Virtual roundtable on labelling initiatives, codes of conduct and other voluntary mechanisms to build trustworthy artificial intelligence (AI) systems

Summary report

Isabel Flanagan, Camilla d’Angelo, Immaculate Dadiso Motsi-Omoijiade, Mann Virdee, Salil Gunashekar
On 27 April 2022, RAND Europe organised a virtual roundtable discussion on the use of voluntary, self-regulatory mechanisms to help build trust in artificial intelligence (AI) systems. The discussion drew on findings from a recent RAND Europe study commissioned by Microsoft Belgium examining evidence on the use of labelling initiatives, codes of conduct and other mechanisms to ensure the responsible, safe, and ethical development and adoption of AI systems (d'Angelo et al. 2022). The event brought together policymakers, researchers and industry representatives and featured a keynote address by Member of the European Parliament (MEP) Axel Voss. Taking a forward-looking approach, participants considered the practicality of developing various tools and discussed a range of considerations that are of relevance against the backdrop of the European Commission’s draft proposals for an EU-wide regulatory framework on AI (the ‘AI Act’). The views and ideas generated at the roundtable have been written up in this short publication to stimulate further debate and inform thinking as policy around this issue develops in the coming months.

We were able to carry out this research because of the support and contributions of many individuals. We would like to thank the team at Microsoft Belgium for their support throughout the study, in particular Cornelia Kutterer and Vassilis Rovilos. We are also grateful for the helpful insights and expertise provided by the stakeholders who participated in the roundtable. We would like to thank Jessica Plumridge, at RAND Europe, for her contributions to the design of this report.

Finally, we would like to thank our quality assurance reviewers at RAND Europe, Erik Silfversten and Susan Guthrie, for their helpful feedback on this report.

This research was prepared for Microsoft. However, RAND Europe had full editorial control and independence with respect to the analyses performed and presented in this report, which has been peer-reviewed in accordance with RAND’s quality assurance standards. This work is intended to inform the public good and should not be taken as a commercial endorsement of any product or service.

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Virtual roundtable on labelling initiatives, codes of conduct and other voluntary mechanisms to build trustworthy artificial intelligence (AI) systems
Artificial Intelligence (AI) has expanded the breadth and scope of human endeavour across all areas of life. From chatbot-assisted service provision to vaccine development, AI use has resulted in productivity, efficiency and precision gains across multiple sectors and industries. At the same time, the advent of AI presents new categories of risks that raise several legal, regulatory and governance concerns particularly to do with AI’s alignment with fundamental rights, values and principles. These concerns have been recognised by the European Commission which has recently led global efforts to propose harmonised rules for AI through the draft ‘AI Act’, the first wide-ranging attempt to regulate AI. The AI Act has been put forward to replace potentially disparate national approaches to AI regulation and provide clarity on the legal considerations surrounding AI. Taking a risk-based approach that distinguishes between high and non-high risk AI, the AI Act seeks to arrive at a balanced approach that takes into account risks while leaving enough leeway for innovation. A notable contribution of the AI Act is the provision of a self-regulatory framework for non-high risk AI, which, for example, makes use of voluntary codes of conduct.

This report by RAND Europe represents the culmination of independent and evidence-based research and analysis that started almost a year ago. It summarises the key issues discussed at a virtual roundtable on 27 April 2022 that brought together a variety of stakeholders. The discussion at the roundtable centred around the important and topical findings from a recent RAND Europe study that investigated the use of codes of conduct, labels and other voluntary mechanisms to help build trustworthy and ethical AI systems. Together, both reports provide a very helpful and objective contribution to the broader debate on AI regulation and ethics and form a valuable addition to the existing body of knowledge as policy regarding these complex issues continues to develop rapidly. I hope that this work will stimulate further debate and inform the collective understanding of how codes of conduct, labelling initiatives and other voluntary mechanisms can be successfully designed and implemented for AI systems in the future.

