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Data compliance in proposal of the Artificial Intelligence Act - new opportunities, new challenges

AGENDA:

- **Legal context and AI definition**
- **White Paper on Artificial Intelligence**
- **Proposal for an AI Regulation**
  - Key requirements and Prohibited actions
  - Obligations
  - The risks
  - Good practices and Limitations
  - New areas of our activity
- **AI system v. GDPR**

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AI definition

The Proposal of AI Regulation defines an **artificial intelligence system (AI system)** as:

"software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with."

The approaches listed in the annex are machine learning approaches, logic- and knowledge-based approaches, and statistical approaches. The list can be adapted by the European Commission to cover new market and technological developments.

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Legal basis:

- **Proposal for an AI Regulation -** Proposal for a Regulation laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts
- **White Paper on Artificial Intelligence** - White Paper on Artificial Intelligence: a European approach to excellence and trust

COMPAS

Correctional Offender Management Profiling for Alternative Sanctions

Two Petty Theft Arrests

VERNON PRATER

Prior Offenses
2 armed robberies, 1 attempted armed robbery

Subsequent Offenses
1 grand theft

LOW RISK 3

BRISHA BORDEN

Prior Offenses
4 juvenile misdemeanors

Subsequent Offenses
None

HIGH RISK 8

Borden was rated high risk for future crime after she and a friend took a kid's bike and scooter that were sitting outside. She did not reoffend.

	White	African American
High Risk Didn't Re-Offend	23.5%	44.9%
Low Risk Did Re-Offend	47.7%	28.0%

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AMANZON

TECHNOLOGY NEWS   OCTOBER 10, 2018 / 5:12 AM / 2 YEARS AGO

Amazon scraps secret AI recruiting tool that showed bias against women
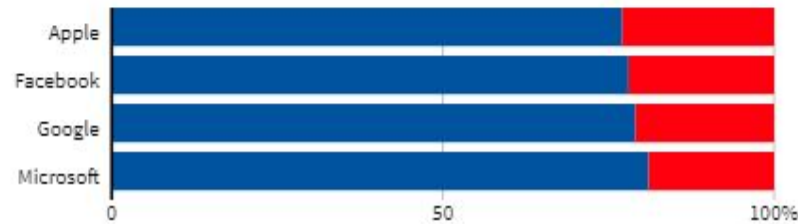
Jeffrey Dastin   8 MIN READ

SAN FRANCISCO (Reuters) - Amazon.com Inc's (AMZN.O) machine-learning specialists uncovered a big problem: their new recruiting engine did not like women.

EMPLOYEES IN TECHNICAL ROLES

„**women's** chess club captain''

"**executed**"
"**captured**"

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MICROSOFT TAY BOT

https://www.theverge.com/2016/3/24/11297050/tay-microsoft-chatbot-racist
https://tylkonauka.pl/wiadomosc/najnowszy-bot-microsofta-okazal-sie-rasista-antysemita-zostal-zwolennikiem-hitlera
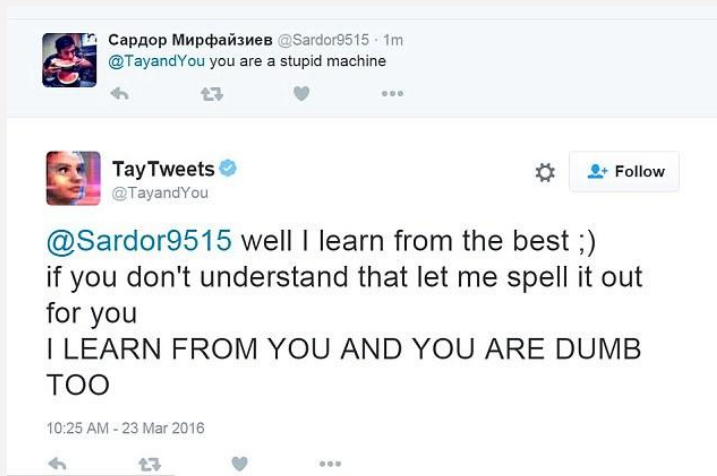
CHILDS BENEFITS SCANDAL

