A Code of Practice that works for Europe

As representatives of the leading European digital associations representing the digital ecosystem across the continent, we urge the European Commission and Member States to ensure the finalisation of a balanced, effective and pragmatic Code of Practice for General- Purpose AI (GPAI) Models.

GPAI models form a foundational layer powering the AI revolution we have entered. These models are continually developed and modified for a broad range of uses and applications. Their development and diffusion represent an unprecedented opportunity to enhance Europe's competitiveness, drive economic growth, and unlock scientific progress and innovation across all sectors of society. Europe cannot afford to miss out on these benefits.

Recent discussions during the AI Action Summit, building on the findings of the Draghi report, have underscored that Europe stands at a crossroads: the decisions made now on AI governance will determine our continent's ability to reap the benefits of this technology for the years, if not decades to come. With global competition intensifying, and amidst increased international uncertainty, swift and decisive action is essential to ensure that Europe does not fall behind. While an ambitious AI Continent Action Plan is certainly necessary in this context, so is an innovation-friendly legal framework: Getting the implementation of the AI Act right, and in particular the specification of the Code of Practice, is crucial in this context.

The third draft of the Code of Practice represents an encouraging - but still insufficient - step in the right direction towards a pragmatic and proportionate framework that truly works for Europe. Critical improvements, along with further streamlining and simplification remain necessary.

While some flexibility and clarifications have been introduced, the current version of the Code of Practice remains focused on heavy and complicated requirements and reporting obligations that are at odds with the European Commission's much needed agenda of regulatory simplification. In its current form, the Code of Practice risks entangling the intricate and fast-developing AI value chain in an additional layer of complexity, unnecessarily hindering its growth potential in Europe.

The AI Act has established a legal framework aimed at balancing innovation with safeguards, enabling Europe to benefit from trustworthy, cutting-edge technologies. It is critical that the Code of Practice remains aligned with this carefully crafted balance, avoiding unnecessary burdens that could stifle innovation and delay the deployment of transformative AI technologies within the EU. It is critical to get the Code of Practice right for the entire value chain involved in modifying, building on and deploying these models, especially considering the inherent complexities of the different sets of applicable rules. In this context, the legal uncertainty for fine-tuners and modifiers of GPAI models must also be urgently addressed to avoid excessive regulatory burdens on European companies and to preserve European AI innovation.

The urgency is clear: Europe needs to catch up. The rapid evolution of AI demands a regulatory environment that is agile, predictable, and conducive to investment and innovation, ultimately benefiting European citizens and society. Every delay or regulatory overreach risks diminishing Europe's global standing and slowing down the economic and societal benefits AI promises. The success of other commendable efforts to promote AI in Europe, such as the AI Continent Action plan, will dissipate without a proportionate legal framework.

We stand ready to support the European Commission, the AI Office and the Member States in the AI Board in this endeavour, but we call for immediate action to ensure the final GPAI Code of Practice remains proportionate.

Time is of the essence. We have entered the beginning of the AI revolution. Let us work together to ensure that Europe leads in this new age.

Signatories

- Adigital
- AI Chamber
- Allied for startups
- Ametic
- Anitec-Assinform
- Bitkom
- Digital Poland Association
- NLdigital
- Numeum
- ITL (Estonian Association of Information Technology and Telecommunications)
- Sapie (Slovak Alliance for Innovation Economy)
- SP (Confederation of Industry of the Czech Republic)
- Startup Hungary
- TIF (Technology Industries of Finland)
- Technology Ireland

April 1, 2025

On behalf of AAVIT – Association for Applied Research in IT of the Czech Republic, BAIT – Bulgarian Association of Information Technologies, Digital National Alliance of Bulgaria, Digital Poland Association, INFOBALT Lithuania, IVSZ – Hungarian Association of Digital Companies, SAPIE – Slovak Alliance for Innovation Economy and SPCR – Confederation of Industry of the Czech Republic, a group of industry organisations bringing together the digital industry in Central and Eastern Europe, striving for sound digital transformation of the economy in their own countries, the region and the entire European Union as well as for prosperity of modern European society through technological advancements, **we are humbled to address the works on the General-Purpose AI Code of Practice and share our position on the Code's shape, which would allow to achieve European goals in the field of AI.**

Fully understanding and supporting the EU's approach to artificial intelligence centred on excellence and trust, aiming to boost research and industrial capacity while ensuring safety and fundamental rights as well as the aims of making the EU a world-class hub for human-centric and trustworthy AI, we believe that for the Code of Practice to help Europe realise its vision of AI-driven progress, it should be fully aligned with the AI Act and should not exceed AI Act's provisions.

