Negative Brief: Artificial Intelligence

By “Coach Vance” Trefethen

AFF Plan enacts the proposed European Union "AI Act" with some mysterious link to how the US allows the EU to somehow coordinate or do something with it. It sounds like the US just passes the same law proposed in the EU, but that wouldn't be topical: copying the same law for our country isn't a policy "toward" any country in Europe.

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Link: Ban on social scoring stops private companies from expressing opinions or sharing their data 13

Link: Banning communication of information violates the 1st Amendment, even if you say it’s for upholding “privacy” 13

Example: Twitter uses “social scoring” to share information and give coupons. AFF would ban them! 13

Impact: Compromising Freedom of Speech is really bad. It’s the foundation of nearly all other human rights 14

A/T “But it’s a corporation / commercial activity” – Doesn’t matter, constitutional protection still applies 14

2. Ban on social scoring = Harms the poor and disadvantaged 14

Link: EU AI Act bans social scoring 14

Low-income customers would benefit from social scoring instead of economic scoring 14

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The reason we don’t have deep fake regulations now is: they either wouldn't work or would violate the 1st Amendment if they did work 15

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4. Ban on Facial Recognition Technology = more crime and reduced public safety 15

EU AI Plan contains blanket ban on facial recognition technology in public spaces for law enforcement 15

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Link: The proposed EU AI law imposes a heavy burden on small and medium size enterprises (SME's) and would block wider adoption of AI 16

The Impact: Lost opportunities for economic growth, higher wages and new jobs if AI isn't adopted 16

Negative: Artificial Intelligence

TOPICALITY

1. Not "towards" Europe

Copying a European proposed law isn't a policy "towards" any country in Europe

Nobody in Europe knows nor cares whether we have the same law they do on Artificial Intelligence. "Imitating something Europe is doing" isn't the same as a policy "towards one or more countries in Europe." There are lots of examples that would disprove this. For example, the European Union abolished the death penalty years ago. If some US states abolish the death penalty, that's not a policy towards Europe, it just happens to be something Europe also did.

Simple topicality test: Could we do this plan without affirming the resolution?

Could the United States Congress pass this law and deny that we care about any country in Europe? Just pass the same legislation, enforce it the same way, and follow all the same regulations. If we can ignore Europe and pass the plan, then the resolution isn't upheld.

Impact: Resolution not proven true = Negative ballot

Proposing a plan that doesn't need the resolution means the plan doesn't prove that the resolution should be affirmed. AFF has a burden to prove that this resolution must be true in order to earn an AFF ballot. Their plan doesn't prove it, so they fail their burden and a NEG ballot is warranted.

2. Extra-topical application

All of the application and enforcement occurs on US citizens in the United States

All of the policy changes happen inside the United States and apply to US citizens and have nothing to do with any country in Europe. Anything that is outside of our relationship with Europe is outside the scope of the resolution and should be dropped from the round.

Impact: Vote NEG on solvency. Extra-topical mandates and their benefits should be dropped from the round

You should judge the round only on the part of their plan that actually is directed "towards one or more country in Europe," and drop out all the parts that are directed toward US citizens, US corporations or other entities within this country. Once you do that, there will be very little solvency left and no reason to vote for the plan

INHERENCY - Status Quo solves

1. A/T "Deep Fakes" / "Misinformation"

Fake videos that make false statements about an individual or put them into pornography are already actionable under existing law

Amanda Inglesh 2020 (second-year law student at the Benjamin N. Cardozo School of Law and a Staff Editor at the Cardozo Arts & Entertainment Law Journal) Deepfakes May be in Deep Trouble: How the Law Has and Should Respond to the Rise of the AI-Assisted Technology of Deepfake Videos 19 Jan 2020 <https://cardozoaelj.com/2020/01/19/deepfakes-deep-trouble/> (accessed 22 Oct 2021)

In terms of privacy, pornography is a major area most affected by deepfake videos. A recent trend was to create fake sex videos featuring public figures and celebrities, such as Emma Watson. Private individuals are also affected.  Victims of these videos may claim defamation, which is an oral or written communication of a false statement about another that unjustly harms their reputation.  Sexual deepfake videos implicate false statements about a person, while placing them in offending situations. Normally, since the First Amendment of United States Constitution protects American citizens’ freedom of speech, any law that interferes with Americans’ ability to express themselves is problematic. However, neither false speech nor obscenity are afforded First Amendment protection.  Moreover, untrue and damaging statements may lead to claims of defamation.

2. A/T "Russia & China threat to democracy from AI"

It’s already illegal for foreign entities to spend money on American election campaigns

Prof. Richard Hasen 2020 (Professor of Law and Political Science, UC Irvine School of Law ) Deep Fakes, Bots, and Siloed Justices: American Election Law in a “Post-Truth” World 7 May 2020 ST LOUISE UNIV LAW JOURNAL <https://scholarship.law.slu.edu/cgi/viewcontent.cgi?article=1782&context=lj#page=17> (accessed 22 Oct 2021)

The Supreme Court in Buckley v. Valeo recognized that campaign finance disclosure laws may serve this information interest, as well as interests in preventing the corruption of elected officials, by allowing voters to follow the money and look for special treatment given to campaign donors or those who spend to favor or oppose candidates, and the enforcement interest, ensuring that no other campaign finance laws are broken. For example, it is illegal for foreign governments, other foreign entities, and most noncitizens (except green card holders residing in the United States) to spend money on American candidate campaigns, and adequate disclosure allows regulators, the press, and the public to ensure that prohibited foreign sources are not secretly participating in our elections.

