AI made in Europe
Policy and legal challenges

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OUTLINE

1. Analytical framework

2. Data fluidity

3. Algorithm transparency and fairness

4. Law and Innovation

1. Framework for analysis

- AI Magic box
  - Inputs: data collected and stored
  - Process: with powerful computing machines
    - On the basis of machine learning techniques
  - Outputs: detection, prediction

- Role of law: Protect our values
  - Trust and democracy
    - Understandability and fairness
  - Innovation
    - Contestability and contestation

2. AI Inputs: Data fluidity

- Data is the non-rival infrastructure for innovation
  - Common European Data Space to contribute to contestability

- Appropriability tools should be minimised
  - Law – Contracts - Technology

- Access/sharing should be maximised
  - Extend of sharing
    - Private and public data
    - Sector differences
  - Governance of sharing
    - Direct between firms
    - Mediated through consumers

3. AI Process: Transparency and explainability

- Transparency – understandability – explainability
  - Human and machine brains

- Why and what is explainability in laws?
  - Private decisions: Consumer protection and data protection rules
    - Ensure consumers fluidity
  - Public decisions: Constitutional and administrative principles
    - Ensure effectivity of judicial control

- Enforcement
  - XAI
  - Give information in smart and personalised manner
  - Flanking measures

AI Process: Fairness and loyalty

- Why and what is fairness in laws?
  - Consumer protection, competition, data protection, anti-discrimination, …
  - Not necessarily equates with non-discrimination or neutrality
  - Again more important for public than private decisions

- Enforcement
  - Market (when information asymmetry is not to high)
  - State: ex post and ex ante

4. Regulation in innovative and uncertain environment

- Rules
  - Hard-law: principles-based
  - Complemented by participatory soft-law and soft-enforcement

- Enforcement
  - Public: Authorities
    - Experimentation and agility – Probabilities but also costs of regulatory errors
    - Use AI: RegTech and e-gov
  - Private: Consumers
  - Technological: Compliance by design