AI Talks
Understanding the EU AI Act

Cooley

Part III
Rules kicking in on August 2, 2025

Presented by Enrique Gallego Capdevila and Bartholomäus Regenha

Cooley Contacts

Enrique Gallego Capdevila and Bartholomäus Regenhardt

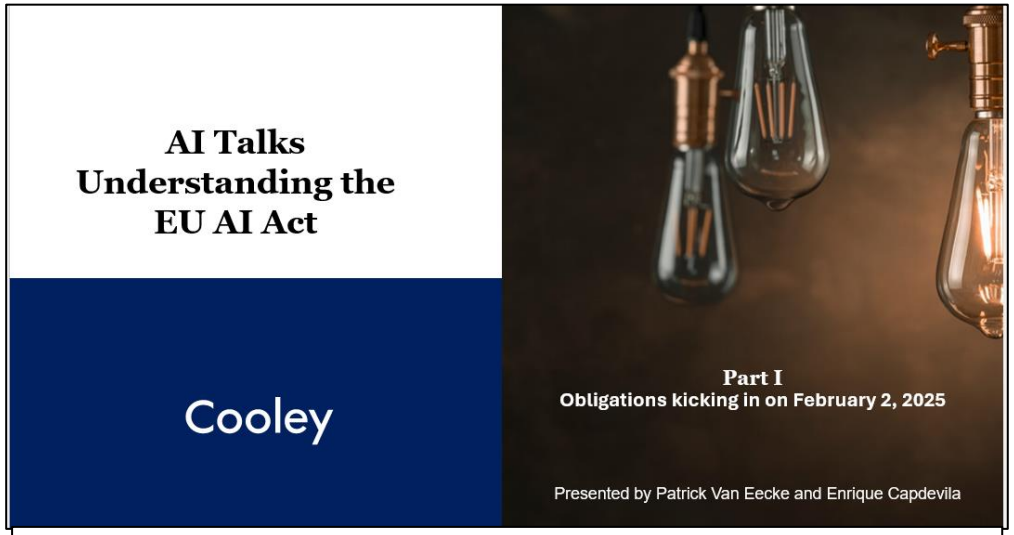
Cyber / Data / Privacy, Brussels

Learn more >

Enrique Gallego Capdevila
ecapdevila@cooley.com
+32 4 702 28 511

Bartholomäus Regenhardt
bregenhardt@cooley.com
+32 2 486 7542

Our recording of January 30 webinar



Cooley Contacts

Patrick Van Eecke and Enrique Capdevila

Cyber / Data / Privacy, Brussels

Learn more >

Patrick Van Eecke
pvaneecke@cooley.com
+32 2 486 7501

Enrique Gallego Capdevila
ecapdevila@cooley.com
+32 2 486 7534

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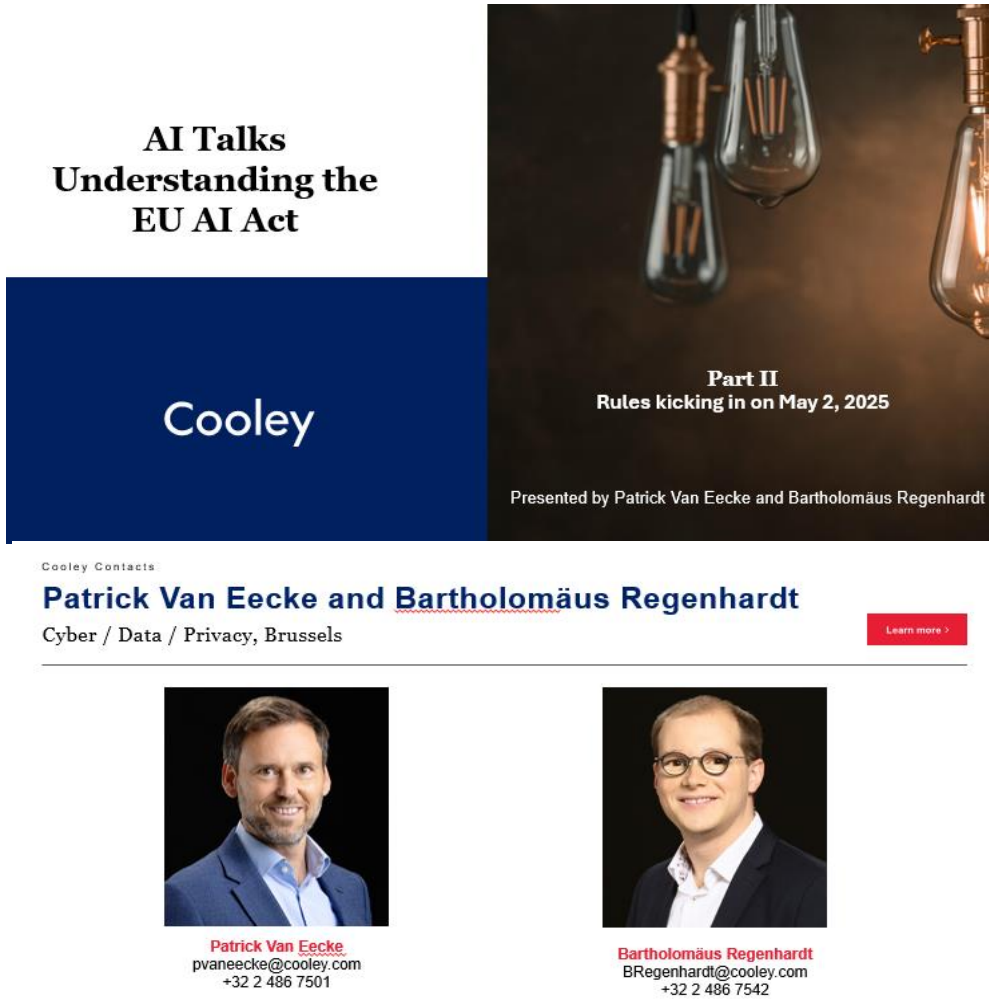