HARMS / SIGNIFICANCE

1. Insufficient harms exist to justify EU AI Act

EU legislators don't understand what they're regulating, can't name any quantifiable harms, and costs will exceed benefits

Mikolaj Barczentewicz 2022 (Senior Lecturer in Public Law and Legal Theory and the Research Director of the Law and Technology Hub at the University of Surrey School of Law in Guildford, England) 8 Feb 2022 " EU’s Compromise AI Legislation Remains Fundamentally Flawed" (accessed 22 Jan 2023) https://truthonthemarket.com/2022/02/08/eus-compromise-ai-legislation-remains-fundamentally-flawed/

Thus, what’s really at stake in regulating AI is regulating software-enabled extensions of human agency. But leaving aside the activists who explicitly do want controls on all software, lawmakers who promote the AIA [EU Artificial Intelligence Act] have something in mind conceptually distinct from “software.” This raises the question of whether the “AI” that lawmakers imagine they are regulating is actually a null set. These laws can only regulate the equivalent of Excel spreadsheets at scale, and lawmakers need to think seriously about how they intervene. For such interventions to be deemed necessary, there should at least be quantifiable consumer harms that require redress. Focusing regulation on such broad topics as “AI” or “software” is almost certain to generate unacceptable unseen costs.

2. A/T "Hard to detect flaws in AI"

Response #1: So what? It's not a harm until someone gets harmed

Until they prove who is being harmed by it being hard to detect flaws in AI, this isn't a harm and can't be a voting issue in the round.

Response #2: No solvency

None of their evidence says "If we pass the European Union AI Plan, flaws become easier to detect in AI." They're raising a harm here that they can't solve, so it should be dropped from the round.

Response #3: Markets solve

Any company that's using AI would have every incentive to work on detecting any flaws, since every flaw would be a missed opportunity or lost money for them until it's fixed.

3. A/T "AI promotes discrimination" - Humans are worse

The alternative to AI bias isn't zero bias, it's human bias. Human bias is worse because it's harder to fix

INNODATA 2019 (AI software consulting firm) (article is undated but references material published in 2019) "Eliminating Bias from Hiring Using Artificial Intelligence" (accessed 22 Jan 2023) <https://innodata.com/eliminating-bias-from-hiring-using-artificial-intelligence/>

If we cannot correct implicit human bias, we should strive to identify and correct bias in hiring using AI. While removing bias in AI can be difficult, it is much more achievable than eliminating bias in humans. The goal is not to have AI replace human recruiters entirely, but to make the hiring process easier, more efficient, and more equitable. Ultimately, AI has the potential to create a high-quality, diverse workforce. It is up to businesses to harness this power effectively and use it responsibly.

AI is better at reducing bias in the hiring process than human evaluation alone

INNODATA 2019 (AI software consulting firm) (article is undated but references material published in 2019) "Eliminating Bias from Hiring Using Artificial Intelligence" (accessed 22 Jan 2023) <https://innodata.com/eliminating-bias-from-hiring-using-artificial-intelligence/>

Time-constrained human recruiters with biased algorithms inevitably shrink the pipeline from the start. AI can initially evaluate the full pool of applicants and lead to greater success. It is common for only a small percentage out of millions of applicants to actually get reviewed. Truly automated recruiting is the only way to narrow the field without bias and access a wider variety of candidates.

4. A/T "Privacy loss" - has no impact

Most people don’t care about privacy as much as they claim to

Prof. Neil Sahota 2020 ( IBM Master Inventor, United Nations Artificial Intelligence Advisor, Professor at UC Irvine) 14 Oct 2020 “Privacy Is Dead And Most People Really Don’t Care” https://www.forbes.com/sites/neilsahota/2020/10/14/privacy-is-dead-and-most-people-really-dont-care/?sh=5fc1aa97b733

Have you read the terms and conditions to use Facebook? Your smart phone? [Most people have not](https://www.npr.org/2014/09/01/345044359/why-do-we-blindly-sign-terms-of-service-agreements), and probably with good reason. They’re hundreds, if not, thousands of pages long. In fact, even contract lawyers with thirty years of experience have struggled in trying to understand these agreements. Deep down, though, each of us knows that we’re signing away our privacy rights to use these platforms and devices. So why do we do it? We don’t truly value privacy as much as we like to believe we do.

What people value is “security,” not privacy. Strong belief in data privacy is dead

Prof. Neil Sahota 2020 ( IBM Master Inventor, United Nations Artificial Intelligence Advisor, Professor at UC Irvine) 14 Oct 2020 “Privacy Is Dead And Most People Really Don’t Care” https://www.forbes.com/sites/neilsahota/2020/10/14/privacy-is-dead-and-most-people-really-dont-care/?sh=5fc1aa97b733

We already live in a world where people are used to sharing everything online. You know those phone phishing scams like the fraudsters pretending to be the IRS? [Young millennials and Generation Z fall victim](https://www.vice.com/en/article/pkedxy/millennials-and-gen-z-get-scammed-more-than-their-grandparents-sorry) to them the most of any generation because they’re used to giving information away. People get important value from these platforms and devices and accept the trade offs for it. Data security is still paramount, but the strong belief for data privacy is pretty much dead.

We don’t agree on what is “private” and what is “public” any more. And you probably don’t know either

Mark Rasch 2018 (Cyber Law Editor) SECURITY CURRENT 29 June 2018 “Privacy is Dead. Long Live Privacy” <https://securitycurrent.com/privacy-is-dead-long-live-privacy/> (accessed 16 Oct 2021)

Privacy is dead because we can’t agree on what we mean by “privacy” generally, and “private information” in particular. We can’t agree on who “owns” that information, and what rights individuals and entities have to collect, store, process or use that information. On the flip side, we don’t agree on what is “public” information. You saunter to the local shopping mall and buy a pair of faded denim jeans at the local Gap — in full view of dozens of other customers and security cameras. Private? Public? When you parked in the mall lot, with your vanity license plate (GO CAPS) prominently displayed on the back of your car – public? The window stickers which advertise your life membership in the NRA or Sierra Club — private information?

