

THE INTERSECTION OF INNOVATION AND MORAL RESPONSIBILITY

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ABSTRACT

Rapid technological advancements, especially artificial intelligence (AI), present unprecedented opportunities and challenges. This article focuses on the relationship between technological innovation and moral accountability in the context of AI development and application. Drawing on case studies and regulatory material, it discusses how contemporary laws accommodate ethical dilemmas surrounding AI across several legal areas and what is still required to foster innovation responsibly. The article examines the responsibility of developers, corporations, and policymakers to create an environment in which technological advancement does not work against societal values and individual liberties. The article proposes a middle way that fosters innovation without sacrificing accountability in technological building.

Keywords: Innovation, Moral Responsibility, Artificial Intelligence, Legal Implications, Ethical Concerns, Regulatory Frameworks, Responsible Innovation.

INTRODUCTION

The 21st-century transformation has taken place owing to the revolution of technology commenced with breakthroughs in Artificial Intelligence (AI). It is a revolution of technology and also a societal change to evolve the overall way we live as human beings. AI systems are being weaved into sectors from healthcare to finance where they have achieved unprecedented efficiencies and capabilities. AI detects diseases, anticipates patient results, and modifies strategies in healthcare. Across finance, AI algorithms supervise assets and handle investments; in manufacturing, they run complex robots. However, these innovations come with some serious ethical and legal concerns when applied to such important sectors.

One of the concerns currently surrounding AI is how it may perpetuate existing biases and inequalities. When the data change reflects societal biases, if an AI learns from these modified data formulas that mimic but exacerbate these deeply embedded issues in societies — well it comes as no surprise when its application leads for example to discriminating hiring practices,

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lending discrimination, or criminal justice bias. This ranges from AI-driven hiring tools that have been accused of perpetuating gender and racial biases in historical hiring data. The game is rigged, and this has classic equity and fairness concerns that both developers, as well as regulators, should care about.¹

When AI systems are used, they often need to handle and analyse huge amounts of personal data, which raises more privacy concerns. Finally, there are the privacy and security risks to individuals from authorities accessing this data via hacking or on-site. Regulations like the General Data Protection Regulation (GDPR) in Europe try to improve these conditions by controlling how data is managed and maintained.² One caveat to this principle is that the rules themselves need to adapt quickly enough so they do not stifle emergent AI capabilities.

Another crucial issue is transparency. Like a hole in the ground that swallows up everything that falls into it: AI systems constantly take decisions out of the blue and no one seems to have any proper explanation for their processes. This lack of transparency could hurt the trust in AI and make it difficult. AI audits, security, and explainability: These properties can be ensured with legal standards allowing AI systems to be audited where decisions are made transparent or even subjectable when required.³

It is therefore unsurprising that we are similarly wrestling with critical questions at the intersection of innovation and moral responsibility in AI, such as how should law govern technological advance? The legal frameworks need to pull off and find the right balance of incentivizing innovation without bulldozing over core societal values and individual rights. Society can safeguard fundamental ethical principles while also realizing the benefits of AI by addressing these and other ethical, and legal challenges. It is this delicate balance of factors that must be achieved to sow the seeds for a future where AI technologies can ultimately benefit humanity while at the same time not relinquishing our ethical responsibilities.

¹ Simon Chesterman, 'Artificial Intelligence and the Problem of Autonomy' (2020)1(2) Notre Dame Journal on Emerging Technologies <<https://scholarship.law.nd.edu/ndlsjet/vol1/iss2/1/>> accessed 10 August 2024.

² European Parliament and Council Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1.

³ Frank Pasquale, 'The Black Box Society: The Secret Algorithms That Control Money and Information' (Harvard University Press 2015).

LEGAL IMPLICATIONS OF AI DEVELOPMENT

The possibility of AI generating transformative changes is only rivalled by the potential for it to challenge well-established legal norms. Existing legal frameworks are not always staffed or ready to cope with a wave of technology that appears seemingly overnight; which in turn leaves ethical lapses. For example, who holds responsibility when an AI program gets to make life-impacting decisions that were traditionally made by humans? Ambiguity in the regulation of AI accountability can allow for situations where harm caused by AI systems remains unaddressed.