The EU AI Act

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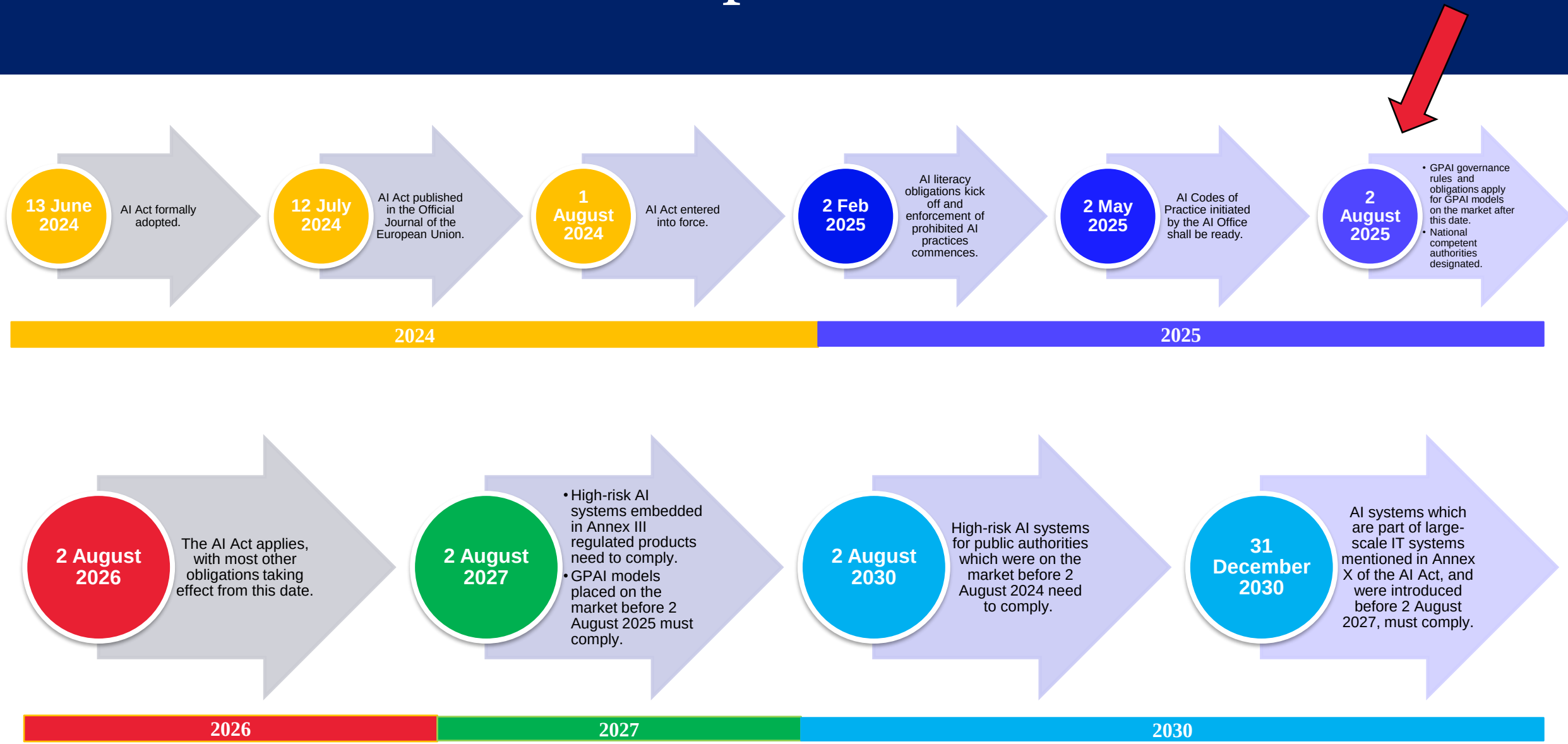
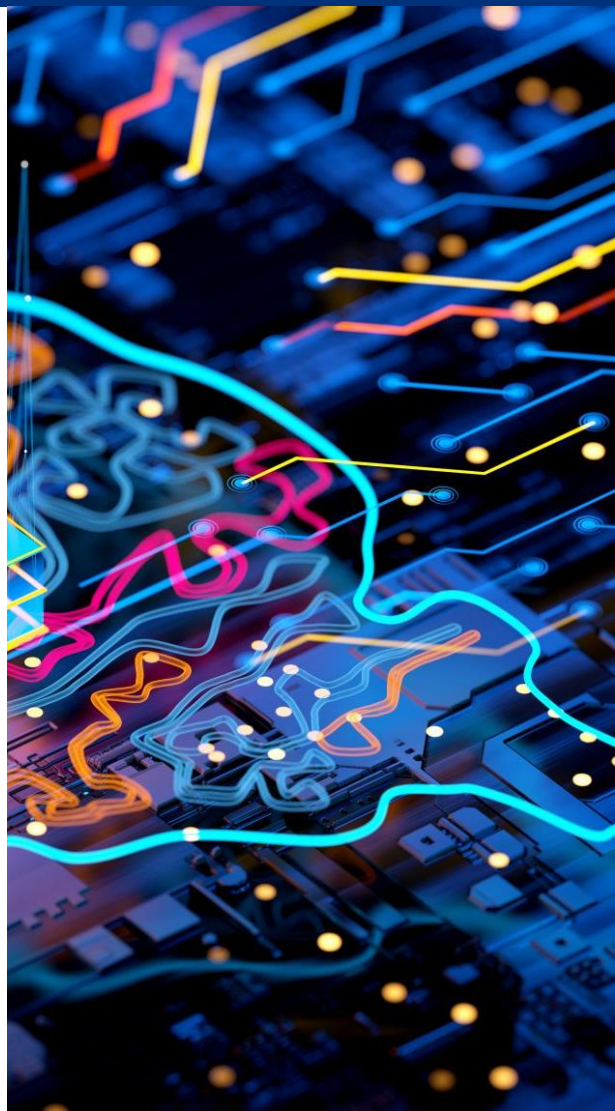
EU AI Act: phased roll-out