5. A/T "Threat to democracy from AI fakes" - If that's true, we lost our democracy 200 years ago

We survived the “threat to democracy” from a flood of fake media in the 1800s

David Uberti 2016 (journalist) 15 Dec 2016 The real history of fake news COLUMBIA JOURNALISM REVIEW <https://www.cjr.org/special_report/fake_news_history.php> (accessed 24 Oct 2021)

While circulation in those days was relatively low—high publishing costs, low literacy rates—proliferation of multiple titles in each major city provided a menu of worldviews that’s similar to today. The infant republic nevertheless managed to survive the fake news scourge of early 19th-century newspapermen. “The large number of news outlets, the heterogeneity of the coverage, the low public esteem toward the press, and the obvious partisan leanings of publishers limited the power of the press to be influential,” political scientist Darrell M. West wrote in his 2001 book, *The Rise and Fall of the Media Establishment*.

Political manipulation of the truth in the media is an old American tradition. Somehow we’ve survived it…

David Uberti 2016 (journalist) 15 Dec 2016 The real history of fake news COLUMBIA JOURNALISM REVIEW <https://www.cjr.org/special_report/fake_news_history.php> (brackets in original) (accessed 24 Oct 2021)

“I will add,” Jefferson [continued](https://press-pubs.uchicago.edu/founders/documents/amendI_speechs29.html) in 1807, “that the man who never looks into a newspaper is better informed than he who reads them; inasmuch as he who knows nothing is nearer to truth than he whose mind is filled with falsehoods & errors.” Decades later, when Alexis de Tocqueville penned his seminal political analysis, Democracy in America, he also assailed the day’s content producers as men “with a scanty education and a vulgar turn of mind” who played on readers’ passions. “What [citizens] seek in a newspaper is a knowledge of facts,” de Tocqueville [wrote](https://xroads.virginia.edu/~hyper/detoc/1_ch11.htm), “and it is only by altering or distorting those facts that a journalist can contribute to the support of his own views.” His concerns weren’t for passive failures of journalism, but active manipulation of the truth for political ends.

Thomas Jefferson used fake news to discredit John Adams and win the Presidential election in 1800

Prof. Holly K. Hall 2018 (Associate Professor of Strategic Communication, Arkansas State Univ. J.D. University of Arkansas at Little Rock William H. Bowen School of Law) Deepfake Videos: When Seeing Isn't Believing, CATHOLIC UNIVERSITY JOURNAL OF LAW & TECHNOLOGY <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1060&context=jlt#page=14> (accessed 23 Oct 2021)

Such misinformation has a long history in our political processes. For example, during the election of Thomas Jefferson against incumbent John Adams, some newspapers were used as wreckers of reputation with little consideration for truth. Jefferson used a questionable journalist, James Callendar, to write defamatory pieces about Adams, including an inaccurate story that Adams wanted to start a war with France

Journalists exaggerate the fake media “problem” as an excuse for their own loss of power and public confidence

David Uberti 2016 (journalist) 15 Dec 2016 The real history of fake news COLUMBIA JOURNALISM REVIEW <https://www.cjr.org/special_report/fake_news_history.php> (accessed 24 Oct 2021)

Public trust of the media has been in decline for decades, though the situation now feels particularly cataclysmic with the atomization of media consumption, partisan criticism from all corners, and the ascension of Donald Trump to the White House. Just as Watergate gave the media a bright story to tell about itself, fake news provides a catchall symbol–and a scapegoat–for journalists grappling with their diminished institutional power.

6. A/T "Threat from China" - no threat from China on AI

China’s AI policy is a vague political slogan. It has no geopolitical impact

Prof. Jinghan Zeng 2021. (Professor of China and International Studies in the Department of Politics, Philosophy and Religion at Lancaster University, United Kingdom) “China’s Artificial Intelligence Innovation: A Top-Down National Command Approach?” 23 Jan 2021 <https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.12914> (accessed 9 June 2021)

As this article shows, ‘to develop AI’ is a broad and vague political slogan to mobilize Chinese domestic actors. Far from being a specific plan, the State Council’s ‘New Generation AI Development Plan’ is a ‘manifesto about the future’ (Laskai, [2017](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0041)) or a ‘wish list’ of AI technology that the central state would like to develop with little concrete ideas about how to get it done (Sheehan, [2018](https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12914#gpol12914-bib-0060)). **[END QUOTE**] Its implementation heavily relies on local and subnational actors to interpret the AI slogan and find their own ways to motivate the private sector and accelerate AI activities in their respective jurisdictions. This process often supports local agendas and interests as the mechanism allows a high level of discretion for local actors to decide local AI activities. This slogan mobilization process means that local and subnational actors play an important role in shaping AI politics. In this regard, China’s AI innovation does not simply follow a top-down command approach, which makes it distinctly different from that in the US and Europe. While strategic thinking and national planning mindsets are clearly there backing the Chinese central state’s AI plans, these top-level grand masterplans are not completely unfolded into concrete practices at the local level. [**HE GOES ON LATER TO SAY QUOTE**:] The nature of China’s economic circumstances means that its AI industry is primarily driven by a range of local, subnational and non-state actors who have diverse – and sometimes competing – interests and little diplomatic and geopolitical awareness.[ **END QUOTE**] Their struggle for resources has shaped the development of China’s AI industry. Instead of a top-down command model, the development of China’s AI policies largely follows a bottom-up manner in that existing local AI initiatives successfully won recognition from Beijing and were upgraded to become a national focus. Rather than a concerted national effort to boost the AI industry, the Chinese approach faces the problems of coordination and manipulation. [**AND FINALLY HE CONCLUDES QUOTE**:] Similar to the US and Europe, China’s market forces and entrepreneurs play a key role in boosting the AI industry, and they are pursuing individual commercial interests not the country’s national interests.