The potential legal implications of AI development are many and varied, for example in cases where liability might be said to attach. If any harm or wrong-doing is done by such an AI system, pinpointing liability can be fraught with both ethical and logical dilemmas. More traditionally, legal frameworks work in a way that individuals or other entities are held responsible for their actions. But in AI the decision is typically more hidden, with developers deciding to add a feature that manufacturers then decide could be helpful and starting rolling out before users are given the chance to say anything. This, in turn, creates an accountability problem. For instance, if an autonomous vehicle results in a car accident, who is at fault – the car manufacturer, the cloud-based platform provider to which your company has outsourced its AI infrastructure and development, or the specific software developer?⁴

Furthermore, a major question is their legal standing. As AI systems become more autonomous and perform tasks requiring decision-making, the question arises as to whether these should be endowed with any legal person-like status. Personhood, on the other hand, would allow these systems to have a legal personality with them being able to make contracts as well as own property and be liable for their actions. But it does beg the question of what constitutes personhood and also whether we want to give legal protections to non-human entities.⁵

On top of that, this has caused worries about privacy and civil rights when AI is used for things like surveillance and predictive policing. Systems trained with AI can sift through huge volumes of data and discover patterns that often predict what will happen next. This benefits crime enforcement but invades the privacy of individuals to a great extent. Artificial

⁴ Simon Chesterman, 'Artificial Intelligence and the Problem of Autonomy' (2020)1(2) Notre Dame Journal on Emerging Technologies <<https://scholarship.law.nd.edu/ndlsjet/vol1/iss2/1/>> accessed 10 August 2024.

⁵ Shawn Bayern, 'The Implications of Modern Business-Entity Law for the Regulation of Autonomous Systems' (2015) 19 Stanford Technology Law Review 93.

intelligence can be used for surveillance, but it will give authorities more power to invade your privacy. However, the legal frameworks must strike a balance between the benefits of AI in enhancing security and individual rights which need to be safeguarded.⁶

Moreover, questions about Intellectual Property (IP) — or the ownership of the AI it takes to develop and deploy bots such as these need answering. Machines are being developed to produce items that they could pass off as their creations, like poems and AI music. It also means that existing IP laws — which are built around human authorship of creative works — can be easily put to the test. Given this ability, current IP laws will have to be re-evaluated to determine the ownership and rights surrounding AI-generated content.⁷

This legal aspect related to the use of AI in workplaces is quite noticeable. Artificial Intelligence and automation are revolutionizing industries and work. AI can improve productivity and has a capacity for job creation, but it also threatens to cause mass unemployment. They need to talk about the impact of AI on work and workers (such as worker rights, retraining opportunities, and social protection), legal frameworks, etc.⁸

So, the legal consequences of AI production are huge and it has a lot to do with it. The speed of development in AI demands the law to keep up as we develop new legal frameworks for ethical and regulatory regimes. One of the essential steps in enabling responsible AI development is to establish a legal environment that supports those goals, through accountability mechanisms; privacy protection measures; rights over IP generated by these systems, and impact on employment. By doing so in advance, society can leverage all the promises of AI with our guiding basic rights and values.

ETHICAL CONCERNS IN AI DEPLOYMENT

The issues include ethical bias, privacy challenges, and the lack of transparency related to how AI functions. If AI algorithms are trained on biased data, they can exacerbate existing biases. In addition, the application of AI in surveillance gives way to important privacy issues and

⁶ Sandra Wachter, Brent Mittelstadt and Chris Russell, 'Why Fairness Cannot Be Automated: Bridging the Gap between EU Non-Discrimination Law and AI' (2021) 41 *Computer Law & Security Review* 105567.

⁷ Andres Guadamuz, 'Artificial Intelligence and Copyright' (2017) 5 *WIPO Magazine* 14

⁸ Farhang Mossavar-Rahmani and Bahman Zohuri, 'Artificial Intelligence at Work: Transforming Industries and Redefining the Workforce Landscape' (2024) *Journal of Economics & Management Research*
<[https://doi.org/10.47363/JESMR/2024\(5\)213](https://doi.org/10.47363/JESMR/2024(5)213)> Accessed on 11 August 2024.

with some invisible nature created by certain AI algorithms opposes transparency as one of the main open governance principles.

