



Brussels, 6 June 2023

Joint letter from European and International organisations of authors and performers on the AI Act Proposal

As the European Parliament (EP) is due to adopt its final position on the AI Act proposal, the undersigned European and international organisations authors' and performers' urge Members of the European Parliament to reconsider the EP approach to Article 52, paragraph 3 of the AI Act proposal to preserve the value and veracity of human creation.

On 11 May 2023, the Committees on Consumer Protection (IMCO) and Civil Liberties, Justice and Home Affairs (LIBE) adopted several compromises and amendments to the draft European AI Act. We very much appreciate the efforts made by those committees to address generative AI and foundational models with certain transparency obligations on the “input” side. However, we still have major concerns on certain exceptions to transparency in the current wording of Article 52 paragraph 3 (“deep fakes”), which have wide-ranging implications for authors, performers and other creative professionals, as well as our democratic societies at large. We urge decision-makers to substantially revise Article 52 paragraphs 3 and 3a) **to make sure that AI systems can be developed and used in a way that respects the value of human creation and protects European citizens from the risk of synthetic, but very realistic, disinformation.**

All deep fakes, **irrespective of whether they are based on consent or not**, should be subject to mandatory and strict labelling requirements as they are equally likely to confuse consumers and citizens about the veracity of what they read, listen to or watch and trick them into thinking that what they experience is real. There should be no exception from this rule, other than when use of an AI system that generates or manipulates text, audio or visual content is **authorised by law** (as in certain law enforcement circumstances).

Enabling deep fakes to go unnoticed, in the name of freedom of expression or freedom of the arts and sciences, is a very dangerous and slippery path to walk. Labelling obligations are in no way preventing these freedoms to be enjoyed, whereas just about any distorted version of reality may be justified by such broad, vague, and all-encompassing exceptions.

We firmly maintain that there should be **no carveout to the transparency obligation** for when deep fakes are made or used in the context of an “*evidently creative, satirical, artistic or fictional cinematographic, video games visuals and analogous work of programme*” other than the recognition that such disclosure should be complied with in a manner that does not hamper the display of the work.

Furthermore, **we resolutely request that any such generative or manipulative content shall unequivocally be based on informed and explicit consent, except when the law authorises certain uses** (such as for satirical use, parody or pastiche) **without consent**. Given the heavy gendered dimension around the use of AI for deep-faking purposes and the fact that nonconsensual deepfakes can have devastating physiological and reputational impacts, we believe that this requirement should be strengthened by granting the victims of unauthorised deep fakes access to affordable, effective and expedite **means of redress and compensation**.

We therefore call on members of the European Parliament to consider adopting instead the following language, in line with the corresponding recital 70:

Article 52

1. Providers shall ensure that AI systems intended to interact with natural persons are designed and developed in such a way that the AI system, the provider itself or the user informs the natural person exposed to an AI system that they are interacting with an AI system in a timely, clear and intelligible manner, unless this is obvious from the circumstances and the context of use. Where appropriate and relevant, this information shall also include which functions are AI enabled, if there is human oversight, and who is responsible for the decision-making process, as well as the existing rights and processes that, according to Union and national law, allow natural persons or their representatives to object against the application of such systems to them and to seek judicial redress against decisions taken by or harm caused by AI systems, including their right to seek an explanation. This obligation shall not apply to AI systems authorised by law to detect, prevent, investigate and prosecute criminal offences, unless those systems are available for the public to report a criminal offence.

2. Users of an emotion recognition system or a biometric categorisation system which is not prohibited pursuant to Article 5 shall inform in a timely, clear and intelligible manner of the operation of the system the natural persons exposed thereto and obtain their consent prior to the processing of their biometric and other personal data in accordance with Regulation (EU) 2016/679, Regulation (EU) 2016/1725 and Directive (EU) 2016/280, as applicable. This obligation shall not apply to AI systems used for biometric categorisation, which are permitted by law to detect, prevent and investigate criminal offences.