Axel Voss
Member of the European Parliament
Key overarching themes arising from the roundtable
HIGH-LEVEL SUMMARY

RAND Europe hosted a virtual roundtable on 27 April 2022 to discuss the use of voluntary, self-regulatory mechanisms to help build trustworthy artificial intelligence (AI) systems. The roundtable format consisted of a combination of prepared presentations and interactive discussions among the participants, in both plenary and smaller, breakout groups. The discussion drew on findings from a recent RAND Europe study that analysed evidence on the use of labelling initiatives, codes of conduct, certifications and other voluntary mechanisms to ensure the responsible, safe and ethical development and adoption of AI systems, focusing on AI applications presenting limited or minimal risks (e.g. to citizens’ rights and safety) (d’Angelo et al. 2022).

The views and ideas generated at the two-hour roundtable have been written up in this short publication to stimulate further debate and inform thinking as policy around this issue develops in the coming months. To better understand the background and context to the wider ecosystem of voluntary measures being developed to help build trustworthy AI systems across the globe, we recommend that the key themes presented in this document are read in conjunction with the underpinning research described in the main report (d’Angelo et al. 2022).

Overall, the discussion focused on the following main themes associated with voluntary, self-regulatory mechanisms:

- **Characterising the self-regulatory mechanisms applicable to AI systems:** Participants considered the strengths and challenges of a self-regulatory approach for AI-enabled systems and the wider AI ecosystem, with some participants highlighting the potential benefits of alternative mechanisms. Speed of implementation and flexibility were identified as potential advantages for applying self-regulatory approaches to such a complex and fast-developing technology as AI. The importance of clearly and transparently defining the mechanisms and their scope of applicability was also emphasised.

- **Designing the self-regulatory mechanisms applicable to AI systems:** When designing self-regulatory mechanisms, context is key. Participants highlighted that the ‘values’ and ‘principles’ underpinning the mechanisms (or the frameworks informing the mechanisms) would need to be effectively operationalised. In addition, they noted that the self-regulatory needs may need to be tailored to specific aspects within the AI life cycle. Participants emphasised that for self-regulatory tools to be useful and meaningful, they need to be robust and effectively managed; otherwise, there is a risk that organisations could treat these tools as ‘rubber stamps’ and use them as ‘marketing tools’, and this could risk undermining trust.

- **Implementing the self-regulatory mechanisms applicable to AI systems:** Participants pointed out that, to effectively implement self-regulatory mechanisms, there needs to be a clear delineation of roles and responsibilities among all involved actors (which may also have implications for such issues as liability). Upskilling would need to take place to ensure that the stakeholders designing, implementing and managing the self-regulatory processes have the requisite technical knowledge, competences and expertise. Creating tools which can be easily understood and are accessible to consumers was highlighted as being important to incentivise the use of self-regulatory mechanisms, as was more support for smaller organisations. Participants underlined the importance of providing companies with a toolbox of self-regulatory mechanisms to allow them to choose the tool that works best in their own contexts.
AI is widely regarded as a key technology that holds great promise and can offer numerous and considerable societal and economic benefits. Nevertheless, it is also a technology that presents significant risks and challenges. Globally, organisations seeking to responsibly develop and implement AI-enabled systems are confronted with a complex and rapidly evolving regulatory landscape. Building trust in AI and developing trustworthy AI systems are recognised as key prerequisites for the broader uptake of these technologies in society. Therefore, it is important that AI-enabled products and services are developed and eventually deployed in a responsible, safe and ethical manner.

In the sections below, we present a short overview of the discussions among the participants, highlighting a series of key overarching themes that emerged during the conversations. The themes are not exhaustive, nor are they intended to provide a definitive account of all the discussions. Instead, the themes can be regarded as a set of forward-looking topics inspired by the discussions at the roundtable that stakeholders can consider when looking to design and implement voluntary mechanisms for regulating AI systems. The themes, which are cross-cutting in nature, cover actions and approaches that are already taking place in the wider ecosystem regarding voluntary mechanisms, such as codes of conduct and labelling schemes. Nevertheless, they also cover factors that were highlighted during the discussions as being important for the future. As the topics were often discussed and debated at different points during the roundtable, we have clustered these by theme rather than presenting a chronological record of the discussions. Finally, it should also be noted that the views and ideas presented in this report through the high-level themes may not necessarily be endorsed by everybody involved in the roundtable (see Table 1 at the end of this report for a list of attendees).
Defining the ‘self-regulatory’ approach

Participants noted that, due to the fast-developing nature of AI and the various complexities involved in its development and adoption, refining the vocabulary around self-regulatory mechanisms for AI systems is important. In the RAND Europe report, two broad categories of mechanisms were considered: (i) labelling and certification schemes (as well as such mechanisms as seals or trust/quality/kite marks); and (ii) codes of conduct and codes of ethics (d’Angelo et al. 2022). Even with this refinement, there remains some ambiguity about whether these tools are to be managed internally (e.g. where the regulated actors have internal risk-management functions and are responsible for managing the self-regulation) or externally (e.g. by reaching out to external parties on a voluntary basis to do the checking or auditing).