Bias is one of the uppermost ethical issues around AI implementation. The AI systems are trained on huge amounts of data as well and that can already mirror bias in society. Without proper consideration, AI can have suboptimal performance and inadvertently encode biases — incorrectly associating women with performing certain roles when these behaviours do not correlate to gender-fronted features. Facial Recognition technology for example is known to have significantly higher error rates for faces with darker skin tones, which could be used deliberately to discriminate the people of colour.⁹ This issue is not confined to facial recognition but extends to various domains, such as hiring practices, loan approvals, and criminal justice. The battle against partiality in AI involves meticulous data curation, constant monitoring, and the adoption of fairness-aware algorithms.¹⁰

Another major ethical concern is that of privacy. Many AI systems need large amounts of data to function well, some including personal and sensitive information. For example, the use of AI in surveillance touches upon deep privacy concerns. This AI-powered surveillance would enable tracking and monitoring of individuals on an unimaginable scale and the potential for abuse. The European Union's General Data Protection Regulation (GDPR), for example, seeks to address these issues by making data processors accountable for the proper management of personal information and giving greater rights to individuals over their data.¹¹ But despite its speed, enforcing rules and preserving privacy in the age of AI advancement is a different story.

One of the key ethical issues with deploying AI is that its results can often lack transparency. Most AI algorithms are black-box models, which means they have a complex decision-making process and cannot be easily interpreted.¹² This opacity can cast a pall of distrust around AI systems and their operational rationale, preventing us from holding Smart AIs accountable for doing the right thing. If, for instance, an AI system used in hiring decides that it does not hire a certain applicant, it can become difficult to understand or challenge the decision due to a lack

⁹ Joy Buolamwini and Timnit Gebru, 'Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification' (2018) 81 Proceedings of Machine Learning Research 1.

¹⁰ Sandra Wachter, Brent Mittelstadt and Chris Russell, 'Why Fairness Cannot Be Automated: Bridging the Gap between EU Non-Discrimination Law and AI' (2021) 41 Computer Law & Security Review 105567.

¹¹ European Parliament and Council Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1.

¹² Frank Pasquale, 'The Black Box Society: The Secret Algorithms That Control Money and Information' (Harvard University Press 2015).

of transparency. To guarantee AI systems are auditable, and decisions can be contended when appropriate there need to be legal standards of transparency and explainability.

In addition, an ethical implementation of AI is predicated on the avoidance of abuse and negative externalities. AI systems can be used for unintended purposes, leading to ethical dilemmas. Deepfakes that are used for disinformation provide a perfect example: technological tools built for benevolent purposes can be reappropriated to perpetrate evil. The trick is to be able to anticipate and minimize these risks, sometimes even prevent them through a compliance control mechanism or ethical AI guidelines.

To sum up, the range of ethical concerns related to AI deployment is broad and necessitates comprehensive efforts. The application and deployment of AI include bias, privacy, and transparency whether those issues are addressed by careful data management or strict privacy protections (or both) is a subject for discussion — as well as legal standards for explainability. This way, the societal benefits of AI can be realized which are built on respect for basic values and rights.

CASE STUDIES & EXISTING REGULATORY FRAMEWORKS:

Application of this ethics to current case studies such as the use of AI in predictive policing and healthcare diagnostics helps students understand how these ethical concerns play out in concrete practice. These new regulations, which you already know about and understand as GDPR (General Data Protection Regulation) of the European Union or even what is proposed in the AI Act provide a bit more ideas on how laws are moving towards resolving these. Nevertheless, this is very early days and these regulations are easily outrunnable by technology.