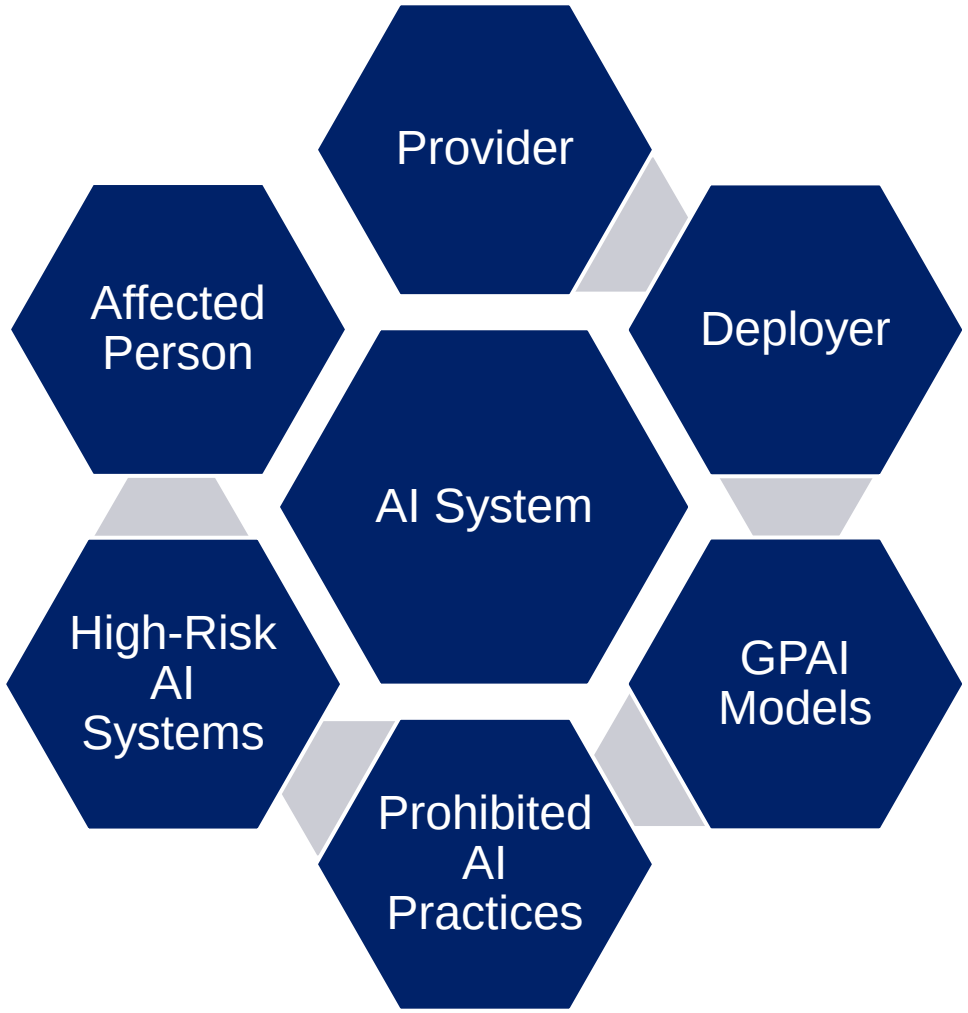


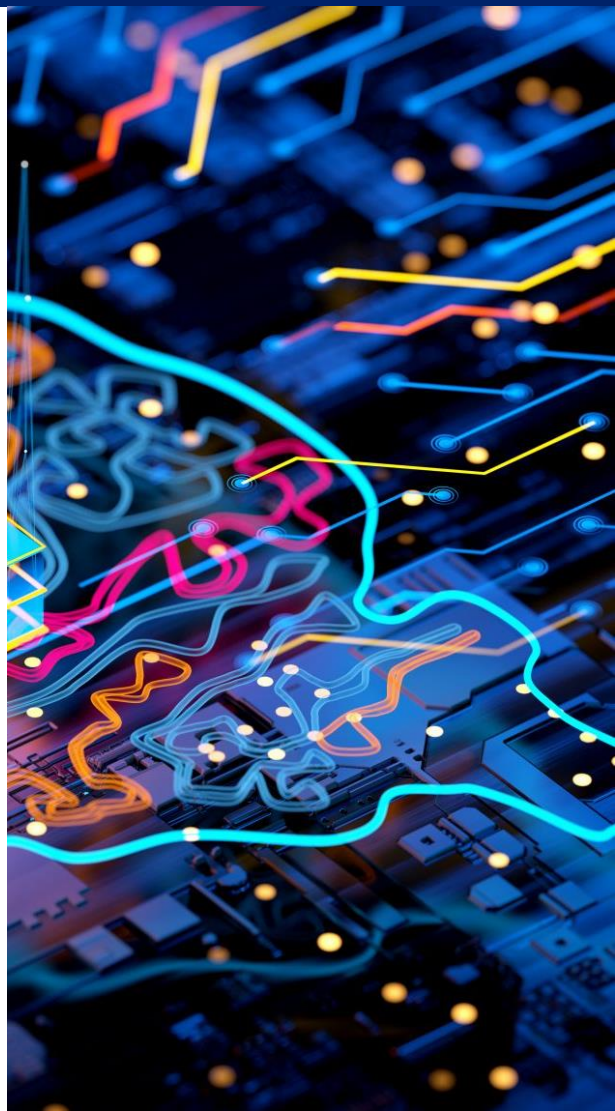
EU AI Act in a nutshell

- **World's first comprehensive regulation of AI:** The European Union Artificial Intelligence Act (the "EU AI Act") is the world's first law to establish a comprehensive regulatory framework for AI.
- **Typical example of EU law**: 450 pages, almost 200 recitals, more than 100 articles and 13 Annexes.
- **Phased rollout:** Full implementation will be in place by 2 August 2026, with some specific requirements only to kick in in 2030.
- **Affects the entire value chain:** Places compliance responsibilities on a wide spectrum of stakeholders, including providers, deployers, importers, distributors, and product manufacturers.
- **Risk based system:** It classifies AI systems into different categories based on the level of risk they pose (unacceptable, high, limited and minimal): the higher the risk that an AI system poses to health, safety, fundamental rights, the environment, democracy and the rule of law, the stricter the rules.
- **Guardrails for general-purpose AI:** GPAI models must adhere to extra binding requirements for risk management, serious incident monitoring, and model evaluation.
- **Fines greater than GDPR:** Failure to comply with the EU AI Act may result in fines up to 35 million euros or 7% of worldwide turnover (whichever is higher), based on the specific violation.
- **Combination of national and centralized enforcement**: with an important role for the AI Office (European Commission) monitoring and enforcing GPAI requirements
- **In practice:** AI solutions for both commercial customer and internal use cases should be assessed against these requirements, including integrations with third party AI solutions for both of those use cases.



New concepts





What has happened in the past 8 months?

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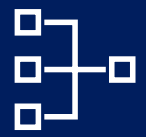
Recent Progress on the EU AI Act: What's Happened Since January 2025



Guidelines on the definition of "AI System"

Guidelines on Prohibited AI practices

AI Literacy Q&A

AI office

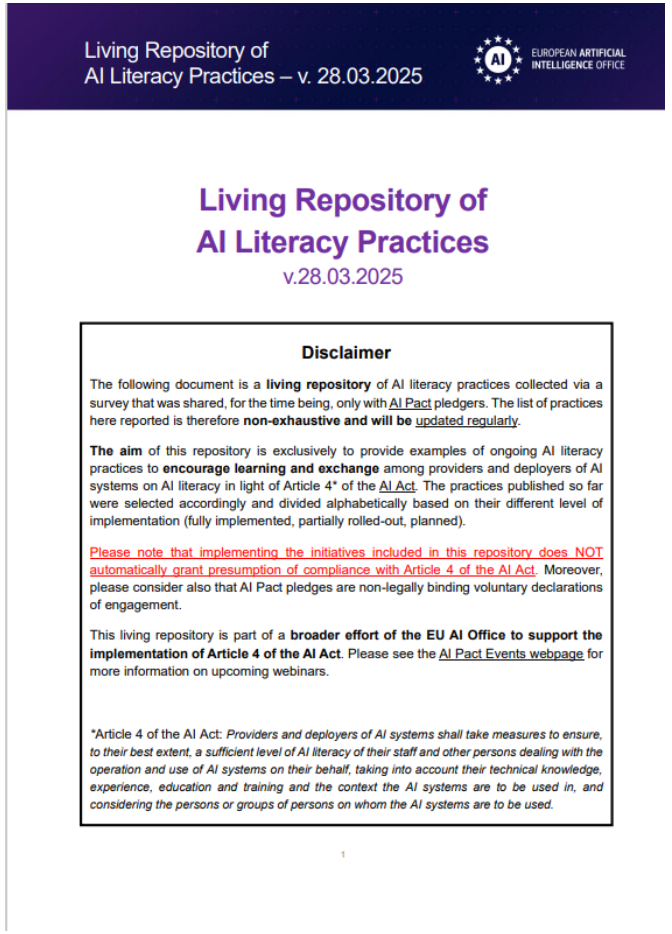
Code of Practice for GPAI models

Since 2 February 2025

- Many companies kicked off their AI Act compliance efforts, by
  - Organizing AI literacy training for their staff (Art.4 obligation)
  - Mapping and assessing their AI Systems for prohibited AI practices (Art.5 obligation)
- Issues companies often confronted with:
  - How to ensure *a sufficient level of AI literacy* in practice?
  - What is an *AI System*?
  - What is a *prohibited AI practice?*

AI Literacy Obligations (art.4)

- AI Office publication
- Latest version: March 28, 2025
- Living repository of the AI literacy initiatives set up by members of the AI Pact, will be updated regularly
- Interesting:
  - Categorized based on implementation status: fully implemented, partially rolled our, or planned
  - Firmwide training plans have been rolled out at various companies.
  - Use of video/podcast resources and written handouts
  - Advanced training resources for technical employees involved in the development and/or maintenance of AI systems
  - No presumption of compliance with Article 4 / AI literacy obligations
- Hyperlink to repository



AI Literacy Obligations

On the AI literacy approach

Status: Fully implemented

Target group: **Organisation's staff**

The AI Literacy Competency Framework is designed to enhance AI understanding across all levels of the organisation, ensuring staff is equipped to engage with AI technologies responsibly and effectively. The framework addresses diverse roles and technical expertise, tailoring learning initiatives to meet specific needs (see below).