Additionally, participants considered whether this type of self-regulation comes with an ideological assumption that these mechanisms neatly align with statutes or legislative intervention, which may not suit the international environment that AI systems sit within. It was suggested that a more holistic approach may be better suited to AI technologies – for example, using responsible innovation practices that adopt a rounded view of the different factors that may impact the development and adoption of AI, and that operate within the context of choices that are being made for the benefit of those who are going to use the technology or be impacted by the technology. A self-regulatory approach may potentially be too siloed given that there needs to be a wider consideration of the global environment and innovation ecosystems that new AI technologies are developing within.

Clarifying the ‘self’ in self-regulation

Some participants suggested that the concept of self-regulation can be challenging in the case of AI, as there is ambiguity over what is meant by ‘self’. Typically, self-regulation refers to the involvement of non-government stakeholders, such as professional bodies or firms in a particular industry, voluntarily developing (for example) codes of conduct (Hepburn 2005). However, in the context of a technology such as AI, this is not straightforward, as the AI application itself could potentially self-regulate. Participants noted that in some cases, the AI technology could be considered as the ‘self’ given that algorithms have the capability to ‘check’ themselves and other algorithms (Heaven n.d.).

Additionally, AI is increasingly making decisions or providing advice to humans who are responsible for decision making. Examples include the use of AI to sit on the board of directors for an investment fund (BBC 2014). This reflects a deeper issue regarding the growing influence of AI-mediated advice and recommendation systems. Participants posed questions about where the control and decision making might be happening in these situations and who will be accountable for the consequences of these decision-making processes that AI plays a role in. This included questions about AI-human relationships and how to approach regulation for such complex and fast-moving applications.
One suggestion was to utilise co-regulation mechanisms between industry and government to ensure and guarantee that the regulators stay up to date on the technical and legal processes that cross-cut AI development and applications (Cave et al. 2008, NAO 2014). However, even in these co-regulatory environments, there remains ambiguity about (i) whether humans can have effective ethical oversight over AI (i.e. understanding how the AI system works and how ethics have played a role in the AI’s decision making); and (ii) how ethics are translated into AI-mediated and hybrid domains.

**Consideration of mandatory policy mechanisms**

The risk with voluntary mechanisms is that organisations may not adhere to, or even sign up to, the prescribed policies. The underpinning RAND Europe report also highlighted that there are clear challenges associated with incentivising the take-up of voluntary mechanisms in the AI ecosystem. The potential burden of adopting self-regulatory tools and their perceived complexity were noted as key challenges, particularly for new market entrants and smaller organisations.

Some participants argued that, in the long term, due consideration may need to be given to making these mechanisms mandatory. Another approach would be to make standards or certifications that are centrally developed (e.g. by the EU) accessible to new market entrants but not mandatory. For example, certification or labelling schemes can include auditing mechanisms as a type of standardisation system to ensure a company has met a pre-defined standard, thereby validating claims about the AI system. An audit by itself may provide guidance but not necessarily accountability. In this regard, participants noted that it may be interesting to combine an audit with emerging laws to increase incentives and enforcement. Some participants argued that self-regulatory tools would eventually need to be backed up with oversight and enforcement mechanisms to be robust, but others disagreed.

The justification for voluntary mechanisms over enforceable regulation is that the development and application of AI is evolving so quickly that hard law approaches would not be technically feasible and may potentially stifle innovation. Some participants noted from experience that they have seen that companies are more open to voluntary approaches, such as certifications, than to potentially burdensome regulations. They noted that the voluntary application of some of these mechanisms – which are often informed by well-established ethical norms and principles – has the potential to uphold the ethical development and use of AI-enabled systems.

