

FERMA's response to the Stakeholder Consultation on Draft Artificial Intelligence (AI) Ethics Guidelines

EXECUTIVE SUMMARY

FERMA is the European federation of 22 national risk management associations. We represent risk and insurance managers active in a wide range of industries (energy, transports, manufacturing, telecoms, financial services...). Our response has been built from the **perspective of corporate users of Artificial Intelligence (AI)** technology and not only creator/ developers.

FERMA welcomes the overall approach taken to establish the first European guidelines on AI ethics. We appreciate the fact that the proposed guidelines are **voluntary** and built on a set of **existing fundamental values, rights and principles**.

The ethical consequences of inappropriate use of AI are addressed in an objective process based upon recognised and long-standing ethical values. We see the draft as a **starting point to efficiently manage the ethical challenges of AI**.

In FERMA's view, AI should be **clearly defined as a technology using a series of diverse techniques** (statistics, algorithms, data processing...), upon which rules are coded and programmed to learn without human intervention. The definition should **avoid anthropomorphic terms** such as "perceiving" and "behaviour", and instead focus on the actual tasks carried out by AI. Such an approach would ensure that **AI capabilities would be neither under- nor over- estimated**.

FERMA remains particularly **vigilant and impacted** by AI ethics. Vigilant as we see the development of ethical rules as the opportunity to ensure there is accountability in the sphere of AI. Impacted, because we expect **the professional practice of risk management** to play a fundamental role in the implementation of AI.

Indeed, risk managers will have to take the lead on AI topics and analyse all the risks arising from the use of AI within organisations according to different angles, including from an ethical perspective. FERMA supports the view that risk managers are best placed in the organisation to analyse the risks related to the use of AI, relying on holistic risk management methodology like Enterprise Risk Management, which involves conducting a diligent assessment of all possible risks facing the organisation in question. It combines both likelihood and potential impact levels as well as financial exposure on a national and international scale.

We currently believe that the main source of risks from non-ethical use of AI are **dataset quality, bias** and the **human factor** (error, malicious actions). As for consequences, they are mostly **societal**

(employability of people, discrimination, privacy), **environmental** (excessive energy consumption) and **reputational**.

Finally, FERMA also draws attention to the implications of AI ethics in the insurance underwriting process and the opportunities and threats of AI technologies for the insurability of organisations.

FERMA comments to the Draft Artificial Intelligence (AI) Ethics Guidelines

Executive Summary (page i)

FERMA argues that the statement: *“Given that, on the whole, AI’s benefits outweigh its risks”* is a strong assertion that deserves at least a transparent and documented explanation justifying it.

Glossary (page iv)

AI

The proposed definition of AI uses several anthropomorphic terms, giving the impression of certain forms of feelings or emotions. The terms “perceiving, reasoning and behaviour” are terms mostly used for living beings.

FERMA suggests the following changes to the definition of AI to better reflect its true nature:

- AI is composed of algorithms aimed at imitating different cognitive functions like perception, memory, reasoning and learning to reproduce certain competences like organisation, description and information processing.
- These processes are performed in an autonomous fashion and involve the processing of complex and unstructured data like images or voices on an unprecedented scale.
- Embedded within other technological vehicles, AI can also drive, move objects and perform a series of tasks of various complexity.

The discourse surrounding AI technology is impactful upon the public’s perception, and thus, we believe it must be accurate and not amplify fears regarding AI.

Bias

The definition of bias refers to concepts like general interest and common goods, which are extremely difficult to define, let alone quantify.

FERMA shares the view of the High-level Expert Group that the impact on various vulnerable demographics should be assessed in the early stages of the design process through testing and validation.

In addition, when datasets are modified to overcome unrepresentative data and bias decisions, FERMA recommends that the original data should be held as a reference to allow the business to

assess if their ethical objectives have been met and to constantly monitor the impact of their modifications to the dataset.

Moreover, FERMA raises the attention of the High-level Expert Group to the importance of the internal decision-making process in an organisation. We believe it is extremely important for businesses to ensure data subject to AI processing is accurate, of good quality and free from sampling bias.

For each subject, the definition of the ethical framework and its granularity needs to be adapted according to the subjects (business to business markets, public to citizens services, governments, trade associations, civil societies...).

A. Rationale and foresight of the guidelines

The Role of AI Ethics (page 2)

The definition of an ethical framework is a public policy matter as it relies on a set of values shared by a society. Respect for these values and their practical implementation is of utmost importance to gain the trust of AI users. The use of ombudsmen as public advocates should be promoted to assess the implementation of local norms and whether user information is sufficient and in an intelligible format.

Purpose and Target Audience of the Guidelines (page 2)

FERMA supports the proposal to set up a mechanism enabling all stakeholders to formally endorse and sign up to the Guidelines on a voluntary basis. This is a flexible approach and an opportunity for organisations to demonstrate their commitment to ethical use of AI.