- **Leadership**: the focus is on strategic insights, helping decision-makers understand the opportunities, risks, and ethical considerations of AI adoption.
- **Technical teams:** The framework should allow them to benefit from advanced knowledge of AI system functionality, enabling them to design, develop, and maintain systems in compliance with regulatory requirements.
- **Compliance and legal professionals:** The framework should enable them to gain tools to assess AI risk, uphold regulatory standards, and address ethical considerations in deployment.
- **HR teams:** The goal of the framework in this case is to ensure the team learns to navigate inclusivity and fairness in AI-driven decision-making processes, such as recruitment or performance evaluations. Frontline employees, who interact directly with AI systems, receive foundational training to understand their rights, obligations, and the practical impacts of AI in their roles.

The framework recognises the importance of inclusivity and diversity. It emphasises t
datasets, equitable practices, and accessibility for underrepresented groups, includ
minorities, and people with disabilities.

On the AI literacy approach

Status: Partially rolled-out

Target group: Organisation's staff

Our AI literacy practice is designed to be **role-based**. In line with our AI strategy, we have specific roles needed within the organisation to handle our projects. We then determined the unique **tasks and required knowledge of each role**, ensuring that our training is relevant and practical. Our AI literacy program is developed by AI experts, human resources team and team managers. Our practice does not account for specific gender identities, ethnic groups or people with disabilities.

How does the practice take into account the technical knowledge, experience, education, and training of the target group?

The AI literacy program is flexible to accommodate the diverse expertise of the company employees. Our program is finely granulated and **divided according to roles and functions**. We take into **consideration the technical backgrounds of our employees** to effectively address the needs of different teams. Moreover, we prefer interactive workshops for foundational knowledge. The content of each training session is discussed and customised with the training provider to ensure it aligns with our learning requirements and the technical backgrounds of the attendees.

How does the practice take into account the technical knowledge, experience, education, and training of the target group?

The practice is made available through our **e-learning platform** in a language and context that every employee can understand and relate to.

The practice includes an **advanced training program for selected employees that are involved in developing AI products**. This training is focusing on requirements from our Responsible Development Policy that again includes requirements from the G7 code-of-conduct. This policy is being adapted towards AI Act High Risk AI requirements and updates to the advanced training program will be made available after this update.

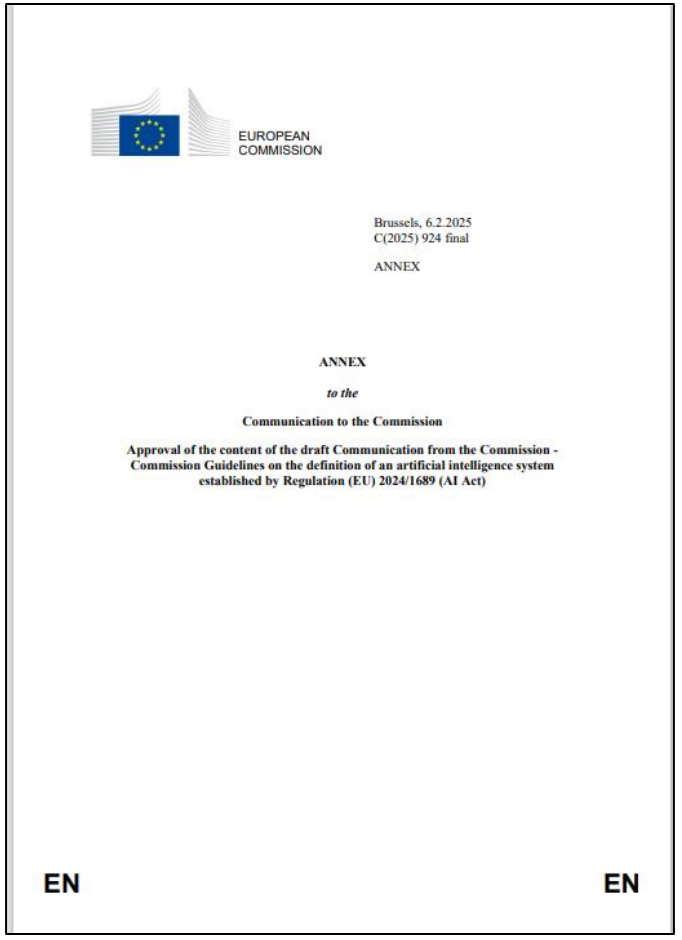
How does the practice take into account the context in which the AI system(s) is/are used?

The basic e-learning training program **is focused on the usage of AI, including risks, as a tool in the daily work**, but not specifically addressing the tasks involved in the development of AI systems. This is addressed in a separate program. Hence, the use and purpose in the basic training program has an outset in daily tasks like **presenting, summarising, or producing information**. The examples are specific for Customer Service, Content Creation and Summarisation, HR, Marketing, IT, Cyber security and Data Analysis. The training also highlights the risk-based approach of the AI Act and the focus on risks, use and purpose.

The **advanced training goes deeper into the requirements from our Responsible Development Policy** based on the G7 Code-of-conduct and will, before august 2025, be updated with requirements from the AI Act for high-risk AI systems with **examples on high risk uses cases from different sectors**, like law enforcement and city surveillance.

Guidelines on the “AI system”

- European Commission publication
- Published 6 February 2025, 12 pages.
- Aims to assist stakeholders, in determining whether a system constitutes an AI system within the meaning of the AI Act.
- Interesting:
  - Not binding. “*Any authoritative interpretation of the AI Act may ultimately only be given by the Court of Justice of the European Union (CJEU)*”
  - *“each system must be assessed based on its specific characteristics”*
  - Will be updated taking into account “*practical experiences, new questions and use cases that arise*”.
- Hyperlink to Guidelines



EUROPEAN COMMISSION

Brussels, 6.2.2025
C(2025) 924 final

ANNEX

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to the

Communication to the Commission

Approval of the content of the draft Communication from the Commission - Commission Guidelines on the definition of an artificial intelligence system established by Regulation (EU) 2024/1689 (AI Act)

EN **EN**

Guidelines on the “AI system”

- 7 criteria to be applied holistically
  - *“Each system must be assessed based on its specific characteristics”*
  - *“The seven elements set out in that definition are not required to be present continuously throughout both the “building” phase and the “use” phase of that lifecycle.”*
  - *“Instead, the definition acknowledges that specific elements may appear at one phase, but may not persist across both phases.”*
- Systems outside the scope of the AI system definition
  - *Recital 12: “simpler traditional software systems or programming approaches and should not cover systems that are based on the rules defined solely by natural persons to automatically execute operations.”*

AI System definition

1. machine-based system
2. designed to operate with varying levels of autonomy
3. may exhibit adaptiveness after deployment
4. that, for explicit or implicit objectives
5. infers, from the input it receives,
6. how to generate outputs such as predictions, content, recommendations, or decisions
7. that can influence physical or virtual environments