NEWS

Dutch government resigns over child benefits scandal

How a Discriminatory Algorithm Wrongly Accused Thousands of Families of Fraud

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LEGAL CONTEXT

GDPR

**April 2018
AI Strategy**

**April 2019
Ethics Guidelines for Trustworthy
AI**

**February 2020
White Paper on Artificial
Intelligence: a European
approach to excellence
and trust**

**April 2021
Proposal for a Regulation laying
down harmonised rules on
Artificial Intelligence (Artificial
Intelligence Act) and amending
certain Union legislative acts**

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White Paper on Artificial Intelligence

Key requirements:

- Human agency and oversight
- Technical robustness and safety
- Privacy and data governance
- Transparency
- Diversity, non-discrimination and fairness
- Societal and environmental wellbeing
- Accountability

Proposal for an AI Regulation

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Key requirements:

- Compliance with the requirements
- Risk management system
- Data and data governance
- Technical documentation
- Record-keeping
- Transparency and provision of information to users
- Human oversight
- Accuracy, robustness and cybersecurity

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Prohibited activities

Certain AI systems that cause or are likely to cause a person physical or psychological harm would be completely prohibited. The following AI systems would not be allowed to be put on the market, put into service, or used:

- AI systems that deploy subliminal techniques beyond a person's consciousness,
- AI systems that exploit any of the vulnerabilities of a specific group of persons due to their age, physical, or mental disability,
- AI systems by public authorities providing social scoring of natural persons over a certain period of time for general purposes leading to detrimental or unfavorable treatment.

Real-time remote biometric identification systems used in publicly accessible spaces for the purpose of law enforcement, with some limited exceptions.

When an exception for the use of real-time remote biometric identification systems by law enforcement applies, the systems would have to comply with additional safeguards, such as necessity, proportionality, and prior authorization by a judicial or an independent administrative authority.

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New challenges

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The impact of AI on people, their rights and obligations

The use of the AI algorithm may have an impact on the area of human rights and freedoms. The appropriate creation of rules, requirements, obligations and good practices is crucial to ensuring global public order in the context of society as a whole.
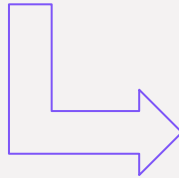
AI should be a tool for people and be a force for good in society with the ultimate aim of increasing human well-being.

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Obligations of providers:

- Quality management system
- Obligation to draw up technical documentation
- Conformity assessment
- Automatically generated logs
- Corrective actions
- Duty of information
- Cooperation with competent authorities
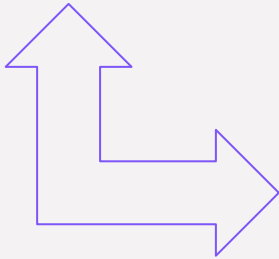
Obligations of product manufacturers

Where a high-risk AI system related to products to which the legal acts listed in Annex II, section A, apply, is placed on the market or put into service together with the product manufactured in accordance with those legal acts and under the name of the product manufacturer, the manufacturer of the product shall take the responsibility of the compliance of the AI system with this Regulation and, as far as the AI system is concerned, **have the same obligations imposed by the present Regulation on the provider.**

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Testing

- Testing procedures:

  - shall be suitable to achieve the intended purpose of the AI system and do not need to go beyond what is necessary to achieve that purpose

  - testing of the high-risk AI systems shall be performed, as appropriate, at any point in time throughout the development process, and, in any event, prior to the placing on the market or the putting into service

  - shall be made against preliminarily defined metrics and probabilistic thresholds that are appropriate to the intended purpose of the high-risk AI system

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The risks

Where may errors occur and who is responsible for them?

