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European Union

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COSI 230
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COMPET 1145
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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	15688/23
No. Cion doc.:	8115/21
Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts - Preparation for the trilogue

On pages 13-18, Article 52(3) and 52(4) [rows 515 – 517], for:

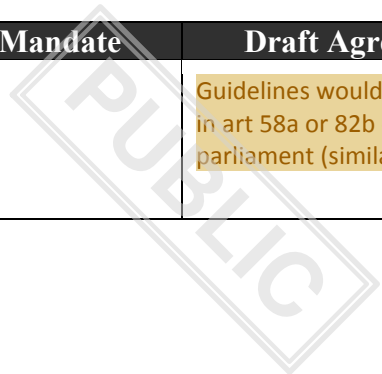
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Compromise proposal
Article 52(3), first subparagraph					
515	<p>3. Users of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that the content has been artificially generated or manipulated.</p>	<p>3. Users of an AI system that generates or manipulates image<u>text</u>, audio or video<u>visual</u> content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful<u>would falsely appear to be authentic or truthful and which features depictions of people appearing to say or do things they did not say or do, without their consent</u> ('deep fake'), shall disclose <u>in an appropriate, timely, clear and visible manner</u> that the content has been artificially generated or manipulated, <u>as well as, whenever possible, the name of the natural or legal person that generated or manipulated it.</u> <u>Disclosure shall mean</u></p>	<p>3. Users of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that the content has been artificially generated or manipulated.</p>	<p>3. Users<u>Deployers</u> of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that<u>constituting a deep fake, shall disclose that the content has been artificially generated or manipulated. This obligation shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offence. Where</u> the content has been artificially<u>forms part of an evidently artistic, creative, satirical, fictional analogous work or programme</u> <u>transparency obligations</u></p>	

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		<u>labelling the content in a way that informs that the content is inauthentic and that is clearly visible for the recipient of that content. To label the content, users shall take into account the generally acknowledged state of the art and relevant harmonised standards and specifications.</u>		<u>set out in this paragraph are limited to disclosure of the existence of such</u> generated or manipulated <u>content in an appropriate manner that does not hamper the display or enjoyment of the work.</u>	
Article 52(3), second subparagraph					
516	However, the first subparagraph shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties.	<u>3a</u> However, the first subparagraph <u>Paragraph 3</u> shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or <u>of an AI system that generates or manipulates text, audio or visual content is authorized by law or if</u> it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and	However, the first subparagraph shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and <u>where the content is part of an evidently creative, satirical, artistic or fictional work or programme</u> subject to	However, the first subparagraph <u>Deployers of an AI system that generates or manipulates text which is published with the purpose of informing the public on matters of public interest shall disclose that the text has been artificially generated or manipulated. This obligation</u> shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to	

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		<p>subject to appropriate safeguards for the rights and freedoms of third parties. <u>Where the content forms part of an evidently creative, satirical, artistic or fictional cinematographic, video games visuals and analogous work or programme, transparency obligations set out in paragraph 3 are limited to disclosing of the existence of such generated or manipulated content in an appropriate clear and visible manner that does not hamper the display of the work and disclosing the applicable copyrights, where relevant. It shall also not prevent law enforcement authorities from using AI systems intended to detect deep fakes and prevent, investigate and prosecute criminal offences linked with their use.</u></p>	<p>appropriate safeguards for the rights and freedoms of third parties.</p>	<p><i>freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards</i> <u>where the AI-generated content has undergone a process of human review or editorial control and a natural or legal person is liable or holds editorial responsibility</u> for the <i>rights and freedoms of third parties</i> <u>publication of the content.</u></p> <p>TO RECITAL: “The requirement to label content generated by artificial intelligence systems following from article 52 in this Regulation is without prejudice to the obligation in Article 16(6) of Regulation 2022/2065 for providers of hosting services to process notices on illegal content received pursuant to Article 16(1) and should not influence the assessment and the decision on the illegality</p>	

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				of the specific content. The assessment should be performed solely with reference to the rules governing the legality of the content."	
Article 52(3a)					
516a		<u>3b The information referred to in paragraphs 1 to 3 shall be provided to the natural persons at the latest at the time of the first interaction or exposure. It shall be accessible to vulnerable persons, such as persons with disabilities or children, complete, where relevant and appropriate, with intervention or flagging procedures for the exposed natural person taking into account the generally acknowledged state of the art and relevant harmonised standards and common specifications.</u>		<u>3a. 3b The information referred to in paragraphs 1 to 3 shall be provided to the concerned natural persons in a clear and distinguishable manner at the latest at the time of the first interaction or exposure. The information shall respect the applicable accessibility requirements.</u>	
Article 52(3b)					

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516b			<u>3a. The information referred to in paragraphs 1 to 3 shall be provided to natural persons in a clear and distinguishable manner at the latest at the time of the first interaction or exposure.</u>	covered	
Article 52(4)					
517	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation.	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation.	4. Paragraphs 1, 2, <u>2a</u> and 3 <u>and 3a</u> shall not affect the requirements and obligations set out in Title III of this Regulation <u>and shall be without prejudice to other transparency obligations for users of AI systems laid down in Union or national law.</u>	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation <u>and shall be without prejudice to other transparency obligations for users of AI systems laid down in Union or national law.</u> <u>4b. The Commission is empowered to adopt implementing acts on the application of the provisions on the labelling and detection of artificially generated or manipulated content.</u>	



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				Guidelines would be covered in art 58a or 82b of the parliament (similar articles)	