Guidelines on “Prohibited AI practices” (Art. 5)

- European Commission publication
- Published 4 February 2025, 140 pages!
- Interesting
  - Specifically address practices such as harmful manipulation, social scoring, and real-time remote biometric identification
  - Provides legal explanations and practical examples
  - Approved, but not yet formally adopted
  - Not binding. “*Any authoritative interpretation of the AI Act may ultimately only be given by the Court of Justice of the European Union (CJEU)*”
- Hyperlink to the Guidelines

EUROPEAN COMMISSION

Brussels, 4.2.2025
C(2025) 884 final

ANNEX

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Communication to the Commission

Approval of the content of the draft Communication from the Commission - Commission Guidelines on prohibited artificial intelligence practices established by Regulation (EU) 2024/1689 (AI Act)

EN **EN**

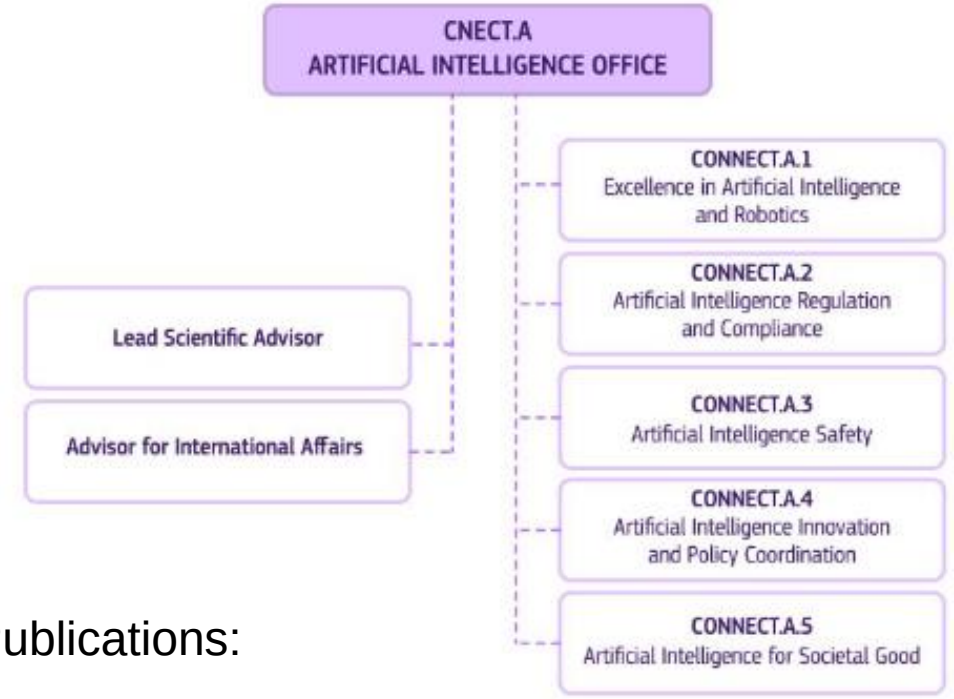
Some examples

Subliminal techniques	An AI chatbot that impersonates a friend of a person or a relative with synthetic voice and tries to pretend it is the person causing scams and significant harms. An AI chatbot promotes self-harm to users or incentivises them to commit suicide or harm other persons or groups of persons by promoting terrorist content or incentivising violence against certain persons or groups of persons (i.e., minorities)
Harmful exploitation of vulnerabilities	An AI system targeting older people with deceptive personalised offers or scams, exploiting their reduced cognitive capacity aiming to influence them to make decisions they would not have taken otherwise that are likely to cause them significant financial harm An AI system that targets young users and uses addictive reinforced schedules with the objective of keeping them dependent on the application
Social scoring	A private credit agency uses an AI system to determine the creditworthiness of people and decide whether an individual should obtain a loan for housing based on unrelated personal characteristics. An insurance company collects spending and other financial information from a bank which is unrelated to the determination of eligibility of candidates for life insurance and which is used, using an AI system, to determine the price of the premium to be paid for such insurance.
Emotion recognition in the workplace or education	Using emotion recognition AI systems during the recruitment process is prohibited. An AI system that infers that an employee is unhappy, sad or angry towards customers (e.g. from body gestures, a frown or the lack of a smile) is prohibited Medical exception: An employer using AI-enabled devices or digital assistants at the workplace to measure anxiety based on measured stress levels when deploying dangerous machines or dealing with dangerous chemicals (due to exceptions for safety and medical reasons)

AI Office

Initiatives from the AI Office:

- AI Literacy and the Living Repository
- InvestAI Initiative
- GenAI4EU Program
- AI Innovation and Policy Coordination



- Publications:
  - Guidance on Prohibited AI
  - Guidance on AI Systems
  - Guidance on GPAI models
- Aims to hire 140 members of staff - fill all positions by end of 2025

What's new?

It's all about GPAI models ...

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What we will cover

Code of Practice for GPAI models

Guidelines for providers of GPAI models

Enforcement

AI Liability

General-Purpose AI (GPAI) Models

- GPAI models = "*an AI model […] trained with a large amount of data using self-supervision at scale, that displays* ***significant generality*** *and is capable of competently performing a* ***wide range of distinct tasks*** *regardless of the way the model is placed on the market and that* ***can be integrated into a variety of downstream systems or applications***"
- At least a billion parameters and trained with a large amount of data using self-supervision at scale
- Examples: Large generative AI models
- GPAI models with **systemic risk**

What are the obligations for providers of GPAI models?

- **Technical information** about GPAI model to provide to
  - **AI Office** and **national competent authorities** (Annex **XI**)
  - **downstream providers** who integrate it in AI system (Annex **XII**)
- **Copyright policy**
- Make publicly available a sufficiently detailed **summary about the content used for training the GPAI model**

