Warsaw, 28 Nov 2024

Re: General-Purpose AI Code of Practice First Draft Feedback

CEE Digital Democracy Watch is a Warsaw-based non-profit organisation focused on election integrity, the digital civic space, and observing the impact of technology on democracy.

We have engaged with the European Commission on the Digital Services Act (DSA) guidelines on mitigating systemic online risks to elections, implementing the Regulation on the Transparency and Targeting of Political Advertising, and monitoring online spaces during the European Parliament elections. We also closely observe the national implementation of the DSA, advocating for appropriate and independent oversight of cause-driven content.

We welcome the opportunity to participate in the General-Purpose AI Code of Practice. Drawing from our experiences and research into the real-world impacts of existing and emerging regulations, we have significant concerns about the framing of systemic risks in Section 6.1, particularly under the category of "persuasion and manipulation."

While well-intentioned, the current phrasing of this clause is overly broad and lacks clarity, risking unintended consequences for fundamental rights due to its potential for overreach and misinterpretation. Terms such as "large-scale persuasion," "oversimplification," "loss of trust in the media," and "homogenisation of knowledge" are subjective and context-dependent. It is critical to establish precise, objective definitions when addressing sensitive issues to prevent ambiguity.

The lack of specificity in this clause risks granting disproportionate power to providers in determining what content is permissible in the public sphere. This could undermine public dialogue, disproportionately affect groups critical of governments, and restrict the voices of minority communities. Recent examples within the EU demonstrate how governments might misuse such provisions to suppress political commentary and promote their narratives unchecked.

The current regulatory landscape already illustrates the unintended consequences of over-regulating political speech. This "freezing effect" stifles legitimate discourse by restricting civic groups and NGOs from using political advertising for good-faith purposes, overmoderating content shared by minority groups and applying automatic and opaque deprioritisation of political speech. Unfortunately, these measures have failed to address the underlying risks they aim to mitigate, such as threats to election integrity or foreign interference.

The Code of Practice as we understand it should serve as a tool to promote innovation, encourage ethical use of AI, and empower end-users to leverage these technologies

responsibly. However, an expansive and vaguely defined taxonomy of risks will likely exclude many actors from using AI tools to advance societal and democratic goals.

Proposals to broaden the risks framework should be met with rigorous scrutiny. While we commend the participatory nature of the Code of Practice process, it is vital to recognise that this initiative builds upon the balanced text of the AI Act—a regulation developed through a democratic process by elected representatives. Any expansion of this foundation must be precise and grounded in that democratic mandate.

Regarding "persuasion and manipulation," the current draft must respect fundamental rights and strike a careful balance between a safety-first approach and democratic values rooted in human rights, such as freedom of speech and expression.

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Founder