Berlin, 3 June 2026

German Chamber of Commerce and Industry

Statement

Consultation on the draft guidelines on transparency obligations under the AI Act

- No extension of the scope of the transparency obligations under the AI Act to actors whom the AI Act was not intended to address.
- Duplicate or conflicting obligations need to be avoided.
- Periodic reminders and the proposed multimodal approach should be restricted to high-risk cases in order to avoid “banner blindedness”.
- The obligation to mark and detect AI-generated or manipulated content requires a clear de minimis threshold.
- Industrial AI applications with a purely internal or machine-centric intended purpose should be exempted from the transparency obligations under Art. 50(2) of the AI Act.
- The Guidelines should include practicable labeling methods that prevent a cluttering of of the space for display and which accord to existing prevalent business standards.
- The definition of deep fakes appears to be unsuitable for commercial activities, where a distinction between product-related and product-unrelated information is warranted.
- In order to reduce the impediments for SMEs resulting from fines, the Guidelines ought to clarify that when issuing a penalty, the competent authorities shall take the undertaking’s profit margins, the influence of the undertaking in developing the respective AI system and the transparency of the AI system itself, into account.

The German Chamber of Commerce and Industry would like thank the Commission for the opportunity to comment on the Commission’s draft guidelines on transparency obligations under the AI Act.

A. Outline of main facts

While the German Chamber of Commerce and Industry acknowledges a need for transparency for content generated by certain AI systems and legal certainty in respect to the transparency obligations under Article 50 AI Act, it holds the view that the Commission’s Draft Guidelines on transparency obligations under the AI Act require further refinement and adjustments to make them suitable for the commercial practice. This applies, in particular, to the definition of

deep fakes under Article 50(4) AI Act and industrial AI application with a purely internal intended purpose, where the commercial context appears to require a more nuanced approach In order to provide guidance for businesses, it also has to be ensured that the Guidelines will not extend the scope of the transparency obligations under the AI Act to actors whom the AI Act was not intended to address and do not create duplicate or conflicting obligations. In order to reduce the impediments for SMEs resulting from fines, the Guidelines ought to clarify that when issuing a penalty, the competent authorities shall take the undertaking's profit margins, the influence of the undertaking in developing the respective AI system and the transparency of the AI system itself, into account.

B. Detailed evaluation

General Observations

The German Chamber of Commerce and Industry acknowledges the need for transparency for content generated by certain AI systems. The Draft Guidelines on the implementation of the transparency obligations for certain AI systems under Art. 50 of Regulation (EU) 2024/1689 (the 'AI Act') are not legally binding in nature. However, serving as an aid to interpretation, they will exert a profound influence on the application of the law and on jurisprudence. Against this backdrop, it is to be expected that competent authorities will treat the Guidelines as binding standards in practice. For this reason, it is crucial to remind the competent authorities in paragraph 5 of the Draft Guidelines that nothing in the Guidelines is to be interpreted in way that would extend the scope of application of the AI Act or any obligations laid down therein beyond what is required by binding legal rules under European Union law. Such a clarification is particularly called for as certain paragraphs in the Draft Guidelines appear to suggest the opposite. For example, paragraph 14 of the Guidelines seems to insinuate that actors other than providers or deployers of AI systems, acting in their professional capacity and disseminating content across the value chain (even if not directly engaged under Art. 50 AI Act), could be required to take appropriate measures so that the natural persons exposed to the content will be effectively informed about its artificially generated or manipulated origin. In doing so, the Guidelines risk opening the door for interpretations that could extend the scope of the transparency obligations under the AI Act to actors whom the AI Act was not intended to address. As a result, legal subjects will face legal uncertainty, unpredictable liability risks and unwarranted compliance costs. These negative side effects will impact SMEs and start-ups, in particular, as many of them do not have access to in-house legal teams.

Paragraph 22 of the Draft Guidelines states that AI systems falling within the scope of Art. 50 AI Act may also be classified as high-risk and be subject to the relevant requirements and obligations for such systems. However, in the case of providers of medical software, clinically relevant AI functions will already be comprehensively regulated under the MDR and IVDR, respectively. This includes transparency-related obligations. For instance, medical image viewers featuring AI-powered functions (e.g., organ segmentation, lesion marking) require, inter alia, an

instruction for use, a Summary of Safety and Clinical Performance (SSCP), and detailed labeling under the MDR, in order to inform users about the AI-powered functions, performance metrics, the intended user group, and limitations. Diverging or duplicate requirements under Art. 50 AI Act will either risk the creation of conflicting obligations or will impose unnecessary documentation burdens on providers without offering any benefits to patients. What is more, in extreme cases, diverging requirements under the AI Act may even jeopardize the safety of patients, such as in the case of AI systems designed to synthesise medical images used for radiotherapy planning, where water marks could affect the quantitative pixel data and thus the quality of the diagnosis. Yet the Draft Guidelines neither explicitly acknowledge the overlap between these legal regimes nor do they offer ways to solve potential contradictions between the transparency obligations laid down therein.