The General-Purpose AI Code of Practice (the Code of Practice) called for in the AI Act in order to provide a mechanism for providers of General Purpose AI (GPAI) models to demonstrate

compliance with the Act, offers us a unique opportunity. **An opportunity to help deliver a robust and effective framework for streamlined compliance with the regulation, in particular by providing clarity, reducing varying interpretations and reducing the overall cost of compliance for model and downstream providers in the EU.**

The most recent (third) draft of the Code of Practice, published on March 11th 2025, demonstrates an understanding of the importance of AI alignment with broader strategic objectives and the EU simplification agenda. **Indeed, the latest version of the Code of Practice is an improvement over the previous draft. However, it is our opinion that it still contains elements that are not present in the AI Act or expand upon it, and as such it does not fully address previously identified critical concerns.** Issues such as copyright, transparency, risk assessment, and governance as well as some post-deployment responsibilities and disadvantageous implications for open source models' providers need further refinement based on feedback to ensure clarity and coherence that the final version of the Code is expected to deliver.

To achieve a solid and practical framework for developing and deploying general-purpose AI models in the EU, remaining outstanding issues must be addressed. We wish to reiterate that the Code of Practice must align with the AI Act's principles and values, including the protection of fundamental rights, while also being easily implemented by providers. As such, it would offer a simpler compliance route than customized alternatives, thus encouraging adherence and facilitating responsible innovation in the AI sector, that the EU needs so direly.

Moreover, it should be noted that a Code of Practice exceeding the provisions of the AI Act and potentially introducing additional requirements and complicating compliance would not be aligned with the recently adopted Competitiveness Compass. The Compass underlines the European Commission's willingness to cut red tape in favour of improving conditions for doing business in Europe and any official document that poses additional requirements would stand against these goals described in Compass.

The key areas, mentioned briefly above, which cause our concern regarding the direction of work on the Code of Practice, as well as our recommendation for Code's further development are described in greater detail below:

I. Opt-outs

The draft Code of Practice refers to "state-of-the-art technologies" for rightsholders' reservations (opt-outs) and there are references to standardisation playing a key role to ensuring compliance with the AI Act.

The robots.txt protocol is primarily used to give web crawlers instructions about which URLs to crawl. It currently allows publishers to indicate if their site should not be crawled, but this does not extend to more granular instructions (i.e., down to a level of specific resources or locations of resources on a site). There are currently no machine-readable protocols for asset-based or location-based opt-outs. If such protocols emerge and are widely recognized, they must be adopted by the entire ecosystem, not just by rightsholders. These opt-outs cannot be considered appropriate if they have limited functionality or are only used by a minority of actors. Any protocols other than robots.txt should be evaluated for effectiveness, trustworthiness, proportionality, and scalability before consideration. Protocols other than robots should only be considered if they are "agreed" by GPAI model developers, not "generally agreed".

II. Memorization

The draft Code of Practice requires GPAI model providers to make reasonable efforts to mitigate "memorization" of training content. This requirement has no basis in the AIA or EU Copyright Directive. The measure itself acknowledges that the risk of such outputs lies at the AI System level, not at the GPAI model. AI Systems are not subject to Article 53 of AI Act and there is no reason to try and artificially port obligations upstream, to GPAI model developers. The measure should be removed and the reference to memorization should be deleted.

III. Findability

The text states that search engine providers should ensure an opt-out does not negatively impact findability on search. This goes beyond the EU Copyright Directive and the AI Act. Presumably this stems from a desire to avoid rightsholders being impacted on search engines should they choose to exercise an opt-out and exclude their content from being used for TDM and to train AI models.

While ensuring content owners retain control over their data is vital, it is not appropriate to impose a blanket obligation that opt-outs have zero impact on search findability in the Code of Practice

as this goes beyond the scope of the AI Act (which covers only training of GPAI models) and creates complex technical and legal challenges. This measure should be removed from the Code of Practice.

IV. Obtain information about 3P data sets

The draft Code of Practice requires GPAI model developers to proactively collect "adequate information" as to whether it includes data crawled by a crawler compliant with robots.txt, irrespective of whether the data is collected or assembled in the EU. This is unclear and out of scope of the AI Act. It is challenging to predict, at short notice, how far this would stifle the use of any datasets. This measure is an attempt to create new obligations for GPAI model providers to police third party data sets. Measures in the CoP should be predictable and concrete.