Additionally, certifications that are used effectively may, over time, contribute to setting standards that go beyond the minimum requirements of the law or enforceable regulation, as is the case with Gender Equality European & International Standard (GEEIS) AI (GEEIS n.d.). Several participants noted that, if used effectively, self-regulatory mechanisms can set standards for the AI development process without dampening innovation, while at the same time responding quickly to developments and trends in the field.

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1 Co-regulation can be considered an intermediate step between state-imposed regulation and self-regulation, entailing some degree of government involvement (Hepburn 2005). An example of co-regulation is the government’s involvement in the development of accreditations or a code of practice, which are then enforced by an industry body or professional organisation that has been accredited by the government.

2 In the draft AI Act, the European Commission proposes the development of codes of conduct for non-high-risk AI applications that encourage providers of these systems to voluntarily apply the mandatory requirements for high-risk AI systems (European Commission 2021).
Developing the frameworks underpinning the mechanisms

Participants remain concerned about the values and principles that may underpin the frameworks used within self-regulatory tools. The notions of values and principles are often abstract and must undergo a process of operationalisation to result in criteria against which self-regulatory tools can be measured. Some participants remarked that there also needs to be a clearer distinction between the different values that new technologies such as AI must uphold in order to align with norms in wider society, such as democracy, freedom and human rights. This is in comparison to principles, which have to be operationalised to set the boundaries for AI, such as safety, fairness, transparency and explainability. As both values and principles are abstract, they can get conflated, even though the operationalisation process and aims of each are different (this is true is not only for self-regulatory mechanisms, but for any regulatory mechanism applied to AI systems).

The operationalisation of these values and principles remains challenging. A recent attempt has been made by the VDE\(^3\) SPEC, which includes review systems for AI trustworthiness characterisations. It filters down abstract concepts into recognisable operations – from values, criteria and indicators to observables – all of which are then subsequently mapped onto the AI lifecycle (VDE 2022). Participants highlighted that these often-abstract concepts need to take into consideration both the AI system and the context it operates in, recognising that the values and principles may vary by industry application and social context. Participants suggested that actors responsible for developing these mechanisms should include multiple stakeholders – e.g. those who develop AI systems, as well as end users who will ultimately be impacted by AI systems – to help inform the values and principles embedded within self-regulatory tools. It was noted that in Europe, there is the additional challenge of harmonising these values and principles across Member States, to create a commonly accepted framework for AI.

However, participants also mentioned that there are already some commonly used approaches to influence the design of frameworks to apply to AI systems. These include using process maps of the AI life cycle, risk-management approaches (previously applied in cyber security use cases), ISO standards and responsible business practices approaches. Additionally, participants suggested there may be upcoming legislation and information from regulatory bodies to support the operationalisation of these values and principles.

Tailoring the scope and application

Participants noted that it is important to put a ‘frame’ around the scope of the mechanisms being developed to identify their overall remit.

\(^3\) Verband der Elektrotechnik; Association for Electrical, Electronic & Information Technologies
and clarify what is trying to be achieved by implementing these mechanisms. There was agreement among some participants that an overly prescriptive approach to AI regulation mechanisms should not be developed and that, instead, the scope of any voluntary, self-regulatory mechanism needs to be clearly defined and, where necessary, tailored to the industry or use case. For example, in the proposed AI Act, a robust but flexible legal framework was suggested – by providing the general legal parameters for high- and low-risk AI, but the Act does not go on to specific how these requirements should be met (European Commission 2021).

In certain industries, such as the life sciences and medical professions, self-regulation may not be enough to enable trust between the AI and patients. Additionally, certain applications of AI, such as hiring and credit checks, may increase the risk of various harms; therefore more serious considerations will need to be examined. It is worth noting that some of these applications may be more likely to be classified as ‘high-risk AI’ systems and therefore will go through more rigorous legal checks, as proposed by the AI Act (European Commission 2021) and EU Ethics Guidelines for Trustworthy AI (AI HLEG 2019).

Additionally, the self-regulatory mechanisms may need to be tailored to specific aspects within the AI life cycle. For example, issues surrounding the sourcing and management of databases feeding into AI systems is an important topic to address. Overall, participants suggested that voluntary mechanisms provide organisations with the option of creating unique, bespoke approaches (with a combination of human and algorithmic regulation) on a case-by-case, needs or capacity basis.

