Generative artificial intelligence: the Autorité starts inquiries ex officio and launches a public consultation open until Friday, 22 March

Published on February 08, 2024

Background

The booming generative artificial intelligence sector is expected to be worth €42 billion in 2023 (double the 2022 figure) and could even exceed annual revenue of €200 billion by 2030. This new sector is rapidly taking shape around digital companies that already have a strong presence in adjacent markets, such cloud services. Given the high stakes and the very rapid development of this sector, the *Autorité de la concurrence* has decided to start inquiries *ex officio* to analyse its competitive functioning, and will issue an opinion in the coming months.

This opinion will examine the strategies implemented by major digital players aimed at consolidating – or leveraging – their current market power upstream in the generative artificial intelligence value chain, in order to expand in this booming sector. The *Autorité* will look in particular at the practices implemented by players that are already present in the cloud infrastructure sector and at issues relating to access to cloud infrastructure, data and skilled workforces. It will also examine investments by major digital players in innovative companies specialised in generative artificial intelligence.

As part of its inquiries, the *Autorité* is today launching a public consultation to gather comments from stakeholders, who are invited to respond to the *Autorité*'s questions and submit their answers by Friday, 22 March to consultationavisiagenerative@autoritedelaconcurrence.fr. These contributions will feed into the *Autorité*'s work and be incorporated into the final opinion.

A sector taking shape

Generative artificial intelligence (hereafter "generative AI") involves generating new content from a large input dataset[1] and significant computing power, often using techniques such as deep learning[2] and neural networks[3]. Generative models can be trained to produce a variety of outputs, including text, images, music and even video.

Since its release to the public in November 2022, Chat GPT has taken centre stage in public and economic debate. It raises questions about personal data, respect for intellectual property rights and its impact on the labour market. It also opens up a host of possibilities for companies, in terms of content creation, graphic design and customer support, for example.

The booming generative AI market is expected to be worth €42 billion in 2023 (double the 2022 figure) and could even exceed annual global revenue of €200 billion by 2030[4].

The *Autorité*'s inquiries come against the backdrop of a number of initiatives. In France, following the report "*Donner un sens à l'intelligence artificielle : pour une stratégie nationale et européenne*" (Giving meaning to artificial intelligence: for a national and European strategy) and as part of the France 2030 plan, the government launched a national AI strategy in 2018 aimed at equipping France with competitive research capabilities and disseminating AI technologies within the economy, and set up, on 19 September 2023, a Generative AI Committee to help define an ambitious policy for the development of AI[5].

At the European level, this interest in generative AI is also reflected in the adoption on 2 February 2024 of the world's first AI law by the permanent representatives of the 27 Members States of the European Union. Other initiatives are emerging at the global level, in particular the adoption by the G7 on 27 November 2023 of a code of conduct for AI, the publication by G7

