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Taking stock of the EU's Digital Agenda: exploring the strengths, weaknesses and interconnections of the DSA, AI Act, Data Act and PWD

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**Shaping Europe's digital future
2020–2025**

Objective 1: Technology that works for people	Objective 2: A fair and competitive economy	Objective 3: An open, democratic and sustainable society	The international dimension – Europe as a global player
2020			
<p>White Paper on Artificial Intelligence.</p> <p>European Strategies on Quantum and blockchain.</p> <p>Action Plan on 5G and 6G.</p> <p>Digital Education Action Plan.</p> <p>Skills Agenda.</p> <p>Youth Guarantee.</p>	<p>European Data Strategy.</p> <p>Data Governance Act.</p> <p>Digital Services Act package, ex ante rules.</p> <p>Industrial Strategy Package. Communication on Business Taxation for the 21st century.</p> <p>New Consumer Agenda.</p>	<p>New and revised rules to deepen the Internal Market for Digital Services</p> <p>Revision of eIDAS Regulation.</p> <p>Media and audiovisual Action Plan.</p> <p>European Democracy Action Plan.</p> <p>Promotion of electronic health records based on a common European format.</p>	<p>Strategy for standardisation.</p> <p>White Paper on an instrument on foreign subsidies.</p> <p>Digital for Development Hub.</p> <p>Mapping of opportunities and action plan to promote the European approach in bilateral relations and multilateral fora.</p>
2021			
<p>EU governments interoperability strategy.</p> <p>Initiative to improve labour conditions of platform workers.</p> <p>AI Package (includes the AI Act and new Machinery Regulation)</p>		<p>Destination Earth</p>	<p>Global Digital Cooperation Strategy.</p>

Note: In bold, the initiatives discussed in this chapter.
Source: Author's elaboration.



Question 1

What are the strengths, weaknesses and interconnections of the EC's Digital Agenda?

Exploring DSA, AI Act, Data Act and PWD

Examples:

- Apple Vision Pro
- Glue- Worker engagement
- Real-time data of players data points

1. Digital Services Act

Digital Services Act:

Entered into force on November 16, 2022, and will apply as from apply from 17 February 2024.

Aim: ensuring a safe, predictable and trustworthy online environment. It regulates the spread of illegal content, products and services, online.

Applies to: hosting services for social media, online marketplaces, very large online platforms (VLOPs) and very large online search engines (VLOSEs).

April 2023 1st set > 45 million users per month: Very Large Online Platforms

Alibaba AliExpress
Amazon Store
Apple AppStore
Booking.com
Facebook
Google Play
Google Maps
Google Shopping
Instagram
LinkedIn
Pinterest
Snapchat
TikTok
Twitter
Wikipedia
YouTube
Zalando

Spotify and Uber stated that they do not meet the threshold, despite the DSA requiring them to publish the exact figure

Very Large Online Search Engines:

Bing
Google Search

datacontroversies@UoE @datacontrovers1 · May 29
BBC News – Twitter pulls out of voluntary EU disinformation code



bbc.co.uk

Twitter pulls out of voluntary EU disinformation code

"You can run but you can't hide," commissioner Thierry Breton warns Twitter over upcoming rules.



Thierry Breton ✓

@ThierryBreton

Twitter leaves EU voluntary Code of Practice against disinformation.

But obligations remain. You can run but you can't hide.

Beyond voluntary commitments, fighting disinformation will be legal obligation under [#DSA](#) as of August 25.

Our teams will be ready for enforcement.

10:30 PM · May 26, 2023 · **3.1M** Views

2,223 Retweets **1,571** Quotes **5,888** Likes **351** Bookmarks

- **Transparency and algorithmic accountability:** reports on removal and content moderation.
- **Art 16: Notice-and-action mechanism:** allows individuals to notify hosting services of dissemination of illegal content.

- **Art 34-35:** annual risk assessment and mitigation of risks
- **Art 36:** obligation to subject themselves to independent audits.

