Callaghan Innovation Te Pokapū Auaha

Simply Privacy

6 EU AI Fact Sheet

How to prepare

1 Work out if and how the AI Act affects you

Is your AI system covered by the Act?

- Is it an **AI system** or a **GPAI model**?
- Will it be made **available in the EU** or will its **outputs be used in Europe**?

What is your role?

- Are you a **Provider**, a **Deployer** or something else? This is a key factor in determining your obligations.
- Providers face the bulk of obligations but Deployers have some too. It's possible to be both a Provider and a Deployer (depending on the situation) and you can become a Provider of a high-risk AI system if you make certain changes to it - even if you started out as a Deployer. It can get complicated, so make sure you get appropriate advice.

What is the risk level of your AI system?

- **Unacceptable risk:** Development, deployment and use is banned unless you can rely on an exception.
- **High risk:** Prepare to comply with extensive regulatory obligations, particularly if you're a Provider.
- **Limited risk:** Providers and users of General Purpose AI models and certain other AI systems have various transparency obligations, including informing users when they're interacting with an AI system and marking synthetic content (like deepfakes) as artificially generated.
- **Other:** You can rest easy.

2 Understand your obligations

Once you've worked out your **role** and the applicable category of **risk** for your AI systems, you can start to understand your **obligations** under the AI Act. For more information, see **EU AI Fact Sheets 4: High-risk AI systems and 5: General-purpose AI systems**.

Be aware that other laws apply to AI, whether that's in the EU, New Zealand or wherever else you're doing business. That includes privacy, intellectual property, consumer protection, product safety and industry-specific regulation.

- **Liability:** Keep an eye out for the EU's AI Liability and revised Product Liability directives, which aim to compensate for damage caused by AI systems.
- **GDPR:** If your AI system processes personal data, then you will also have to comply with the EU's General Data Protection Regulation. It includes some demanding requirements, with substantial fines for non-compliance.
- **NZ Privacy Act 2020:** If your AI system uses personal information as training or input data, make sure you're following the **guidance and expectations issued by the Office of the Privacy Commissioner**.
- **AI laws around the world:** Many other countries are also exploring and enacting AI regulation, including Australia, Canada, Brazil, and China. Numerous US states have existing and incoming biometric and AI-focused laws.
- **AI Standards:** Guidance on **how** to implement the technical requirements of the AI Act will be set out in various standards. These are worth keeping an eye on, especially if you're a Provider, because high-risk AI systems and GPAI models that meet relevant standards will be assumed to be in line with the related obligations in the AI Act.

This document is a summary of key aspects of the EU AI Act and does not constitute legal advice.
You should seek specific expert advice on whether and how the EU AI Act might apply to your situation.

3 Implement an AI governance framework

The best way to start preparing for compliance with the AI Act – as well as applicable laws in New Zealand and elsewhere – is by developing your own AI governance approach, often called a 'Responsible AI framework'.

It's not just about compliance

Having your own AI governance framework won't just help you mitigate potential risk and meet your legal obligations – it will also help protect your company's reputation, build trust and ultimately foster further innovation.

Implementing appropriate AI governance, policies and processes is also likely to result in better performing systems. So there are real commercial upsides to taking a responsible approach to your development and use of AI.

Typical components of a Responsible AI framework

Every business is unique and there's no 'one size fits all' approach to AI governance. However, there is a clear worldwide consensus on what the essential elements of a robust AI governance programme are. Many of these will be familiar from what you've already seen in the AI Act.

- **AI strategy:** Why are you developing or using AI and what are you aiming to achieve? It's important to do some upfront planning and it can be helpful to document your thinking.
- **Governance:** Make sure you have clearly defined AI roles, responsibilities and decision-making processes. You'll need to keep your board up to speed with your AI efforts, particularly in the EU. Check out the AI governance materials at Callaghan Innovation and the AI Forum NZ's AI Governance website.
- **Take a cross-functional approach:** AI is likely to impact all parts of your business, not just your developers. To get a full view of the risks and opportunities, include your strategy, legal, privacy, HR, cybersecurity, IT and other key team members in a cross-functional, multi-disciplinary governance group to consider your AI efforts.
- **AI inventory:** If you are doing a lot in the AI space, it's good practice to identify and document your AI systems and models in an AI inventory, including any third-party systems you're using.
- **AI risk profile:** Map and monitor how AI systems are being used so you understand the extent of risk you face. This will help ensure you take a risk-based approach that is appropriate to your risk profile.
- **Responsible AI principles:** Many organisations develop their own AI ethics or Responsible AI principles to guide their overall AI strategy, governance, risk management and implementation. You can start with the AI Forum NZ's Trustworthy AI in Aotearoa AI ethical principles and tailor your own from there.
- **Supporting processes:** Your Responsible AI principles should be brought to life with appropriate actions and processes. Draw on your existing risk management practices and use impact assessments to identify, evaluate and mitigate AI-related harms and risks
- **Training:** It's critical your team understands the opportunities and limitations of AI as well as its potential impacts. Do them and your business a favour by making sure there's appropriate awareness of the key issues.

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