7. A/T "Threat from Russia" - No threat from Russia on AI

Russia lags behind other countries in AI technology and is unlikely to become a leader in its development

Nilolai Markotkin & Elena Chernenko 2020. (Markotkin is an expert with the Russian International Affairs Council. Chernenko is a journalist with Kommersant newspaper ) "Developing Artificial Intelligence in Russia: Objectives and Reality" (accessed 22 Jan 2023) https://carnegiemoscow.org/commentary/82422

The Russian government finances industry-specific projects—quite generously by Russian standards—which testifies to the high priority assigned to this field. The application of AI in the military industry, in which Russia’s position is traditionally strong, is the subject of particular attention. Nevertheless, it is unlikely that Russia will become a leader in the development of AI as set forth in the national strategy because of its current lag behind the leading technological powers, as well as some other factors, such as a small venture capital investment market.

Russia claims they will be a leader in AI technology, but it's not happening

Nilolai Markotkin & Elena Chernenko 2020. (Markotkin is an expert with the Russian International Affairs Council. Chernenko is a journalist with Kommersant newspaper ) "Developing Artificial Intelligence in Russia: Objectives and Reality" (accessed 22 Jan 2023) https://carnegiemoscow.org/commentary/82422

Unlike China and the United States, Russia isn’t a global leader in AI technologies. Although the strategy states that “the Russian Federation possesses significant potential to become one of the international leaders in the development and use of artificial intelligence technologies,” it’s unlikely the country will be able to achieve this goal in the short and medium term.

8. A/T "Global standards needed"

Actually, they're not. A one-size-fits-all uniform international AI regulation isn't what Europe needs

**Prof. Daniel Mügge** 2021 (Professor of Political Arithmetic at the University of Amsterdam.) 26 Nov 2021 Cooperation á la carte is the way forward for EU AI regulation (accessed 22 Jan 2023) https://blogs.lse.ac.uk/europpblog/2021/11/26/cooperation-a-la-carte-is-the-way-forward-for-eu-ai-regulation/

But where EU ethical goals are best served by Brussels forging ahead on its own – as it did with the [General Data Protection Regulation](https://en.wikipedia.org/wiki/General_Data_Protection_Regulation) – it should have the courage to do so. There is no reason to think the EU will be well-served by a one-size-fits-all-AI-uses approach to international regulatory cooperation. It should not blindly give in to the ‘are you with us or against us’ logic prominent in American thinking. The diverse ethical trade-offs AI raises weigh too heavily to be tackled well in a uniform international mould.

9. A/T "States have different AI regulations/laws, so federal action needed" - Not a problem

Response #1: So what. It's not a harm until someone gets harmed

It's not enough to say "there's a diversity of state laws so we have to fix it." It's not a harm until someone gets harmed, and the AFF needs to name someone who actually got hurt because of diversity of state laws. If they can't, then this isn't a harm and can't be a voting issue in the round.

 Response #2: Solution is extra-topical

Fixing inconsistent state laws by federal action might be a great idea but there's no way it's a US policy towards a country in Europe. It's a policy by the federal government toward the 50 states. There's no solution to this by any topical Affirmative plan they could offer.

Response #3: State action is better than federal. Experimentation among the states develops & spreads new and better ideas

Prof. Graeme Boushey 2012. (Robert Wood Johnson Scholar in Health Policy Research at Univ of Michigan and assistant professor at Univ of California, Irvine) Punctuated Equilibrium Theory and the Diffusion of Innovations POLICY STUDIES JOURNAL, January 2012 <http://onlinelibrary.wiley.com/doi/10.1111/j.1541-0072.2011.00437.x/full>

Although federalism makes policy coordination difficult, it also creates opportunities for considerable policy innovation, as municipal, county, and state governments develop new policies to address local concerns. Federalism encourages venue shopping, a process where activists and interest groups strategically exploit the multiple venues of government to secure support for their legislative programs (Baumgartner & Jones, 2009; Holyoke, 2003; Pralle, 2003). This process increases the number of new ideas entering the political systems and can create conditions where “new ideas or policy images may spread rapidly across linked venues, thus setting in motion a positive feedback process” (Baumgartner & Jones, 2009, p. 240).

SOLVENCY

1. EU AI Law isn't ready yet

EU governing bodies are still negotiating the EU AI Act. They hope to have it finished by end of 2023

Bishop Garrison 2023. (J.D.; senior national security executive, veteran, and writer who has served in the military, presidential administrations and campaigns, the nonprofit community, and the private sector throughout his 20 year career) 11 Jan 2023 "Regulating Artificial Intelligence Requires Balancing Rights, Innovation" (accessed 22 January 2023) https://www.justsecurity.org/84724/regulating-artificial-intelligence-requires-balancing-rights-innovation/

 The EU Parliament has its own separate legislative process, and its own AI Act is in committee. While the EU Council AI Act takes a more nuanced, risk-based approach to governing the technology, the current draft of the parliament draft legislation has many prohibitions of AI technology to include a blanket ban on “remote biometric systems.” The two bodies will enter negotiations known as a trilogue that is similar to a conference committee in Congress to hopes of reaching an agreement on proposed legislation by the end of this year.