For this reason, an additional paragraph is required that clarifies that when interpreting and applying Art. 50 AI Act, competent authorities shall give due regard to existing sectoral Union legislation governing the same AI systems, in particular Regulations (EU) 2017/745 and 2017/746, Regulation (EU) 2016/679 (GDPR), and Regulation (EU) 2022/2065 (DSA).

Article 50(1) AI Act: Transparency for Interactive AI systems

The German Chamber of Commerce and Industry acknowledges that it may be both sensible and appropriate to inform users that they are interacting with chatbots, voice assistants, or other AI systems. For businesses, the primary concern lies, however, in ensuring that these obligations can be met by adequate, proportionate and affordable means. Notifications should remain technology- and context-neutral. For many SMEs applications, a clear, highly visible notification provided at the initial point of contact—or at an appropriate location within the user interface—should be regarded as sufficient, if provided in an understandable manner, directly at the point of interaction. At the same time, the proposed multimodal approach—involving simultaneous communication across multiple channels (text, audio, icons)—may not be deemed proportionate in many cases. It poses a risk of “banner blindness”, which providers of AI systems are supposed to avoid (para. 36 of the Draft Guidelines). This creates a dilemma for the providers. Accordingly, multi-channel reinforcement (e.g., simultaneous audio, text, and icons) should only be required in cases, where users typically interact with the AI system via alternative channels.

Similar concerns apply to the requirement of periodic reminders. While a reminder may be sensible in cases where there is an increased risk of users being misled or forming emotional attachments. However, in standard professional software, support, training, documentation, or assistance systems, continuous reminders would frequently prove disruptive without significantly enhancing the protection of natural persons. Quite the contrary: periodic reminders at a regular interval may lead to "banner blindness"—and, as a result, they may ultimately render reminders ineffective.

Article 50(2) AI Act: Marking and Detection of AI-generated or manipulated content

The Draft Guidelines interpret the requirement for marking and detection of synthetic contents rather broadly. Many businesses use AI systems as assistance in routine work processes, such as text summaries, translating, fine-tuning of texts, drafting product descriptions, or technical image editing. Yet pursuant the Draft Guidelines, even such mundane everyday—which have long been standard practice in e-commerce and advertising—will fall under the transparency obligations of Art. 50(2) AI Act. A clear de minimis threshold is called for. A mandatory marking and detection requirement should apply only when the content is being conveyed to third-parties, conveys an independent substantive meaning, or when the original meaning has undergone substantial modification. Conversely, certain tasks and content should be exempt from the marking and detection requirements, such as drafts intended for internal use only, spelling and grammar checks, formatting adjustments, simple translation aids, technical image corrections, and immaterial changes. In the absence of such a distinction, the Guidelines could convey the message that almost every use of AI system carries (legal) risks. Such a message would reduce the trust of businesses and consumers in AI systems and hamper the development, dissemination, implementation and practical usefulness of AI systems within the European Union. What is more, an overly encompassing interpretation of the requirement for marking and detection of synthetic contents could undermine the intended warning function of requirement. If everything requires marking, no one will pay attention to the markers.

Another relevant aspect concerns the exception for the B2B or industrial sector, mentioned in paragraph 81 of the Draft Guidelines. This exception is much more narrowly circumscribed than the wording of the AI Act appears to suggest at first sight. It applies only if the AI system's generated output is strictly technical in nature, and the AI system's generated output is only intended to be perceived by a limited pre-defined number of natural persons acting in a professional capacity within the organisation of the provider and deployer, respectively, and it is not intended to be shared outside the company or to be usable or verifiable by external persons, with appropriate safeguards in place to avoid reasonably foreseeable misuse. Hence, any conveyance of the content to third-parties, such as customers, suppliers, or contractors, would exclude any reliance on the exception. As a result, the exception will be of limited practical utility. Accordingly, businesses will have to adapt many of their processes in order implement the transparency obligation under Art. 50(2) AI Act, including the rewriting UI/UX. Yet industrial AI systems are typically not deployed to deceive, or interact with consumers, but rather to optimize industrial processes, ensure quality control, monitor machinery, enhance energy efficiency, or manage production. In these fields of application, synthetic content is frequently generated exclusively within closed industrial processes, without any external impact on natural persons. Consequently, the narrow understanding of the exception will in many cases, fail to provide any additional protection for consumers, while simultaneously imposing significant bureaucratic and technical burdens on businesses. Therefore, industrial AI applications with a purely internal or machine-centric intended purpose should be explicitly exempted from certain transparency obligations under Art. 50 of the AI Act.

