LEWIATAN

Warsaw, December 10, 2025

Position of Polish Confederation Lewiatan on Digital Omnibus on AI

I. General remarks

The Omnibus report on the AI Act falls short of delivering the regulatory clarity and competitive edge Europe urgently needs. While there are some steps forward - like expanding the legal basis for bias mitigation, creating a more centralized enforcement regime, and introducing a transitional period for high-risk compliance - these tweaks don't address the bigger picture. Uncertainty and fragmented timelines persist, and the opportunity to set a truly forward-looking framework is being missed.

Delaying parts of the High-Risk regime is a nod to implementation pressure, but it doesn't solve the wider compliance burden or the lack of legal certainty facing businesses. These challenges aren't limited to high-risk systems; they run through the entire AI Act, especially the rules for General Purpose AI Models (GPAIM). Crucially, EU and national regulators still don't have a clear mandate to promote innovation. Without that, Europe risks piling up obligations that deter investment and slow the path from research excellence to world-class products, services, and jobs. Furthermore, a clear distinction must be made between the requirements for B2B and B2C applications because the level of required protection, the need for details and standards and the coverage of already existing legal framework is totally different.

A "Stop the clock" on the AI Act as a whole is needed to address these issues head-on and give Europe the chance to get this legislation right for competitiveness and growth. We also need to move the implementation deadline of the EU AI Act by at least 2 years.

II. Broadening the "Stop the clock" to include the GPAIM regime to safeguard innovation and legal certainty:

Postponing only the High-Risk regime in the AI Act acknowledges implementation pressures but fails to address the broader compliance burden and persistent legal uncertainty for businesses in the EU. These challenges extend beyond High-Risk systems to GPAIM

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provisions, where the rules blur the line between model development and system use, diverging from the principle that risk should be managed at the point of use.

Limiting the postponement of the AI Act to the High-Risk regime risks undermining the effectiveness of the legislative process and missing the goal of comprehensive regulation. Extending the grace period to GPAIM provisions is essential for legal certainty and a truly risk-based approach.

The current GPAIM framework conflates model development with system deployment, complicating risk management and threatening regulatory stability. As such, the omnibus needs to broaden the grace period to also include the start of enforcement of the GPAIM rules to ensure consistency. Only through such decisive action can the AI Act achieve its objectives without stifling innovation or hindering the development and deployment of transformative AI technologies in the EU.

I. "Stop the clock" on high risk regime:

The final Omnibus report on the AI Act introduces a grace period for high-risk AI systems, contingent on the Commission's confirmation that supporting measures, such as standards or guidelines, are in place. If confirmation is delayed, the rules will automatically apply by the final deadlines: 2 December 2027 for Annex III systems and 2 August 2028 for Annex I systems. While this flexible timeline aims to accommodate the development of standards, it creates significant legal uncertainty for businesses and regulators, as the trigger for Commission confirmation remains unclear and the staggered start dates complicate compliance planning.

To address these challenges, the Commission should replace the current conditional and staggered grace periods with a single, fixed deadline for all high-risk AI systems under Annex I and Annex III. This approach would provide legal certainty, administrative simplicity, and efficient implementation, enabling all stakeholders to prepare for compliance with a clear and predictable timeline.

However, the proposed one-year grace period is likely insufficient, given that relevant standards are not expected to be published before the end of 2026. This would leave stakeholders with only a limited window to achieve compliance before the August 2027 deadline, raising concerns about the adequacy of the lead time provided. In our opinion the

currently proposed 'final' deadlines should apply as a general, fixed rule: 2 December 2027 for Annex III systems and 2 August 2028 for Annex I systems.

II. "Stop the clock" on (some) transparency requirements:

- The European Commission's final omnibus package proposes a limited grace period for certain transparency requirements, giving providers of generative AI systems just six months to comply with Article 50(2) if their systems were on the market before 2 August 2026. This narrow approach is inadequate and risks undermining both regulatory predictability and Europe's innovation potential.
- Restricting the grace period to a single section of Article 50, and only to systems released before a specific date, is unjustified. The technical and practical challenges of compliance are universal, and the lack of consensus on labelling and watermarking standards—combined with unprepared enforcement authorities—makes a piecemeal transition unworkable.
- The Commission must extend the grace period to all provisions of Article 50, with a unified compliance deadline of February 2027 for all AI systems in scope, regardless of market entry date. Anything less will stifle innovation, create confusion, and fail to deliver the clarity and readiness Europe urgently needs.

III. Absence of a regulatory innovation mandate

Even if the Omnibus proposal takes one step towards a more centralized approach to the AI Act, it fails to provide a clear mandate for regulators at both EU and national levels to actively promote innovation. This omission means that no digital regulator, including national competent authorities, is explicitly tasked with fostering innovation. While Article 1 emphasizes the importance of human-centric and trustworthy AI, this objective is not adequately reflected in the mandates or competencies of regulatory bodies. Without a dedicated innovation mandate, the Act risks inconsistent interpretation and regulatory fragmentation, undermining effective implementation and impeding the EU's global competitiveness in AI. To advance investment, innovation, and sustainable growth, digital regulators must be unified in their mission to create a stable and forward-looking environment.