2. Can't solve for AI threats from China (if there were any)

US/Europe cooperation on AI won't solve for China because Europe doesn't view China the same way we do

Ulrike Franke 2021. (with Policy Dept. for Economic, Scientific and Quality of Life Policies Directorate-General for Internal Policies, European Union Parliament) June 2021 " Artificial Intelligence diplomacy" (accessed 21 Jan 2023) https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662926/IPOL\_STU(2021)662926\_EN.pdf

The US are Europe’s most important partner, and the EU should work closely with the US on AI as well as on other topics to face China. However, with regard to transatlantic cooperation on AI, it may be advisable not to place US-European cooperation on AI in the confrontation with China context. Although there is some change in European attitudes toward China happening at the moment (see below), Europeans do not feel the same urgency as the US when it comes to pushing back against Beijing. This means that the American interest in using transatlantic AI cooperation as a means to curb Chinese power is likely to have only limited traction in Europe.

3. Can't solve for "global standards"

Europe is unqualified to set global standards on AI, despite their ambitions

Andrea Calderaro and Stella Blumfelde 2022. (Calderaro - Department of Politics and International Relations, Cardiff University, Cardiff, UK. Blumfelde - Department of Political and International Science, University of Genoa, Genoa, Italy ) 9 Sept 2022 EUROPEAN SECURITY, "Artificial intelligence and EU security: the false promise of digital sovereignty" (accessed 22 Jan 2023) https://www.tandfonline.com/doi/pdf/10.1080/09662839.2022.2101885

However, the growing narrative on EU Digital Sovereignty and the intensification of initiatives aiming at building EU leadership on AI, tell us little about the EU’s actual capacity to achieve this goal. AI is still a foggy concept, turning the debate in the field into a cacophony of perspectives from both scholars and policymakers. Without a convincing framework of what AI really means, it is still difficult to identify what global leadership in AI implies and how it could be achieved. The EU is not immune to the general confusion in the field, and it has addressed sovereignty over AI in an increasing number of statements and strategies ranging from protectionist practices, claims to gain technology and innovation superiority, and ambition to achieve “tech-deterrence”. However, as we argue in this article, we have little evidence that the EU will be able to pursue Digital Sovereignty and global leadership in the AI domain given the lack of major digital tech industry and investments when compared to the intensity in efforts by the leading actors in the AI domain, notably the US and China (Archibugi and Mariella 2021).

Europe's "leadership" on AI is imaginary. Their proposed regulations are just a stunt to protect themselves from US and China competition in the European market

Andrea Calderaro and Stella Blumfelde 2022. (Calderaro - Department of Politics and International Relations, Cardiff University, Cardiff, UK. Blumfelde - Department of Political and International Science, University of Genoa, Genoa, Italy ) 9 Sept 2022 EUROPEAN SECURITY, "Artificial intelligence and EU security: the false promise of digital sovereignty" (accessed 22 Jan 2023) https://www.tandfonline.com/doi/pdf/10.1080/09662839.2022.2101885

So far, the lack of major EU tech companies has prevented the EU and its member states from being proactive in the race to technological global leadership. As a consequence, the EU strategy to achieve Digital Sovereignty has been sought with the intention not only to generate imaginaries of an EU leadership in the field (Csernatoni 2022, Lambach and Monsees 2022), but also by implementing protectionist initiatives, by which we mean the series of regulations designed to protect its internal digital market. As a result, EU Digital Sovereignty has been mostly tied to the idea of the EU as a regulatory actor in the international digital environment (Bradford 2020, Micklitz et al. 2021, Farrand and Carrapico 2022), impacting on the monopoly of US digital service providers and Chinese tech companies in the European market only.

Rushing ahead with EU AI Act (AIA) to "set a global standard" could backfire and leave them standing all alone

Alex Engler 2022. (Fellow in Governance Studies at Center for Technology Innovation, Brookings Institution) The EU AI Act will have global impact, but a limited Brussels Effect 8 June 2022
(accessed 22 Jan 2023) https://www.brookings.edu/research/the-eu-ai-act-will-have-global-impact-but-a-limited-brussels-effect/

The AIA has already been [significantly delayed](https://www.kaizenner.eu/post/cop-and-aia) by political disputes, so if EU lawmakers see an urgent need to address AI harms (as is well demonstrated in the U.S.), then, by all means, they should press quickly ahead. However, doing so for the purpose of setting a global standard is misguided in the case of the AIA. That the AIA will not have a strong Brussels effect also has implications for the EU’s political messaging. The EU might have more to gain by signaling [more openness](https://www.feps-europe.eu/attachments/publications/220301%20beyond%20the%20brussels%20effect.pdf) to feedback from and cooperation with the rest of the democratic world, rather than saying it is “racing” to regulate—or else the EU may find itself truly alone at the finish line.

EU AI Act won't be global standard because it won't significantly affect global markets

Alex Engler 2022. (Fellow in Governance Studies at Center for Technology Innovation, Brookings Institution) The EU AI Act will have global impact, but a limited Brussels Effect 8 June 2022
(accessed 22 Jan 2023) https://www.brookings.edu/research/the-eu-ai-act-will-have-global-impact-but-a-limited-brussels-effect/

As for the EU, there are many good reasons to pass the AIA—fighting fraud, reducing discrimination, curtailing surveillance capitalism, among others—but setting a global standard may not be of them. This is particularly important to the EU’s economic argument for the AIA, as many European policymakers have argued that being the first government to implement a regulatory regime will, in the long term, benefit the EU companies that adopt it. This line of thinking argues that, when the EU implements a regulation, its companies adapt first. Then, when the rest of the world adopts the European approach, the EU-based companies are best prepared to succeed in a global market with rules they have already adjusted to. Yet this logic only holds if the EU rules significantly impact the global markets, which, as this paper has shown, is uncertain, if not unlikely.

