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Building Projects Over Strong Relationships

LEGAL ALERT - Artificial Intelligence in real estate: the AI Act and housefishing

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Jurisdiction / area: EU Law | Regulation | Real Estate

1. Background

The European Union seeks to set rules for the development and use of artificial intelligence (AI), balancing technological innovation with safety, transparency and the protection of fundamental rights.

Regulation (EU) 2024/1689, known as the Artificial Intelligence Act (AI Act), establishes a harmonised legal framework for the use of AI in the European Union and follows a risk-based approach: the greater the potential impact on people and their rights, the stricter the applicable obligations.

Broadly speaking, there are four levels:

- Unacceptable risk: certain practices are prohibited, such as certain forms of manipulation and social scoring.
- High risk: certain systems, notably in recruitment and education, are subject to specific requirements.
- Transparency obligations: certain uses require people to be informed that AI is being used, or require certain content to be labelled.
- Minimal or limited risk: as a rule, no specific additional obligations apply, without prejudice to other applicable legal rules.

It should be noted that the classification depends on the purpose and context in which the system is used, not only on the technology itself.

2. Key points of the AI Act

→ Transparency: the AI Act sets out specific obligations for certain AI-generated or manipulated content, including the disclosure of content that constitutes a deepfake.

→ Preventing misleading practices: images that do not reflect a property's actual features may raise issues under consumer protection and unfair commercial practices rules.

→ Professional responsibility: using AI tools does not remove the duty to verify the accuracy of the information and images published.

→ Case-by-case analysis: not all AI-edited images are subject to the same obligations. The analysis depends on the nature of the content, the purpose of its use and the applicable legal framework.

3. AI in the real estate sector

Artificial intelligence is transforming the real estate sector, notably through the creation and editing of images used to market properties. This raises questions of transparency, trust and the protection of consumers and investors.

The phenomenon known as housefishing illustrates this challenge: it consists of presenting properties through AI-manipulated or AI-generated images that may convey a different perception of their actual features.

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4. Impact for investors

Using AI to market properties is a commercial opportunity, but it also carries legal risks. Images showing seemingly larger rooms, finishes that do not exist or features that do not match reality may influence purchase and investment decisions and create unrealistic expectations.

On the other hand, responsible use of these tools can improve the way properties are presented and make communication with potential buyers easier, provided the applicable legal obligations are met.

The challenge is to strike a balance between technological innovation and the need to ensure transparent, accurate and reliable information.

5. Recommendations

Real estate companies and professionals should:

• identify the AI tools used to create and edit listings;

• check whether the content produced is subject to specific transparency obligations;

• ensure that images do not mislead potential buyers or tenants;

• review internal listing approval procedures and contracts with digital service providers.

Conclusion

The use of artificial intelligence in real estate calls for an informed and responsible approach, one that captures its benefits without compromising transparency and trust in business relationships.

The AI Act is an important step in the regulation of AI, and its application must be aligned with consumer protection rules, particularly where content may create a misleading perception of reality.

MATLAW is closely following these legal developments and can support your company in identifying its legal obligations and adapting its internal procedures.

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