

Step 6: Ensure established AI classification doesn't change

05 August 2024

Provider vs Deployer

The roles of who is classified as a Provider of an AI system, and who is Deployer of that system is worth exploring further. Providers place and sell AI Systems on the market and Deployers then use those systems for their own commercial purposes. It is also possible to be a Provider and a Deployer simultaneously.

Tiered obligations

There is a tiered set of obligations in the AI Act depending on the extent to which an entity is responsible for developing the AI System and deploying it. Providers of AI Systems have more onerous and thorough obligations than Deployers, as Providers are developing the AI systems. A mere Deployer for example would not be in a position to ensure that the AI System was developed in a particular way.

Instructions for use

For high-risk AI Systems, Providers must issue instructions for use which accompanies their high-risk AI System to ensure it is used in accordance with its intended purpose and proper use. The AI Act sets out a structure for a shift in responsibility and obligations in Article 25 where the AI system is deemed to be materially changed by the Deployer, according to the AI Act. A Distributor, Importer, Deployer or other third-party user of an AI system will become a Provider and attract the obligations of that role under the AI Act if this change occurs.

This happens where:

- The intended purpose for the AI system is changed.
- The user makes a substantial modification to the AI system.

Trademark use

Businesses placing an AI system from a Provider on the market under their own name or trademark may also attract the obligations of a Provider, meaning that Deployers should be careful what additional steps they take when reselling third party AI systems.

At Browne Jacobson we can help you to navigate your way around the AI Act, whether you're supplying AI Systems or you're looking to implement AI within your business. Our team can help with advising you about the regulation itself and the practical measures that you need to put into place.

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