4. Won't be a "global standard" - Key countries not on board with EU AI standards

Great Britain: doesn't accept the EU regulations. They're writing their own AI standards

[Patricia Ernst](https://www.mofo.com/people/patricia-ernst)**,**[Alistair Maughan](https://www.mofo.com/people/alistair-maughan)**,**and [Georgia Wright](https://www.mofo.com/people/georgia-wright) 2022. (all are attorneys with Morrison Foerster law firm. Maughan & Write are in London. Ernst is in Germany.) 26 Oct 2022 " AI Regulation in Europe" (accessed 22 Jan 2023) https://wp.nyu.edu/compliance\_enforcement/2022/10/26/ai-regulation-in-europe/

Meanwhile, outside the EU, the UK government has published an [AI Regulation Policy Paper](https://www.gov.uk/government/publications/establishing-a-pro-innovation-approach-to-regulating-ai/establishing-a-pro-innovation-approach-to-regulating-ai-policy-statement)and [AI Action Plan](https://www.gov.uk/government/publications/national-ai-strategy-ai-action-plan/national-ai-strategy-ai-action-plan) confirming that it intends to diverge from the EU’s regulatory regime. And, in June 2022, the UK [made proposals](https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents/outcome/artificial-intelligence-and-intellectual-property-copyright-and-patents-government-response-to-consultation) on one key aspect of AI – the treatment of intellectual property rights.  In both cases, the UK appears to be taking an approach that favours innovation over regulation.

Brazil: set standards very different from EU's AI Act

Sebastião Barros Vale, Katerina Demetzou, Lee Matheson 2022 (Vale - EU Policy Counsel at the Future of Privacy Forum. Demetzou - Policy Counsel for Global Privacy at the Future of Privacy Forum. Matheson - Senior Counsel for Global Privacy with the Future of Privacy Forum Global Privacy team) 16 Feb 2022 BRUSSELS PRIVACY SYMPOSIUM 2021: The Age of AI Regulation: Global Strategic Directions (accessed 22 Jan 2023) https://fpf.org/wp-content/uploads/2022/03/FPF\_Brussels\_Privacy\_Symposium-2021.pdf

Belli began by noting that the new AI bill has been seen as a surprise by many in Brazil, because the bill was adopted very quickly by the Chamber of Deputies, less than six months after the government’s April adoption of the National AI Strategy (original in Portuguese only). Belli further noted that, with the original bill introduced before the AI Strategy was finalized, and much regular legislative activity disrupted by the pandemic, some policymakers are concerned that there has not been sufficient opportunity for public debate on the AI bill. The speaker characterized the AI Bill as a ‘very light touch’ and principles-based law – with only 16 Articles – and as a ‘remarkable difference’ from the ‘very detailed approach’ adopted by the EU institutions. He noted that the AI Bill’s rapporteur indicated the law draws inspiration from the OECD Principles on AI.

5. Gaps and missing standards

The EU plan has gaps that miss important issues with the way future AI applications will be managed

David Matthews 2022 (journalist) 22 March 2022 SCIENCE BUSINESS "**EU artificial intelligence act** not ‘futureproof’, experts warn MEPs" <https://sciencebusiness.net/news/eu-artificial-intelligence-act-not-futureproof-experts-warn-meps> (accessed 22 Jan 2023) (Brackets added)

These general purpose AI systems, also known as foundation models, developed by tech giants like Google, are seen as the future of the technology. They able to learn across massive datasets of text, images and sounds, but as the legislation stands, it will not cover these systems directly, [but only the specific uses](https://sciencebusiness.net/news/new-type-powerful-artificial-intelligence-could-make-eus-new-law-obsolete) to which they are put. “Is the act in its current draft future proof enough? I think my answer is clear: no,” Max Tegmark, physics and AI specialist at the Massachusetts Institute of Technology, told MEPs [members of the European Parliament] at a hearing on 21 March. As a stark example, one consequence of excluding general purpose AI systems from the act is to shift liability onto European companies that use them in specific applications – rather than the US or Chinese firms that own the underlying AI systems on which these applications are built, Tegmark said.  “Imagine if you're Airbus, and you buy an engine from somewhere else, and you're not allowed to find out anything about how the engine works, you're not allowed to look inside, and you have to put that into your aeroplanes,” said Tegmark. “And then when the plane crashes because of an engine malfunction, you are the only one liable, right? This is a very, very bad, bad position to be in.”

DISADVANTAGES

1. Ban on social scoring violates the First Amendment

Link: AI Act bans AI for social scoring

Council of the European Union 2022. (one of the governing bodies of the EU) 6 Dec 2022 "Artificial Intelligence Act: Council calls for promoting safe AI that respects fundamental rights" (accessed 21 Jan 2023) https://www.consilium.europa.eu/en/press/press-releases/2022/12/06/artificial-intelligence-act-council-calls-for-promoting-safe-ai-that-respects-fundamental-rights/

Concerning **prohibited AI practices**, the text extends to private actors the prohibition on using AI for **social scoring**. Furthermore, the provision prohibiting the use of AI systems that exploit the vulnerabilities of a specific group of persons now also covers persons who are **vulnerable due to their social or economic situation**.