One example that is often used is predictive policing, an AI method used by police. AI algorithms are sorting through huge amounts of data to figure out where crimes are likely to happen. This helps the cops better focus their resources. But this step has caused some serious ethical issues. Some studies have found that predictive policing tends to accentuate the biases already inherent in law enforcement data, resulting in the over-policing of minority neighbourhoods.¹³ Inspired by this there have been demands for greater transparency and scrutiny in the deployment of AI within police forces. Summary example: One of the largest issues with these predictive policing programs comes from their biased results -- A case study

¹³ Andrew G Ferguson, 'The Rise of Big Data Policing: Surveillance, Race, and the Future of Law Enforcement' (New York University Press 2017).

in Chicago found that a data-driven algorithm designed to predict crimes unfairly targeted African American and Latino communities.¹⁴

In healthcare, AI diagnostics has been shown to transform medical expertise by providing accurate and earlier diagnosis. These cognitive systems can give insight to doctors in their analysis of medical images and patient data from the mainframe, detecting diseases like cancer sooner than human counterparts. Nonetheless, they also raise ethical and legal dilemmas about patient privacy as well as information protection on the use of AI in the healthcare sector. AI systems require massive amounts of patient data to be collected and analysed, making it imperative that this data remains protected in order not only to uphold the patient's trust but also due to privacy laws.¹⁵ The potential for AI to misdiagnose cases further emphasizes the importance of accountability measures in both diagnosis and any harm that might be generated through its actions.

One important regulation that tackles these ethical issues is the European Union's General Data Protection Regulation (GDPR). The GDPR fundamentally changed how personal data is processed and protected, it vastly influenced more privacy rights to individuals.¹⁶ It establishes transparency and robust security measures around the processing of personal data. The GDPR also recognises 'data protection by design and by default' as a core concept, effectively requiring organisations to develop new technologies — such as AI— that place privacy high on the agenda.¹⁷

Moreover, the European Commission has announced a draft regulation called the Artificial Intelligence Act to establish an all-inclusive legal framework for AI — next in line after GDPR. The AI Act classifies AI systems into risk categories and establishes different requirements for their permitted use. Systems using high-risk AI, such as those in critical infrastructure and healthcare, will face tougher regulations; they must meet additional requirements for transparency and accountability and provide information explaining how a system makes a

¹⁴ Aaron Tucek (*Chicago Unbound - Chicago Law Faculty Scholarship*)

<<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1636&context=ucf>> Accessed 11 August 2024.

¹⁵ Marcello Ienca and Effy Vayena, 'On the Responsible Use of Artificial Intelligence in Health Care' (2018) 320(19) JAMA 1975.

¹⁶ European Parliament and Council Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1.

¹⁷ Paul Voigt and Axel von dem Bussche, *The EU General Data Protection Regulation: A Practical Guide* (Springer 2017) 242.

decision.¹⁸ However, with the AI Act yet to be passed in its final form and delivered on such ethical goals or challenges concerns around predicting reforms set out within the Act remain.

However, there is widespread agreement that even these regulatory responses cannot keep pace with the breakneck speed of AI innovation and the explicit need for an agile policy environment. In the case of ostensibly overoptimistic regulatory policies that are too strict, they squelch progress and innovation in early-stage AI applications without considering changing circumstances. Policy-makers, technologists and stakeholders must engage in continuous dialogue to prompt the growth of legal frameworks that strike the right balance between AI's benefits and fundamental rights as well as ethical principles.

THE ROLE OF STAKEHOLDERS

It is the role of developers, corporates and policymakers to make sure that innovation adheres not only with tech trends but also with a moral responsibility. Ethical considerations should be at the core of how developers design and build AI systems. Companies should embed ethical applications of AI in their corporate social responsibility (CSR) practices. Policymakers, however, must write rules that foster innovation while ensuring these advances comply with the societal values and individual rights we hold.

Developers are the vanguard of AI innovation and have an ethical obligation to design systems that can be justified, transparent and responsible. For example, ethically creating AI means ensuring that bias is managed effectively and having rights to transparency and security of user data. To reduce and detect biases, developers should use fairness-aware algorithms to check AI models for discrimination on an ongoing basis.¹⁹ Developers must also prioritize transparency, ensuring that AI systems are both explainable and allow their decision-making process to be understandable by users. This is especially true in high-stakes branches like criminal justice and healthcare, where AI decisions could have serious consequences for people.²⁰

Companies that use AI systems also have a big role to play in encouraging the right kind of ethical usage through an emphasizing CSR Best Practice Guide. AI CSR is how to develop policies, practices and governance mechanisms to ensure that AI benefits society. This involves

¹⁸ European Commission, 'Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)' COM (2021) 206.

