

## CCIA Europe Consultation Response

# Consultation on detailed arrangements on GPAI model evaluations and proceedings

April 2026

The Computer & Communications Industry Association (CCIA Europe) welcomes the possibility to provide feedback on the European Commission's draft implementing regulation on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to the AI Act.<sup>1</sup> The draft implementing regulation lays down detailed arrangements for evaluations of general-purpose AI (GPAI) models and for proceedings in view of the possible adoption of fines for providers of GPAI models under the AI Act.

The draft implementing regulation would benefit from significant improvements, which we structure in three thematic areas:

- I. Strengthening procedural fairness and rights of defence
- II. Safeguarding model integrity and security
- III. Enhancing governance and legal certainty

Our association stands ready to support the AI Office in enforcing the AI Act in a proportionate and innovation-friendly manner.

## I/ Strengthening procedural fairness and rights of defence

To ensure a fair and balanced enforcement of the AI Act, the procedural and due process safeguards of draft implementing regulation need to be further strengthened.

First, it is key to ensure balanced and confidential access to the file. Article 8 of the draft implementing regulation currently enables an overly broad and disproportionate third-party access to the file, including without redactions, thus putting the confidentiality of highly sensitive information at risk. The possibility for addressees to access all documents mentioned in the preliminary findings, which may include sensitive information such as source code and highly sensitive trade secrets, lacks robust confidentiality safeguards. While the provision includes language on the protection of business secrets, the safeguards are disproportionately weak and need to be strengthened. To alleviate these concerns, third-party access to the file should be limited on a need-to-know basis. The broad discretion of the Commission to determine whether redactions are needed or not is particularly concerning as it would essentially enable the Commission to determine whether highly sensitive information should be disclosed. The draft implementing regulation should further extend the safeguards by extending the period of objection to such disclosure.

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<sup>1</sup> European Commission, 'Artificial Intelligence Act – detailed arrangements on evaluations and proceedings', accessible at:

[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/16472-Artificial-Intelligence-Act-detailed-arrangements-on-evaluations-and-proceedings\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/16472-Artificial-Intelligence-Act-detailed-arrangements-on-evaluations-and-proceedings_en)

Second, it is fundamental to provide realistic timelines and reduce unnecessary complexity. Article 7(2) of the draft implementing regulation mandates GPAI providers to submit written observations on the Commission's preliminary findings within a window of at least 14 days, which is disproportionately tight given the complexity of the technology at hand. GPAI providers should have at least four weeks to submit their written observations, and up to two months for complex cases. These more realistic timelines align with established EU competition law standards.

Moreover, the 50 pages limit for written observations set out in the Annex to the draft implementing regulation does not provide the necessary flexibility for complex technical cases. For well-reasoned requests, the Commission should be able to grant a waiver to the page limit.

Last but not least, the possibility in Article 9(6) for the Commission to disclose information that is claimed to be confidential "unless it receives objections within one week" is particularly short, especially where a significant number of disclosures are disputed. The Commission shall be able to provide extensions of the one-week deadline where the volume or complexity of the documents warrants it.

Third, the provisions of the implementing regulation need to remain within the remit of the AI Act. The possibility in Article 5(3) of the draft implementing regulation for the Commission to order interim measures against a provider of GPAI models exceeds the scope of the AI Act and Market Surveillance Regulation (MSR), which only grant these powers for AI systems. Given the place of GPAI models in the value chain, such measures could impact a broad range of downstream applications and could be technically unworkable, especially for open-source models.

Article 5(3) further lacks due process safeguards and does not grant providers the right to be heard, in line with the established procedural rights granted to economic operators under Article 18(3) of the MSR. As an implementing regulation cannot extend beyond the powers granted under the regulation it is implementing, in this case the AI Act, Article 5(3) should be removed. At the very least, the procedural rights enshrined in Article 18(3) of the MSR should be introduced alongside a requirement for evidence of a "direct and immediate" risk that would justify the urgency referred to in Article 5(3) of the draft implementing regulation.

## II/ Safeguarding model integrity and security

The draft implementing regulation should introduce robust safeguards to preserve the technical integrity and security of GPAI models.

First, it is fundamental to ensure that the Commission's access to GPAI models remains proportionate and within the remit of the AI Act's requirements. As it stands, Article 2(1) of the draft implementing regulation grants the Commission unlimited and thereby clearly disproportionate access to the model - including through application programming interfaces (APIs), internal access, source code, model weights, infrastructure, system state interaction with the model, and all levels of access granted to employees of the provider. The current wording of Article 2(1) seems to imply that the list is non-exhaustive. The powers granted to the Commission under Article 2(1) of the draft implementing regulation strongly contrast with Article 92(3) of the AI Act, which provides that the Commission may

request access to the model through APIs “or further appropriate technical means and tools”. The draft implementing regulation should clearly differentiate between API access, which should be the preferred method for safety evaluations where access to documents and relevant information are deemed insufficient, and “further” means of access, which risk exposing extremely sensitive proprietary information and trade secrets. The reference to “all levels of access granted to employees of the providers” goes far beyond established standards in similar EU regulations and would create a dangerous precedent.

