UNI Europa contribution to the stakeholders' consultation of the HLEG on AI

Introduction: Rationale and Foresight of the Guidelines

- UNI Europa welcomes the possibility to contribute to the stakeholders' consultation and underlines the importance of a broad public debate and information on AI. This debate must result in clear ethical and social guidelines and standards with the aim of improving the living and working conditions of European citizens.
- We acknowledge the innovative potential of AI and new technologies that can be beneficial for our society. However, these new technologies also create challenges and we are concerned about the possible risks and consequences relating to working conditions, skills and training, ethics, equality, health and safety (among others). Therefore, UNI Europa would like to underline the importance of addressing AI technologies and robotization as topics for collective bargaining at all levels (company, national and European). AI and robotics have a huge impact on the future labour market, as jobs will sometimes disappear or be transformed and other jobs will be created. We need to accompany this process and address the question of skills and training for the future workforce: need to ensure that training on necessary digital skills is provided by education institutions and companies, and that it is not the sole responsibility of the worker to keep up with the rapid technological developments. Employability needs to be promoted through upskilling and reskilling schemes for workers. Investment in formal, informal and life-long learning is key; we must enable people to work with AI or invest in competences that AI will not cover. It is important to develop action plans at EU and national level together with education providers and social partners in order to modernize education and vocational training. We therefore welcome the call from the ILO Global Commission on the Future of Work for "a *formal recognition of a universal entitlement to lifelong learning and the establishment of an effective lifelong learning system.* (*https://www.ilo.org/global/topics/future-of-work/publications/WCMS_662410/lang--en/index.htm*)
- The social partners play a key role in this and the EU should cooperate with them and national governments in order to identify which job sectors will be affected by AI. We need to understand the timeline and extent of changes in the labour market. The involvement of social partners is a must to find appropriate and future-proof solutions to concerns relating to employment, training, the nature of work, (in)equality or social systems and collective bargaining, especially at sectoral level.
- As AI and automation have the potential to transform not only simple tasks but very complex processes, we need to have a large public discussion about the areas in which the use of AI is reasonable and beneficial for society. Part of the debate should be the question of how the profits generated by AI should be re-invested for the common good by creating employment in domains such as care, health services, education or mobility. Employees should participate in the distribution of profits, e.g. through wage increases or reduction of

working time. Moreover, AI wins should be used to strengthen social security systems. This could be a measure to address the problem of future job losses and the precarisation of employment relations in a-typical work (e.g. platform work) due to AI and automation.

- It is therefore important to integrate the aspect of the quality of jobs, decent work and social progress into the ethical approach in order to create a balance with the purely economic objectives underlying the creation and use of AI and robotics.
- The Human-centric approach (HCD) not only presupposes information, transparency, participation and traceability, but also requires specific negotiation processes regarding decision-making in view of the aims and implementation of AI-systems at a very early stage for stakeholders such as employees and their codetermination bodies.

Chapter I: Respecting Fundamental Rights, Principles and Values - Ethical Purpose

- UNI Europa supports the human-centric or human-in-command approach suggested in the guidelines. We agree that it is necessary that humans always need to remain in control of technology and machines. Likewise, we agree that the use of AI needs to respect European values and fundamental rights.
- We recommend an expansion of 3.2 "In an AI context, freedom of the individual requires protection from direct or indirect coercion, surveillance, deception or manipulation." Much profiling that lies at the heart of AI systems relies on a degree of manipulation of data. This is not least relevant in relation to the world of work and especially in the use of AI in Human Resources.
- We welcome that the HLEG understands the need to ensure that those involved in the development and marketing of AI (researchers, engineers, designers etc.) act in accordance with ethic and social responsibility criteria. This should be addressed by changing educational priorities for technical subjects and by providing lifelong learning opportunities (e.g. by incorporating ethics and the humanities into training courses in engineering).
- Organisations and companies should develop tools to facilitate ethical discussions and decision-making throughout the whole design process. This should be completed by internal training programs on ethics for all employees. Such training should help employees understand the AI systems themselves, their rights in relation to said systems and their possibilities of redress, complaint etc.
- AI should provide an opportunity for workers to apply their skills and competences to the fullest while at the same time remain owner of the production process. This includes the principle of transparency in the use of AI systems in HR, like the hiring of employees or the performance assessment of staff. It is important to safeguard the rights and freedoms of employees in line with non-discrimination rules as regards the processing of workers' data.