¹⁹ Sandra Wachter, Brent Mittelstadt and Chris Russell, 'Why Fairness Cannot Be Automated: Bridging the Gap between EU Non-Discrimination Law and AI' (2021) 41 Computer Law & Security Review 105567.

²⁰ Ryan Calo, 'Artificial Intelligence Policy: A Primer and Roadmap' (2017) 51 UC Davis Law Review 399.

setting up governance frameworks for AI alongside cascaded principles of ethical deployment, reskilling the workforce on how to work with responsible AIs and fostering stakeholder dialogue addressing risks associated with artificial intelligence. Tech companies like Microsoft and Google, for example, have established AI ethics boards to supervise the building and usage of their artificial intelligence technologies. Additionally, companies need to be open about their use of AI and have mechanisms in place if there are ethical concerns around issues like bias or invasion of privacy.

Policymakers will be crucial in developing a regulatory environment that is both conducive to responsible AI development and protective of our societal values and individual rights. Good regulation does not merely dictate how AI must be developed or deployed — it also ensures that its standards are enforced. The European Union’s proposed AI Act is an example of such regulatory efforts. The AI Act classifies the uses of artificial intelligence, depending on how “risky” those applications are; and stipulates requirements that must be met by high-risk AI systems designed to guarantee an aforementioned transparency & accountability level.²¹ Policymakers must also ensure that regulations are flexible and responsive to changes in technology so they do not inadvertently impede technological progress. It necessitates continual dialogue with AI developers, corporations, and society to tackle next-generation ethical challenges.

Thus, stakeholder involvement in aligning AI innovation with moral responsibility is multifaceted and interdependent. When we build and deploy AI systems, developers need to take ethical issues into account. Hence, businesses need to practice CSR thoroughly in the safe utilization of AI and social influences. Regulations need to be written and enforced in such a way as to support innovation, but at the same time protect basic societal values or individual rights. Where they should come together to establish an agreed-upon model through which responsible AI can be developed and provide benefits while limiting ethical concerns.

TOWARDS RESPONSIBLE INNOVATION

The road to responsible innovation is not as clear-cut. Indeed, legal frameworks need to be flexible but at the same time, they must remain on their feet when dealing with the intricacies that come along with AI. That includes introducing strong mechanisms of accountability, and transparency and ensuring respect for human rights while designing the AI systems. The efforts

²¹ European Commission, 'Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)' COM (2021) 206.

of all stakeholders are paramount in a shared effort towards achieving an environment where technological evolution and moral responsibility can co-exist.

AI is evolving quickly, and legal frameworks need to adapt. The problem seems to start with the lack of flexibility in regulation — a feature not just any earmarked taxi service but probably many new services want. However, these frameworks should also be durable enough to keep accountability and safeguard the collection of societal values. One example is the European Union's General Data Protection Regulation (GDPR) which, among other things, provides a good anchoring point when it comes to data protection and privacy; important considerations relative to AI. The GDPR requires transparency regarding the processing of personal data and provides new rights to individuals over their data.²² However, ongoing updates and changes are required to deal with the dynamic nature of AI technologies and associated applications.

However, accountability mechanisms are critical to ensuring the ethical use of AI. Clear lines of accountability help to reduce the risk and respond when AI systems inflict damage. Accountability for Algorithms — Coming up with a theory of “algorithmic accountability,” this view argues that if an institution uses AI, they should explain what factors were involved in the decision-making process and why such conclusions. This involves developing the kind of mechanisms required for auditing AI systems and ensuring they are operating according to ethical and legal standards.²³ In addition to technology-focused approaches, liability systems need to be developed that specify who is liable when AI harms people and how compensation can be given to victims. For instance, the debate on the EU's AI Act involves clauses about risk management and liability of high-risk systems post-market to enforce accountability.²⁴

Another key pillar of responsible innovation in AI is transparency. Achieve trust and oversight, this is only possible when the decision-making process is how you are reaching from input data, that level of transparency can bring trust between key stakeholders which are users as well regulators. Enhancing 'Transparency': A Case for The Right to Explanation under GDPR: The "right to explanation" — arguing that individuals have the right to receive meaningful information about the decisions they face rather than overly vague pieces or clear-cut

²² European Parliament and Council Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1.