- **Rec 67:** prohibition from deceiving or nudging recipients of the service and from distorting or impairing the autonomy, decision-making, or choice
- **Art 27, Rec 70: recommender systems:** to disclose the parameters in an easily comprehensible manner, explain why individual see ads regularly.
- **Sanctions:** fines by MS not exceeding 6 % of its total worldwide annual turnover in the preceding financial year.
- **A pan-European supervisory architecture:** Digital Services Coordinators' and the EC.
- European Centre for Algorithmic Transparency.
- Access to data for researchers: access fee

2. Data Act

Data Act: rules on fair access to and use of data

Aim: facilitating access to and the use of non-personal data by consumers and businesses, provide for the use by public sector bodies and Union institutions, agencies or bodies of data held by enterprises in certain situations; ensure fairness in data sharing contracts; facilitate access to competitive and interoperable data processing services.

Applies to:

- product manufacturers and service suppliers in the YU
- data holders
- data recipients in the EU
- public bodies
- cloud provider

Data related to: IoT, B2B, B2G, cloud switching, data transfers outside the EU, interoperability of cloud services, sui generis right containing IoT generated data.

Trade secret holder': Right to veto (Council) to what extent can the data holder prevent the disclosure of sensitive commercial information?



Governance architecture: A single Data Coordinator (EP) or one or more data enforcement authorities (Council).

Business-to-Government: What type of data can governments access? Industrial data (EP) vs. personal data (Council)

Introducing
Apple Vision Pro

You navigate simply by using your eyes, hands, and voice.

Newsroom

Search Newsroom

Popular Topics

and hand movements in real time. Users can do things together like watch a movie, browse photos, or collaborate on a presentation.



FaceTime on Apple Vision Pro makes it easy to connect and collaborate. Video tiles are life-size, and Spatial Audio makes it sound as if participants are speaking right from where they are positioned.



Cameras and sensors Audio Straps Head Band Displays Light Seal Digital Crown Top

An array of advanced cameras and sensors work together to let you see the world clearly, understand your environment, and detect hand input.

Data Act: trilogue discussion points

- Chapter II, B2B B2C B2G data sharing:
- Empower public bodies to request access to privately-held data under specific circumstances.
- The EP aims at excluding personal data from the scope.
- Data-sharing and disclosure of trade secrets and sensitive information.
- Health-related data is not for commercial monetization.

Vision Pro

Notify me



Responsive, precision eye tracking.

A high-performance eye tracking system of **LEDs** and **infrared cameras** projects invisible light patterns onto each eye. This advanced system provides ultraprecise input without your needing to hold any controllers, so you can accurately select elements just by looking at them.

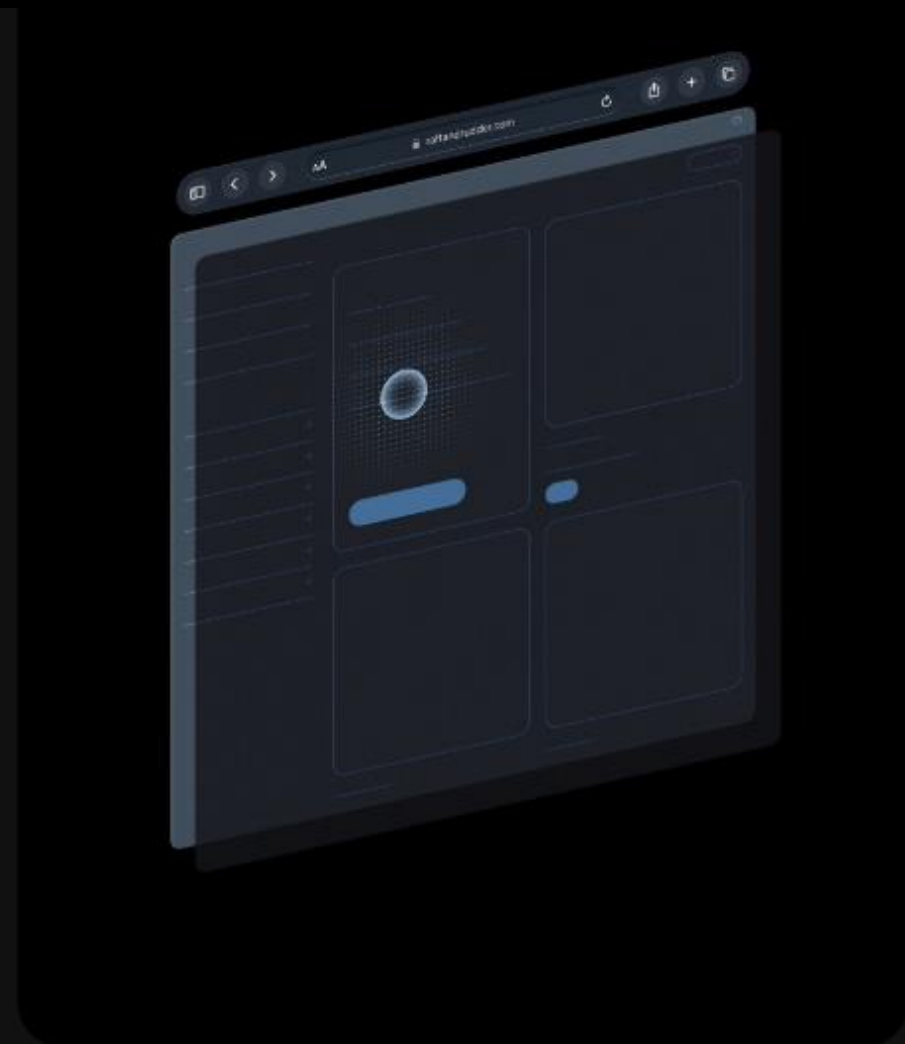
In looking at this product several questions arise:

How to empower public bodies to request access to privately-held data under specific circumstances?

How will the exclusion of personal data from the scope of the Data Act become a reality?



Use **Optic ID** to authorize purchases and unlock passwords with the uniqueness of your iris. Optic ID data is encrypted, never leaves your device, and is accessible only to the Secure Enclave processor.



Eye input is not shared with Apple, third-party apps, or websites. Only your final selections are transmitted when you tap your fingers together.

spatial experiences.



Performance analytics in professional football



So, what that allows us to do is go into real, great detail around what that player's doing.

The FIFA Football Language - FIFA Training Centre

Aida Ponce Del Castillo © etui (2023)

etui.

3. AI Act

AI Act:

Aim: the development of an ecosystem of trust by proposing a legal framework for trustworthy AI with rules for the placing on the market, the putting into service and the use of AI systems.

Applies to: providers/ users /operators/ deployers, placing on the market or putting into service AI systems, irrespective of whether those providers are established within the Union or in a third country.

Key provisions:

Art 5: Prohibited practices

Art 6: High-risk AI systems (Annex III)

Art 8-15: Requirements for high-risk AI systems

Art 16- 29: Obligations of providers and users

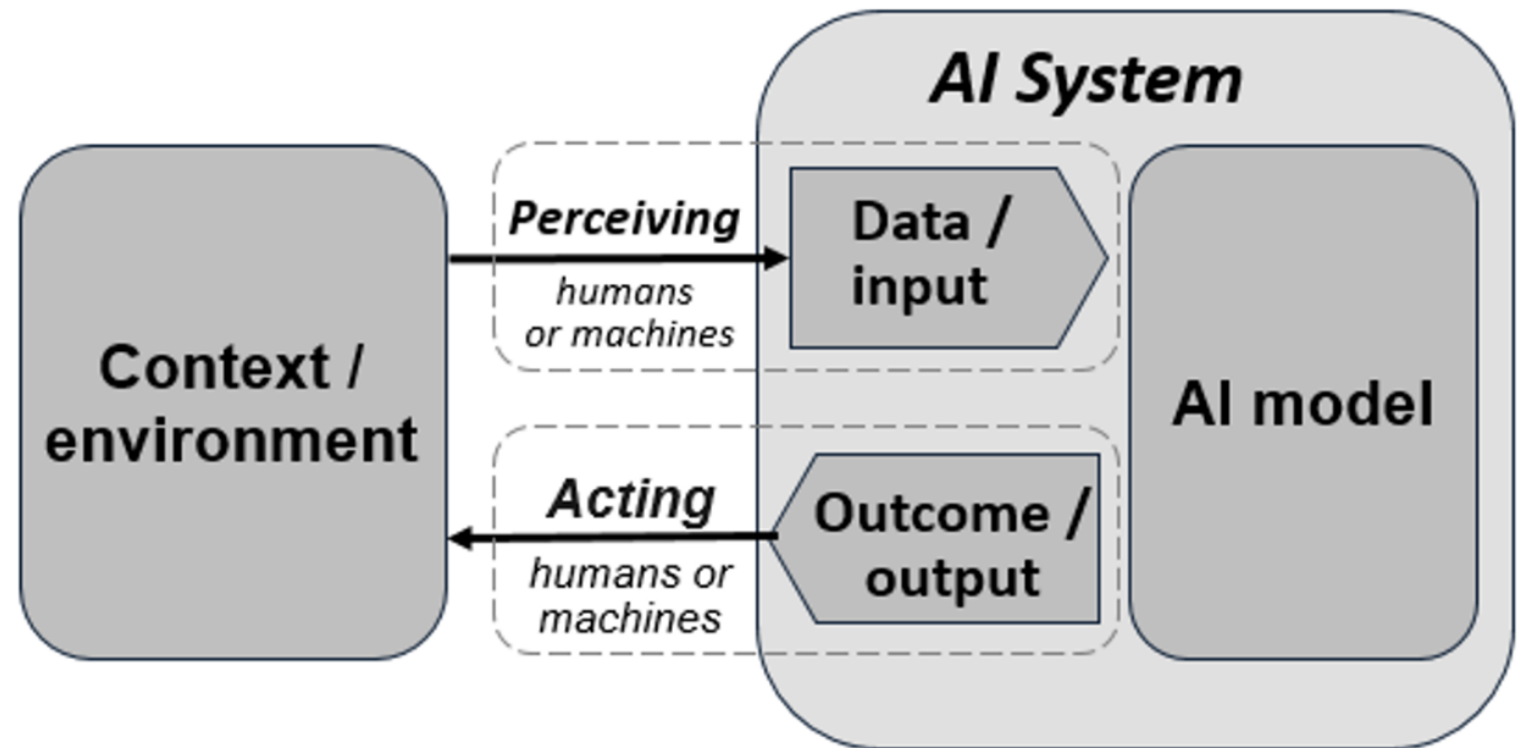
Compliance with the AI Act

- 8 legal requirements
- Conformity assessment
 - Harmonized Standards
 - Internal controls
 - Assessment of quality management system and technical documentation by a notified body
- Registration
 - Public EU database for high-risk AI systems

AI Act: final negotiations

Definition: OECD updated definition 'OECD AI Principles', Not reduced to ML only. It will cover symbolic AI

