
WORK STREAM 3: ALGORITHMIC TRANSPARENCY ROUNDTABLE 3 | MINUTES

DATE & TIME: September 22, 2021 | 16.00 - 17.30 CET

PRESENT: *(alphabetically listed)*

Christian Poppe, Delivery Hero
David Espinosa, UNI Europa
Ionut-Aurelian Lacusta, Glovo
Jelena Šapić, Reshaping Work
Jovana Karanović, Reshaping Work
Magali Gurman, Glovo
Olivia Blanchard, Digital Future Society

Rui Melo da Silva Ferreira, Zurich Insurance
Sebastian Köhler, Delivery Hero
Silvia Rainone, ETUI
Tanja Jakobi, Public Policy Research Center
Zachary Kilhoffer, Researcher
Zeinah Anaïs Mugdadi, Uber

ABSENT:

Alok Alström, AppJobs
Branka Anđelković, Public Policy Research
Center
Bertan Baytekin, AppJobs

Dimitris Theodorakis, UNI Europa
Ignacio Doreste, ETUC
Lizeth Tijssen, Zurich Insurance

AGENDA:

▶ **PROJECT UPDATES:**

- September edition of tailor-made [monthly policy briefing](#) sent on September 16
- Expert Lecture by Ivana Bartoletti, Global Privacy Officer at Wipro, Visiting Policy Fellow at the University of Oxford, and co-founder of Women Leading in AI, that took place on September 22, is [available at Member Library](#). The video is for internal purpose only
- Call for blog articles (2,000 - 3,000 words) discussing different perspectives of the future of work is opened by September 29. Individual or team contributions are to be submitted to info@reshapingwork.net
- The afternoon sessions of the Future of Work Conference (September 10) are available on the [YouTube channel](#)

➤ **DISCUSSION TOPIC 1: RESPONSIBILITIES OF AI SYSTEM DEPLOYERS**

Not all actors are equally able to address the issue of AI used in recruitment, management, control, and evaluation of workers. Companies deploying AI systems are in a far more knowledgeable position than workers subject to the systems, or regulators. [In one recent case](#), Italy's Guarantor for Protection of Personal Data needed to perform a "complex investigation" to determine that a delivery platform, Foodinho, was [violating a number of GDPR articles](#) in its handling of workers' data. It is clear that workers' data, and the AI processing them, are very important to working conditions. GDPR, as well as local laws and collective agreements, provide data subjects with some protections against automated decisions in the workplace. In spite of this, [previous court cases](#) have shown that workers who requested their personal data do not always have these requests fulfilled.

One major innovation could concern when protection occurs. The right to challenge an automated decision can be thought of as ex post (the right to challenge an automated decision once it has been made) or ex ante (the right to be given information before an automated decision is made). At the EU-level, the [Directive on Transparent and Predictable Working Conditions](#) requires workers to receive written notice on their rights and obligations within seven days of starting, and the [Platform to Business Regulation](#) requires certain disclosures of algorithms to "business users of online intermediation services". Thus, key questions included whether ex post protections for AI could be sufficient, as long as AI deployers follow relevant laws (i.e. GDPR); and whether AI deployers should be responsible for auditing all high-risk systems for bias (i.e. gender, disability) or unfair treatment of workers, prior to using these systems.

- New EU proposal on AI framework entails some of the spirit of GDPR. Similar to the GDPR emphasis on legal effects, the new framework proscribes that any AI decision that has such an effect requires to have a human in the loop. On the other hand, new proposal has two big innovations - one is related to ex post and ex ante distinction, and another is introduction of high-risk category.
- While there is an overall agreement among stakeholders that GDPR provides ex post approach, a question about ex ante remains open. For example, Uber argues that GDPR by proscribing Data Protection Internal Assessment ([DPIA](#)) and consultation with a local authority about systems in place, also embodies ex ante approach.
- Talking about when protection occurs, ETUI considers ex ante approach necessary, especially because a little is known about how AI systems function at the moment. ETUI finds alarming that new EU proposal grants companies the right to do themselves auditing and compliance of their own systems. As a response/reaction to this segment, they advocate for stronger. Moreover, drawing a parallel with consumer law (e.g., regulation stipulating a market withdrawal of all the products that are not in compliance with the law), AI systems that imply a high-risk on breaching existing labour standards should also be withdrawn and not applied at workplace.
- Regarding compliance, Uber raised a concern faced by smaller companies in this regard. Namely, GDPR implementation was imposed to across sectors which enabled bigger players to produce and sell compliance services. Eventually, AI framework might lead to a similar situation when bigger platforms, sell systems that are compliant to smaller platforms. That is why more discussion about transparency, understandability, and fairness is needed.
- Delivery Hero stresses an openness of platforms to discuss accountability and transparency mechanisms when it comes to algorithmic deployment. However, it should be noted that the platforms operate differently, so their usage of algorithmic management will be different. Repository in terms of best mechanism practices and tailored-made approach in regard to

specificities of platforms would be beneficial.