²³ Bryce Goodman and Seth Flaxman, 'European Union Regulations on Algorithmic Decision-Making and a “Right to Explanation”' (2017) 38(3) AI Magazine 50.

²⁴ European Commission, 'Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)' COM (2021) 206.

conclusions made by an algorithm is a step in increasing transparency.²⁵ However, the true transparency of AI is technical and can only be realized through explainable AI that seeks to make decisions by an algorithm interpretable.

Human Rights shall be respected, in the design and deployment of AI. The inevitable use of AI requires the systems to be designed keeping in focus, human dignity, autonomy and privacy. The Guiding Principles on Business and Human Rights from the United Nations is a framework for addressing technology-based infringements of human rights.²⁶ Companies and developers should conduct human rights impact assessments for AI systems to identify, prevent, mitigate or remedy potential risks.

Task-sharing among developers, businesses, policy-makers and civil society is necessary to give birth to an inclusive plan of action on AI innovation. Partners should continue their conversation to surface areas of potential ethical challenge and build solutions. For example, multi-stakeholder initiatives such as the Partnership on AI pool together a range of stakeholders to advance ethical principles in their applications.²⁷

Responsible AI Innovation must therefore be comprehensive and collaborative. Legal frameworks should be flexible and robust so they can hold everyone accountable while protecting transparency, and human rights. If stakeholders cooperate, an environment that is conducive to successful technological development following ethical guidelines can be established by balancing benefits with risks.

CONCLUSION

When we try to join innovation and moral responsibility with AI, what do the answers look like? With the rapid advancement of AI technologies and their integration into various facets of society, we must establish legal frameworks that encourage innovation while respecting fundamental ethics. While this fast relocation presents the globe with unprecedented possibilities, it also places its collection of risks as well as difficulties; needing a balanced regulatory strategy to advertise technical innovation in AI while being considerate and responsible regarding moral worries.

²⁵ Sandra Wachter, Brent Mittelstadt, and Chris Russell, 'Counterfactual Explanations Without Opening the Black Box: Automated Decisions and the GDPR' (2018) 31(2) Harvard Journal of Law & Technology 841.

²⁶ United Nations, 'Guiding Principles on Business and Human Rights' (UN 2011).

²⁷ Partnership on AI, 'About Us' <<https://www.partnershiponai.org/about-us/>> accessed 2 August 2024.

These legal frameworks need to be sufficiently flexible so that as those advances occur, they can do so without sacrificing the ability of downstream actors (like federal agencies) to develop AI innovations. This will be achieved in part through the flexibility to adapt rules and regulations as AI technologies change over time. At the same time, we need to ensure that those frameworks are also strong enough to hold institutions accountable, respect individual rights, and enable transparency. The GDPR and the AI Act proposed by the EU, for instance, present basic guidelines on data protection as well as ethical AI use. Yet as AI technology matures, the regulations will have to be updated continuously for them to effectively keep up with new challenges.²⁸

Fostering a more responsible innovation culture necessitates addressing ethics at the heart of AI development. Collaboration among developers, corporations and policymakers is essential to ensure that new AI systems are developmentally respectful of human rights and consistent with societal values. A set of ethical principles guiding the development process, as well as excellent mechanisms for monitoring and tackling potential harms are needed. Integrating these principles into the design and implementation of AI will help mitigate risks while maximising benefits for people.

In sum, ensuring the benefits of AI and protecting core ethical values means truly addressing this problem from many different angles. With a culture of responsible innovation and smart regulation, we can help society navigate the challenges these technologies pose. This nuanced perspective will help us capitalize on the technical potential of AI, but also that its research and deployment are in line with accepted ethical principles, thus fostering a world where progress through technology may continue alongside moral accountability.

²⁸ European Parliament and Council Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1; European Commission, 'Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)' COM (2021) 206.