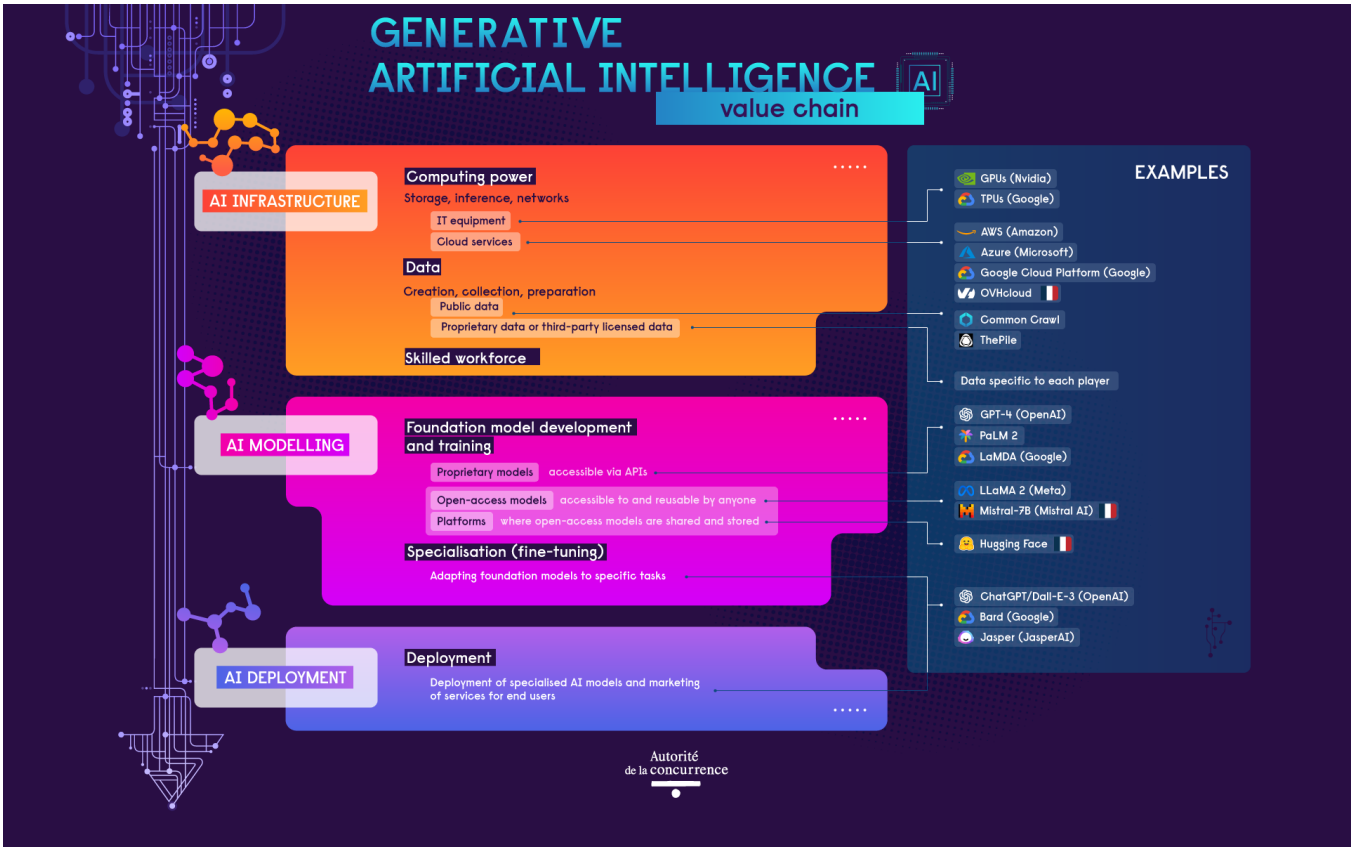
competition authorities and policymakers in November 2023 of the "Digital Competition Communiqué", including key developments on generative AI, and the adoption of the "Bletchley Declaration" signed by 28 countries and the European Union to establish a shared understanding of the technology risks posed by AI and foster international cooperation on AI safety. France will host the third AI Safety Summit. Generally speaking, competition authorities across the world are paying close attention to the development of generative AI and its competitive functioning.

AI, a sector in which incumbent digital operators may have a significant competitive advantage

Launching and developing generative AI require:

- high computing power, which most often means using a cloud service provider, in order to have rapid access to cloud architecture without having to manage the technology or incur the investment costs. As shown in the *Autorité*'s analysis in its June 2023 opinion on competition in the cloud sector, however, this sector is currently highly concentrated around a handful of players;
- a large amount of data, in order to train foundation models. Certain leading players in the sector could be tempted to restrict their competitors' access to the data indexed on their search engines and reserve this data for their own use, or to enter into exclusive agreements with start-ups;
- a skilled workforce, which could potentially be captured by major digital players, which are likely to offer high salaries.

Major digital players that already control key inputs or adjacent markets could be inclined to implement practices aimed at consolidating – or leveraging – their current market power upstream in the generative AI value chain, in order to expand in this booming sector. More generally, the vertical integration of certain digital players and their ecosystem of services could enable these companies to exclude competing foundation models or the entry into the market of companies active further down the generative AI value chain.



An active acquisition drive by companies already present in the digital sector

The generative AI sector is attracting increasing interest from investors, as evidenced by the investments by Microsoft in OpenAI and by Amazon and Google in Anthropic (a start-up rival to OpenAI).

Certain acquisitions of minority stakes in the sector are currently under close scrutiny by several competition authorities. The *Autorité* will examine these types of investments in its advisory role and, if necessary, make recommendations to better address their potential harmful effects.

The *Autorité* launches a public consultation open until 22 March 2024

The ***Autorité de la concurrence*** is launching a public consultation to gather comments from stakeholders.

The information gathered will feed into the work of the ***Autorité***, which will issue its opinion in the coming months.

Stakeholders are invited to respond to the ***Autorité***'s questions and submit their answers by Friday, 22 March to consultationavisiagenerative@autoritedelaconcurrence.fr.

[1] According to the French data protection authority (CNIL), "*in artificial intelligence, input data is data used for automatic learning or decision-making by the AI system (in the production phase)*".

[2] According to the CNIL, "*deep learning is an automatic learning process that uses neural networks with multiple layers of hidden neurons*".

[3] According to the CNIL, "*an artificial neural network is an organised set of interconnected neurons used to solve complex problems*".

[4] Statista, "*IA générative : un marché en plein essor*" (Generative AI: a booming market), 27 September 2023.

5 https://www.economie.gouv.fr/comite-intelligence-artificielle-generative

Public consultation

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