Ensuring a robust system

For self-regulatory tools to be effective and meaningful, they need to be robust; otherwise there is a risk that companies will treat these tools as ‘rubber stamps’ and use them as ‘marketing tools’. Participants articulated concerns that if self-regulatory mechanisms are not robust, they could be viewed as superficial actions. These tools therefore need to be effectively managed, potentially with oversight, to ensure that the system is robust.

In addition, participants noted that these mechanisms should not be seen as the minimum requirement for ethical practices. There is a risk with self-regulatory tools that companies will view the label or audit as the final stage in meeting certain set standards, whereas, actually, there need to be continuous checks and ‘feedback loops’ to uphold the standards within organisations developing and using AI systems. The label or audit is just one stage of a continuous process to ensure standards are being upheld. Participants noted that this point is particularly pertinent for AI systems, due to the speed of their development. AI standards will have to be applied in a continuous process and be flexible enough to adapt to various new (and future) forms of AI development.

Participants highlighted that if self-regulatory tools were not effectively managed, they could risk undermining trust in AI. A key argument for the use of self-regulatory tools is that they can help build trust with users and consumers by being transparent about the use of AI in a product or service and by clearly communicating key standards that the AI product meets (d’Angelo et al. 2022). However, some participants noted that sometimes self-regulation is considered less reliable than other levers, such as stringent policy levers backed by enforcement, and often self-regulation is perceived with scepticism. Communicating the self-regulatory mechanism’s standards and the process it covers will be key to building confidence in these mechanisms.
Clearly delineating roles and responsibilities

There were several concerns among the participants about the assignment of responsibility of self-regulatory mechanisms. These included the following questions: Who is going to implement them? Who is going to oversee the implementation? Participants highlighted that a specific challenge in Europe is the range and diversity of enforcement bodies across national and supranational regulatory systems. This may be less of an issue for self-regulatory tools, as they may not require enforcement, but questions remain about which stakeholders will need to be actively involved in order to set out and implement the mechanisms. In this regard, the involvement of end users and civil society organisations was emphasised as being particularly important.

Other participants highlighted that organisations may be incentivised to use self-regulatory tools to shift some of the responsibility onto individuals. Indeed, one of the benefits of self-regulatory tools, such as labelling, is to build awareness of the use of AI within certain products/services and help support the consumer making a decision between different AI products/services. However, this also risks having the unintended consequence of placing more responsibility on individual consumers.

Additionally, responsibility overlaps with liability. Some participants pointed out that, within a business, the issue of liability can be complex, for example if there are subcontractors or external developers involved. There is also a question of liability across jurisdictions. For example, vendor companies may want to use labelling or audits as a type of marketing tool, but – in certain situations – this may make companies that sell AI products and services to consumers liable.

It was also noted by participants that any self-regulatory tool needs to complement the pre-existing laws and regulations. This conversation gets even more complicated with a technology such as AI for there have been, and continue to be, debates about whether or not the AI itself should have rights and legal responsibilities (Pusca 2020).

Encouraging skills development

A specific skillset will be needed to support the deployment of self-regulatory mechanisms across industries. Individuals involved in the design, implementation and management of self-regulatory mechanisms would need to have at least a good understanding of the ethical principles that underpin the mechanisms, a good knowledge of the regulatory landscape and an awareness of the specific technical processes within an AI life cycle.

Participants noted that it may be challenging to find the right people with the appropriate skills to support these potentially technical and supervisory processes and activities. In this regard, it will be important to upskill all parts of the self-regulatory mechanism ecosystem. This upskilling and building up of specific competencies will have to apply to a range of profiles, such as the people developing the self-regulatory tool, any ethics
board or regulatory oversight committee overseeing the deployment of the tool, and any manager or worker within the organisation impacted by the tool, as well as employees in companies introducing the self-regulatory tool.

Supporting consumers and smaller organisations

Participants suggested that market adoption and consumer demand are two key drivers to incentivise the use of self-regulatory tools. It is therefore essential to create self-regulatory tools that can be easily understood and are accessible to consumers. This form of communication must be technically meaningful and also understandable by customers. When communicated well, self-regulatory tools, such as labelling and codes of conduct, can help build public trust in AI by raising awareness of when AI is being used and that it adheres to specific values and principles, as well as by signalling that the AI has gone through some form of human oversight or evaluation process.