Link: Ban on social scoring stops private companies from expressing opinions or sharing their data

In this country, anyone is entitled to talk to someone else or share information or opinions. As we see in…

Link: Banning communication of information violates the 1st Amendment, even if you say it’s for upholding “privacy”

Prof. Eugene Volokh 2000 (law professor, UCLA Law School) FREEDOM OF SPEECH, INFORMATION PRIVACY, AND THE TROUBLING IMPLICATIONS OF A RIGHT TO STOP PEOPLE FROM SPEAKING ABOUT YOU, Stanford Law Review Vol. 52 No. 5 May 2000 <https://poseidon01.ssrn.com/delivery.php?ID=782003117027013004125122095019119089020016006059021006029106001097092085029102023065064106123110078072025043021025030071003102093068070122117031073027010093124006086019091068102015110125114&EXT=pdf&INDEX=TRUE> (accessed 16 Oct 2021) (ellipses and brackets in original)

Privacy is a popular word, and government attempts to “protect our privacy” are easy to endorse. Government attempts to let us “control . . . information about ourselves” sound equally good: Who wouldn’t want extra control, especially of things that are by hypothesis personal? And what fair-minded person could oppose requirements of “fair information practices”? The difficulty is that the right to information privacy—the right to control other people’s communication of personally identifiable information about you—is a right to have the government stop people from speaking about you. We already have a code of “fair information practices,” and it is the First Amendment, which generally bars the government from “control[ling the communication] of information” (either by direct regulation or through the authorization of private lawsuits), whether the communication is “fair” or not. While privacy protection secured by contract turns out to be constitutionally sound, broader information privacy rules are not easily defensible under existing free speech law.

Example: Twitter uses “social scoring” to share information and give coupons. AFF would ban them!

Huy Nguyen 2013 (doctoral student at Univ. of Houston Dept. of Computer Science) PhD Dissertation INTERACTIONS ON COMPLEX NETWORKS: INFERENCE ALGORITHMS AND APPLICATIONS, May 2013 <https://uh-ir.tdl.org/bitstream/handle/10657/410/NGUYEN-DISSERTATION-2013.pdf?sequence=1&isAllowed=y> (accessed 10 Dec 2021)

We present in this chapter an empirical study of Twitter in conjunction with influence measurement services, which are “social scoring systems” that assign each user a numeric score based on the user’s ability to drive actions and provoke interactions within others. Such services are popular nowadays, including Klout, PeerIndex, Kred, Empire Avenue, PROskore, just to name a few. The basic idea is as follow: those services scrape social network data, use it to create profiles of individuals, and assign each an “influence score”. Twitter users do not have to register with the measurement services to have their profile evaluated, since their information can be obtained via Twitter’s API interface. Once the user registers, the service will have full access to their data and provide more accurate measurement results. In exchange, user with high influence score (normally higher than 40) will be eligible for perks (discounted coupons, promotions, etc.) from many retailers

Impact: Compromising Freedom of Speech is really bad. It’s the foundation of nearly all other human rights

Prof. Stephen J. Wermiel 2018. (professor of practice of constitutional law at American University Washington College of Law) The Ongoing Challenge to Define Free Speech (article is undated but says it was written 227 years after the ratification of the Bill of Rights in 1791) <https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-ongoing-challenge-to-define-free-speech/the-ongoing-challenge-to-define-free-speech/> (accessed 6 Oct 2021)

Freedom of speech, Supreme Court Justice Benjamin Cardozo declared more than 80 years ago, “is the matrix, the indispensable condition of nearly every other form of freedom.” Countless other justices, commentators, philosophers, and more have waxed eloquent for decades over the critically important role that freedom of speech plays in promoting and maintaining democracy.

A/T “But it’s a corporation / commercial activity” – Doesn’t matter, constitutional protection still applies

Prof. Eugene Volokh 2000 (law professor, UCLA Law School) FREEDOM OF SPEECH, INFORMATION PRIVACY, AND THE TROUBLING IMPLICATIONS OF A RIGHT TO STOP PEOPLE FROM SPEAKING ABOUT YOU, Stanford Law Review Vol. 52 No. 5 May 2000 <https://poseidon01.ssrn.com/delivery.php?ID=782003117027013004125122095019119089020016006059021006029106001097092085029102023065064106123110078072025043021025030071003102093068070122117031073027010093124006086019091068102015110125114&EXT=pdf&INDEX=TRUE> (accessed 16 Oct 2021)

Some might argue that there’s something inherently un-speech-like in corporations communicating to other corporations, but there’s no reason why this would be so. To begin with, the corporate status of the speaker or the listener can’t be relevant; surely it can’t matter for privacy purposes whether customer information is communicated by and to corporations, partnerships, or sole proprietorships. And the Court has specifically held that speech doesn’t lose its constitutional protection because the speaker is a corporation, which makes sense for various reasons, among them that almost all media organizations are corporations.

2. Ban on social scoring = Harms the poor and disadvantaged

Link: EU AI Act bans social scoring

Cross apply the link from DA 1

Low-income customers would benefit from social scoring instead of economic scoring

Hanna Willems 2019. (Master’s thesis at Hamburg Univ., Germany) “SOCIAL SCORING – A TREND ANALYSIS THE PERCEPTION OF EXPERTS ON THE RISING IMPACT OF SOCIAL SCORING BY ALGORITHM” <https://www.blog.digital-markets.info/wp-content/uploads/2019/01/Masterthesis_Scoring_Willems2.pdf> (accessed 10 Dec 2021)

Firms such as Kreditech claim that they use network-based credit scoring practices to broaden opportunities, especially for low-income customers. Those customers would not have much chance to actually access a credit based on the classic creditworthiness evaluation instruments (Eisert, 2016; Wei et al., 2016: 234). An 11 example is citizens in third world countries, who neither have a permanent residence nor job or bank account. Without this kind of information, there is hardly a basis for a classic credit investigation. Providing access to browser history and social network activities to create a credit score could be an immense chance to gain access to financial funding.

