

Code of Practice for General-Purpose AI Models

Copyright Chapter

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Objectives

The overarching objective of this Code of Practice (“Code”) is to improve the functioning of the internal market, to promote the uptake of human-centric and trustworthy artificial intelligence (“AI”), while ensuring a high level of protection of health, safety, and fundamental rights enshrined in the Charter, including democracy, the rule of law, and environmental protection, against harmful effects of AI in the Union, and to support innovation pursuant to Article 1(1) AI Act.

To achieve this overarching objective, the specific objectives of this Code are:

- A. To serve as a guiding document for demonstrating compliance with the obligations provided for in Articles 53 and 55 AI Act, while recognising that adherence to the Code does not constitute conclusive evidence of compliance with these obligations under the AI Act.
- B. To ensure providers of general-purpose AI models comply with their obligations under the AI Act and to enable the AI Office to assess compliance of providers of general-purpose AI models who choose to rely on the Code to demonstrate compliance with their obligations under the AI Act.

Recitals

Whereas:

- (a) This Chapter aims to contribute to the proper application of the obligation laid down in Article 53(1), point (c), of the AI Act pursuant to which providers that place general-purpose AI models on the Union market must put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed by rightsholders pursuant to Article 4(3) of Directive (EU) 2019/790. While Signatories will implement the Measures set out in this Chapter in order to demonstrate compliance with Article 53(1), point (c), of the AI Act, adherence to the Code does not constitute compliance with Union law on copyright and related rights.
- (b) This Chapter in no way affects the application and enforcement of Union law on copyright and related right which is for the courts of Member States and ultimately the Court of Justice of the European Union to interpret.
- (c) The Signatories hereby acknowledge that Union law on copyright and related rights:
 - (i) is provided for in directives addressed to Member States and that for present purposes Directive 2001/29/EC, Directive (EU) 2019/790 and Directive 2004/48/EC are the most relevant;
 - (ii) provides for exclusive rights that are preventive in nature and thus is based on prior consent save where an exception or limitation applies;
 - (iii) provides for an exception or limitation for text and data mining in Article 4(1) of Directive (EU) 2019/790 which shall apply on conditions of lawful access and that the use of works and other subject matter referred to in that paragraph has not been expressly reserved by their rightsholders in an appropriate manner pursuant to Article 4(3) of Directive (EU) 2019/790.
- (d) The commitments in this Chapter that require proportionate measures should be commensurate and proportionate to the size of providers, taking due account of the interests of SMEs, including startups.
- (e) This Chapter does not affect agreements between the Signatories and rightsholders authorising the use of works and other protected subject matter.
- (f) The commitments in this Chapter to demonstrate compliance with the obligation under Article 53(1), point (c), of the AI Act are complementary to the obligation of providers under Article 53(1), point (d), of the AI Act to draw up and make publicly available sufficiently detailed summaries about the content used by the Signatories for the training of their general-purpose AI models, according to a template to be provided by the AI Office.

Commitment 1 Copyright policy

LEGAL TEXT: Article 53(1)(c) AI Act
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- (1) In order to demonstrate compliance with their obligation pursuant to Article 53(1), point (c) of the AI Act to put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790, Signatories commit to drawing up, keeping up-to-date and implementing such a copyright policy. The Measures below do not affect compliance with Union law on copyright and related rights. They set out commitments by which the Signatories can demonstrate compliance with the obligation to put in place a copyright policy for their general-purpose AI models they place on the Union market.
- (2) In addition, the Signatories remain responsible for verifying that the Measures included in their copyright policy as outlined below comply with Member States' implementation of Union law on copyright and related rights, in particular but not only Article 4(3) of Directive (EU) 2019/790, before carrying out any copyright-relevant act in the territory of the relevant Member State as failure to do so may give rise to liability under Union law on copyright and related rights.

Measure 1.1 Draw up, keep up-to-date and implement a copyright policy

- (1) Signatories will draw up, keep up-to-date and implement a policy to comply with Union law on copyright and related rights for all general-purpose AI models they place on the Union market. Signatories commit to describe that policy in a single document incorporating the Measures set out in this Chapter. Signatories will assign responsibilities within their organisation for the implementation and overseeing of this policy.
- (2) Signatories are encouraged to make publicly available and keep up-to-date a summary of their copyright policy.

Measure 1.2 Reproduce and extract only lawfully accessible copyright-protected content when crawling the World Wide Web

- (1) In order to help ensure that Signatories only reproduce and extract lawfully accessible works and other protected subject matter if they use web-crawlers or have such web-crawlers used on their behalf to scrape or otherwise compile data for the purpose of text and data mining as defined in Article 2(2) of Directive (EU) 2019/790 and the training of their general-purpose AI models, Signatories commit:
 - a) not to circumvent effective technological measures as defined in Article 6(3) of Directive 2001/29/EC that are designed to prevent or restrict unauthorised acts in respect of works and other protected subject matter, in particular by respecting any technological denial or restriction of access imposed by subscription models or paywalls, and
 - b) to exclude from their web-crawling websites that make available to the public content and which are, at the time of web-crawling, recognised as persistently and repeatedly infringing copyright and related rights on a commercial scale by courts or public authorities in the European Union and the European Economic Area. For the purpose of compliance with

this measure, a dynamic list of hyperlinks to lists of these websites issued by the relevant bodies in the European Union and the European Economic Area will be made publicly available on an EU website.