Code of Practice for GPAI

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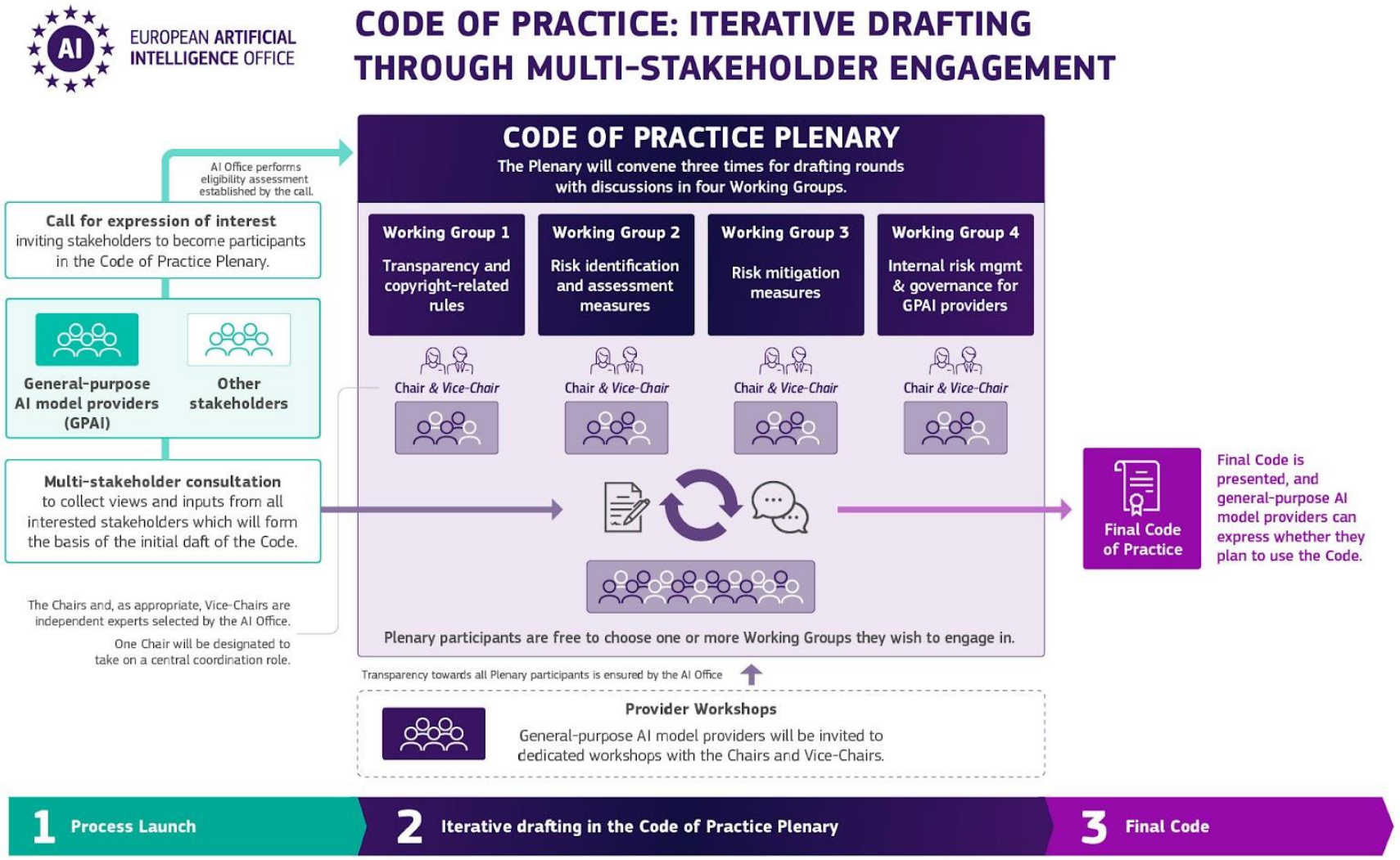
What is the GPAI Code of Practice (GPAI CoP)?

- **Voluntary compliance** framework
- How **providers of GPAI models** (with systemic risk) may comply with their obligations
- The AI Office is facilitating the drawing-up of this GPAI CoP
- **Four working groups** chaired by independent experts
- Nearly **1400 stakeholders** involved
- CoP does not impose new obligations - serves as guidance to help providers meet their existing obligations under the AI Act without creating new ones

Drafting of the GPAI CoP



Drafting of the GPAI CoP

Who will sign the CoP?

More likely or confirmed to sign the CoP ...	Not commented whether to sign CoP ...
ANTHROP\C	Microsoft
Mistral AI	Meta
Google	
OpenAI	

Note that this is based on publicly available information and may be subject to change.

What are the legal effects of the GPAI CoP?

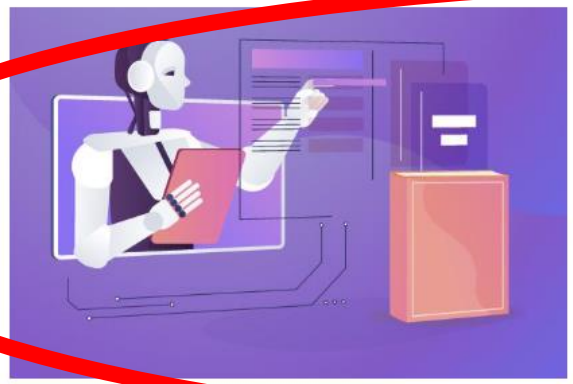
- Adherence = means to **demonstrate compliance** with the AI Act, while

  not **providing a presumption of conformity** with the AI Act

- CoP = temporary tool for demonstrating compliance with the AI Act until harmonized standards are developed and approved (Article 40 AI Act)

  harmonized standards grants a presumption of conformity

- AI Office may take a provider's adherence to the GPAI CoP into account when
  - **monitoring its effective implementation and compliance**
  - **fixing the amount of fines** depending on the specific circumstances



Transparency

The Transparency chapter (PDF) offers a user-friendly Model Documentation Form (DOCX) which allows providers to easily document the information necessary to comply with the AI Act obligation to on model providers to ensure sufficient transparency.

Copyright

The Copyright chapter (PDF) offers providers practical solutions to meet the AI Act's obligation to put in place a policy to comply with EU copyright law.

Safety and Security

The Safety and Security chapter (PDF) outlines concrete state-of-the-art practices for managing systemic risks, i.e. risks from the most advanced models. Providers can rely on this chapter to comply with the AI Act obligations for providers of general-

ANNEX XI

Technical documentation referred to in Article 53(1), point (a) — technical documentation for providers of general-purpose AI models

Section 1

Information to be provided by all providers of general-purpose AI models

The technical documentation referred to in Article 53(1), point (a) shall contain at least the following information as appropriate to the size and risk profile of the model:

1. A general description of the general-purpose AI model including:
   (a) the tasks that the model is intended to perform and the type and nature of AI systems in which it can be integrated;
   (b) the acceptable use policies applicable;
   (c) the date of release and methods of distribution;
   (d) the architecture and number of parameters;
   (e) the modality (e.g. text, image) and format of inputs and outputs;
   the licence.

ANNEX XII

Transparency information referred to in Article 53(1), point (b) — technical documentation for providers of general-purpose AI models to downstream providers that integrate the model into their AI system

The information referred to in Article 53(1), point (b) shall contain at least the following:

1. A general description of the general-purpose AI model including:
   (a) the tasks that the model is intended to perform and the type and nature of AI systems into which it can be integrate
   (b) the acceptable use policies applicable;
   (c) the date of release and methods of distribution;
   (d) how the model interacts, or can be used to interact, with hardware or software that is not part of the model itself, where applicable;
   (e) the versions of relevant software related to the use of the general-purpose AI model, where applicable;
   (f) the architecture and number of parameters;
   (g) the modality (e.g. text, image) and format of inputs and outputs;
   (h) the licence for the model.

Model Documentation Form

This Form includes all the information to be documented as part of Measure 1.1 of the Transparency Chapter of the Code of Practice. Crosses on the right indicate whether the information documented is intended for the AI Office (AIO), national competent authorities (NCAs) or downstream providers (DPs), namely providers of AI systems who intend to integrate the general-purpose AI model into their AI systems. Whilst information intended for DPs should be made available to them proactively, information intended for the AIO or NCAs is only to be made available following a request from the AIO, either ex officio or based on a request to the AIO from NCAs. Such requests will state the legal basis and purpose of the request and will concern only items from the Form strictly necessary for the AIO to fulfil its tasks under the AI Act at the time of the request, or for NCAs to exercise their supervisory tasks under the AI Act at the time of the request, in particular to assess compliance of high-risk AI systems built on general-purpose AI models where the provider of the system is different from the provider of the model.

Any elements of information from the Model Documentation Form shared with the AIO and NCAs shall be treated in accordance with the confidentiality obligations and trade secret protections set out in Article 78 AI Act.

Date this document was last updated: Click or tap to enter a date. **Document version number:** Click or tap here to enter text.