However, such Guidelines should benefit EU citizens and EU business competitiveness as well. Therefore, FERMA suggests that the document should explicitly state that the stakeholders invited to voluntarily endorse the Guidelines should include not only organisations established in the European Union, but all organisations that serve EU citizens, businesses and governments, wherever in the world they are based.

Most European citizens' personal data is controlled by non-EU businesses, and data is a fundamental pillar for the development and improvement of AI. Having a framework imposing safeguards on AI should apply voluntarily to all businesses operating AI with data from the European Union.

B. A framework for trustworthy AI

I. Respecting Fundamental Rights, Principles and Values - Ethical Purpose

Opt out (page 7, 10)

- 3. Fundamental Rights of Human Beings*
- 4. Ethical Principles in the Context of AI and Correlating Values*

The document refers to an ability to “opt out” of AI decisions. FERMA is concerned about the possible impact on the insurability of a business that decides to opt out from AI decisions (due, for instance, to widespread employee refusal, concerns over data...) when such AI is used by insurers in their underwriting process.

Redress issue: “must” (page 10)

4. Ethical Principles in the Context of AI and Correlating Values

The draft guidelines state that if “harm” is caused as a result of AI, users “must” be redressed. Proposed methods of redress include but are not limited to, monetary compensation and reconciliation.

FERMA is raising attention about the impact that such proposals could have upon businesses and their ability to obtain insurance cover when they operate AI tools.

Asymmetries of power or information (page 12, 13 and 18)

5. Critical concerns raised by AI

There are concerns over situations with asymmetries of power or information, such as between employers and employees, or businesses and consumers.

FERMA would like to also raise the issue of asymmetry between businesses and insurers or business-to-business in general. If AI is deployed for underwriting purposes, insurers will have considerably more knowledge than the insurance buyer about how AI has been integrated into the underwriting process and, about how certain conditions will impact the premium as calculated by AI.

In this event, the asymmetry of information could potentially benefit insurers in a disproportionate manner as the underwriting process would be increasingly opaque to the corporate buyer.

III. Assessing Trustworthy AI

1 Accountability (page 24)

For FERMA, this section is important as it aims to reconcile fundamental human rights and corporate interests.

To foster a trustworthy AI among citizens and businesses, FERMA invites the High-level Expert Group to enlarge the scope of risks arising from the use of AI. It should include environmental risks, notably linked to the excessive energy consumption of computing power, but also societal risks, regarding the use of AI by state actors for large segments of the population or through internal changes to business organisations (like the replacement of employee skills, loss of autonomy and management changes when AI and humans must work side by side) as the main business impacts.

For all these matters, Boards are accountable and should be supported by all relevant stakeholders in the organisation.

FERMA supports the view that risk managers are well placed to analyse the risks related to the non-ethical use of AI, relying on holistic risk management methodology like Enterprise Risk Management.

2 Data governance (page 25)

FERMA considers that in this section, it will be necessary to identify the rules, frameworks and standards applicable as ethical references for using AI in a business. The main challenge of data governance will be the ability of businesses to measure, correct and explain the differences and deviations between the unrepresentative data which has arisen from factors such as sampling bias and modified, representative data.

3 Design for all (page 25)

The analysis of the original data and trends is only the first step of the analysis. The second step of the analysis for a business will be to take a corporate decision that respects the ethical framework while being economically viable.

4 Governing AI autonomy (page 25)

FERMA supports the view that it is the responsibility of a business to provide users with all the tools to understand how AI is embedded in the services and products offered. Citizens, employees and other AI users should be educated to remain autonomous and independent of AI in their decision-making processes.

Risk Management should integrate an assessment of AI in its annual review which would encompass the points listed below:

- The possibility to come back to a human-only interaction mode
 - o Was this used when necessary?
- An analysis of the deviations in the results of AI.
- An analysis and assessment of the impact of having to operate without AI tools, in the event a major issue arose.
- Verification of a sufficient level of training for users.

5 Non-discrimination (page 25)

Informed decision-making processes and the presence of a solid risk governance framework can only benefit the development and use of a trustworthy AI within businesses. A well-identified internal liaison person in the organisation, able to deal with these topics, should put in place a feedback system for issues met by users about biases in services and products.

Insurance premiums (page 28)

FERMA welcomes the fact that insurance premium is one of the 4 use cases to be developed to operationalise the assessment list.

Many Risk Managers are also corporate insurance clients playing a crucial role within their organisations with respect to treatment of complex risks and insurance issues.

AI is about opportunities and challenges, one of them being the possible loss of ethical control over the insurance underwriting process, especially if it is left to the entirely in the control of AI.

An ethical debate is necessary to draw a clear line between the opportunities of AI technologies and the threats posed by the same technologies on the insurability of organisations.

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FERMA - The Federation of European Risk Management Associations brings together 22 national risk management associations in 21 European countries. FERMA represents the interests of more than 4700 risk and insurance managers in Europe active in a wide range of business sectors from major industrial and commercial companies to financial institutions and local government bodies. More information can be found at www.ferma.eu