

Prohibited AI practices: the European Commission's new guidelines

IRIS 2025-2:1/8

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The prohibition of AI practices such as harmful manipulation, social scoring, and real-time remote biometric identification, among others, has applied since 2 February 2025.

These practices are prohibited since they present threats to European values and fundamental rights. On 4 February 2025, the European Commission adopted guidelines to provide insights into the Commission's interpretation of the prohibitions. The guidelines are non-binding.

The guidelines explain that the prohibition of manipulative AI techniques also supports the objectives of the Audiovisual Media Services Directive (AVMSD) by preventing harmful AI-driven advertisements and other AI-enabled manipulative and exploitative practices that may be significantly harmful in the media sector. Article 9 of the AVMSD prohibits commercial communications using subliminal techniques.

The guidelines emphasise that subliminal techniques may use stimuli delivered through audio, visual, or tactile media that are too brief or subtle to be noticed. These techniques have traditionally been known about and prohibited in media advertising.

In the context of AI, the guidelines illustrate the link between the AVMSD and the AI Act with the example of visual subliminal messages.

The guidelines consider that visual subliminal messages in an AI system may show or embed images or text flashed briefly during video playback which are technically visible, but flashed too quickly for the conscious mind to register, while still being capable of influencing attitudes or behaviours.

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (AI Act)

<https://eur-lex.europa.eu/eli/reg/2024/1689/oj/eng>

Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A02010L0013-20181218>

Commission guidelines on prohibited artificial intelligence practices established by Regulation (EU) 2024/1689 (AI Act)

<https://ec.europa.eu/newsroom/dae/redirection/document/112367>

