

## BEDA Open Door Dialogue

# AI - Fluid Proceeding(s)

## Take-Away

**Date:** 8 May 2024

**Speaker:** Prof. [Regina Hanke](#), Board Member BEDA, Deutscher Designstag, and a WHO AI4Health Member

### Short description

This session provides a first overview of the EU AI ACT—what it is about and what it might mean for design. It is a platform to collect your questions, insights, wishes, and fears. This overview is NOT a piece of legal advice—it should foster an understanding of the structure and thinking behind the regulations and what still has to be defined.

We have all lived with machine learning and its impact since the turn of the millennium. The disruptive quality jump in Basic Models and Usability, referring to the fundamental models and their practical application, since 2023 has provoked debates, influenced regulations, and undoubtedly sparked discussions around topics such as the role of humans, IP Rights, and the destruction or savour of design. So-called artificial intelligence (still a scholastic parrot) is part of daily processes, and we all use it.

Now, as the dust settles and the hype cycle reaches its needed ‘slope of enlightenment’ and ‘plateau of productivity’, we have a unique opportunity to delve deeper, to understand beyond the fears and shining hopes, and to empower ourselves with knowledge.

### Recording:

[https://drive.google.com/file/d/1Ny-RPm9bHpuj0vH8srsPFxjWNNYGBFN8/view?usp=share\\_link](https://drive.google.com/file/d/1Ny-RPm9bHpuj0vH8srsPFxjWNNYGBFN8/view?usp=share_link)

**Summary:** The host first shared descriptive insights from a pre-session survey (n=19) about using artificial Intelligence in the creative industry. A short, informative insight about AI Basics ensured a shared understanding and led to a lively discussion about the current use of AI in different design areas and countries. Not surprisingly, the design industry adapted quickly to the new challenges arising from the new co-worker, Artificial Intelligence. Open questions remained about IP rights and the broader outlook of societal and ethical impacts.

The second part of the ODD evolved around the AI Act, which will come into force after the European Council approves it and publishes it in the official organs. Regina Hanke introduced the AI framework and its potential impact on designers.

- Impact on Design in High-risk AI Systems: Design will become part of the extensive risk management, record keeping, and monitoring processes. The design must also contribute to accuracy, robustness, and cybersecurity. For designers, this means keeping an additional skill set up to date.
- Impact on Design in Limited-risk AI Systems: Designers are users (e.g., Adobe Image generator) and developers of limited-risk AI Systems (e.g., chatbot integration in a service), starting from image creation to the actual software development and UX systems. Those limited-risk artefacts will have to follow some regulations—but to a lesser extent.
- Minimal-Risk AI Systems: Those systems do without conforming to additional legal requirements.

Besides different aspects arising from the classification of AI Risk Levels, Design is a content provider for the training and development of AI Systems. The AI Act acknowledges content creators' unique situation (§105) and states, ' Any use of copyright-protected content requires the authorisation of the rights holder concerned unless relevant copyright exceptions and limitations apply. Moreover, Directive (EU) 2019/790 introduced exceptions and limitations allowing reproductions and extractions of works or other subject matter for text and data mining under certain conditions. Under these rules, rights holders may choose to reserve their rights over their works or other subject matter to prevent text and data mining unless this is done for the purposes of scientific research. Where the rights to opt-out have been expressly reserved appropriately, providers of general-purpose AI models need to obtain an authorisation from rights holders if they want to carry out text and data mining over such works.'

What yet has to be defined are the potential IP Rights-Implications around generated images, text or products with the support of AI Systems. The EUIPO states that there might be an Observatory and 'In 2024, it will provide detailed analysis on the functioning of different GenAI systems, as well as on the solutions developing to limit or license the use of copyright protected work as training material. In line with the AI Act, this work should contribute to making sure that GenAI fully contributes to creation and innovation.'

**Resources/ links shared:**

**AI ACT:** [https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138_EN.html)

**EUIPO:**

<https://www.euiipo.europa.eu/en/news/navigating-the-complexities-of-generative-ai-in-intellectual-property-challenges-and-opportunities>

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