3. "Deep fake" regulation violates the First Amendment

The reason we don’t have deep fake regulations now is: they either wouldn't work or would violate the 1st Amendment if they did work

Prof. Holly K. Hall 2018 (Associate Professor of Strategic Communication, Arkansas State Univ. J.D. University of Arkansas at Little Rock William H. Bowen School of Law) Deepfake Videos: When Seeing Isn't Believing, CATHOLIC UNIVERSITY JOURNAL OF LAW & TECHNOLOGY <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1060&context=jlt#page=14> (accessed 23 Oct 2021)

Any law that seeks to regulate speech faces First Amendment challenges. If the regulation focuses on the content itself, it faces the highest level of judicial review, strict scrutiny, in which the regulation has to be justified by demonstrating a compelling government interest, the regulation is narrowly tailored, and the regulation must be the least restrictive way to achieve that interest. The courts will allow content-based restrictions in libel cases and a few other narrow areas including obscenity, fraud, incitement, fighting words, and speech integral to criminal conduct. Even if a regulation could be created to tackle fake news and deepfake videos, these works are typically created anonymously, spread and shared over social media, making enforcement an enormous challenge. A regulation covering speech in a public forum would have to be content neutral and provide other options for communicating the message. Developing such a law would be difficult given the likelihood of targeting a particular viewpoint and providing another venue for communicating the message. These hurdles, plus the doctrine of counterspeech or the marketplace of ideas, can explain the lack of a strong legislative response to the issues fake news presents.

Impact: Violating the First Amendment is really bad. Cross apply the evidence from Disad. 1

4. Ban on Facial Recognition Technology = more crime and reduced public safety

EU AI Plan contains blanket ban on facial recognition technology in public spaces for law enforcement

Quinn Emmanual Urquhart & Sullivan trial lawyers 2022. (attorneys) 20 Sept 2022 " The EU’s Regulation on Artificial Intelligence" (accessed 21 Jan 2023) https://www.jdsupra.com/legalnews/the-eu-s-regulation-on-artificial-5790106/

Article 5 of the Draft Regulation prescribes a blanket ban on certain uses that are considered “a clear threat to the safety, livelihood and rights of people.”  These include: **[END QUOTE. AND THEY GO ON TO LIST 3 BULLET ITEMS TO FINISH THE SENTENCE THAT ARE INCLUDED. THE THIRD ONE IS…]**
- “dark-pattern AI” – technologies that deploy subliminal techniques to materially distort human behavior in a manner that is likely to cause physical or psychological harm and exploit vulnerabilities of persons due to their age, physical or mental disability.
- “social scoring” by public or law enforcement authorities – evaluation or classification of the trustworthiness of individuals.
[**QUOTE**] - real-time remote biometric identification (e.g., facial recognition) in publicly accessible spaces for law enforcement purposes.

Impact: Crime increases and public safety decreases if we ban facial recognition.

Michael McLaughlin 2020 (Research Analyst, Information Technology and Innovation Foundation) testimony Before the California State Assembly Privacy and Consumer Protection Committee and the Assembly Select Committee on Emerging Technologies and Innovation Hearing on “Shaping the Future of Facial Recognition Technology in California: Identifying Its Promises and Challenges” March 10, 2020 <https://www2.itif.org/2020-california-facial-recognition-testimony.pdf> (accessed 16 Oct 2021)

Finally, bans or moratoriums limit the positive uses of facial recognition. Facial recognition has already helped find missing individuals, identify individuals who committed serious crimes, such as armed robbery, and prevent potentially dangerous people, such as sex offenders, from entering school facilities. A ban or moratorium not only limits negative uses of facial recognition but positive uses as well.

5. Regulatory burden on small businesses

Link: The proposed EU AI law imposes a heavy burden on small and medium size enterprises (SME's) and would block wider adoption of AI

Dr Benjamin Mueller 2021 (PhD in International Relations at the London School of Economics) 11 June 2021 "Event Recap: What’s Next on the EU’s Proposed AI Law?" (accessed 22 Jan 2023) <https://datainnovation.org/2021/06/recap-whats-next-on-the-eus-proposed-ai-law/> (brackets added)

At this point, Annika Linck of the European Digital SME Alliance, raised a number of well-received points. SMEs, she explained, already suffer disproportionately from the administrative burden and cost that excessive compliance frameworks in Europe impose on them. The GDPR, whilst much-loved by politicians and civil society groups, was a costly nightmare for small businesses and ended up increasing market concentration in Europe. The AIA [Artificial Intelligence Act] must not lead to the same outcome. SMEs need targeted relief from some of the law’s provisions. Moreover, Ms. Linck explained that small businesses do not have the in-house capacity to absorb the reams of new regulation that Brussels regularly produces. As such, the legislation would benefit from being streamlined and reduced in scope. Ms. Linck cited [evidence](https://www.digitalsme.eu/digital/uploads/DIGITAL-SME-Position-Paper-AI-White-Paper_FINAL-1.pdf) that showed the main barriers to AI adoption faced by SMEs are a lack of capital, lack of skills, and data paucity. The AIA [Artficial Intelligence Act] will likely exacerbate this, and thus SMEs need targeted support from the Commission if they are to develop and deploy AI in the future.

The Impact: Lost opportunities for economic growth, higher wages and new jobs if AI isn't adopted

International Telecommunications Union 2018 (This research was conducted by Jacques Bughin, McKinsey Global Institute Director and Senior Partner of McKinsey & Company, Jeongmin Seong, Senior fellow, MGI, and MGI’s expert members ) Assessing the Economic Impact of Artificial Intelligence, Sept 2018 <https://www.itu.int/dms_pub/itu-s/opb/gen/S-GEN-ISSUEPAPER-2018-1-PDF-E.pdf> (accessed 19 June 2021)

As AI contributes to the higher productivity of economies, the increased output from efficiency gains and innovations can be passed to workers in the form of wages and to entrepreneurs and firms in the form of profits. The generation of wealth induced by AI could create spillover effects that boost economic growth. As workers’ incomes rise and they spend more, and firms reinvest their profit into operations, the incremental output can be channeled back into the economy in the form of higher consumption or more productive investment as well as jobs growth.