The Draft EU AI Regulation
10 Key Points

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#1 - Not a Surprise

- Chancellor Merkel called for AI regulation comparable to the GDPR (2019)
- President Von der Leyen said AI regulation would be a First 100 Day priority
- White Paper signaled EC work on comprehensive regulatory approach
- European Parliament adopted resolutions urging strong regulation of AI
- European Council also underscored “urgency” to safeguard fundamental rights

#2 - Comprehensive

- "Harmonised rules concerning the placing on the market, putting into service and use of high-risk AI systems in the Union. (Article 1)
- “Harmonised transparency rules for AI systems intended to interact with natural persons and AI systems used to generate or manipulate image, audio or video content.” (Article 1)
- “High level of protection of health and safety and the fundamental rights and freedoms of persons (Article 1)
- “Brussels Effect” is likely - “ratcheting up” of global standards

#3 - Prohibitions on AI

“Prohibited Artificial Intelligence Practices.” Art. 4 (a priority)

(a) Manipulating behavior, opinions, and decisions
(b) Exploitation of vulnerability
(c) Mass surveillance (location, communications, meta data)
(d) Social scoring (China) [no exceptions; also “group privacy” provision]

- (Exceptions for public authorities, with legal authority and safeguards)
#4 - Regulating AI to Promote Good AI and Avoid Evil AI

**Good AI**
- Streamline manufacturing
- Farming more productive
- Model climate change
- Make energy grid more efficient
- Chess programs (!!)
- (No Personal Data, Digital Free Flows with Trust)

**Evil ("High risk") AI**
- Credit determinations
- Scanning CVs
- Asylum applications
- Judicial decisions
- Infringement in fundamental rights
- (More can be added by Commission and EAIB)

#5 - Requirements for High-Risk AI

- Compliance with Requirements *prior to deployment* (Article 7)
- Require Quality Data Sets (Article 8) (ongoing evaluation of ML)
- Require Detailed Transparency (Article 10)
- Require Human Oversight (Article 11)
- Require Robustness, Accuracy, and Security (Article 12)

#6 - Structure Reveals Priorities

I. General Provisions (Arts. 1-3)
II. Prohibited AI Practices (Art. 4)
III. High-risk AI systems (Arts. 5-40, 4 chapters)
IV. Transparency Obligations for Certain Other AI Systems (Art. 41)
V. Remote Biometric ID Systems (Arts. 42-43)
VI. Measures in Support of Innovation (Arts. 44-46)
VII. Governance (EAIB) (Arts. 47-51)
VIII. EU Database for high-risk AI Systems (Arts. 52-53)
IX. Monitoring (Arts. 54-60)
X. Codes of Conduct (Art. 61) - XI. Confidentiality and Penalties (Art. 62), XII. Delegated Acts (Art. 64), XIII. Final Provisions (Arts. 65-69)

#7 - Assessment by Others

- NGOs - "No clear prohibition on mass surveillance" - EDRi, AccessNow
- Experts - "As important as the GDPR" but also "vague"
- Green MEPS - "Good start, but need prohibition on mass surveillance and characteristic (gender, race) identification"
- US Tech - "Europe’s strategy won’t be successful, as it is simply not big enough to compete. Europe will need to partner with the United States.” - Eric Schmidt
- Advocates to prohibit LAWS - "This Regulation does not apply to AI systems exclusively used for the operation of weapons or other military purposes." (Art. 2.4)
**#8 Next Steps**

- April 21 - formal introduction by Commissioner Vestager
- Review by Parliament and Council
- Trilogue to incorporate amendments
- “4,000 amendments” scenario
- Adoption - GDPR or e-Privacy?

**#9 - Related Developments**

- Council of Europe AI Treaty could formally globalize European Values
- UNESCO Ethics Framework will engage Global South
- OECD AI Principles / G20 Guidelines will remain as “soft law”
- OECD/G20 (non-binding) Principles now less significant (occurred also with privacy in 1980)
- US is lagging - no coherent strategy, battle with China

**#10 - CAIDP Assessment**

- Draft EU AI Regulation is Very Good
- How do we make this determination?
  - Assess against CAIDP Findings in AISCI-2020
  - Assess against CAIDP Recommendations in AISCI-2020

**CAIDP Assessment: Findings**

- The OECD/G20 AI Principles have Framed the Global Debate over AI policy [EU AI Reg]
- Governments have Both National Ambitions and Collaborative Goals. [EU members]
- AI Safeguards Build on Data Protection Law. [Both coverage and enforcement]
- Facial Surveillance as an AI “Red Line.” [Article 4]
- Concern About Autonomous Weapons Remains. [LAWS excluded]
- NGOs are Powerful Advocates for the Public. [Strong regulatory approach to AI]
- AI Policy is in the Early Days, but the Pace is Accelerating. [Introduction of EU AI Reg]
CAIDP Assessment: Recommendations

- Establish national policies for AI that implement democratic values [Yes]
- Ensure public participation in AI policymaking and also create robust mechanisms for independent oversight of AI systems [Yes]
- Guarantee fairness, accountability, and transparency in all AI systems [Yes]
- Commit to these principles in the development, procurement, and implementation of AI systems for public services [No, for law enforcement]
- Halt the use of facial recognition for mass surveillance [Yes]

The EU AI Regulation by The Numbers

- The Text:
  - 92 Recitals
  - 69 Articles
  - 13 Titles
  - 8 Annexes

- Word count:
  - “Transparency” - 12
  - “Fairness” - 2
  - “Accuracy” - 15
  - “Privacy” - 8
  - “Natural person” - 68
  - “Algorithm” - 7