Labelling of AI-Generated Content

Zagreb, November 2026

Introduction

In March 2026, the Act on the Implementation of Regulation (EU) 2024/1083 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act) (the "Implementation Act") entered into force. The Implementation Act further implements within Croatia's national legal system the provisions of Regulation (EU) 2024/1083 (the "European Media Freedom Act"), whose objective is to ensure editorial autonomy and media pluralism.

Article 23 of the Implementation Act, however, goes beyond the narrower implementing framework of the European Media Freedom Act. It introduces a specific obligation to label content generated by artificial intelligence ("AI"), even though the transparency of certain AI systems and of AI-generated or manipulated content is already governed by Article 50 of Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) (the "AI Act").

Issues

Overly broad obligation

Article 23 of the Implementation Act requires media service providers, providers of electronic publications and video-sharing platform providers to label any content that has been "generated by artificial intelligence in any way". It does not reproduce the structure, applicability thresholds or exceptions set out in Article 50 of the AI Act, but instead introduces a standalone and considerably broader labelling obligation. This raises serious concerns as to whether the national provision is compatible with EU law, in particular given the directly applicable and harmonised character of the AI Act in this area.

By contrast, the Article 50 of the AI Act is directly applicable and should not be enshrined in national legislation. The AI Act does not require every piece of content created using AI to be publicly labelled. It imposes transparency obligations in clearly defined cases involving a heightened risk to citizens or their fundamental rights, or a heightened risk of deceiving the public. These obligations concern AI systems that interact directly with natural persons, generate synthetic content, perform emotion recognition or biometric categorisation, or generate deep fakes or text on matters of public interest.

The AI Act's framework follows a risk-based regulatory model: obligations are not triggered by the mere use of AI, but by the risks that a particular use may create. Article 23 of the Implementation Act departs from that approach because it imposes the labelling obligation irrespective of the nature, purpose, effects and risks of the particular use of AI.

Materially different situations are thus placed on the same regulatory footing: on the one hand, the unclear taxonomy of Article 23 risks including automatic spelling correction, machine translation, interview transcription or the generation of suggested headlines and summaries which might bring no material risk of deception. On the other hand, Article 23 fails to differentiate between content that has been fully generated or materially altered by AI tools and synthetic audiovisual content and deep

fakes, on the other. Treating these situations alike departs from the logic of the AI Act, which distinguishes between levels of risk in order to ensure proportionate regulation and avoid unnecessary administrative burdens for economic operators.

Unclear scope of the obligation and risk of penalties

By failing to distinguish between harmless generative content and deceptive AI-generated content, Article 23 of the Implementation Act risks triggering a crisis of information fatigue (which is a concern also recognised by the GDPR Working Party Guidelines) and Banner Blindness. Article 23 must not simply default to suggesting that disclosures or labels should be visible or prominent in every single instance of AI-generated content. User research has shown significant risks with prominent, user-facing labels and shown that effective transparency must be contextual, not just technical.

The expression "generated by artificial intelligence in any way" is neither defined nor further specified. It is therefore unclear whether the obligation applies only to content generated entirely by an AI system, or also to content created by a person with the assistance of AI tools or only partially assisted by AI. It would be equally problematic to include very minor changes or edits (e.g. changes to background information or removal of noise) which could easily be achieved with non-AI tools that would not require labelling. This may also create a perverse incentive not to use AI tools and/or hold AI technologies to an unduly higher standard than other technologies.

It is also unclear whether the provision covers tools used for proofreading, translation, transcription, image processing or other assistive functions that have become part of the everyday work of editorial teams. As a result, the addressees of the provision cannot determine with sufficient certainty when content must be labelled. Moreover, treating standard assistive or efficiency enhancing tools as "deceptive" stigmatizes AI adoption and imposes a de facto 'Modernization Penalty'.

