Competent Authorities for the Act within 12 months after it enters into force.

The obligations on Member States are explicitly set out in the Act. To ensure that the rules are harmonised across the EU, Member States will not have discretion in relation to the interpretation of the provisions applying to AI systems or to the providers or deployers of such systems.

The Department of Enterprise, Trade and Employment is leading the national implementation of the AI Act. The Department is currently assessing, in conjunction with other Government Departments and public authorities, alternative possible approaches to national implementation to determine the optimal national structure for efficient and effective enforcement of the provisions of the Act.

The Department seeks submissions from interested parties on the national implementation of the AI Act to guide it in this work. It would particularly welcome responses to the questions set out in the following section.

The Department requests that respondents provide rationale and explanations to support the points in their submissions. Where possible, please also provide material, or references, that support or substantiate the points in your submission.

Submissions should also include contact details.

QUESTIONS

1. For national implementation of the Act, different approaches to the designation of competent authorities could be considered, ranging from a centralised model to a more distributed, sector-based approach. Selecting an approach will likely involve trade-offs. For example, a distributed approach may provide better access to sectoral expertise, but may pose coordination challenges.

What considerations should the Department have regard to when devising the configuration of national competent authorities for implementation?

2. The EU has adopted a series of Regulations in recent years designed to protect consumers, strengthen the internal market, and ensure that the EU remains at the forefront of innovation and the adoption of advanced technologies.

Are there potential synergies between the implementation of AI Act and the implementation of other EU Regulations applying to Digital markets, services, and infrastructure?

3. **Harnessing Digital - The Digital Ireland Framework** establishes the goal for Ireland to be a digital leader at the heart of European and global digital developments. In support of this goal, Ireland is a member of the D9+ Group, an informal alliance of Digital Ministers from the digital frontrunner EU Member States. It also calls for Ireland to be a “centre of regulatory excellence” in Europe. The AI Act will set out a requirement to promote innovation, having regard to SMEs, including start-ups, that are providers or deployers of AI systems.

How can Ireland's implementation of the AI Act bolster Ireland's position as a leading Digital Economy, increasing investment and accelerating innovation in AI? What would excellence in AI regulation look like?

4. **AI - Here for Good: National Artificial Intelligence Strategy** for Ireland sets out how Ireland can be an international leader in using AI to benefit our economy and society, through a people-centred, ethical approach to its development, adoption, and use. In recognition of the wide-ranging effect AI will have on our lives, this Strategy considers AI from several perspectives: Building public trust in AI; Leveraging AI for economic and societal benefit; and Enablers for AI.

How can Ireland's implementation of the AI Act drive support and accelerate progress from each of these perspectives while meeting our regulatory obligations?

The Department would also welcome views on aspects of the implementation of the AI Act outside of the scope of the questions above.