



2020/2014(INL)

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DRAFT OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on Civil liability regime for artificial intelligence
(2020/2014(INL))

Rapporteur for opinion: Svenja Hahn

(Initiative – Rule 47 of the Rules of Procedure)

PA_INL

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible:

- to incorporate the following suggestions into its motion for a resolution:
 - A. whereas Artificial Intelligence (AI) plays an increasing role in our everyday lives and has the potential to contribute to the development of innovations in many sectors and offer benefits for consumers through innovative products and services and, for businesses, through optimised performance;
 - B. whereas the use and development of AI applications in products might also present challenges to the existing legal framework on products and reduce their effectiveness, thus potentially undermining consumer trust and welfare due to their specific characteristics;
 - C. whereas robust liability mechanisms remedying damage contribute to better protection of consumers, creation of trust in new technologies integrated in products and acceptance for innovation while ensuring legal certainty for business;
 - 1. Welcomes the Commission’s aim, which is to make the Union legal framework fit the new technological developments, ensuring a high level of protection for consumers from harm caused by new technologies while maintaining the balance with the needs of technological innovation;
 - 2. Stresses the need to assess to what extent the existing liability framework, and in particular the Council Directive 85/374/EEC¹ (the Product Liability Directive), needs to be updated in order to guarantee effective consumer protection and legal clarity for businesses, while avoiding high costs and risks especially for small and medium enterprises and start-ups;
 - 3. Emphasises that any revision of the existing liability framework should aim to further harmonise liability rules in order to avoid fragmentation of the single market; stresses, however, the importance of ensuring that Union regulation remains limited to clearly identified problems for which feasible solutions exist and leaves room for further technological developments;
 - 4. Calls on the Commission to assess whether definitions and concepts in the product liability framework need to be updated due to the specific characteristics of AI applications such as complexity, autonomy and opacity;
 - 5. Urges the Commission to scrutinise whether it is necessary to include software in the definition of ‘products’ under the Product Liability Directive and to update concepts such as ‘producer’, ‘damage’ and ‘defect’, and if so, to what extent; asks the Commission to also examine whether the product liability framework needs to be

¹ Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

revised in order to protect injured parties efficiently as regards products that are purchased as a bundle with related services;

6. Stresses the importance of ensuring a fair liability system that makes it possible for consumers to prove that a defect in a product caused damage, even if third party software is involved or the cause of a defect is hard to trace, for example when products are part of a complex interconnected Internet of Things environment;
7. Calls on the Commission to evaluate whether and to what extent the burden of proof should be reversed in order to empower harmed consumers while preventing abuse and providing legal clarity for businesses;
8. Highlights the need for a risk based approach to AI within the existing liability framework, which takes into account different levels of risk for consumers in specific sectors and uses of AI; underlines that such an approach, that might encompass two or more levels of risk, should be based on clear criteria and provide for legal clarity;
9. Asks the Commission to carefully assess the advantages and disadvantages of introducing a strict liability model for products containing AI applications and consider it only in specific high risk areas; underlines the need to strictly respect the proportionality principle if this approach is retained.