17 February 2020

Dear President von der Leyen,

Dear Executive Vice President Vestager,

Dear Commissioner Breton,

I am pleased to share with you **ITI's recommendations on the EU's Strategy on Artificial Intelligence.**

As the global association of the tech industry, ITI advocates for public policies that promote innovation, open markets, and enable the transformational economic, societal, and commercial opportunities that our companies are creating worldwide. Our members represent the entire spectrum of technology: from internet companies, to hardware and networking equipment manufacturers, to software developers.

We believe Europe has a unique opportunity to become a global leader in Artificial Intelligence. The upcoming AI White Paper will be a milestone for Europe's regulatory vision on how to advance innovation and help European companies thrive, while simultaneously addressing public concerns around technological advancement.

ITI and its members share the firm belief that building trust in the era of digital transformation is essential. We strongly believe it is important to preserve an enabling environment for innovation to ensure Europe's global competitiveness and security. Our industry acknowledges Europe's vision on creating a Trustworthy AI for Europe that builds around a human centric approach, and we want to be a constructive partner in realising this vision.

We stand ready to support you in developing a successful framework for AI and remain at your disposal to discuss this further.

Yours Sincerely,

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CEO of ITI

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Global Convergence on AI will benefit the people, society and economy of Europe

ITI's recommendations on the EU's Strategy on Artificial Intelligence

Europe has an opportunity to take an international leadership role on Artificial Intelligence (AI) and other policy issues that are increasingly global. In view of the upcoming adoption of the European Commission's AI White Paper in February 2020, ITI offers the following recommendations **for a successful European AI agenda**, addressing the economic and social implications of technology and the role of our industry, in a manner that supports innovation, while safeguarding the public and individual interests at stake.

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Stakeholders globally are aware of and addressing the main challenges. For instance, there is a recognition of the need to mitigate bias, inequity, and other potential harms in automated decision-making systems. The tech industry shares the goal of **responsible AI use and development**. As technology evolves, we take seriously our responsibility as enablers of a world with AI, including seeking solutions to address potential negative externalities and helping to train the workforce of the future.

Our Recommendations

AI remains an active area of research. AI is a suite of technologies capable of learning, reasoning, adapting, and performing tasks in ways inspired by the human mind. The technology is constantly evolving and improving, as are the tools to address some of the challenges around explainability, bias, and fairness. The EU's strategy should take into account that the potential benefits of AI development are enormous, and should address AI as other technologies, considering the challenge of predicting future advancements.

It is crucial for Europe to not only look at the potential harms of using AI, but also consider the potential social harms of limiting the use of AI, **which may decrease its positive impact on our communities**. Technological innovations bring innumerable benefits to the European economy and society. We are already experiencing the benefits of AI in an array of fields. Startups, small and medium-sized enterprises (SMEs), and larger tech companies have all developed AI systems to help solve some of society's most pressing problems. Many others from across key European sectors are using AI to improve their business, provide better public services and advance ground-breaking research that saves lives. **Technology allows us to address the most pressing societal challenges in areas such as healthcare, public security, and disaster management**. Promoting these advances is no less important than managing the challenges.

The EU should further the ethical development and use of AI *globally* by cooperating with its international partners to promote a shared understanding and common norms. As the AI ecosystem is global and the technology is not developed in regional silos, the most effective means of influencing the debate to advance Europe's AI agenda is to expand the discussion beyond national borders. Europe should move away from an 'AI made in Europe' narrative - many AI products and services are comprised of both European and non-European elements developed in various locations in line with international standards.

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The EU can work towards trustworthy AI for its citizens by ensuring its approach to innovative technologies fosters the region's competitiveness, in turn helping Europe shape global AI governance.

Recognise the significance of Europe's mutual interdependence with like-minded democratic countries, and the importance of shared common values like trust, fairness, explainability, effectiveness, safety, and human oversight - the core principles that need to guide future policy action on AI. There is a valuable opportunity in working together to shape balanced solutions in situations where the application of some of these values conflicts in practice – for example, when explainability (through simpler algorithms) can conflict with accuracy, or human intervention reduces quality results (e.g., in misreading medical scans).

Assessing the need for upgrading the existing EU regulatory framework to enable AI to fulfil its potential in Europe is crucial to identify what legislative gaps exist and extent and manner in which any such gaps should be filled. We value the evaluation of sector-specific legislation that is being carried out by the European Commission. Many ITI members have also engaged in the European Commission's High-Level Expert Group (HLEG) on AI and helped create the ensuing ethics guidelines and policy recommendations; several of our members have also partaken in the AI piloting phase. We encourage the Commission to continue involving stakeholders in crafting the European AI approach, including any regulation.