3. Users of an AI system that generates or manipulates text, audio or visual content that would falsely appear to be authentic or truthful and which features depictions of people appearing to say or do things they did not say or do, ~~without their consent~~ ('deep fake'), shall disclose in an appropriate, timely, clear and visible manner that the content has been artificially generated or manipulated, as well as, whenever possible, the name of the natural or legal person that generated or manipulated it. Disclosure shall mean labelling the content in a way that informs that the content is inauthentic and that is clearly visible for the recipient of that content. To label the content, users shall take into account the generally acknowledged state of the art and relevant harmonised standards and specifications.

3a. Paragraph 3 shall not apply where the use of an AI system that generates or manipulates text, audio or visual content is authorized by law. ~~or if it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties. Where the content forms part of an evidently creative, satirical, artistic or fictional cinematographic, video games visuals and analogous work or programme,~~ **it shall be based on informed and explicit consent, supported by appropriate, affordable and effective means of redress and compensation** ~~transparency obligations set out in paragraph 3 are limited to disclosing of the existence of such generated~~

~~or manipulated content in an appropriate clear and visible manner that does not hamper the display of the work and disclosing the applicable copyrights, where relevant. It shall also not prevent law enforcement authorities from using AI systems intended to detect deep fakes and prevent, investigate and prosecute criminal offences linked with their use.~~

3b. The information referred to in paragraphs 1 to 3 shall be provided to the natural persons at the latest at the time of the first interaction or exposure. It shall be accessible to vulnerable persons, such as persons with disabilities or children, complete, where relevant and appropriate, with intervention or flagging procedures for the exposed natural person taking into account the generally acknowledged state of the art and relevant harmonised standards and common specifications.

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- **ECSA (European Composer and Songwriter Alliance)** - The European Composer and Songwriter Alliance represents over 30,000 professional composers and songwriters in 27 European countries. With 54 member organisations across Europe, the Alliance speaks for the interests of music creators of art & classical music (contemporary), film & audiovisual music, as well as popular music.

Web: www.composeralliance.org / EU Transparency Register ID: 71423433087-91

- **EWC (European Writers' Council)** - The European Writers' Council (is the world's largest federation representing solely authors from the book sector, and constituted by 49 national professional writers' and literary translators' associations from 33 countries. EWC members comprise over 220.000 professional authors, writing and publishing in 33 languages.

Web: <https://europeanwriterscouncil.eu> / EU Transparency Register ID: 56788289570-24

- **FERA (Federation of European Screen Directors)** - Founded in 1980, FERA represents film and TV directors at European level, with 48 directors' associations as members from 35 countries. We speak for more than 20,000 European screen directors, representing their cultural, creative and economic interests.

Web: <https://screendirectors.eu> / EU Transparency Register ID: 29280842236- 21

- **FIA (International Federation of Actors)** – The International Federation of Actors is a global union federation representing performers' trade unions, guilds and professional associations in about 70 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for audiovisual performers working in all recorded media and live theatre.

Web: www.fia-actors.com / EU Transparency Register ID: 24070646198-51

- **FIM (International Federation of Musicians)** - The International Federation of Musicians, founded in 1948, is the only body representing professional musicians and their trade unions globally, with members in about 65 countries covering all regions of the world. FIM is recognised as an NGO by diverse international authorities such as the ILO, WIPO, UNESCO, the European Commission, the European Parliament or the Council of Europe.

Web: <https://www.fim-musicians.org> / EU Transparency Register ID: 01953872943-65

- **FSE (Federation of Screenwriters in Europe)** - The Federation of Screenwriters Europe is a network of national and regional associations, guilds and unions of writers for the screen in Europe, created in June 2001. It comprises 25 organisations from 19 countries, representing more than 7,000 screenwriters in Europe.

Web: www.federationscreenwriters.eu / EU Transparency Register ID: 642670217507-74

- **UNI MEI** - UNI - Media, Entertainment and Arts unites over 140 unions and guilds to raise standards and enforce rights for more than 500.000 creatives, technicians and auxiliary workers. Together, our members work for a fair, inclusive, equal, and sustainable global entertainment industry and a just transformation.

Web: www.uniglobalunion.org / EU Transparency Register ID: 605859248462-93