Participants highlighted that smaller organisations, such as small to medium-sized enterprises (SMEs) and start-ups, may face challenges implementing self-regulatory mechanisms. Depending on the cost and complexity of the implementation process, smaller companies may struggle to use these self-regulatory tools. Participants highlighted past experiences with launching AI labels and certification schemes where only the larger organisations would have the resources and capacity to implement the label. It was suggested there may need to be a separate, complementary system in place to support smaller organisations (e.g. similar to the Monetary Authority of Singapore’s Veritas initiative (MAS 2022)).

Strengthening the toolbox approach

Participants highlighted that the self-regulatory tools suggested in the underpinning report are just some of the tools needed to build trust in and regulate low-risk AI systems. Labelling and codes of conduct are examples of self-regulatory tools which already exist to provide some governance for AI systems. Providing companies with a variety of tools (a ‘toolbox’) to self-regulate will be important, as it allows them to choose the tool that works best in their own contexts.

However, providing a wide range of self-regulatory tools could potentially result in a fragmented ecosystem and poses a series of questions to consider, such as: How do self-regulatory tools complement other regulatory requirements and legislation on the topic? How do businesses identify what tools are best suited to their requirements? How can the different initiatives be co-ordinated? This is already being considered by the Organisation for Economic Co-operation and Development (OECD), which has developed a framework to help AI practitioners determine which tool fits their use case and upholds principles of trustworthiness (OECD 2021).

Although participants recognised the benefits of providing companies with the opportunity to potentially ‘refine’ self-regulatory tools to suit their own purposes, they also raised concerns about oversaturating the market. More effective collaboration and co-ordination activities may need to be put in place to ensure a level of standardisation and harmonisation across the different initiatives and a better transfer of knowledge between regulatory actors. This could be at a national level (to ensure a market has a common standard) or at a bi-lateral/multi-lateral level (to consider international or European standards).
## Table 1 List of participants who attended the roundtable

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<tr>
<th>Name</th>
<th>Organisation</th>
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<tr>
<td>Andreas Hauschke</td>
<td>VDE Verband der Elektrotechnik Elektronik Informationstechnik</td>
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<tr>
<td>Ansgar Koene</td>
<td>Ernst &amp; Young (EY) / University of Nottingham</td>
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<td>Axel Voss</td>
<td>Member of the European Parliament</td>
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<td>Camilla d’Angelo</td>
<td>RAND Europe</td>
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<td>Cornelia Kutterer</td>
<td>Microsoft</td>
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<td>Cristina Lunghi</td>
<td>Arborus</td>
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<tr>
<td>David Leslie</td>
<td>Alan Turing Institute</td>
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<td>Gabriela Mercuri</td>
<td>SCOPE Europe</td>
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<td>Immaculate Dadiso Motsi-Omoijiade</td>
<td>RAND Europe</td>
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<tr>
<td>Isabel Flanagan</td>
<td>RAND Europe</td>
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<tr>
<td>Jacob Appel</td>
<td>ORCAA (O’Neil Risk Consulting &amp; Algorithmic Auditing)</td>
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<td>Jayant Narayan</td>
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<td>Jessica Espinosa</td>
<td>Swiss Digital Initiative (SDI)</td>
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<tr>
<td>Jonathan Cave</td>
<td>University of Warwick / Alan Turing Institute</td>
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<td>Karine Perset</td>
<td>OECD</td>
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<td>Lajla Fetic</td>
<td>Bertelsmann Stiftung</td>
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<td>Mann Virdee</td>
<td>RAND Europe</td>
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<td>Marco Leto Barone</td>
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<td>Matteo Quattrocchi</td>
<td>BSA</td>
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<td>Permanent Representation of Lithuania to the EU (Attaché)</td>
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<td>Nikita Lukianets</td>
<td>Open Ethics</td>
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<td>Olivier Colas</td>
<td>Microsoft</td>
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<tr>
<td>Rafal Kaminski</td>
<td>European Parliament (Accredited Parliamentary Assistant (APA) attached to MEP Kosma Zlotowski)</td>
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<td>Salil Gunashekar</td>
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<td>Slavina Ancheva</td>
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<td>Vassilis Rovilos</td>
<td>Microsoft</td>
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References