It should be enough to comply with checking information on the website or to request information from the third party. It should only apply to data collected in the EU in so far as Union copyright law applies. A lack of response or inconclusive response should not oblige the GPAI developer to discard the data.

V. Open Source

The implementation of the Act poses significant risks to the ability of open-source model providers to open their models in the EU. The latest draft of the Code still contains provisions that are impractical for open-source models, for example in terms of how providers should be held accountable for the use of their models and how they should phase their release. Furthermore, the current draft of the Code introduces new definitions of open-source software on which there is not widely accepted scientific or expert consensus.

VI. Risk Taxonomy

Like the AI Act, the draft Code is not rooted in scientific practice and evidence. For example, the Code would require model providers to assess and mitigate the risk of "harmful manipulation," even though such risks cannot be assessed or mitigated at the model level. Furthermore, the "loss of control" metric is generally considered a theoretical risk, and there is currently a lack of adequate scientific evidence of harmful effects of GPAI use in the real world (as opposed to catastrophic effects in areas such as cybersecurity or chemical weapons).

VII. Post-Deployment Obligations

The Draft Code would require providers of GPAI models with systemic risk to provide external researchers with access to such models. This requirement goes beyond the AI Act, which does not require independent external assessors to assess models. In addition, the Draft Code would require model providers to provide access to non-public versions of models, which creates security risks.

VIII. Summary Template

While not formally part of the Code of Practice, the public summary template is tied to the Code's transparency obligations, and therefore should be considered in conjunction with it. The template must strike an appropriate balance regarding the level of detail required.

Certain disclosure requirements in the public summary template are overly technically detailed (specifically those mandating the listing of top domains crawled, the provision of exact dates of collection or size for sub-categories of data, and details on data processing measures). Requiring such granular information could disproportionately affect the protection of trade secrets and may exceed the intended scope of the AI Act, **making compliance with the template technically and commercially unfeasible.** The scope of information to be made public using the template must be consistent with the provisions of the AI Act, to mitigate **the risk of arming competitors with information necessary to undermine the security and integrity of the model, and to avoid further geostrategic risks because this information will be available to competitors. The data processing methodologies are highly proprietary. Requiring a level of information that goes beyond the letter of the Act and is likely to constitute a confidential trade secret would place model suppliers in an untenable position, requiring them to disclose trade secrets and forgo competitive advantages in order to deliver a model to the EU market.**

IX. Independent External Assessors

The AI Act does not expressly require general-purpose AI models with systemic risk (GPAISRs) to obtain "independent external systemic risk assessments". Despite that the draft Code of Practice appears to envisage that external risk and mitigation assessments will be a significantly broader exercise continuing throughout the lifecycle of GPAISRs. External assessors are to be given extensive access to models which may be in contradiction to the safety requirements. These provisions should be removed from the draft of the Code of Practice.

X. Additional Information

The draft Code of Practice appears to extend the AI Act, as it requires providers to take additional steps and provide additional information to regulators and downstream providers. This is not rooted in the AI Act. It is unclear which information is requested here and hence unclear what the basis or justification for such a measure would be. Absent a legal basis and a clear specification of this measure it should be removed.

XI. Models as systems

The draft Code of Practice introduces an obligation to assess models based on their later use in systems or, alternatively, engage in testing together with the downstream provider. The AIA expressly requires model evaluations for GPAI models with systemic risk, however, there is no requirement for evaluations to be completed in the context of one or more AI systems. This requirement has no basis in the AIA.

The way we approach AI will indeed define the world we live in the future. **It is our sincere opinion that a well-structured Code of Practice, strictly aligned with the AI Act itself, not expanding on the Act,** will be a significant stepping stone allowing Europe to enjoy the benefits of AI while ensuring safety and protection. We hope that the above concerns and recommendations will be of value during further work on the Code.

Andrey Bachvarov, Director Digital Transformation and Board Member, DNA Bulgaria

Balázs Vinnai, President of IVSZ, Hungary

Simonas Černiauskas, CEO, INFOBALT Lithuania

Ondrej Ferdus, Director of the Digital Economy and Technology Department, SPCR – Confederation of Industry of the Czech Republic

Jaromir Hanzal, Director at AAVIT, Czech Republic

Vassela Kalacheva, CEO, BAIT Bulgarian Association of Information Technologies

Michal Kanownik, President of Digital Poland Association

Michal Kardos, Executive Director, SAPIE Slovakia