

Ms Henna Virkkunen

Executive Vice-President Tech Sovereignty,
Security and Democracy
European Commission

By e-mail

Brussels, 18 June 2026

Subject: Concerns disproportionate broad scope AI Act Guidelines on transparency

Dear Executive Vice-President Virkkunen,

We would like to share our concerns regarding the upcoming guidelines on the implementation of the transparency obligations under Article 50 of Regulation (EU) 2024/1689 (AI Act). **We strongly support the objective of enhancing transparency** where AI-generated or AI-manipulated content is deceptive by creating, risks of harmful impersonation, disinformation, manipulation or fraud, which is essential to maintaining consumer trust and supporting the responsible uptake of AI in Europe. However, we believe, amongst others, that the current wide interpretation of what constitutes a deep fake risk undermining the objective of meaningful transparency by capturing non-deceptive commercial content. This could lead to indiscriminate labelling, reducing the clarity and usefulness of disclosures for consumers, while also creating disproportionate compliance burdens for companies.

We urge the Commission to ensure that the guidelines are proportionate and consistent with the AI Act's risk-based approach. In particular, we would recommend that the final Guidelines:

- **clearly distinguish between content that is materially misleading as to its authenticity or truthfulness** and ordinary commercial content that is AI-edited for presentation, formatting, accessibility, localisation or customer experience;
- **clarify that Article 50(4) applies only to content involving a genuine risk of deception**, such as through impersonation or misleading simulation;
- **ensure that exemptions for standard editing and non-substantial modifications under Article 50(2) are effectively preserved and not undermined in practice;**
- **provide clear thresholds and practical, sector-relevant examples**, including further clarification of paragraphs 84, 85 and 109.

For the retail and wholesale sector, transparency directly contributes to informed **consumer choice and confidence**. As the AI Act is explicitly designed as a risk-based framework, transparency obligations should remain proportionate and targeted at situations where there is a genuine risk of misleading users.

The Guidelines will play an important role in guiding how competent authorities interpret and apply Article 50, as well as how companies implement their obligations in practice. It is therefore essential that they remain closely aligned with the intent and scope of the AI Act. However, the current draft risks extending beyond this scope, which could lead to disproportionate compliance burdens.

In our view, the **combined interpretation of "AI-generated or manipulated content"** under Article 50(2) and **"deep fakes"** under Article 50(4) may, in practice, capture a broad range of routine and non-

deceptive commercial content. This includes practices such as product image enhancement or AI-generated marketing materials that are not intended to mislead users, for example, generating an image of a living room to showcase a sofa, or enhancing product visuals for presentation purposes. While Article 50(2) provides safeguards for “standard editing” and for content that is not “substantially altered” (paras. 84-85), these concepts remain insufficiently clear and difficult to operationalise.

A key issue concerns the **definition of “deep fake”**. While Article 3(60) AI Act and the Guidelines (para. 107) refer to content that would falsely appear to be authentic or truthful, the current interpretation does not sufficiently anchor this notion in deception or misleading effect as a core element of the concept and explicitly excludes the role of intent (para. 108). This risks significantly broadening the scope beyond misleading uses and is not fully aligned with the understanding reflected in the preparatory work of the AI Act.¹

As a result, **ex novo content or commercial content that is not intended to mislead, impersonate individuals, or undermine fundamental rights should not be considered a deep fake**. The current approach also risks treating ordinary AI-assisted editing as deep fake content, although such tools are widely used to enhance product presentation and customer experience without misleading consumers.

It **risks creating a de facto obligation to label a very large share of AI-assisted content**, including low-risk uses such as product presentation, localisation, accessibility or formatting. If standard editing or non-substantial alterations, recognised as exemptions under Article 50(2), are interpreted in a narrow or unclear manner and simultaneously treated as deep fakes under Article 50(4), this would ultimately defeat the purpose of the transparency framework.

Without **clear and contextualised thresholds**, even minor editing could trigger deep fake obligations, leading to legal uncertainty and inconsistent application. Excessive or indiscriminate disclosures may in turn lead to “disclosure fatigue”, dilute their informational value, and ultimately undermine consumer trust, including through “banner blindness”. This would run counter to the objective of Article 50, which is to enhance meaningful transparency for users.

In addition, the current approach raises operational and technical challenges. The **feasibility of implementing marking and detection solutions** that meet requirements of effectiveness, robustness and interoperability remains evolving, particularly for certain content types. At the same time, deployers often rely on third-party systems over which they have limited control, further complicating compliance in practice.

Finally, given date of application of Article 50 from August 2026 and the current level of uncertainty, we would welcome **transitional solution for low-risk content that is proportionate and not disruptive**. This would preserve the objective of consumer protection while avoiding disproportionate operational burdens and allowing time to develop more granular solutions where necessary.

We thank you for your consideration and hope that these comments will support the development of guidelines that ensure meaningful and proportionate transparency for both consumers and businesses.

¹ In the SWD glossary, deep fake is defined as “digital images and audio that are artificially altered or manipulated by AI and/or deep learning to make someone do or say something he or she did not actually do or say. Pictures or videos can be edited to put someone in a compromising position or to have someone make a controversial statement, even though the person did not actually do or say what is shown.”

We remain at the disposal of your services to provide further clarification or practical input and would welcome the opportunity to meet with your team to discuss these issues in greater detail.

Yours sincerely,



Christel Delberghe
Director General