Measure 1.3 Identify and comply with rights reservations when crawling the World Wide Web

- (1) In order to help ensure that Signatories will identify and comply with, including through state-of-the-art technologies, machine-readable reservations of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790 if they use web-crawlers or have such web-crawlers used on their behalf to scrape or otherwise compile data for the purpose of text and data mining as defined in Article 2(2) of Directive (EU) 2019/790 and the training of their general-purpose AI models, Signatories commit:
 - a) to employ web-crawlers that read and follow instructions expressed in accordance with the Robot Exclusion Protocol (robots.txt), as specified in the Internet Engineering Task Force (IETF) Request for Comments No. 9309, and any subsequent version of this Protocol for which the IETF demonstrates that it is technically feasible and implementable by AI providers and content providers, including rightsholders, and
 - b) to identify and comply with other appropriate machine-readable protocols to express rights reservations pursuant to Article 4(3) of Directive (EU) 2019/790, for example through asset-based or location-based metadata, that have either have been adopted by international or European standardisation organisations, or are state-of-the-art, including technically implementable, and widely adopted by rightsholders, considering different cultural sectors, and generally agreed through an inclusive process based on bona fide discussions to be facilitated at EU level with the involvement of rightsholders, AI providers and other relevant stakeholders as a more immediate solution, while anticipating the development of standards.
- (2) This commitment does not affect the right of rightsholders to expressly reserve the use of works and other protected subject matter for the purposes of text and data mining pursuant to Article 4(3) of Directive (EU) 2019/790 in any appropriate manner, such as machine-readable means in the case of content made publicly available online or by other means.

Furthermore, this commitment does not affect the application of Union law on copyright and related rights to protected content scraped or crawled from the internet by third parties and used by Signatories for the purpose of text and data mining and the training of their general-purpose AI models, in particular with regard to rights reservations expressed pursuant to Article 4(3) of Directive (EU) 2019/790.

- (3) Signatories are encouraged to support the processes referred to in the first paragraph, points (a) and (b), of this Measure and engage on a voluntary basis in bona fide discussions with rightsholders and other relevant stakeholders, with the aim to develop appropriate machine-readable standards and protocols to express a rights reservation pursuant to Article 4(3) of Directive (EU) 2019/790.
- (4) Signatories commit to take appropriate measures to enable affected rightsholders to obtain information about the web crawlers employed, their robots.txt features and other measures that a Signatory adopts to identify and comply with rights reservations expressed pursuant to Article 4(3)

of Directive (EU) 2019/790 at the time of crawling by making public such information and by providing a means for affected rightsholders to be automatically notified when such information is updated (such as by syndicating a web feed) without prejudice to the right of information provided for in Article 8 of Directive 2004/48/EC.

- (5) Signatories that also provide an online search engine as defined in Article 3, point (j), of Regulation (EU) 2022/2065 or control such a provider are encouraged to take appropriate measures to ensure that their compliance with a rights reservation in the context of text and data mining activities and the training of general-purpose AI models referred to in the first paragraph of this Measure does not directly lead to adverse effects on the indexing of the content, domain(s) and/or URL(s), for which a rights reservation has been expressed, in their search engine.

Measure 1.4 Mitigate the risk of copyright-infringing outputs

- (1) In order to mitigate the risk that a downstream AI system, into which a general-purpose AI model is integrated, generates output that may infringe rights in works or other subject matter protected by Union law on copyright or related rights, Signatories commit:
 - a) to implement appropriate and proportionate technical safeguards to prevent their models from generating outputs that reproduce training content protected by Union law on copyright and related rights in an infringing manner, and
 - b) to prohibit copyright-infringing uses of a model in their acceptable use policy, terms and conditions, or other equivalent documents, or in case of general-purpose AI models released under free and open source licenses to alert users to the prohibition of copyright infringing uses of the model in the documentation accompanying the model without prejudice to the free and open source nature of the license.
- (2) This Measure applies irrespective of whether a Signatory vertically integrates the model into its own AI system(s) or whether the model is provided to another entity based on contractual relations.

Measure 1.5 Designate a point of contact and enable the lodging of complaints

- (1) Signatories commit to designate a point of contact for electronic communication with affected rightsholders and provide easily accessible information about it.
- (2) Signatories commit to put a mechanism in place to allow affected rightsholders and their authorised representatives, including collective management organisations, to submit, by electronic means, sufficiently precise and adequately substantiated complaints concerning the non-compliance of Signatories with their commitments pursuant to this Chapter and provide easily accessible information about it. Signatories will act on complaints in a diligent, non-arbitrary manner and within a reasonable time, unless a complaint is manifestly unfounded or the Signatory has already responded to an identical complaint by the same rightsholder. This commitment does not affect the measures, remedies and sanctions available to enforce copyright and related rights under Union and national law.