Furthermore, access should be limited to the Commission’s mandate, as set out in the AI Act. Article 92(1)(a) of the AI Act specifies that the Commission may conduct evaluations to assess compliance only where the information gathered under Article 91 is insufficient or to investigate systemic risks. Article 78(2) further provides that the AI Office shall request only data that is strictly necessary for the exercise of its powers under the AI Act. Article 2(1) of the implementing regulation needs to reflect these safeguards and clarify that model access is only a measure of last resort.

In addition, Article 2(1) of the draft implementing regulation further needs to reflect the requirements enshrined in Article 92(4), whereby the Commission’s request for access should state the legal basis, the purpose and reasons of the request and set the period within which the access is to be provided.

In a similar vein, the draft implementing regulation’s failure to define the methods and duration for the sharing of real or near real-time information through API in Article 14(4) raises concerns as it denies providers the possibility to suggest secure transmission methods for sensitive information and exposes them to potentially burdensome or inappropriate methods further down the line, without any possibility to object. We suggest removing paragraph 4 or, in the alternative, to consult with the provider on data-sharing methods to avoid compromising the integrity and security of the model.

Second, the implementing regulation should not conflict with relevant AI Act requirements or put the integrity of a model at risk. Article 2(1) of the draft implementing regulation currently empowers the Commission to require the provider to disable and remove any logging measures that could track or record the access to the GPAI model. Such a requirement conflicts with established security protocols and with Article 55(1)(d) of the AI Act, which mandates GPAI providers to ensure an adequate level of cybersecurity protection for models with systemic risks. Maintaining logging functionalities is essential to document access and monitor security, but also to comply with legal requirements in and beyond the AI Act. Disabling logging could infringe on other obligations supervised by other regulatory authorities such as data protection authorities, cybersecurity agencies or financial regulators. Article 2(1) of the draft implementing regulation should be amended to remove this possibility. Potential concerns around the confidentiality of the evaluation can be alleviated through confidentiality commitments and technical safeguards that preserve the logging functionality, such as controlled evaluation environments.

Third, the draft implementing regulation should introduce robust security protocols for the handling of sensitive information by the European Commission and independent experts. The draft implementing regulation currently disregards Article 78(2) of the AI Act, which mandates authorities to have adequate and effective cybersecurity measures in place to handle sensitive information. The implementing regulation should introduce a strong

cybersecurity provision building on the principles set out in Article 32 of the General Data Protection Regulation (GDPR).

### III/ Enhancing governance and legal certainty

The draft implementing regulation would strongly benefit from stronger governance and enhanced legal certainty.

First, the safeguards for the selection and appointment of independent experts need to be considerably strengthened to preserve neutrality and confidentiality. Article 3 of the draft implementing regulation does not enable GPAI providers to formally object to the appointment of an independent expert based on objective grounds such as expertise or neutrality. GPAI providers may hold significantly relevant information that is not necessarily available to or at the disposal of the European Commission, such as potential ties to competitors or past litigation.

Moreover, the draft implementing regulation does not prevent a single independent expert from conducting model evaluations of multiple competing providers, which introduces a broad variety of risks ranging from the unintended leak of trade secrets to uniform expert advice that increases security vulnerabilities.

Additionally, Article 3(2) of the draft implementing regulation only mandates the Commission to “take into account” whether an independent expert has security protocols in place before appointing the expert. Given the high sensitivity of information that will be accessed by experts, such a requirement should be strictly mandatory and verified by the Commission. Article 3 should also introduce strict deletion requirements upon the end of an expert’s contract.

Last but not least, the possibility in Article 4(2) for the Commission to appoint independent experts directly from the scientific panel established by the AI Act raises significant concerns. One of the core tasks of the panel is to alert the AI Office of possible systemic risks and provide advice on a broad range of issues related to the AI Act’s implementation. The AI Act does not attribute the specific task of conducting evaluations to the panel. Appointing experts directly from the panel raises concerns around impartiality and potential conflicts. The implementing regulation should require experts to be independent of both the Commission and AI Board, and require an open public procurement process for the selection of experts.

Second, the draft implementing regulation needs to be further improved to enhance legal certainty and predictability. Article 6(2) of the draft implementing regulation currently enables the reopening of closed proceedings by the Commission at any time, which creates a permanent state of legal uncertainty. To ensure greater predictability, the reopening of closed proceedings should be duly justified and limited to instances where significant new evidence relevant to the initial proceedings is discovered. Furthermore, Article 6(1) of the draft implementing regulation enables a complainant to express its views prior to closing proceedings, whereas such a decision should be at the Commission’s discretion based on evidence at its disposal.

Third, clearer limitation periods are needed for the sake of legal certainty and greater predictability. For this purpose, Article 6(3) should further clarify that the list of actions

interrupting the periods for imposing penalties is exhaustive and does not extend to “any action” undertaken by the Commission beyond those listed in the provision. Moreover, Articles 10(4) and 11(4) of the draft implementing regulation state that “each interruption of the period [...] shall start time running afresh”. Instead of restarting the period from the beginning, it would make more sense to pause the proceedings and resume the count from where it was interrupted. It should be further clarified in Article 10(4) that the maximum period of twice the limitation period is an absolute limit that cannot be exceeded.

## Conclusion

CCIA Europe urges the European Commission to improve the draft implementing regulation with a view to strengthen procedural fairness and rights of defence, safeguard model integrity and security, and enhance governance and legal certainty. Our association stands ready to support the European Commission in achieving these objectives.

## About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA’s Brussels-based team seeks to improve understanding of our industry and share the tech sector’s collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

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