



Brussels, 25 January 2019

BSA | The Software Alliance welcomes the International Conference of Data Protection & Privacy Commissioners' ("ICDPPC") Declaration on Ethics and Data Protection in Artificial Intelligence ("Declaration"). As the leading experts from industry, academia, civil society and governments globally begin to address AI development, the ICDPPC contribution to this field is a welcome addition to the global debate.

BSA is the leading advocate for the global software industry before governments and in the international marketplace. Our members are at the forefront of software-enabled innovation that is fueling global economic growth, including cloud computing and AI products and services.¹ BSA members include many of the world's leading suppliers of software, hardware, and online services to organizations of all sizes and across all industries and sectors. BSA members have made significant investments in developing innovative AI solutions for use across a range of applications. As leaders in AI development, BSA members have unique insights into both the tremendous potential that AI holds to address a variety of social challenges, and the governmental policies that can best support the responsible use of AI and ensure continued innovation.

The Declaration rightfully recognizes the multitude of benefits that Artificial Intelligence can bring to individuals and society, as well as the necessity to develop well recognized international principles to guide the development and deployment of such innovative technology. The smart use of AI has the potential to spur tremendous economic growth across every industry sector, improve human decision-making in ways that will make the world more inclusive, and enable cutting-edge breakthroughs on vexing social challenges such as climate change and cancer research. At the same time, AI services that are not developed and used responsibly, like other groundbreaking innovations, create risks of unintended consequences or malicious uses. Governments around the world are therefore appropriately focused on developing policy frameworks to address both the opportunities and possible risks associated with certain applications of AI. BSA members are equally attuned to these challenges and are committed to developing AI in a manner that will maximize the benefits and minimize the risks associated with the deployment of the technology.

Data Protection and Privacy are fundamental aspects of many AI applications. Policies directed at AI should take account, however, of the incredibly diverse set of underlying technologies and use cases that comprise the AI ecosystem. Exciting and beneficial new applications of AI are constantly being developed, making it difficult to predict the full range of potential uses cases. It is therefore important that ethical use considerations not be static at a single point in development time. In view

¹ BSA | The Software Alliance (www.bsa.org) is the leading advocate for the global software industry before governments and in the international marketplace. Its members are among the world's most innovative companies, creating software solutions that spark the economy and improve modern life. With headquarters in Washington, DC, and operations in more than 60 countries, BSA pioneers compliance programs that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy.

BSA's members include: Adobe, Akamai, Apple, Autodesk, Bentley Systems, Box, Cadence, CNC/Mastercam, DataStax, DocuSign, IBM, Informatica, MathWorks, Microsoft, Okta, Oracle, PTC, Salesforce, Siemens PLM Software, Slack, Splunk, Symantec, Trend Micro, Trimble Solutions Corporation, Twilio, and Workday.

of the complexity and evolving nature of the ecosystem, endeavoring to create a single set of ethical “requirements” for all forms of AI cannot realistically account for all potential consequences – running the risk of being both over- and under-inclusive.

The ICDPPC is positioned to provide an important perspective on Data Protection and Privacy, as well as contributing to the global discourse on fundamental rights, and BSA supports the ICDPPC’s stated intention to contextualize its Declaration with regards to Privacy and Data Protection in the broader global discourse and along other international sectoral bodies. ICDPPC should continue to build and demonstrate leadership on its expertise and, to the extent possible, emphasize a clear focus on the data governance aspects of AI ethics. In the context of such international efforts, BSA fully supports the ICDPPC’s efforts to develop governance principles, sharing its perspective on the fundamental rights and core values for the development of responsible AI.

BSA strongly supports the development of AI systems that **respect and strengthen human rights**. More specifically, AI systems should indeed be consistent with their original purposes, in particular in their use of data collected from individuals, as well as designed to facilitate and improve human development. As the ICDPPC develops its operational principles, we encourage it to continue to recognize the distinction between different types and uses of AI services. BSA recommends that ethical considerations in the field of AI be flexible enough to account for context-specific nuances, including considering the differences between uses that are consumer-facing and those that are developed as enterprise solutions or that use data solely from machine-to-machine communication. Given the context-specific nature of an AI risk analysis, the private sector has a particularly vital role to play in crafting use case-specific principles, best practices, and guidelines to promote trust and confidence in their AI systems. The ICDPPC should consider creating a separate subsection focused on principles and questions guiding a self-assessment for risk analysis that would be used to determine to how best apply any guidance to various use cases, as appropriate.

Responsibility in developing any product or service, including AI, is an important principle.

We welcome the ICDPPC focus on stakeholder involvement, in particular with reference to “fostering collective and joint responsibility...with the development of collaborative standards and the sharing of best practices”. As AI systems are used in many different ways, it is important to ensure that best practices and recommendations are borne out of collaboration between all involved stakeholders, as well as grounded in the necessary technical considerations.

Explainability is a key principle to ensure trustworthy AI. While the requirements for transparency and explainability will inevitably vary due to context and purpose, it is also important to develop strong best practices and support information for all users of AI tools. These practices must provide customers with sufficient information about how an AI application works without unnecessarily inhibiting developers’ ability to innovate and provide cutting-edge services. As the ICDPPC works on this issue, BSA encourages it to include industry consultations. Given the context-specificity of AI services, BSA appreciates the Declaration’s support for “the development of innovative ways of communication, taking into account the different levels of transparency and information required for each relevant audience”. **BSA supports the implementation of privacy best practices** that increase the transparency of personal data collection and use; enable and respect informed choices by providing governance over that collection and use; provide consumers with control over their personal data; provide robust security; and promote the use of data for legitimate business purposes. BSA agrees that individuals’ rights should be strongly protected so the increased use of AI can serve to increase feelings of empowerment.

BSA strongly supports the Declaration’s approach to reducing bias and discrimination. BSA members are constantly developing and updating policies and technological solutions to reduce the impact of bias in AI processes – as well as any other processes – to ensure trust and confidence

in their products. BSA members are fully committed to ensuring that AI systems respect fundamental rights and norms. To that end, BSA believes in the development of best practices and codes of conduct at the international level, through the involvement of a broad audience of stakeholders and practitioners.

Although we should be mindful of the need to ensure that AI is deployed fairly and responsibly, we should also recognize the potential of AI to make human decisions more accurate and less biased, and thereby to promote fairness and inclusiveness across all segments of society.

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We welcome the Declaration, as an important point of reference in the global debate on AI. ICDPPC can provide a unique perspective on ethics in AI development with its invaluable expertise on Privacy and Data Protection. BSA supports the establishment of the working group on Ethics and Data Protection in Artificial Intelligence, and looks forward to cooperating with it, and the larger platform of ICDPPC stakeholders, in supporting best practices, guidelines and recommendations for Trustworthy AI.

Yours faithfully,

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