

AI Act Applicability Checklist

The AI Act establishes the first comprehensive AI legal framework, aimed at ensuring the safe and ethical use of AI, within the EU. It's part of a broader initiative to boost AI innovation and uphold fundamental rights within the Union.

This checklist is designed to guide companies involved in creating, using, or sharing AI systems within the EU on how the new AI Act applies to them. It includes key definitions and initial steps for compliance with the AI Act.

The checklist will clarify the actions required for aligning your operations with the AI Act, based on your position in the AI value chain.

For more information on the concrete obligations you will be subject to, check our blogpost on the AI Act

The System

Is the system considered an AI system under the AI Act?

Under the AI Act, a system is considered AI if:

- It is a machine-based system and may adapt after deployment;
- It is designed to operate with varying levels of autonomy;
- It infers from the inputs it receives how to generate outputs; and
- The output can influence physical or virtual environments.

The AI Act is particularly applicable to high-risk systems, meaning AI systems that, either:

- are a safety component of a product or itself a product listed in Annex I of the AI ACT, and the AI system is required to undergo a third-party conformity assessment pursuant to other applicable legislation; or
- are meant to be applied in one of the areas listed in Annex III, unless it does not pose a significant risk to health, safety or fundamental rights.

The applicability of the AI Act will depend on the fulfilment of one of the previous boxes.

Applicability of the AI Act

If you are a provider

You are a provider if you:

- Develop an AI system or GPAI model (or have this done by a third-party);
- Have it placed on the EU market or put it into service in the EU;
- Under your own name or trademark.

You are also considered a provider if:

- You put your name or trademark on a high-risk AI system (already on the market or put into service); or
- You make a substantial modification to a high-risk system (already on the market or put into service) in a way that it remains a high-risk system; or
- You modify the intended purpose of an AI system (including a GPAI system), which has not been classified as high-risk (already on the market or put into service) in a way that it becomes a high-risk system.

The AI Act is applicable to you, if:

- You place an AI system on the EU market, or put it into service in the EU;
- The output of the AI system is used in the EU;
- You place on the EU market a GPAI, or the output of the AI system is to be used in the EU.

If you are a deployer

You are a deployer if you use an AI system under your authority (except where used for pure personal activity).

The AI Act is applicable to you, if:

- You are established or located in the EU; or
- The output of the AI system is used in the EU.

If you are an importer, distributor, or product manufacturer

You are an importer if:

- You are established/located in the EU; and
- Place on the EU market an AI system bearing the name or trademark of an individual or company established outside the EU.

You are a distributor, if:

- You make an AI system available on the EU market; and
- You are neither the provider nor the importer.

You are a product manufacturer if:

- You place on the market or place into service in the EU an AI system; and
- You place it with your product under your own name.

The AI Act is applicable to you from the moment you fulfil the requirements to be considered an importer, distributor or product manufacturer.

The obligations you will be subject to under AI Act will depend on the role you take.

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