

Japan Business Council in Europe Reply to Inception Impact Assessment on AI

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JBCE welcomes the European Commission's efforts to establish a **common European approach to AI**. This will help the EU's AI market reach scale and avoid legal uncertainty or fragmentation of multiple policies among EU Member States, through protecting our safety, consumer rights and fundamental rights when we use AI applications.

1. Our recommendation

Considering the different levels of risk that could be generated by AI applications, we support the Commission's proposal of a risk-based approach and would recommend **Option 4**. This means that **the EU's consideration on regulation should be limited to high-risk AI only, with detailed requirements being determined by industry via a soft law approach**. The EU must also help avoid duplications between future regulations and current laws and ensure harmonization with international rules and existing regulatory schemes, minimizing the burden on businesses.

2. Scope of high-risk AI

2.1. We welcome the preliminary ideas proposed by the Commission in the White Paper (p. 17 – sector and specific use), but it is essential to develop **clear criteria and definitions through dialogues with industry** to ensure legal certainty and to distinguish between high-risk and low-risk AI. In our view, some examples of non-high-risk AI include, but are not limited to, the following types of applications:

✓ Mobility

Driver assistant safety and monitoring systems, biometric ID to unlock and start automobiles, vehicles navigation systems with voice recognition and telematic services.

✓ Manufacturing

Fiber laser processing machines, intellectualization of industrial robots, real-time data analyzers.

✓ Home, offices & shops

Air conditioning systems, digital still cameras/camcorders (automatic focus, smile detection), emotion visualization, ID card.

3. Requirements on high-risk AI

- 3.1. We welcome the scenario outlined in the IIA p.5 in which the principles and basic regulatory framework are legislated by the EU institutions, but **the details of each requirement should be determined by industry (soft law approach)**. AI is constantly evolving, and it is difficult to pre-determine detailed regulations or to amend them in a timely manner. Therefore a future-proof regulatory framework, rather than specific and sectorial regulations that could stifle the EU's competitiveness in this field, has to be preferred.
- 3.2. **New ex-ante conformity assessments such as testing and algorithms verifications or data sets, inspections and certifications could be disproportionate for certain applications, but we would support** further discussion on how to build a credible assessment mechanism that is capable of checking the trustworthiness of AI applications throughout their life time.
- 3.3. It is important to ensure that there is **no duplication between the future regulatory framework for high-risk AI and existing EU legislation**. We also believe that the establishment of a new independent AI authority could bring low added value: some of the potentially high-risk sectors or AI applications are already subject to strict ex-ante rules, which should continue to be covered under existing law and amended if necessary.

4. Facial recognition and biometric data

- 4.1. There is a broad range of facial recognition technologies and applications that process biometric data. As such, we would warn against adopting a one-size-fits-all approach when considering regulation for these applications. A general ban would compromise innovation and competitiveness for the development of new technologies, products and services.
- 4.2. For AI solutions based on biometric parameters, we encourage the development of a framework that excludes non high-risk applications.
- 4.3. Some remote biometric identification solutions used in public spaces could be identified as high-risk applications. They should be regulated under the EU's future framework on AI, but as long as such solutions are **complying with future requirements, they should be allowed in publicly accessible spaces**.

About JBCE

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