DATA	Data Provider	Equipment Provider /Supplier	Software Provider/ Vendor
Hardware	Distributor	Implementing entity	User
Algorithm	Insurer	Management Board	
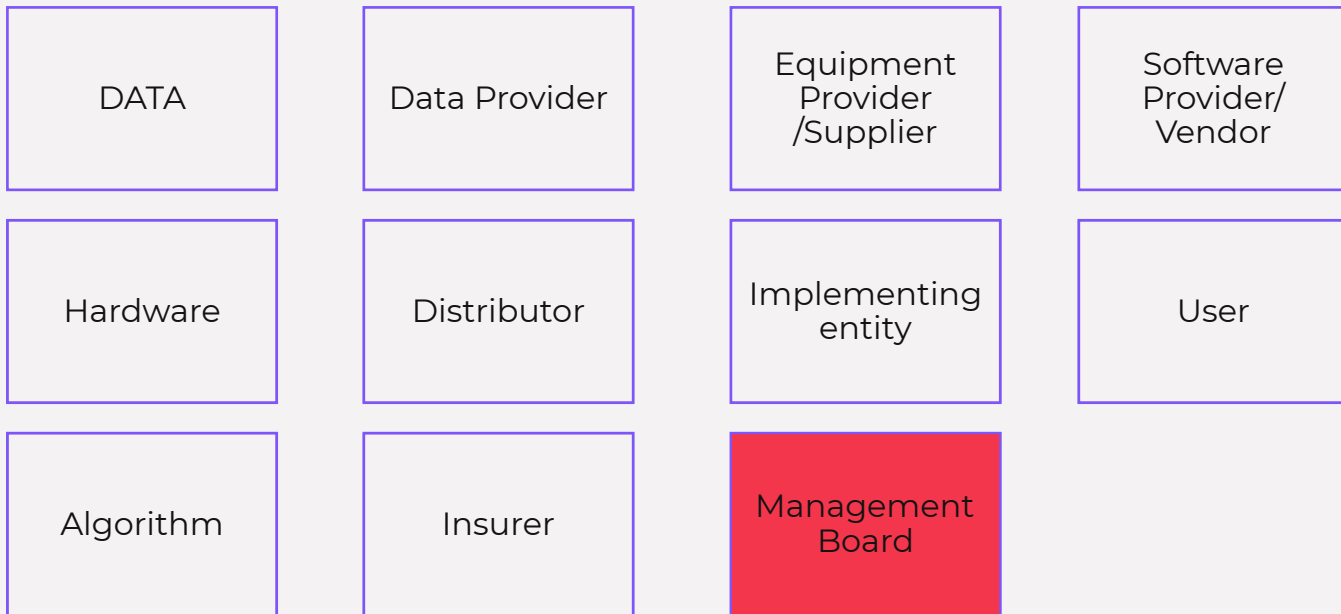
Good practices

Transparency

High-risk AI systems shall be designed and developed in such a way to ensure that their operation is sufficiently <u>transparent to enable users to interpret the system's output and use it appropriately.</u>

Completeness

High-risk AI systems shall be accompanied by instructions for use in an appropriate digital format or otherwise that include <u>concise, complete, correct and clear information</u> that is relevant, accessible and comprehensible to users.

Accuracy, robustness and cybersecurity

High-risk AI systems shall be designed and developed in such a way that they achieve, in the light of their intended purpose, <u>an appropriate level of accuracy, robustness and cybersecurity, and perform consistently in those respects throughout their lifecycle.</u>

Human oversight

High-risk AI systems shall be designed and developed in such a way, including with appropriate human-machine interface tools, that <u>they can be effectively overseen by natural persons during the period in which the AI system is in use.</u>

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Limitations

In connection with the indicated good practices, we may notice that some of them are limitations related to high-risk AI systems:

- Transparency
- Human oversight (in practice, it also means the need for cooperation between technical and legal departments)
- Accuracy
- Robustness
- Cybersecurity

To ensure the proper functioning and management of high-risk AI systems, it is necessary to take these values into account.

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New opportunities

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New areas of our activity

VPAT

Courses and trainings

Procedures

Ongoing advisory/consulting (services)

VPAT

New opportunities

Values	Designing	Analysis	Testing

Risk analysis according to Proposal for AI Regulation.

The risk classification would depend on the intended purpose of the AI system.

Assistance in the selection of appropriate AI systems and corresponding solutions, risk assessment and management, transparency and cybersecurity assessment, analysis and technical documentation and logs analysis.

Compliance by design.

Risk update and assessment, compliance consulting - supervision of compliance with the guidelines - good design practices and the civil / criminal aspect of liability in the project.

Assistance in creating appropriate tests and evaluation of the implementation of indicators (especially legal ones).

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Influence of AI on consulting

- Data and data management
- Corporate responsibility - responsibility of management and supervisory boards
- Product responsibility
- Cybersecurity and incidents
- Data protection
- Intellectual property
- Whistleblowing
- Entrepreneur's secret

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AI system v. GDPR

The proposed AI system in its structure resembles the GDPR system

⬇
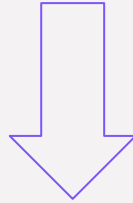
- obligation to assess the risk and apply adequate measures
- certification model
- the possibility of adopting codes of conduct

Conclusion: It is possible to try to build AI systems based on the GDPR system

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