General information		AIO	NCAs	DPs
Legal name for the model provider:	Click here to add text.	☒	☒	☒
Model name:	The unique identifier for the model (e.g. Llama 3.1-405B), including the identifier for the collection of models where applicable, and a list of the names of the publicly available versions of the concerned model covered by the Model Documentation.	☒	☒	☒
Model authenticity:	Evidence that establishes the provenance and authenticity of the model (e.g. a secure hash if binaries are distributed, or the URL endpoint in the case of a service), where available.	☒	☒	☐
Release date:	Click or tap to enter a date. Date when the model was first released through any distribution channel.	☒	☒	☒
Union market release date:	Click or tap to enter a date. Date when the model was placed on the Union market.	☒	☒	☒
Model dependencies:	If the model is the result of a modification or fine-tuning of one or more general-purpose AI models previously placed on the market, list the model name(s) (and relevant version(s) if more than one version has been placed on the market) of those model(s). Otherwise write 'N/A'.	☒	☒	☒

Model properties						AIO	NCAs	DPs
Model architecture:	A general description of the model architecture, e.g. a transformer architecture. *[Recommended 20 words]*					☒	☒	☒
Design specifications of the model:	A general description of the key design specifications of the model, including rationale and assumptions made, to provide basic insight into how the model was designed. *[Recommended 100 words]* If any other please specify:					☒	☒	☐
Input modalities:	☐Text	☐Images	☐Audio	☐Video	If any other please specify:	☒	☒	☒
For each selected modality please include maximum input size or write 'N/A' if not defined	Maximum size: …	Maximum size: …	Maximum size: …	Maximum size: …	Maximum size: …	☒	☐	☒
Output modalities:	☐Text	☐Images	☐Audio	☐Video	If any other please specify:	☒	☒	☒
For each selected modality please include maximum output size or write 'N/A' if not defined	Maximum size: …	Maximum size: …	Maximum size: …	Maximum size: …	Maximum size: …	☐	☐	☒
Total model size:	The total number of parameters of the model, recorded with at least two significant figures, e.g. 7.3*10^10 parameters.					☒	☐	☐
The range within which the total number of parameters falls.	☐1—500M	☐500M—5B	☐ 5B—15B	☐15B—50B		☐	☒	☒
	☐50B—100B	☐100B—500B	☐500B—1T	☐>1T				

Methods of distribution and licenses		AIO	NCAs	DPs
Distribution channels:	A list of the methods of distribution (e.g. enterprise or subscription-based access through existing software suites or enterprise-specific solutions; public or subscription-based access through an API; public or proprietary access through integrated development environments, device-specific applications or firmware, open-source repositories) through which the model has been made available for distribution or use in the Union market. For each listed method of distribution, please	☒	☒	☐

The EU AI Act and the GPAI CoP: Summary

AI Act

- Binding legislation adopted by the EU
- Establishes a comprehensive regulatory framework for AI across the EU
- Introduces a risk-based classification system for AI systems and GPAI models
- Imposes a mandatory obligation on providers and deployers of AI (AI systems and GPAI models)

The GPAI CoP is **a bridge connecting the regulatory goals of the AI Act with the practical needs of AI providers/developers**. Following the GPAI CoP can demonstrate good-faith efforts to comply with the AI Act, potentially reducing the risk of enforcement or penalties.

EU AI Code of Practice

- A non-binding, voluntary framework created to help providers of GPAI models comply with the AI Act – particularly Articles 53 and 55
- Developed by independent experts with broad stakeholders' input (including industry, civil society and academia).
- Offers practical tools, documentation templates, and commitments for:
  - Transparency (e.g., training data summaries, and copyright information),
  - Copyright,
  - Safety and risk management for systemic GPAI models.
- Designed to operationalize the AI Act's legal requirements, making them easier to apply in practice
- Issued on July 10 2025.

Guidelines for providers of general-purpose AI models

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Guidelines on the scope of obligations for providers of general-purpose AI models under the AI Act

- Goals of the Commission Guidelines for GPAI Providers:
  - Determine whether a model qualifies as a general-purpose AI model under the AI Act
  - Assess whether they are considered the provider placing that model on the EU market
  - Understand whether they may benefit from exemptions to the provider obligations
  - Anticipate how the Commission will approach enforcement, especially in the period following 2 August 2025
- **Clear definitions for GPAI models**: An AI model is considered “general-purpose” when trained with over 10^{23} floating-point operations ("**FLOPs**") and capable of generating text (or audio), text-to-image, or text-to-video outputs—providing clarity for developers on applicability
  - FLOPs stands for Floating Point Operations per Second. It is a measure of computational performance (= how many mathematical calculations involving floating-point numbers a processor (or system) can perform in one second.
- **Who is a “provider” and what counts as placing on the market**: The guidelines define when an entity (including those outside the EU) is considered a provider—e.g. if they develop, or have developed, a GPAI model and make it available in the EU, including via integration into downstream systems
- Providers making only m**inor fine-tuning of existing models are generally not classed as new providers**. Only significant modifications—e.g. using more than one-third of original training compute—trigger provider obligations
- **Clarification on the open-source exemption**: Models released under a free and open-source license, including publicly available weights, architecture and usage info, may be exempt from certain documentation obligations—unless the model presents systemic risk

What is a GPAI model according to the Guidelines?

- **Definition:** An AI model trained on large data volumes (often using self-supervision) that can competently perform a wide range of distinct tasks and be integrated into various downstream applications.
- Indicative threshold: A model is likely to be a GPAI model if it:
  - Has training compute exceeding 10^{23} FLOPs, and
  - Can generate text (including code/audio), text-to-image, or text-to-video.
- Given the wide variety of capabilities and use cases for general-purpose AI models, **it is not feasible** to provide a precise list of capabilities that a model must display and tasks that it must be able to perform in order to determine whether it is a GPAI model
- **Exclusions**: Models with high compute but only narrow task capabilities (e.g. transcribing speech, playing chess) are not GPAI models.
- **Lifecycle scope**: GPAI model obligations apply throughout the model's lifecycle - from pretraining through updates, use, and ongoing development.

What is a GPAI model with systemic risk?

- **Definition**: A special subset of GPAI models that have **“high-impact capabilities”**, or pose risks with **significant scale and societal impact** across the EU market (e.g. on health, safety, fundamental rights).
  - it has ‘high-impact capabilities’, namely ‘capabilities that match or exceed those recorded in the most advanced models’ (Article 3(64) AI Act); o ‘based on a decision of the Commission, ex officio or following a qualified alert from the scientific panel, it has capabilities or an impact equivalent to those set out in [the preceding point] having regard to the criteria set out in Annex XIII
- **Automatic classification**: A GPAI model is presumed to have **systemic risk** if its training compute **exceeds 10^{25} FLOPs**.
- **Commission designation**: Even below the threshold, the Commission can **designate a model as systemic-risk** based on expert alerts or observed impact.
- **Notification requirement**: Providers must **notify the Commission** within two weeks if their model meets (or is expected to meet) the 10^{25} FLOPs threshold or otherwise qualifies.
- **Challenging the classification**: Providers may present evidence to **rebut the presumption of systemic risk**, but mitigations alone are not enough to avoid the classification.
- **Ongoing obligations**: Systemic-risk GPAI providers must conduct **continuous risk assessments and mitigation** across the full model lifecycle.