AI is developing extremely quickly. The AI Act attempts to regulate technologies that may look completely different in two to three years' time. There is a risk that the regulation will quickly become outdated and hinder the implementation of new, more effective solutions.

The Commission's aim to expand access to regulatory sandboxes, which allow companies to test innovative AI solutions in a controlled environment with fewer regulatory burdens and launch of EU-wide sandbox from 2028 could further stimulate innovation, alongside allowing more extensive testing of AI systems in real-world conditions, especially in key sectors such as the automotive industry.

IV. Broadened exemption for processing special categories of data to address bias

- We need exemptions from the AI Act for AI applications already regulated – e.g., by the Machinery Directive
  For already regulated sector systems (Annex I) the AI Act rules should not apply when AI related provisions are integrated in already existing sectorial frameworks (MDR, machinery, rail, etc.). Otherwise (as is the case now) AI Act obligations must be 100% aligned with vertical/sectorial directives to avoid inconsistency / legal uncertainty. Excluding these from the High-risk AI Act system's scope to avoid duplication with existing sectoral legislation is the most efficient solution. The already existing exemption for rolling stock must be made more flexible to align with the specific requirementsof the rail sector.
- The Omnibus proposal's introduction of Article 4a marks a significant and necessary shift, broadening the legal basis for processing Special Categories of Data (SCD) to detect and correct bias across all AI systems and models—not just those deemed high-risk. This is a crucial improvement that will empower more effective AI training and support the EU's commitment to fairness and responsible innovation.
- Limiting bias mitigation to high-risk systems is fundamentally flawed, as bias is a structural risk present in all AI development. Every model, regardless of its classification, must be able to detect, measure, and correct discriminatory patterns, and this cannot be achieved without access to SCD under strict safeguards.
- Extending this provision is not only logical and proportionate, but also essential to uphold equal standards of fairness and to fulfill the AI Act's core objective of preventing harm. The proposed approach must remain in the final Omnibus text to ensure Europe's AI sector can innovate responsibly and protect against discrimination at every level.

V. Strengthening central oversight of AI systems

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- The Digital Omnibus proposal introduces targeted amendments to better align the AI Act with the EU's broader digital regulatory framework. Most notably, the changes to Article 75 expand the enforcement powers of the AI Office, designating it as the central authority for supervising all AI systems integrated within Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLSEs), as well as GPAIMs.
- This centralization addresses potential conflicts with existing digital regulations and harmonizes supervisory responsibilities with the approach established under the DSA, where the Commission oversees the largest platforms due to their cross-border impact. By consolidating enforcement within the AI Office, the proposal ensures consistent oversight, prevents regulatory fragmentation, and strengthens the EU's ability to apply uniform standards across Member States.

VI. Transition from prescriptive to encouraged AI literacy

The final Omnibus proposal replaces prescriptive AI literacy requirements with a more flexible commitment, tasking Member States and the Commission to encourage providers and deployers to ensure appropriate AI literacy among staff and relevant individuals. This approach reflects stakeholder feedback, acknowledges the diversity of industry needs, and mitigates undue compliance burdens, particularly for smaller enterprises. It is a measured and effective improvement that should be included in the final legislative text.

VII. Transparency obligations (Article 50 of the AI Act)

- It is crucial to specify that transparency obligations related to "outputs of the AI system are marked in a machine-readable format and detectable as artificially generated or manipulated" in case of creating AI agents (or agentic/ multi-agentic AI systems) are imposed on ADKs'/ agentic AI platforms'/ frameworks' providers. If a framework facilitates creation of AI agents, the providers should implement the mechanisms for "watermarking" various types of outputs. It is disproportionate to require an AI agent creator (who may be merely a business user without in-depth programming or computer science knowledge) to implement such watermarks on their own.
- "watermarking" obligations ("outputs of the AI system are marked in a machine-readable format and detectable as artificially generated or manipulated") with regard to texts should be subject to the proportionality principle. There is no need to watermark every type of text. For example, if an AI agent creates various reports

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(e.g. as sheets with data or written summaries of a specific topic) for specific business users, such reports include information (for a human being, not machine-readible) that they were created with AI and IT and data architecture is created in such a way that is is clear which resources are created with AI - there is no need for additional watermark. If a text is used as an article on a blog or news portal, we agree that a technical watermark may be required. However, in cases where:

- a technical and data architectures are created in such a way that it is clear which resources are generated by AI; or
- Texts are used for internal use only and they include information for users (human beings) that the texts were created with AI

there is no need to introduce additional watermarking requirements.