This lack of precision is particularly significant because an infringement of Article 23 is punishable as a misdemeanour. Where a law imposes a fine for failure to label content, the essential elements of the obligation must be clearly defined by law or sufficiently specified pursuant to law. Otherwise, it is impossible to determine in advance whether a particular use of an AI tool falls within the scope of the obligation subject to penalties, especially in the case of commonly used tools for proofreading, translation, transcription, technical image processing or preparing working drafts of text.

Responsibility of content creators and distributors

It also remains unclear how media service providers, providers of electronic publications and video-sharing platform providers are expected to determine whether particular content is synthetic. These entities are often not the creators of the content they publish, but its distributors. If the labelling obligation also applies to them, content creators or suppliers should be required to provide accurate information about its AI-generated or AI-manipulated nature. Publishers should also be allowed to rely on such a declaration unless they have reason to doubt its accuracy.

Method of labelling

The Implementation Act does not specify the form, placement or technical means of labelling AI-generated content. Article 50 of the AI Act sets out detailed transparency obligations applicable to AI-generated or manipulated content. The European Commission has also published guidelines on those obligations, clarifying their scope and complementing the Code of Practice on Transparency of AI-generated Content. The absence of specification in the Implementation Act therefore leaves its addressees without sufficiently clear criteria for complying with the labelling obligation. However, any national guidance or rules adopted to clarify that obligation would, in any event, have to remain consistent with Article 50 of the AI Act.

Proportionality and regulatory fragmentation

The existing approach also raises the question of proportionality. It is difficult to justify applying the same labelling obligation to a journalistic article written entirely by its author but spell-checked using an AI tool, and to a synthetic video showing a person saying words that they never said. Such an approach may lead to over-labelling and so-called label inflation, causing users to stop paying attention to warnings. This could reduce the effectiveness of labelling precisely where synthetic content is concerned.

Additional national requirements are thus being preempted, as they are introduced in an area already regulated at European Union level. One of the fundamental objectives of the AI Act is to prevent regulatory fragmentation of the internal market and ensure uniform rules for the development and use of AI across all Member States.

By introducing an additional obligation, Croatia creates a new regulatory burden for media service providers and departs from the harmonised European framework. Divergent national transparency standards may increase compliance costs and make the cross-border provision of media services more difficult. It is therefore necessary to reconsider the merits of expanding transparency obligations at national level in an area already fully harmonised at EU level.

Recommendations

AmCham recommends that Article 23 of the Implementation Act be aligned with Article 50 of the AI Act so that the labelling obligation is limited to the cases and types of content provided for in the European regulatory framework. This would avoid the introduction of a broader national obligation, ensure proportionate regulation, and reduce legal uncertainty and unnecessary administrative burdens.

Furthermore, to ensure the consistent and legally binding application of the Implementation Act, it is recommended that this matter be further regulated by an ordinance that will be aligned with Article 50 of the AI Act, specifying in greater detail how AI-generated or AI-manipulated content is to be identified, the form and manner of its labelling, and the responsibilities of content creators and distributors. Any such ordinance should also expressly respect the pre-emptive effect of the harmonised EU framework and should not introduce additional national transparency obligations that go beyond Article 50 of the AI Act. Publishers or content distributors should be allowed to rely on information provided by the content creator or supplier unless there are justified grounds for doubting its accuracy. Representatives of the relevant industries should be involved in preparing the ordinance in a timely manner, and the draft ordinance should be published for public consultation in accordance with the regular procedure.

- ***Recommendation:***

AmCham recommends aligning Article 23 of the Implementation Act with Article 50 of the AI Act via an ordinance that will specify in greater detail how AI-generated content is to be identified and labelled, as well as the responsibilities of content creators and distributors. Representatives of the relevant industries should be involved in preparing the ordinance, and the draft should be published for public consultation in accordance with the regular procedure.

For further information, please contact: American Chamber of Commerce in Croatia

Andrea Doko Jelušić | Executive Director

T: 01 4836 777 | E: andrea.doko@amcham.hr