



**2020/2216(INI)**

27.11.2020

# **DRAFT OPINION**

of the Committee on Legal Affairs

for the Committee on the Internal Market and Consumer Protection

on shaping the digital future of Europe: removing barriers to the functioning of the digital single market and improving the use of AI for European consumers (2020/2216(INI))

Rapporteur for opinion (\*): Marion Walsmann

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## SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

### *General*

1. Recognises the importance of a functioning digital single market and the use of AI, robotics and related technologies for EU citizens, since they tackle the challenges societies face, in particular during the COVID-19 pandemic;
2. Maintains that SMEs need to be supported in their digital transformation due to their limited resources; invites, therefore, the Commission to pursue a fitness check for SMEs before publishing legislation and to keep administrative burdens to a minimum by, inter alia, developing standards;
3. Points out that the digital single market and AI are diverse and subject to quick and dynamic developments; urges the Commission to base proposals and initiatives on the right balance avoiding on the one hand an one-size-fits-all approach and on the other hand a fragmentation of the market through national approaches on the other;

### *Improving the use of AI for European consumers*

4. Highlights that a new regulatory framework for AI is needed in order to deal with the potential risks of autonomous behaviour and to maximise the trust of and the benefit for users; invites the Commission to propose a risk-based and innovation-friendly legislative framework for AI that focuses on identifying and closing gaps within existing legislation and being coherent with the existing sector-specific legislation;
5. Is of the firm view that definitions of ‘AI’ and ‘high-risk’ should be future-proof to ensure legal clarity for consumers and businesses and should consider human oversight for high-risk AI applications;
6. Is convinced that existing legislation needs to be adapted to new technologies; asks the Commission to adjust inter alia the Product Liability Directive<sup>1</sup>, in particular by redefining the terms ‘product’ and ‘defect’ and considering adjustments to the concept of ‘burden of proof’, which should mirror the modifications to the General Product Safety Directive<sup>2</sup>;
7. Outlines that society, including consumers, should benefit from the responsible development and deployment of AI which serves the good of society; asks the Commission, therefore, to define ethical rules for the development, deployment and use of AI, robotics and related technologies taking into account the principles of better regulation;

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<sup>1</sup> OJ L 210, 7.8.1985, p.29.

<sup>2</sup> [OJ L 11, 15.1.2002, p. 4.](#)

8. Underlines that, for the training of AI, the free flow of data within the digital single market is essential and this should be underpinned by the appropriate contractual rules;
9. Calls on the Commission to support the development of international standards to govern the use of AI;

### *Functioning of the Single Market as regards digital elements*

10. Highlights that consumers are already benefiting from strong data protection rules such as the GDPR<sup>3</sup> and ePrivacy Directive<sup>4</sup>; appreciates that the Commission foresees measures to empower individuals to exercise their rights, which must at least partly be based on civil law;
11. Asks the Commission to ensure that users are properly informed and that their rights are effectively guaranteed when they interact with automated decision-making systems and that automatic decision-making systems do not generate unfairly biased outputs for consumers in the single market;
12. Urges the Commission to ensure a strong protection for users' civil law rights in the forth-coming proposal for a Digital Services Act (DSA), particularly in order to protect, inter alia, the freedom of expression and the freedom to provide services, and to protect users from harmful micro-targeting;
13. Outlines that it is unacceptable that consumers are exposed to unsafe products and therefore increased responsibilities for online marketplaces are needed; asks the Commission to set up clear rules for the responsibility of content hosting platforms for goods sold or advertised on them in the DSA proposal in order to inter alia close the legal gap in which the buyers failed to obtain the satisfaction to which he or she is entitled according to the law or the contract for the supply of goods for example because of the inability to identify the primary seller;
14. Considers that the use of smart contracts in the digital single market must be firmly founded on civil and contract law in order to ensure the rights of businesses and consumers;
15. Notes that large platforms with significant network effects could act as de facto 'online gatekeepers' of the digital economy and urges the Commission to analyse the impact that the power of these large platforms have on the rights of consumers and SMEs.

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<sup>3</sup> [OJ L 119 4.5.2016, p. 1.](#)

<sup>4</sup> [OJ L 201, 31.7.2002, p.37.](#)