- Extend the grace period for Article 50(2)'s transparency requirements – The transparency obligations for generative AI systems - including the machine-readable marking obligations under Article 50(2) - will take effect as of August 2026. However, the ongoing Code of Practice process to clarify the implementation of these requirements will not be finalized before June 2026. Because the six month 'grace period' for this requirement as now proposed only applies to AI systems placed on the market before 2 August, this would mean that AI systems placed on the market after that date will need to have operationalized compliance on the basis of the Code almost immediately, creating significant legal uncertainty. We therefore recommend extending the grace period to 12 months and applying it to AI systems placed on the EU market between 2 August 2026 and 2 August 2027.
- Provide a similar grace period for Article 50(4)'s transparency requirements – The delayed application timeline proposed for Article 50(2) should also apply to the remainder of Article 50 – particularly Article 50(4) – to ensure regulatory coherence and feasible implementation. As the forthcoming Code of Practice will also define transparency and provenance expectations for deployers of generative AI systems set out in Article 50(4), the complete absence of a grace period for deployers creates the same implementation challenge that motivated the proposed delay for Article 50(2). In oder for deployers to have sufficient time to translate the Code's requirements into robust engineering and operational solutions, the timeline for Article 50(4) and the rest of Article 50 should be extended in the same way in order to ensure that providers and deployers alike can implement the Code of

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Practice in a consistent, technically sound, and interoperable manner, fully aligned with the Commission's forthcoming guidance.

VIII. Legal protection of trade secrets in the context of transparency requirements

European Comission should strive to ensure that documentation obligations do not force companies to disclose key algorithms that constitute their know-how. Efforts should be made to develop standards that reconcile transparency with the protection of intellectual property.

IX. Simplifying and clarifying AI Act implementation

Implementing the AI Act in a business context is currently hampered by significant regulatory uncertainty, often forcing companies to make bold assumptions. Key definitions, such as AI and "significant generality of a general-purpose AI model", "significant modification of the system" or "human oversight" are too vague. Moreover, broad definitions could encompass many tools that are not currently considered advanced artificial intelligence and certain provisions, like measuring FLOPS spent on model training for fine-tuned models, are unrealistic and cannot be reliably implemented across the industry. This is compounded by internal inconsistencies within the regulation, where the Act's legislative purpose conflicts with its actual provisions or related official guidance, such as the suggestion that a single-modality model can be considered a general model. This uncertainty, coupled with delays and potential inconsistencies in domestic regulation across EU countries, severely complicates internal business planning for large, multinational enterprises.

To prevent the current wording from inadvertently paralysing business operations or encouraging non-compliance, all definitions and provisions should be simplified and clarified. Consideration should be given to removing overly detailed criteria that are difficult to measure or enforce, especially those related to systemic risk. Most importantly, all official provisions and published materials must be aligned, and a clear, binding roadmap for implementation must be published and strictly adhered to by regulatory bodies to provide the stability businesses need to comply.

X. Clarify interplay with Cyber Resilience Act

We recommend reintroducing the clarification (as was part of the leaked draft of the AI Omnibus) that high-risk AI systems which Cyber Resilience Act's (CRA') essential cybersecurity requirements, and has an EU Declaration of Conformity under the CRA, would be deemed compliant with the AI Act's requirement to have an appropriate level of accuracy, robustness, and cybersecurity (Art 15 AI Act). Without such clarifications, providers face legal uncertainty and a risk of duplicative or inconsistent conformity assessments across overlapping EU frameworks. This alignment avoids double testing, reduces administrative burden for both providers and notified bodies, and ensures that the EU's broader digital-product safety acquis operates as an integrated system rather than a patchwork of parallel obligations. Reinstating the clarification would therefore materially support legal certainty, streamlined compliance pathways, and more efficient implementation for both industry and authorities.

XI. Challenges related to the classification of AI systems (high vs. low risk)

One of the biggest challenges is the uncertainty surrounding the classification of AI systems. AI Act divides AI systems into risk categories (unacceptable, high, limited, minimal), and further obligations depend on this classification. It is crucial that the Commission publishes detailed guidelines interpreting key concepts, e.g. defining what exactly qualifies a system as "high risk". Specific business cases and case studies are strongely encouraged and recommended.

Clear guidelines are needed for the particular sectors, including TSL or e-commerce, with detailed interpretations from the European Commission which AI systems are subject to specific obligations. Such a document would reduce legal uncertainty and make it easier for companies to prepare for the implementation of the regulations.

For many industry sectors, including logistics services, standard optimisation systems (e.g. route planning) should be excluded from the high-risk category AI systems, as long as they do not directly influence decisions on hiring, dismissal or pay conditions. It should be argued that these are supporting tools and that the final decision rests with a human being (dispatcher, manager) anyway. Similarly, traditional scoring systems based on logistics regression should be excluded from the scope of AI systems.

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Furthermore, oftentimes AI systems are subject to continuous updates (model retraining). It is unclear which updates will require going through the entire costly conformity assessment procedure for high-risk systems again, which may slow down innovation.

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