- Further discussion about ex ante and ex post approaches evolved around comparison with HR policies at workplace. Delivery Hero underlined that hiring self-employed offline has not been subjected to any ex ante examination (e.g., people management guidelines are not required to be discussed prior to putting them in place). One of the explanations is related to the novelty of such models (we cannot predict what happens ex post; thus, evaluating ex ante would allow to predict possible outcomes). Also, the problem is with "automatic deployment" that is applied across the board whereas in traditional sphere it is "assumed" that there is human oversight. ETUI claims that ex ante approach should apply to standards that are binding to "offline" companies (e.g. labour standards once the employment relationship starts). AI-based hiring systems would be difficult to subsume under ex ante approach, unless the discrimination is blatant (as in example of Amazon hiring algorithms).
- UNI Europa sees the social dialogue as the means to discuss all these issues from the beginning. In their opinion, trade unions and workers' representatives need to be involved in the design, development, deployment, and maintenance of AI systems.
- Nevertheless, Uber points out that online economy - especially algorithmic usage - sometimes requires quick and prompt responses (e.g., in case of hackers' attack, liability for consumers, etc.) that are not subjected to social dialogue. Therefore, instead of simply translating offline models into the online realm, a new participatory form is needed. There are discussions to be had about which decisions are simply so necessary for public safety, for example, that must be done instantaneously versus what can be deliberated about.
- One of the discussion conclusions is necessity of the risk assessment of what constitutes high-risk and lower-risk in the world of work.

➤ **DISCUSSION TOPIC 2: FINDING POINTS OF CONSENSUS**

To wrap-up the roundtable discussions on algorithmic transparency, eight statements were shared in the form of polls. The last discussion topic of this year work stream was dedicated to discussing the polls results and reflecting on potential solutions to AI-based disruptions in the world of work.

- There is an overall agreement that all stakeholders (workers and their representatives, policy makers, companies and their representatives, etc.) need to improve their own literacy.
 - Literacy is prerequisite to advance workers' rights. According to the research results of the Public Policy Research Center, workers seek help in resolving issues through personal/private relationships and networks, not through company's contact services and support teams. The Center suggests that literacy should equip workers with basic understanding on what constitutes a dispute (e.g., technical aspects, human bias) and how to make and submit a complaint.
- Nine out of ten project partners agree that explainable algorithms are a prerequisite for fair and non-discriminatory AI usage in the workplace (one somewhat disagrees).
- All the stakeholders agree that employers, labour platforms, and other entities enabling work must clearly inform workers about AI systems as a part of on-boarding, before they are put to use.
 - This solution is described as an example of meaningful transparency and ex ante approach.
- While the majority of the project participants agree that AI deployers should be required to perform ex ante review on high-risk AI systems before using them, testing them for bias,

discrimination, and other problems, 30% of the surveyed disagree with the statement.

- Those who disagree underlined the need for better definition of high-risk, too much of emphasis on AI transparency (that leaves out of the focus other processes that might be opaque to workers' well-being although not automated), and pointed out the sectoral burden.
- Valerio de Stefano [comment](#) on high-risk category
- 80 percent of surveyed strongly agree that whenever someone's data is gathered or used in the context of their work, the worker and/or their representatives should have easier access to these data. One participant neither agrees nor disagrees, whereas one strongly disagrees.
 - The one who neither agree nor disagree points out that the statement is missing privacy context. For example, workers' data sharing via platforms entangles with platforms obligation that should also respect data privacy with the regards to the consumer.
 - It is noteworthy that GDPR allows to de-personalize data (which is not automatically done, though) as means to overcome the abovementioned issue.
 - On the other hand, stakeholder who strongly disagrees underlined the necessity to define what someone's data constitutes (for example, in case of the delivery, platforms collect traffic and location data that is massive and which processing requires a whole new team just in charge of it).
- Seven out of ten project partners agree that, in the context of the workplace, workers should be able to request human review for most or all AI driven decisions.
 - While workers should be able to request human review, this aspect should be also included and guaranteed by the regulation (meaning, there should be a right to a human review of all AI driven decisions and processes, with possibility to question overcome of such a review).
 - As platforms such as Glovo or Uber are data-driven businesses (in which AI is deployed for task allocation, time allocation, pick up delivery, etc.), a Glovo representative suggests defining what decisions should be subjected to human review as the first next step.
 - It is further suggested that ex ante approach could decrease the number of such requests because workers would obtain information about the system set-up before joining it.
- With a following statement - Collective dialogue and agreements, regardless of a worker's employment status, are tools we should use more to improve algorithmic transparency - 70% of surveyed agree, whereas 20% disagree and 10% does not know.
 - ETUI considers that improvements should encompass not only algorithmic transparency but also usage of algorithms.
 - Uber agrees that these are tools that should be used more to improve growth and prosperity; however, some adjustments are required (e.g., negotiations cannot last a year as changes in platform economy happen much faster).
- Although there is slight tendency towards agreement, the eighth statement (the EU's proposed regulation on AI, or something like it, is necessary to ensure workers' rights, and an even playing field for companies deploying AI) generated strong disagreement.
- Employment of automated decision-making systems goes beyond the world of work. According to Digital Future Society, these systems are not used only by private but also public sector (for instance, in the area of welfare). Public sector usage may have deep consequences on people's lives. It opens a new discussion on who is going to regulate the AI usage among governments and institutions. Some research results show that the most vulnerable groups are being affected in the criminal justice system and welfare system, by these decisions, and the discrimination and bias in the data and the design, etc. Therefore, dialogue about algorithmic transparency impact wider society and requires prompt actions. It requires a lot of interdisciplinary looks into a system

to really understand what is happening and how we might be able to make it fairer.



NEXT STEPS & ROUNDTABLE:

- The comments on this roundtable minutes can be sent by October 8.
- The next monthly policy briefing will be sent in the week 11-15 October.
- The first draft on the report chapter on algorithmic transparency will be shared and available for comments in the week 25-29 October 2021. The prefinal draft and report will be available for the comments from 3-7 January 2022.
- The project report will be published by the end of January 2022.

ADJOURNMENT:

- ▶ Minutes submitted by: Jelena Šapić
- ▶ Minutes approved on: October 11, 2021