An AI system is a machine-based system that is capable of influencing the environment by producing an output (predictions, recommendations or decisions) for a given set of objectives. It uses machine and/or human-based data and inputs to (i) perceive real and/or virtual environments; (ii) abstract these perceptions into models through analysis in an automated manner (e.g., with machine learning), or manually; and (iii) use model inference to formulate options for outcomes. AI systems are designed to operate with varying levels of autonomy.



AI Act: final negotiations

- Who is a provider? GPJA, Foundation Models.
- **Rec 60e:** Foundation models (LLM ChatGPT) *'recent development, in which AI models are developed from algorithms designed to optimize for generality and versatility of output'*.
"trained on broad data at scale". What order of magnitude is the Parliament referring to when it says "trained on broad data at scale"? Are they AI models and not AI systems? Similar to DSA, obligations for gatekeepers?
- **Annex III 1 aa:** *AI systems intended to be used to make inferences about personal characteristics of natural persons on the basis of biometric or biometrics based data, including emotion recognition systems, with the exception of those mentioned in Article 5;*
- **Art 28:** Risk management obligations of the provider of a foundational model, in the abstract. Isn't article 9 sufficient?
- **Art 29 a: Fundamental rights impact assessment** (risk assessment or included in GDPR)
- **Art 56b:** AI Office
- **Art 68 a,c:** Right to lodge a complaint with a DPA. Right to explanation. Mirroring GDPR
- **Art 53 – 55:**

Annex III

HIGH-RISK AI SYSTEMS REFERRED TO IN ARTICLE 6(2)

4. Employment, workers management and access to self-employment:

(a) AI systems intended to be used for recruitment or selection of natural persons, notably for placing targeted job advertisements, screening or filtering applications, evaluating candidates in the course of interviews or tests;

(b) AI systems intended to be used to make or materially influence decisions affecting the initiation, promotion and termination of work-related contractual relationships, task allocation based on individual behaviour or personal traits or characteristics, or for monitoring and evaluating performance and behavior of persons in such relationships.

