

8 November 2024

## **Submission to the European Commission on the establishment of the Scientific Panel under the EU AI Act**

1. The Irish Council for Civil Liberties (ICCL) is Ireland's oldest independent human rights organisation. We welcome the opportunity to provide feedback on the Draft Implementing Act to establish a scientific panel of independent experts in artificial intelligence (AI).<sup>1</sup>
2. We make suggestions on three important aspects of the Draft Implementing Act:
  - i. Conflicts of interest;
  - ii. Public transparency of the AI Office's decisions; and
  - iii. Effectiveness of the Scientific Panel.

### **Conflicts of interests**

3. As we have previously written,<sup>2</sup> any appearance of conflict of interest should be avoided in the scientific panel. We recognise that the Draft Implementing Act states that "Experts shall not have financial or other interests in a provider of AI systems, or general-purpose AI models"<sup>3</sup> and they shall be selected to ensure "independence, impartiality, objectivity and absence of conflict of interest"<sup>4</sup>.
4. Experts are required to submit a declaration of interest as part of their application to be included in the scientific panel.<sup>5</sup> To improve clarity, we suggest amending Article 10 (3) to state that the existence of conflicts in the declaration of interest will deem experts ineligible for the scientific panel.
5. We suggest amending Recital 6. As drafted, it undermines an important Panel selection criterion in Article 3 (3) (a): "absence of conflict of interest". Recital 6 requires the Chair and the Secretariat to "take into account ... possible conflicts of interests" when appointing

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<sup>1</sup> Draft Commission Implementing Regulation ... laying down the rules for the application of Regulation (EU) 2024/1689 of the European Parliament and of the Council as regards the establishment of a scientific panel of independent experts in the field of artificial intelligence ('Draft Implementing Act').

<sup>2</sup> Shrishak, Kris and Johnny Ryan, The hazard of industry influence on the independent scientific panel, 24 September 2024. URL: <https://www.iccl.ie/news/the-hazard-of-industry-influence-on-the-independent-scientific-panel/>

<sup>3</sup> Draft Implementing Act, Article 10 (2).

<sup>4</sup> Draft Implementing Act, Article 3 (3) (a).

<sup>5</sup> Draft Implementing Act, Article 10 (3).

rapporteur and contributors for specific tasks. If “absence of conflict of interest” is ensured, there will not be “possible conflicts of interests” to take into account.

### **Public transparency of the AI Office’s decisions**

6. The Draft Implementing Act empowers the AI Office to decide whether to act on the Panel’s qualified alert, and to grant or refuse requests for documentation or information. However, it does not state deadlines for the AI Office to process requests from the Panel, nor does it provide public transparency of the AI Office’s decisions.
7. We suggest that Article 15 (1) be amended to set a maximum time-period for the AI Office to process requests from the Panel. We also suggest that the Commission publish on a dedicated webpage the AI Office’s decisions to grant or refuse requests from the Panel and the reasons. The publication of this information should be timely, without adversely affecting ongoing work of the Panel.

### **Effectiveness of the Scientific Panel**

8. Finally, it is important that the protection of trade secrets and business confidentiality does not hinder the Panel’s work. Instead, the Panel should be given access to the information it needs, relying on the obligation of professional secrecy (Article 339 of TFEU) to which Panel members are bound.<sup>6</sup>
9. Therefore, we suggest deleting the references to “trade secrets and confidential business secrets” in Articles 14 (1) and 15 (1), and Recital 12.

Sincerely,

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<sup>6</sup> Draft Implementing Act, Article 13 (2).