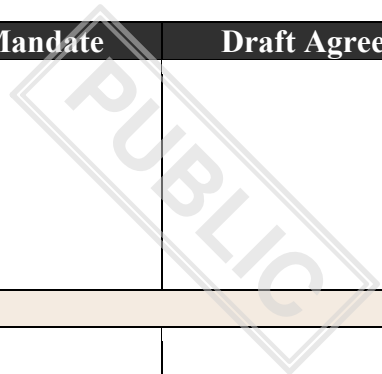
read:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Compromise proposal
Article 52(3), first subparagraph					
515	3. Users of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that the content has been artificially generated or manipulated.	3. Users of an AI system that generates or manipulates <u>image</u> text , audio or <u>video</u> visual content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful <u>would falsely appear to be authentic or truthful and which features depictions of people appearing to say or do things they did not say or do, without their consent</u> ('deep fake'), shall disclose <u>in an appropriate, timely, clear and visible</u>	3. Users of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that the content has been artificially generated or manipulated.	3. <u>Users</u> Deployers of an AI system that generates or manipulates image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and would falsely appear to a person to be authentic or truthful ('deep fake'), shall disclose that <u>constituting a deep fake, shall disclose that the content has been artificially generated or manipulated. This obligation shall not apply where the use is authorised by law to detect, prevent, investigate</u>	

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		<p><u>manner</u> that the content has been artificially generated or manipulated, <u>as well as, whenever possible, the name of the natural or legal person that generated or manipulated it. Disclosure shall mean labelling the content in a way that informs that the content is inauthentic and that is clearly visible for the recipient of that content. To label the content, users shall take into account the generally acknowledged state of the art and relevant harmonised standards and specifications.</u></p>		<p><u>and prosecute criminal offence. Where the content has been artificially forms part of an evidently artistic, creative, satirical, fictional analogous work or programme transparency obligations set out in this paragraph are limited to disclosure of the existence of such generated or manipulated content in an appropriate manner that does not hamper the display or enjoyment of the work.</u></p>	
Article 52(3), second subparagraph					
516	<p>However, the first subparagraph shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to freedom of expression</p>	<p>3a However, the first subparagraph <u>Paragraph 3</u> shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or of an AI system that generates or manipulates text, audio or</p>	<p>However, the first subparagraph shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to freedom of expression</p>	<p>However, the first subparagraph <u>Deployers of an AI system that generates or manipulates text which is published with the purpose of informing the public on matters of public interest shall disclose that the text</u></p>	

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	<p>and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties.</p>	<p><u>visual content is authorized by law or if</u> it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties. <u>Where the content forms part of an evidently creative, satirical, artistic or fictional cinematographic, video games visuals and analogous work or programme, transparency obligations set out in paragraph 3 are limited to disclosing the existence of such generated or manipulated content in an appropriate clear and visible manner that does not hamper the display of the work and disclosing the applicable copyrights, where relevant. It shall also not prevent law enforcement authorities</u></p>	<p>and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and <u>where the content is part of an evidently creative, satirical, artistic or fictional work or programme</u> subject to appropriate safeguards for the rights and freedoms of third parties.</p>	<p><u>has been artificially generated or manipulated.</u> <u>This obligation</u> shall not apply where the use is authorised by law to detect, prevent, investigate and prosecute criminal offences or it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards <u>where the AI-generated content has undergone a process of human review or editorial control and a natural or legal person holds editorial responsibility</u> for the rights and freedoms of third parties <u>publication of the content.</u></p> <p>TO RECITAL: “The requirement to label content generated by artificial intelligence systems following from article 52 in this Regulation is without prejudice to the obligation in</p>	

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		<u>from using AI systems intended to detect deep fakes and prevent, investigate and prosecute criminal offences linked with their use.</u>		Article 16(6) of Regulation 2022/2065 for providers of hosting services to process notices on illegal content received pursuant to Article 16(1) and should not influence the assessment and the decision on the illegality of the specific content. The assessment should be performed solely with reference to the rules governing the legality of the content."	
Article 52(3a)					
516a		<u>3b The information referred to in paragraphs 1 to 3 shall be provided to the natural persons at the latest at the time of the first interaction or exposure. It shall be accessible to vulnerable persons, such as persons with disabilities or children, complete, where relevant and appropriate, with intervention or flagging procedures for the exposed natural person taking into account</u>		<u>3a. 3b The information referred to in paragraphs 1 to 3 shall be provided to the concerned natural persons in a clear and distinguishable manner at the latest at the time of the first interaction or exposure. The information shall respect the applicable accessibility requirements.</u>	



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		<u>the generally acknowledged state of the art and relevant harmonised standards and common specifications.</u>			
Article 52(3b)					
516b			<u>3a. The information referred to in paragraphs 1 to 3 shall be provided to natural persons in a clear and distinguishable manner at the latest at the time of the first interaction or exposure.</u>	covered	
Article 52(4)					
517	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation.	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation.	4. Paragraphs 1, 2, <u>2a</u> and <u>3 and 3a</u> shall not affect the requirements and obligations set out in Title III of this Regulation <u>and shall be without prejudice to other transparency obligations for users of AI systems laid down in Union or national law.</u>	4. Paragraphs 1, 2 and 3 shall not affect the requirements and obligations set out in Title III of this Regulation <u>and shall be without prejudice to other transparency obligations for users of AI systems laid down in Union or national law.</u> <u>4b. The Commission is</u>	

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				<p><i><u>empowered to adopt implementing acts on the application of the provisions on the labelling and detection of artificially generated or manipulated content.</u></i></p> <p><i><u>4c. The Commission may encourage and facilitate the drawing up of codes of practice at Union level to facilitate the effective implementation of the obligations regarding the detection and labelling of artificially generated or manipulated content.</u></i></p> <p>Guidelines would be covered in art 58a or 82b of the parliament (similar articles)</p>	