- Home
- Activities
- Explore
- My profile

Hello, Wendie! 🙌

Here is what's going on with your team at Polymr

Connection health

Sense of belonging

Strong

Leadershi

Mode

Within-team connection

Very Strong

Cross-tea

Stror

Connection hot spots

Teams with low connection ⓘ

AO BK SA MA

Trending

CC KE

MEETUPS

Where AI meets EQ

Glue's AI analyzes data on employee interactions and interests to uncover connection opportunities. Glue's Meetups are casual intros that spark conversation and can lead to new work BFFs.

Learn more about Meetups →

Tell us how was your event



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4. Platform Work Directive

Platform Work Directive:

Aim: improving the working conditions, the protection of personal data of people performing platform work. Improve the transparency of platform work.

Applies to: digital labour platforms

Key provisions:

Art 3 – Correct determination of the employment status

Art 4 – Legal presumption (3 criteria out of 7)

Automated decision-making and monitoring systems

Art 6 – Transparency on and use of automated monitoring and decision-making systems

Art 7-8 – Human monitoring and review of automated systems

Platform Work Directive: final negotiations

Changes by the EP (Elisabetta Gualmini Report)

May 31, 5th text prepared by the Swedish Presidency

Changes by Member States:

- The Dir. does not affect the discretion of national courts in determining if an employment relationship exists.
- Member States can maintain more favorable systems for the classification of people on platforms.
- Clarification that the 'Terms and Conditions' govern the contractual relationship and are unilaterally determined by the platform.

Protective text

Spain, Belgium, Luxembourg, and the Netherlands

Liberal text

France, Poland

Silent

Germany

(18b) Social dialogue and collective bargaining

5e: 'biometrics-based data' relating to physical, physiological, or behavioural features, signals, or characteristics of a natural person

2a: Platform workers shall fully enjoy the status of worker in accordance with national law, collective agreements or practice in force in the Member States, including the rights to join a trade union, to organise, and to bargain collectively.

5.3.b: elements indicating control and direction in connection with the performance of work

6.5. a: Ban on the use of mandatory biometric identification or disproportionate or undue surveillance of work performance;

6.5.b: Inform platform workers and workers' representatives about any transfer of personal data within a group of undertakings.

FINANCIAL TIMES

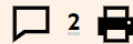
US COMPANIES TECH MARKETS CLIMATE OPINION WORK & CAREERS LIFE & ARTS HTSI

Letter [+ Add to myFT](#)

Letter: How the EU can best serve platform workers

From Markus Villig and others

JUNE 2 2023

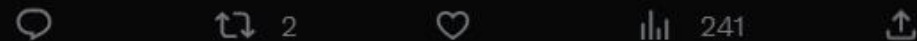


As EU ministers approach crunch time negotiating the EU's proposal on the platform work directive, they have a unique opportunity to secure protections for self-employed workers and establish the EU as a global leader in advancing workers' rights, ending the debate on platform workers' status.



Ineo Bourgery-Gonse @Ineo_BGonse · 18m

"I have great hopes that a deal will be found" on the platform workers directive, 🇸🇪 minister @Pau_Brandberg said. "Let's wait and see, it will be an exciting day"