Article 50(4): Labelling of deep fakes and certain text

The object and purpose of the labelling requirements for deep fakes calls for further refinement in commercial contexts, where the manipulation of content by an AI system is unlikely to affect the information ecosystem or cause consumers to take transactional decisions. According to paragraph 107 of the Draft Guidelines, content that resembles subjects that can exist or could have existed in reality and which would falsely appear to a person to be authentic or truthful will be classified as a deep fake within the meaning of Art. 50(4) AI Act. Importantly, the assessment of the last criterion does not consider the intention of the deployer to deceive or mislead the natural persons exposed to the content. Consequently, companies must assume that any photorealistic, AI-generated output will require labeling. Such a broad understanding might be adequate for political or private contexts, where any information entailed in content manipulated by AI might potentially be of relevance for the integrity of information ecosystem. Yet this broad standard appears to be unsuitable for commercial activities, where a distinction between product-related and product-unrelated information is warranted. Many businesses manipulate product-unrelated aspects of their contents for purely aesthetic reasons, as in the case of illustrative figures, virtual scenes, product environments, or atmospheric visuals in advertising or training materials. Yet even if a consumer was to be mistaken about the authenticity or truthfulness of a product environment in an advertisement, such a misconception of product-unrelated information will not affect the transactional decisions of customers. Yet a label disclosing that the content in question had been artificially manipulated risks deterring customers, as customers would not be able to tell whether product-related or product-unrelated information had been manipulated.

Several other examples mentioned in Draft Guidelines raise practical difficulties as well that affect small and medium-sized businesses, in particular. For instance, small picture sizes tend to leave very little room for unobtrusive, but nonetheless clear labeling - in particular, when used in the context of smartphone apps, push notifications, or advertising tiles. Hence, the Guidelines should include practicable labeling methods that prevent any cluttering of the already limited space on small displays. In addition, it needs to be borne in mind that most online platforms, for example, have established their own respective standards. The lack of harmonization may lead to contradictory or duplicate labelling and cause confusion among users. A standardized EU-wide label or pictogram that users may be deemed to recognize and understand in every member State could offer a potential solution to this problem. This is an issue the Guidelines should address, while taking the existing business standards and rules on online platforms into account.

Regarding the exceptions, paragraph 127 of the Draft Guidelines clarifies that the "editorial control" exemption under Art. 50(4) AI Act requires substantial substantive engagement. However, the case-by-case logic of this exception places an unsustainable administrative burden on SMEs and hampers their ability to develop reliable compliance frameworks. Hence, the term “editorial control” should be interpreted by reference to organizational characteristics, such as the documentation of the editorial workflow, clearly designated editorial

responsibilities (e.g., in the legal notice), and demonstrable professional qualifications on the part of the reviewer. When these characteristics are met, businesses ought to be able to rely on the exception without having to provide proof for every individual contribution. Otherwise, entities demonstrating transparent editorial responsibility will be placed at a competitive disadvantage.

Horizontal requirements applicable to the information provided under Article 50(5) AI Act

Paragraphs 135–138 effectively establish a two-tier compliance system that distinguishes between signatories and non-signatories to a Code of Practice (CoP). Since Codes of Practice are typically shaped by large providers and industry associations, there is a risk of systemic disadvantage for small and medium-sized businesses that are neither in a position to participate in the drafting of CoPs nor do they possess the resources required for detailed alternative compliance documentation. Greater attention should, therefore, be paid to the principle of proportionality by adding compliance procedures to the Guidelines that are tailored to the business realities of SMEs—for instance, by introducing a safe-harbor threshold or by offering SMEs alternative means to demonstrate their compliance with the transparency obligations under Article 50 AI Act.

In addition, the German Chamber of Commerce and Industry would like to point to out that sanctions referred to in paragraph 140 of the Draft Guidelines may pose an existential threat to businesses and their competitiveness. This applies, in particular, to SMEs whose business activities involve a high annual turnover, but small profit margins. Moreover, SMEs usually have a limited impact on the development of the AI system and thus, on the implementation of the technical solutions for marking and detection of the AI system. In many cases, SMEs will rely on AI systems released under free and open-source licences whose very design reflects already a high degree of transparency. In order to reduce the impediments for SMEs resulting from fines, the Guidelines ought to clarify that when issuing a penalty, the competent authorities shall take the undertaking's profit margins, the influence of the undertaking in developing the respective AI system and the transparency of the AI system itself, into account.

C. Additional Information

a. Conact persons and adresses

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b. Description oft he German Chamber of Commerce and Industry

Who we are:

The 79 Chambers of Commerce and Industry (IHKs) are incorporated under the umbrella of the German Chamber of Commerce and Industry (DIHK). Our joint aim: to obtain the best conditions for successful business.

The DIHK represents the interests of the entire commercial economy in dealings with decision makers, administrations and the public at federal and European level. Several million companies representing trade, industry and services are legal members of an IHK, ranging from kiosk owners to DAX companies. DIHK and IHKs therefore provide a platform for a whole range of corporate concerns. We group them together in an organised procedure on a statutory basis to formulate the general interest of the commercial economy and thus contribute to the formation of opinions in economic policy.

Our statements are based on economic policy positions and position papers adopted by the DIHK taking into account the comments received by the DIHK from IHKs and their member companies prior to the submission of the statement.

The DIHK also coordinates the network of 150 German Chambers of Commerce Abroad, delegations and representative offices of the German economy in 93 countries.

The DIHK is registered with the European Union's Transparency Register under registration number 22400601191-42.