NEWS MEDIA EUROPE

Principles of responsible Generative Artificial Intelligence in the EU

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The rise of Generative Artificial Intelligence (GAI) brings uniquely exciting opportunities that the media sector embraces. Innovations such as GAI already play a decisive role in helping news media inform the public and develop new services. We expect that such technologies will unlock important growth opportunities for our industry.

However, GAI also raises questions for the media as it impacts not only content production, but also monetisation, the way citizens access information, and trust in journalism. GAI also raises questions about possible harms to society, ranging from harmful content such as disinformation to outright illegal acts such as copyright infringements, privacy violations and breaches of product safety rules.

Looking beyond the adoption of the AI Act, News Media Europe therefore urges EU decision makers to endorse the development of responsible GAI systems through the following principles[1]:

1) **Transparency of content used to train AI must be the foundation of GAI systems.** Given the harms and illegal acts that GAIs can give rise to, transparency is necessary not only for rightsholders but also for citizens, regulators, consumers and any other interested party to enable the exercise of oversight and accountability. Transparency must urgently be tackled in the AI Act's implementation by the EU AI Office and the reporting templates it must deliver. Publishers need a clear and granular indication of what content is exploited, regardless of whether authorisation has been granted, and for which specific purposes. The black box status quo of GAI systems is unsustainable.

2) **GAI systems should address disinformation risks and promote trustworthiness.** GAI systems should be designed to promote trustworthy and reliable sources of information produced according to professional standards. GAI developers and deployers must ensure that AI generated content is accurate, correct and complete. Original works such as news articles must not be misrepresented to preserve their value and integrity. GAI deployers must also participate in EU and national efforts to tackle disinformation.

3) **Deployers of GAI systems must be accountable for the output of their systems.** Risks for public trust in creative and media content must be recognised, including cases where GAIs improperly attribute false information to content creators such as news publishers. Deployers of GAI systems should not be shielded from liability for their outputs by safe harbours as they do not – and should not – qualify as hosting services under the Digital Services Act.

4) **GAI systems should not create unfair markets or competition outcomes.** Regulators should ensure that GAI systems are designed, trained and deployed in compliance with well-established competition laws and principles. The deployment of GAI systems by tech giants must not be used to entrench their market power, facilitate abuses of dominance or exclude rivals or even content creators from the marketplace. It is imperative that the deployment of GAI systems by gatekeepers across core platforms services is specifically scrutinised under the Digital Markets Act.

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[1] These principles are inspired by global principles supported by publishers worldwide and the World Association of News Publishers (link).

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5) **The rights of content creators must be respected and permission sought.** Intellectual property is the economic foundation of Europe's cultural sector. GAI systems must recognise the prerogative of rightsholders to allow or prohibit the use of protected works, alongside contractual restrictions or limitations introduced. It is urgent that cases of reproductions are firmly investigated and addressed by relevant authorities. More generally, given the use cases of content by GAI systems, it follows from the Copyright Directive that they have a positive obligation to seek rightsholders' authorisation.

6) **Text and Data Mining (TDM) should function based on opt-in instead of opt-out.** The TDM provisions of the Copyright Directive were not designed to deal with GAIs. In light of the slow and uneven development of opt-out solutions, the Commission should reconsider whether the current TDM regime is fit-for-purpose. This assessment should consider whether opt-outs are an inappropriate burden to be placed on rightsholders rather than platforms, the lack of shared standards and of granularity in existing opt-outs solutions, and the legitimate interests of rightsholders. In any event, authorisation is required under current rules for exploiting paywalled content.

7) **GAI systems must recognise and promote the principle of fair remuneration.** Rightsholders are entitled to negotiate for and receive fair remuneration for the use of their protected works. This principle should also apply to past and historical use of content from which benefits have been derived. In addition, it is essential that existing licensing markets for rightsholder content, such as Collective Management Organisations (CMOs) authorised under the Copyright Directive, are recognised and used. Fair remuneration should apply to GAI systems which use content for purposes such as training and surfacing specific information in response to user queries.

8) **Due diligence and KYBC obligations to fight GAI piracy.** GAI systems scrape the entire internet to ingest content, with a high probability that works are sourced from pirate websites. Not only are many GAI systems based outside of Europe, but so are many pirate websites that illegally reproduce rightsholder content. GAI systems must therefore observe due diligence processes and the merits of a Know-Your-Business-Customer (KYBC) or "know your sources" obligation on GAI systems should be assessed. The new Commission should consider this proposal and the co-legislators should explicitly prohibit the scraping of content from pirate websites.

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