Opinion on the European Commission's White Paper on Artificial Intelligence

The Croatian AI Association (CRO AI) welcomes the European Commission's White Paper on Artificial Intelligence, released on February 19th 2020, and its efforts to find a path for Europe to manage needed disruption while also minimising harm and doing so without losing the AI global race. We wanted to contribute to the AI legislative debate at its early stages, especially now in the context of COVID-19 and its impact on accelerated digitalisation.

Although usually tech innovation and disruption lead to regulation, Europe has opted for a more risk-aware approach, seeking to first define laws. As CRO AI we respect this approach. We also respect and understand the many debates that surround AI such as the ethical, risk and privacy aspects of the technology. However, **we cannot stress enough the necessity of creating more space for entrepreneurship and innovation**. That is why we are bringing to the table three measures that we believe will give Europe considerable leverage in global AI R&D:

1. **AI sandbox with a Code of Conduct** - to support the incubation phase of AI R&D
2. **Competitive startup framework at EU level** - to keep AI innovation in Europe
3. **The State as the first client model** - to ignite the EU's AI ecosystem

AI sandbox with a Code of Conduct

A good starting point for understanding how to legislate AI is to understand the two phases in artificial intelligence development: the incubation phase - when new, potentially disruptive products and services are being developed, and the application phase - when they are being offered to the market.

In our view the White Paper outlines a legislative framework for the application phase but **falls short when it comes to supporting the incubation phase, the most critical part of AI R&D**. If we were to apply the framework outlined in the White Paper to the incubation phase, time would largely be spent on compliance instead of innovation. In a world of disruption where it is critical to move fast, this is a major problem. **CRO AI therefore strongly recommends including a regulatory framework specifically for the incubation phase, better explained as the AI sandbox**.

The AI sandbox is a virtual environment which every company, researcher or innovator sets for themselves based on clear guidelines with the goal of allowing creativity and flexibility while within the boundaries of this environment. In the sandbox, potential harm caused by untested AI algorithms is limited. Therefore, **we support a light regulatory approach for the**

AI sandbox, which we believe will ensure that experimentation/innovation costs are low and that EU's innovators are globally competitive.

COVID-19 has pushed the timeline for AI regulation to late 2020, possibly even early 2021. This is understandable, but we think it should be Europe's highest priority to allow for AI development to move forward in anticipation of a regulatory framework. **We therefore propose self regulation through a Code of Conduct as a temporary solution to the current lack of regulation for the sandbox**. We see self regulation as momentarily stimulating innovation by addressing some uncertainty around liability issues that currently stifle innovation and cause hesitance in the AI R&D community.

We see two ways of approaching this proposition. One route would be for the AI R&D community in each **Member State to establish their own Code of Conduct**, based on their knowledge and best practices. A second route would be to establish **a single Code of Conduct at EU level** which would apply to AI R&D in each Member State.

Competitive startup framework at EU level

Startups are considered to be one of the most important drivers of AI innovation. Europe is on the right track with its Start-up and Scale-up Initiative (2016), and the Communication on an SME Strategy for a sustainable and digital Europe (March 2020). **But while the White Paper on AI dedicates most of its 27 pages to why and how to build a globally competitive European AI industry, it only mentions startups twice**. Europe can do better.

At the moment each Member State has its own definition of what constitutes a startup (some do not) as well as a series of regulatory measures that define the sector and its scope. This mixed support for startups is preventing us from leveraging the full potential of 446 million people living here. As Cro AI we therefore propose the adoption of the following principles at EU level:

1. **Making it easy to start and close a startup -** On average entrepreneurs have several goes before they get it right. Persistence and learning should not be penalised.
2. **Incentivizing investments** - It should be simple, safe and motivating to invest, for friends and family in the beginning, as well as for later stage investors.
3. **Better instruments for sharing success** - It is not only about founders and investors. Employees, advisors, consultants, suppliers and first clients also take risks.
4. **Limited administrative burdens -** Every AI startup is a research laboratory. Overburdening them during the incubation phase stifles innovation.
5. **Fast tracking the single market** - While innovators and entrepreneurs wait for the full force of the single market to take hold, the EU should assist with managing localisation costs currently imposed by 24 different languages and 27 different regulatory frameworks.

Without these basic principles applicable in each Member State EU's startup ecosystem will never reach its full potential.

The State as the first client model

The White Paper rightly identifies the potential that AI can bring to **improving public sector services across all Member States**. But more importantly, public sector demand for AI solutions can facilitate rapid growth of the AI ecosystem.

At the moment, European AI R&D is still in a fledgling state, largely due to a lack of critical mass of demand that is needed for the AI industry to flourish. That is why the public sector in each **Member State has the potential to be the ideal first client for AI startups and by seeking AI solutions, enabling the growth and development of the AI R&D ecosystem**.

How could this work in practice? Member States could motivate their public sectors to identify areas where AI implementation could be most beneficial, whether it is healthcare, transport or eGovernment, to name a few. With concrete KPIs, clear compensation and a dedicated staff to manage the process, national Governments can stimulate AI innovation while at the same time improving their services.

It is important however to draw attention to the delicate balance between the State as the first client and the State as the only client. The role of the State is clear - **creating a healthy ecosystem of tech entrepreneurs who can then service the wider international AI market**. This way the State is the initiator, not the patron.

As CRO AI we strongly advocate the approach outlined above and would like to take part in the process of drafting a framework fit for a competitive Europe. We look forward to this opportunity.