- UNI Europa welcomes 5.1 – 5.4. We support that these examples raise real-life concerns of the adverse consequences of AI systems.
- In 5.2. UNI Europa urges the group to expand on the issue of the human's right to know they are interacting with an AI identify. This could be done through a "labelling" system. For example, online bots should be labelled as such. Users should be made aware of the use of bots and AI in customer call-centre or help desks etc.
- We would welcome that the employer-employee, employer-worker relation is explicitly mentioned in 5.3 as an example of power asymmetry.
- Taking into account the power asymmetry in employer-worker relations, a separate point 3.6 on "workers' rights" should be added, which should contain the following points: "decent work by design", equal negotiation processes in the sense codetermination rights, informational self-determination of employees, non-discrimination principle and freedom of association including the right to strike. This is needed in order to secure worker's rights to co-decide on aims and application of AI systems, and create a legal framework.
- Concerning the long-term risks and concerns we welcome that these should be considered. This could become an integral part of the accountability and audibility demands – i.e. that developers, users deployers etc need to reflect on the development/changing nature of the adopted AI as well as engage in predictions/forecasts of its future development scope and the consequences (positive and negative) hereof).
- AI's influence does not only affect the world of work, but also democracy and society as a whole. We welcome that the draft refers to this point in Chapter I, paragraph 5.3., by stating that AI is not to be implemented in order to enable "citizen scoring" by a state/government. But this should also apply to private businesses. Neither states nor companies should be allowed nor have the possibility, to create human profiles such as "moral personality" or "ethical integrity". We reject the proposed opt-out-function and even possible "opt-in"-functions are not to be designed in a way that they conflict with fundamental human rights and possibly lead to the waiving of services that are useful for a person. AI-based services, that are important for work and life, must be designed in such a way that they do not require the collection of data which could be useable for human profiling.
- Creating big data-bases always includes the risk of hackability as well as intentional and unintentional data-leaks. The guiding principle of "data-sovereignty" needs data-security in order to be viable. This implies explicitly not surveying data in areas that are of highly explosive nature for people in e.g. political, private or work-related areas. Fundamental rights as informational self-determination, the freedom of association and freedom of speech are not to be put at risk by creating such data-bases.

Chapter II: Realising Trustworthy AI

- In order to achieve "trustworthy AI", we need to establish public, independent and autonomous organisations that can control and audit (labour) algorithms

(e.g. to identify underlying biases and the objectivity of data sets that train algorithms). Likewise, the implementation of the ethical guidelines on AI must be monitored. A European observatory focusing on the ethics in AI systems could play the role of an independent watchdog, including in business.

- We would like the advice „to always keep record of the data that is fed to the AI systems" from the heading of data governance included under Accountability. For workers, it is paramount that the datasets used to evaluate performance, or in hiring or firing processes is transparent and can be accounted for.

- The explanation of the principle of autonomy covers the question of AI at work only in a footnote, whereas this is an important issue that should be given a more prominent place. We would like to highlight the right of workers to individually and collectively opt out or withdraw from the use of AI systems (or a decision chosen by an AI system) if they undermine the workers' autonomy, decision making competence or disrespect fundamental rights and ethical principles. We recommend the inclusion of a special chapter that provides for ethical guidelines on AI in the work environment to address these issues more in detail.

- UNI Europa welcomes that the HLEG on AI acknowledges the importance of social dialogue to realise trustworthy AI. We would like to add that the involvement of social partners, and in particular employee representatives, should not only take place regarding the general public debate on AI. Social partners should be involved in the establishment of codes of conducts, of standardisation schemes, development of training and in the proposed accountability governance. Employee participation and inclusion should take place early in the design, development and deployment of new technologies including AI and robotics. It is essential and important not only to inform and consult workers representatives in the work place or at branch level, but to enhance their co-determination rights and ensure their right to co-decide on the aims, reasons and implementation of AI at the workplace.

- Social partners at all levels should be involved in the implementation at company, industry, national or international level, including through collective agreements setting standards. In this context, it is required to describe the negotiation processes, e.g. central control structures for sector-specific solutions (cf. ‚AI Now' Report 2018): „*Governments need to regulate AI by expanding the powers of sector-specific agencies to oversee, audit, and monitor these technologies by domain."* (*https://ainowinstitute.org/AI_Now_2018_Report.pdf*)

- Regarding the principles of accountability and transparency, we need to establish mechanisms for the protection of whistle-blowers who disclose the risks of AI systems or the non-respect of ethical principles – especially in the case of employees in companies that develop such systems. Internal reporting of risks and violations should be supported and rules in place to ensure follow up.

- Organisations and companies should pay attention to potential biases encoded in the system development, training data and model performance – especially those that my affect the most vulnerable. They could also establish an internal ethical review process to democratise the decision-making process

- Companies should not only increase transparency regarding the design and development of AI systems, but also in organisational chains of responsibility.

Chapter III: Assessing Trustworthy AI

- We welcome that processes shall be examined in order "to allow a human control, if needed" (assessment list – governing AI autonomy). In so doing it should not be a question "to keep a human in the loop". We need clearly defined measures, that empower people to exert this control in all processes – regarding resources (technical equipment etc), organisational needs (time, liability, etc.) and qualification.

- We suggest extending the list on the assessment of use cases (p.28) and add the question of processes, in order to use AI to ensure decent work (development and impact assessment).

General comments

- UNI Europa welcomes the call for Accountability Governance on page 21. The establishment of Data/AI Governance Councils in companies will indeed strengthen the accountability of AI systems and will address a weakness in the GDPR. The Council should consist of shop stewards and management and be responsible for holding management accountable and transparent to the use of AI and data. Whistleblowers should be able to address concerns to the Council and mandate the council to investigate on reported issues.
- We welcome the process of developing guidelines for a trustworthy AI made in Europe, which encompasses corresponding "guidelines made in Europe", but would like to raise the question why non-European companies such as Google were granted full membership and full participatory right in the High-Level Expert Group. The status of associate expert would be more appropriate.
- UNI Europa also supports the position of the ETUC regarding this consultation.