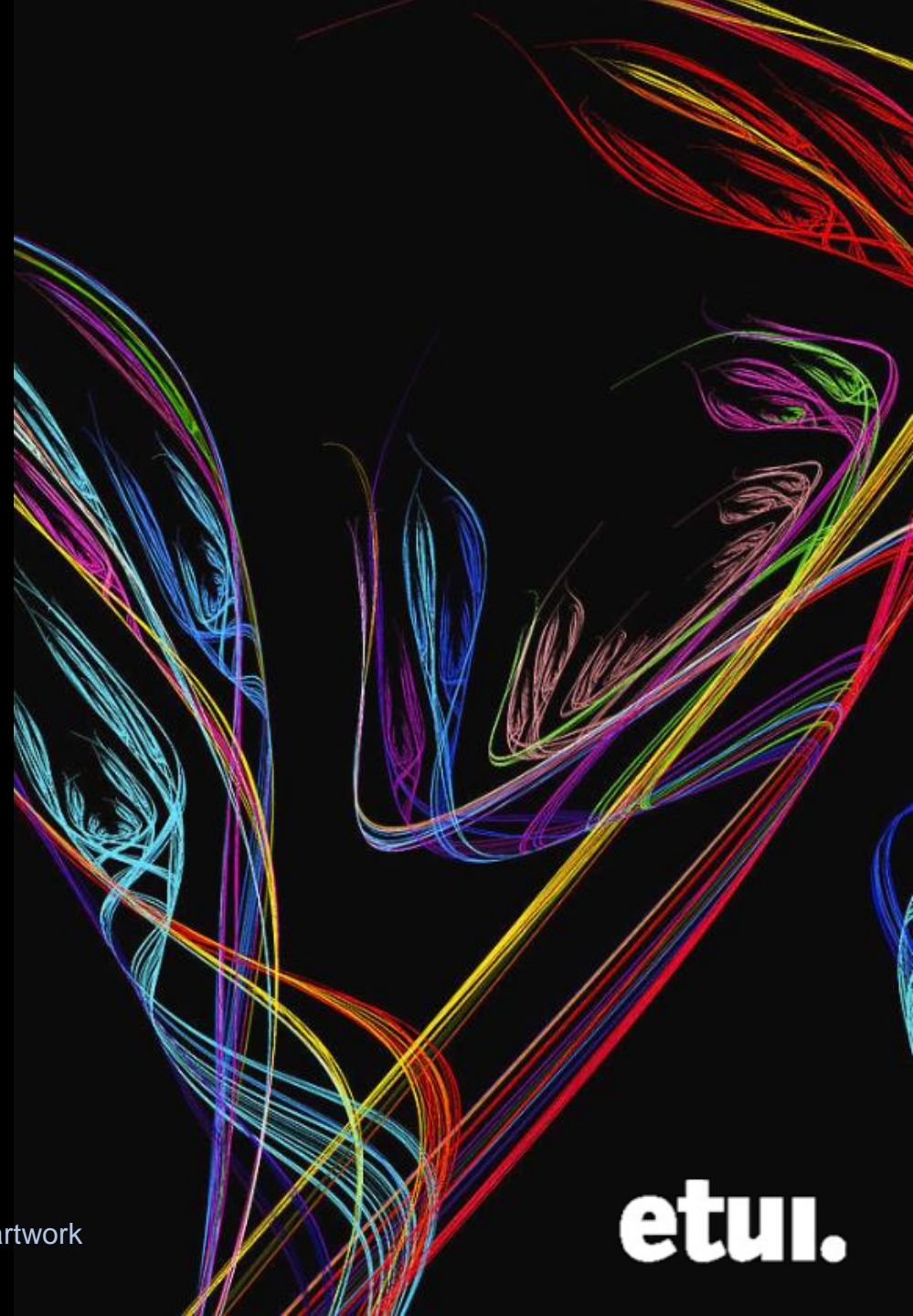


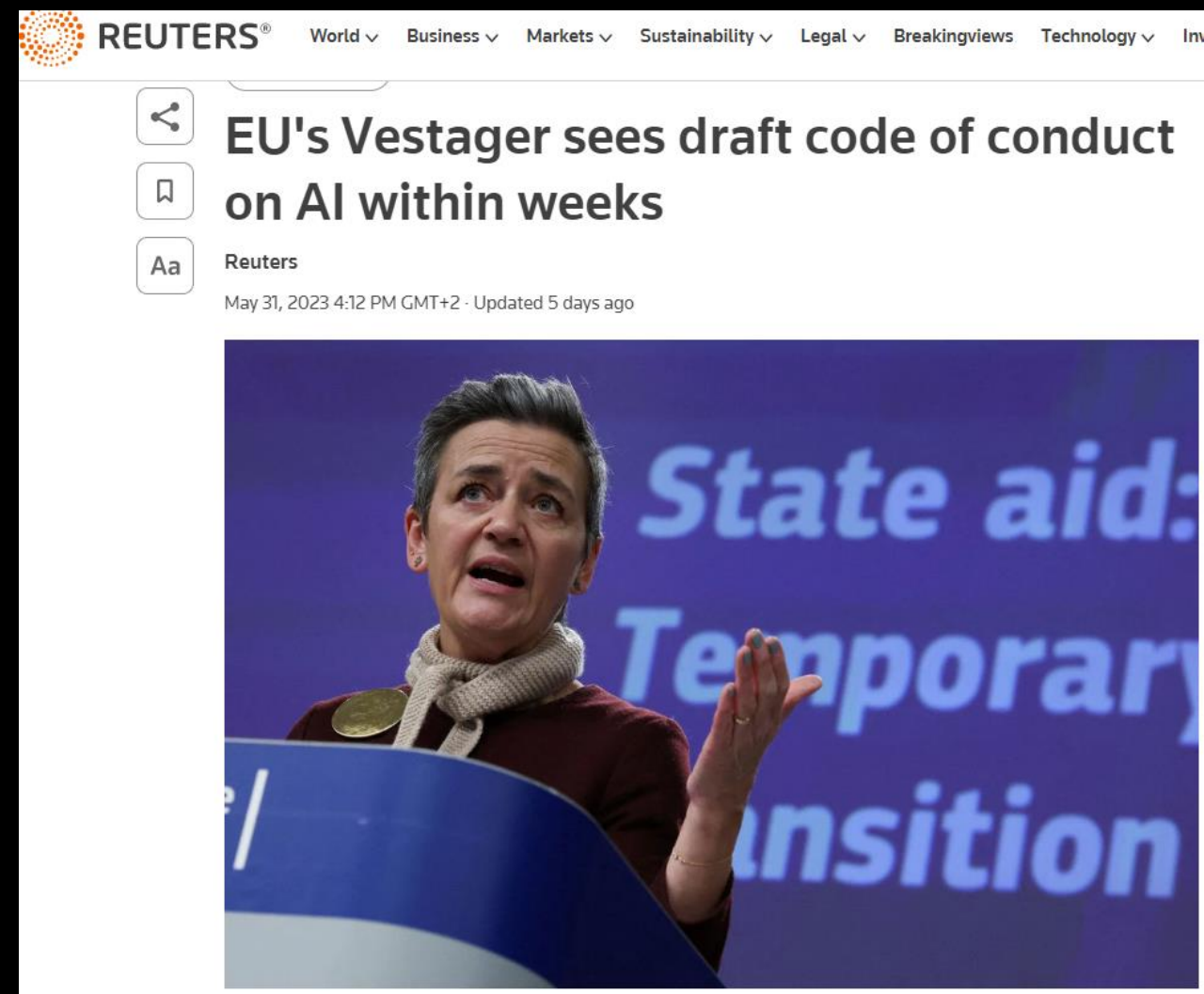


- Tight negotiations on the PWD
- Clarify the difference between Foundational Model and AI systems
- No full explainability for AI systems
- Public consultation deadline June 30
- Achieve victory on AI Act
- DSA implementation
- Creation of horizontal standards for AI
- Resources for supervisory authorities DSA, Data Act, AI Act, PWD

Question 2


Is the intense focus on AI triggering a disruption of the traditional governance models?





Code of Conduct for generative AI EU-EU Trade and Technology Council

Art 69 The EC and the MS shall encourage and facilitate the drawing up of codes of conduct intended to foster the voluntary application to AI systems other than high-risk AI systems of the requirements set out in Title III

Thierry Breton 

2,580 Tweets

Following

An “AI Pact” ahead of the EU AI Act.

Agreed with Google CEO @SundarPichai to work together with all major European and non-European #AI actors to already develop an “AI Pact” on a voluntary basis ahead of the legal deadline of the AI regulation.



Google

 21

 127

 268

 90.8K



Voluntary ‘AI Pact’ with tech industry

Aim: ‘we aim to assist companies in their preparation to EU AI Act1

Regulatory experimentation

Regulation

EU's AI Act

Standardization

Sandboxes

Code of Conduct
Generative AI

Mechanism of co-regulation ahead the legal deadline

Bilateral meetings with industrial
players: 'AI Pact'



Alphabet

Commitments in Ministerial
Declarations, Japan G7

EU-US Trade & Technology Commission
May 31



Thank you

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