A balanced framework for responsible use of data is key, as the success of many promising uses of AI will depend to a large extent on the availability of training data. By leveraging large and diverse datasets and increased computing power and ingenuity, AI developers and other stakeholders innovate across industries to find solutions that will meet the needs of individuals and society in unprecedented ways. AI-driven medical diagnostics can alert doctors to early warning signs to more capably treat patients. Increasingly intelligent systems are capable of monitoring large volumes of financial transactions to more efficiently identify fraud. SMEs can gather new insights and improve their business by using AI and data analytics made available to them through cloud services. The more data are available, the more algorithms can learn, and the better AI offerings will be. Data must be of high-quality, credible, timely and available in machine-readable formats. However, most governments still encounter technical and administrative hurdles to make data sets available for AI and they must take different approaches when it comes to the availability of public, business or personal data.

Stringent obligations for data quality and traceability should take into account the significant limitations on the availability of datasets sufficient to train AI systems. The same applies to documentation requirements for accuracy, replicability, and reproducibility. In some cases, the absence of sufficiently large and heterogeneous European datasets may foreclose the viability of critical AI innovations and advancements in Europe without relying on third party data. However, for any training model involving third party datasets, which is a common practice to address the lack of European data availability, it would likely be impossible to guarantee or demonstrate that such data was gathered in accordance with similar European requirements. This reality would have a significant negative impact in the development of the European AI industry - notably SMEs - and on future European research, where no guidelines on data collection for historically created models exist. When evaluating the necessity of potential AI regulation, all actors should also acknowledge the need of building on the GDPR for data collection and processing as a major step to foster a digital trust that is essential for AI acceptance by citizens. Finally, as the AI ecosystem is global and multifaceted, policymakers should also consider that requiring training of AI systems to be based solely on "European data", would likely cause significant fairness and diversity issues, without providing guarantees of higher quality - especially if the system is intended for use beyond Europe.

Context is key in identifying appropriate policies. We support the EU's "human centric" approach which underlines ethical aspects in AI deployment. Our industry is committed to partnering with relevant

stakeholders to develop a reasonable accountability framework. As leaders in the AI field, ITI members recognize their important role in making sure technology is built and applied for the benefit of everyone. **Approaches must be context- and risk-specific and should take into account that not all applications require an all-encompassing fundamental rights-based approach**. First, an essential factor in developing an AI strategy is to properly identify AI itself. Several algorithms have been applied for decades but do not constitute "artificial Intelligence" or "machine learning" systems. The first task is often to determine what is AI and what is simply an a less complex program. Second, some basic AI uses have little or no impact on individuals' rights, such as in the context of industrial automation and analytics to streamline automobile manufacturing or to improve baggage handling and tracking at busy European airports. Third, many other uses – e.g. in medicine, financial services or transport – are often subject to significant sectoral regulation. While it is important to assess If existing, domain-specific EU regulations are exhaustive, it should be recognized that they cover many of the most common concerns.

Prioritise an effective and balanced liability regime. AI presents great opportunities for society in different fields yet raises valid concerns around responsible and safe deployment. The clarification of rules around liability, currently designed for physical products, is an appropriate area of focus. There are also important considerations about finding the appropriate balance of ex-ante, preventive rules and ex-post remedies. We support a framework that adequately compensates victims for damages and provides a clear path for redress. In many cases the current regime will be easily applied in an AI/software context, but there might be cases where rules may have to be reviewed or amended. **Any review will have to take into account the legal and technical specificity of different use cases**. Digital products are developed through a trial and error process aimed at constantly improving products and services, including their safety and security, even after they are made available to the public. If a vulnerability or a harmful attack is detected in a product or service in the market, developers send out patches to mitigate such identified risks. In that sense, applying the exact same rules as for other types of products might be hard.

Support global, voluntary, industry-led standardisation. Standardisation can help form a bridge between AI regulations and practical implementation. The EU should support and safeguard the work and processes of international standards development bodies. Global AI standards can help establish global consensus around technical aspects, management, and governance of the technology, as well as to frame concepts and recommended practices to establish trustworthiness of AI inclusive of privacy, cybersecurity, safety, reliability, and interoperability. Finally, standards must not establish market access barriers or preferential treatment; rather, they should work for the net benefit of the international community and be applicable without prejudice to cultural norms and without imposing the culture of any one nation in evaluating the outcomes/use of AI. Finally, potential ideas for new **ex-ante conformity assessments** that include independent audit and testing by public authorities to ensure that high risk AI applications adhere to EU rules, should carefully consider the practicability and added value of such an approach, taking in account existing sectoral certification processes. While we appreciate the need for strong assurances, it is not at all clear that the existing conformity assessment infrastructure could effectively carry out prescribed testing on what are often among the most socially valuable applications of AI. Practical and capacity challenges would stem from the lack of expertise needed to evaluate datasets or algorithms in sufficient depth, particularly if such evaluation could only be undertaken by Notified Bodies. Finally, giving an independent assessment body access to underlying data used to train a model could also lead to conflicts of laws (e.g. IP and privacy).

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