[GB] The UK Government publishes a White Paper about the future regulation of Artificial Intelligence

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The UK Government's Department for Science, Innovation and Technology published a white paper on 29 March 2023 entitled "AI Regulation: A Pro-Innovation Approach" (the White Paper). The White Paper sets out the UK Government's proposals to regulate artificial intelligence (AI). The proposed regulatory framework adopts a proportionate, trustworthy, adaptable and clear approach.

The White Paper outlines five clear principles that regulators, like Ofcom and the Competition and Markets Authority, should consider to best facilitate the safe and innovative use of AI in the sectors they monitor. The five principles to guide regulators in their approach to AI risks are safety, security and robustness; appropriate transparency and explainability; fairness; accountability and governance; and contestability and redress.

The White Paper acknowledges that explainability can be very difficult to achieve from a technical perspective. Also, the White Paper acknowledges that transparency and explainability are not absolute requirements but should be applied proportionately when considering risks.

Regarding contestability and redress, the White Paper envisages that it should be possible to contest a harmful decision or outcome generated by AI. Although the White Paper does not anticipate creating any new legal rights or new approaches for redress.

The White Paper aims to ensure that any regulation should avoid being overly prescriptive or limiting so as to ensure innovation is not stifled.

The Government considered that the regulators should use their knowledge and experience to adapt the regulations so they can be applied to suit the specific needs and context of AI in their respective sector.

The White Paper proposes that any AI regulation is evaluated to identify any issues and ensure the principles are being applied effectively. There is no intention for the government to introduce specific legislation at this stage.

The regulatory framework should fulfil three parameters, namely to help drive growth and prosperity, including encouraging investment and creating jobs. Secondly, it should increase the public's trust in AI and, in particular, ensure the regulatory framework addresses risks arising from the use of artificial intelligence. Thirdly, the regulatory framework should help strengthen the UK's position as a global leader in AI by being able to help shape international governance and regulation of AI, encourage interoperability and reduce cross-border risks, as well as protect democratic values.

The White Paper encourages key regulators to publish further guidance and resources, in the next twelve months, as to how they plan to implement the five principles, and how the principles will apply within their specific sectors.

The White Paper recognises that in due course, despite the efforts of the regulators, various differences may arise and legislation may be necessary to ensure a consistent application of the principles.

Furthermore, the White Paper does not define AI, as has occurred in some UK legislation, such as the National Security and Investment Act from 2001. Instead, AI tools, subject to regulation, will be identified by their adaptive and autonomous characteristics.

The White Paper proposes a £2 million sandbox fund to provide a safe trial environment whereby businesses can test how regulation could be applied to AI products and services, as well as support innovators bringing new ideas to market without having inappropriate regulation thwarting innovation.

The UK White Paper does not propose legislation in relation to the allocation of liability for AI. It references the complexity of the AI supply chain and acknowledges that current legal frameworks, combined with implementation of the high-level AI principles, may end up allocating legal responsibility for an AI tool in a way that is not fair or effective. However, for the time being there is no intention by the UK government to regulate in this area. This is in contrast to the EU, where the proposed AI Liability Directive intends to facilitate the exercise of private rights of action.

The regulation of AI will remain with the UK government but it is envisaged that in due course an independent regulator will be established.

The UK Government has launched a public consultation in relation to its proposals on regulating AI, in order to implement a proportionate, future-proofed and pro-innovation framework. The consultation on the White Paper closes on 21 June 2023.

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A pro-innovation approach to AI regulation, Command Paper Number: 815

https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach

Artificial intelligence liability directive

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0496