When is an actor a provider placing on the market a GPAI model?

A "provider" is any actor (EU or non-EU) who develops or commissions a GPAI model and places it on the EU market under its name, free or for payment (Art. 3(3) AI Act).

"Placing on the market" is the first time the model is made available on the EU market (Art. 3(9)–(10)); applies regardless of distribution method (e.g. API, cloud, physical media).

Third-country providers must appoint an EU-based authorized representative before placement (Art. 54 AI Act).

- Examples of providers
  - Developer placing model on the market → is the provider,
  - Entity commissioning development and placing model → is the provider.
  - Uploading model to an online repository → uploader is the provider.
- Examples of placement on the market
  - First availability via software library, API, repository, cloud service, or physical media, Integration into chatbots, mobile apps, or internal tools essential to services affecting EU individuals.

Downstream modifiers as providers of general-purpose AI models

- GPAI models integrated into AI systems
  - Integration of a provider's GPAI model into its own AI system = market placement of the model.
  - Upstream actor supplying GPAI model to a downstream actor in the EU → upstream is the provider.
  - If upstream makes model available outside EU but it ends up in an EU-deployed system:
  - Upstream is still the provider, unless it clearly excluded EU use in licensing/terms.
  - Otherwise, the downstream integrator becomes the provider.
- Downstream modifiers as providers of GPAI models
  - Modifications (e.g. fine-tuning) by actors not acting on behalf of the original provider may turn them into providers of a new GPAI model, depending on the scale of changes.
  - Threshold to qualify as provider
    - Modifiers become providers if modification involves >1/3 of the training compute of the original model.
    - If compute details are unavailable:
    - Use 1/3 of 10^{23} FLOP (GPAI threshold) or 1/3 of 10^{25} FLOP (systemic risk threshold), depending on original model classification.
- Obligations for downstream modifiers
  - Obligations apply only to the modified component:
  - Technical documentation limited to the modification.
  - Copyright policy and training data summary only cover new data used.

If a GPAI model is fine-tuned or modified, will this make me a GPAI provider?

Downstream entities that fine-t… …ting GPAI model may become **providers of ne…**

…

Regardless of whether a downstream entity is deemed to be a provider of the **GPAI model** → **must always comply** with obligations for **AI systems**

Guidelines clarify:

- actors become providers only in e**xceptional circumstances**
- specifically, when the modification or fine-tuning uses more than o**ne-third of the original model's training compute**.

Enforcement

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Enforcement?

- What if you do not comply with the AI Act obligations currently in force (Chapters 1 and 2)?
  - Chapter on fines and penalties not applicable yet!
    - Chapter XII on fines and penalties: applies from August 2, 2025 (except art. 101)
    - Article 101 Fines for providers of GPAI models: applies from August 2, 2026
    - Is non-compliance with article 4 (AI literacy) sanctionable anyhow?
  - National authorities not designated yet!
    - Member States must designate their national competent authorities by August 2, 2025.
    - European Commission: "*In this interim period, there will also be no market surveillance authorities to monitor whether the prohibitions are being properly complied with.*"
  - However: claims and injunctions
    - European Commission: "*the prohibitions themselves have direct effect and thus enable affected parties to enforce them in national courts and request interim injunctions against the prohibited practices*"

What do the Guidelines for GPAI providers say on enforcement?

- **Entry into application**: Obligations for providers of general-purpose AI models apply from 2 August 2025, with enforcement powers (e.g. fines) becoming available from 2 August 2026. The AI Office will supervise and enforce compliance under Chapter V of the AI Act.
- **Codes of practice:** Adhering to a Commission-assessed code of practice can help providers demonstrate compliance with Articles 53 and 55. Non-adherence is permitted but triggers stricter oversight and requires alternative documentation (e.g. gap analysis, lifecycle reporting).
- **Proportionate and cooperative enforcement:** The AI Office will adopt a collaborative and staged approach, encouraging early and proactive engagement, especially for providers with systemic risk. Serious incidents (e.g. cybersecurity breaches) must be documented and reported.
- **Compliance transition periods:** Providers with GPAI models already on the market before 2 August 2025 have until 2 August 2027 to comply. Retroactive retraining/unlearning is not required where disproportionate.
- **Initial enforcement expectations:** Between August 2025–August 2026, while obligations apply, the Commission cannot yet issue fines. Nonetheless, providers are expected to take compliance steps and notify the Commission of systemic-risk models.
- **Codes of practice** are temporary mechanisms to support early compliance. In the future, **harmonised standard**s will offer presumption of conformity. If standards are delayed, the Commission may issue common specifications via implementing acts.

AI Liability

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The AI Liability Directive saga!

- **August 2022:** Initial draft of AI Liability Directive was published in 2022
  - To set clear rules for who is responsible when AI causes harm (“ex-post” whilst AI Act is preventing harm)
- **October 2024:** Revised draft
  - Regulation instead of Directive; broader scope; objective liability
- **February 2025:** Withdrawn
  - EU Commission Work Program 2025 listed the AI Liability Directive in the withdrawals section due to the lack of agreement on a final text.
  - The Commission reserved the right to assess whether to table another proposal or choose a different approach
- **April 2025:** Back on the agenda?
  - Civil society organizations (incl BEUC) as well as some EP members push to have AI Liability Directive back on the agenda
- **July/August 2025**
  - Reports from JURI Committee (EP) support having a dedicated AI Liability Directive or Regulation instead of relying on existing rules such as the Product Liability Directive

EUROPEAN
COMMISSION

Brussels, 28.9.2022
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2022

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAME

on adapting non-contractual civil liability rul
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(Text with EEA relevan

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Open Letter to the European Commission on the announced withdrawal of the AI liability Directive

7 April 2025

Dear Executive Vice-President Virkkunen,
Dear Commissioner McGrath,

We, the undersigned representatives of civil society, are writing to express our concerns regarding the European Commission's announcement to withdraw the proposal for a directive on adapting non-contractual civil liability rules to artificial intelligence (AILD).[1]

While the proposal could be improved, we are concerned with this decision and urge the European Commission to immediately begin preparatory work on **new AI liability rules** in line with the Better Regulation policy. The EU needs rules to address the legal gaps left by the AILD withdrawal and ensure a fairer, simpler path to compensation for all people affected by AI systems, including consumers in the EU, in case of harm by an AI system.

Why clear AI liability rules matter

Today, many people face a daunting task if they are harmed by an AI system and try to seek compensation. This happens because it is very difficult, if not impossible, for the large majority of people to prove that it was the *faulty* behaviour of the AI operator that led to a certain harm.

That is too heavy a burden. For example, it is unrealistic to expect a consumer who has been discriminated against by an AI system used by an insurance company to prove that it was this specific AI system that led to some form of harm. Similarly, it is unfeasible for a citizen seeking welfare assistance to demonstrate that a risk assessment system led to an unjustified deprivation of their benefits. This is why any new AI liability rules replacing the AILD should at the very least include a **non-fault based liability approach**.

In addition, while the revised Product Liability Directive (PLD) also applies to AI systems, it is not comprehensive enough. Important legal gaps remain. For example, the PLD does not allow for claims against the deployer of the AI system (e.g. bank, insurance or public institution using an AI system from another provider), which would be the obvious point of contact for the affected person in case of harm. The PLD would not apply in case of specific harms, such as discrimination.

Thanks!

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