

AI and Human Leadership.

Brief notes toward a new challenge for Business

Paola Manes

1.

The technological progress that has characterized recent years has led to the development of increasingly sophisticated systems, so much so that they are considered true protagonists of action, capable of developing self-learning mechanisms and making autonomous decisions, thus earning the attribute of “intelligent”¹.

In particular, these advanced technologies are increasingly used by a variety of subjects and across multiple sectors, and more and more often one hears about “data governance”, a term that refers to initiatives aimed at ensuring that data are secure and well managed; hence the pressing need for extra-European, European, and national legisla-

¹ Part of the doctrine doubts the correctness of the attribute “intelligent” referring to a machine, pointing out its inconsistency, since it is proper endowment of a human being as such. In this sense see G. Finocchiaro, *Intelligenza artificiale e responsabilità*, in «Contratto e impresa», 2, 2020, pp. 713 ss. (in particular p. 724). The author notes that «already using this term induces the development of the narrative in anthropomorphic terms». It has to be considered on the point – and to the contrary – Turing’s thinking, which seems to glimpse some sort of possible correspondence between human and machine thinking. The well-known inventor assumed that a machine could be considered intelligent in case it was capable of reproducing the logic of human reasoning. This elevated the machine to a thinking object with the same human capabilities, but it certainly did not disallow that human intelligence was behind the machine. See A.M. Turing, *Computing machinery and intelligence*, in «Mind», 49, 1950, pp. 433-460. See also – particularly on the peculiarities characterizing the European approach with respect to artificial intelligence – G. Finocchiaro, *La proposta di regolamento sull’intelligenza artificiale: il modello europeo basato sulla gestione del rischio*, in «Diritto dell’informazione e dell’informatica», 2, 2022, pp. 303 ss.

tors to develop specific rules dedicated to the field of artificial intelligence², which are not always easy to identify³.

As highlighted by UNESCO, digital governance can be considered a “multistakeholder” process characterized by its inclusive nature and, therefore, by the connected activities among different subjects: governments, businesses, non-governmental organizations, civil society, citizens, and other stakeholders (included in the category “various” as defined by UNESCO)⁴. The peculiarity of the multistakeholder process is that digital policies are managed collectively by the involved actors, evolving based on the guidelines established by them.

This paper describes the role of businesses in the digital transformation caused by the adoption of artificial intelligence and machine learning systems. These innovations can support business processes with the aim of enhancing the contribution that business can provide to the definition of good practices, that always see human governance in the implementation of autonomous decision-making systems with societal implications. Supercomputing systems allow, on one hand, to envision the work of algorithms on magnitudes of data previously unknown, i.e., big data, and on the other hand, they require risk management, governance, and compliance mechanisms within businesses aimed at always ensuring an ethical use of artificial intelligence that safeguards against the risks of violating fundamental rights of the individual and constitutionally protected freedoms.

Europe plays a leading role in the formulation of such rules also because it has a distinctive constitutional guarantee mark and is a large

² Last March 13, the European Parliament approved – with a large majority – the Artificial Intelligence Regulation, which will now only have to await publication in the Official Journal to come fully into force.

³ On the identification of rules applicable to artificial intelligence and for an in-depth analysis on the issues related to this topic see the recent work by G. Finocchiaro, *Intelligenza artificiale. Quali regole?*, il Mulino, Bologna 2024.

⁴ The reference is to UNESCO's guidelines for the use of digital platforms, available online at the following link: <https://unesdoc.unesco.org/ark:/48223/pf0000387339>. It has been years since UNESCO has been playing a key role in the global debate on the use of artificial intelligence, trying to promote a comprehensive approach to understanding and addressing the issues, ranging from stakeholder empowerment, education, science dissemination, as well as ethics.

market for data; therefore, businesses can point out to policy makers the fundamental matrices with which to accompany without hindering, govern and preside over the revolution taking place. In the impact assessment, in the classification of risk-oriented AI systems, and in the use of algorithms for the common good, great value is placed on the indications from businesses as expressed in codes of conduct when these are the result of robust discussion and reasonable weighing of the interests at stake of all stakeholders.

2.

In this context, businesses certainly play a particularly significant role as they concretely and daily manage and regulate digital transformation: whether it involves large businesses that already have the computing power internally to train machine learning systems, or small and medium-sized enterprises which clearly must rely on technological infrastructure to benefit from artificial intelligence, big data, and supercomputing mechanisms.

The industry plays a central role in the market economy and must therefore remain at the heart of this further digital transformation. Indeed, companies not only perform the fundamental function of signaling the needs that the business feels and that will be satisfied through the solutions identified by digital technology, but within the same, processes are managed according to risk governance, compliance, and assessment models, which are necessary tools to support data architecture and the governance of digitalization.

It should be noted incidentally that the model adopted for the AI Act is based on a risk management approach⁵, which starts from the classification of four risk categories and identifies – based on these – the methods to contain the various risks associated with them. De-

⁵ The risk base approach – as is well known – is used by the Data Protection Regulation (EU Reg. 679/2016, also known as GDPR), from which the legislature certainly took its cue for the risk management structure as envisaged in the AI Act. On these profiles see G. Finocchiaro, *La regolazione dell'intelligenza artificiale*, in «Rivista Trimestrale di Diritto Pubblico», 4, 2022, (in particular see pp. 1095 ss.).

pending on the cases, certain systems are indeed prohibited, for others simple transparency obligations are foreseen, and for yet others complex and articulated procedures for the management and continuous monitoring of risks are planned.

3.

Businesses can certainly be considered formidable points of observation and development of good practices, technical standards, and self-regulation that, together with the legislator, allow for the resilient management of the digital transition on a voluntary basis. The codes of conduct and technical rules adopted by businesses are much more than a soft law and sometimes are capable of anticipating the choices of policymakers, pointing the way for regulators. The technological transformation adopted in business models provides solutions adopted by the business community, attempts to regulate the market uniformly from the bottom up through the tools offered by digital innovation, and plays a key role in co-regulation in a polycentric, multilevel, and fluid system of sources⁶ and, particularly, of the legal rules specific to advanced technologies.

Therefore, the governance of digital needs the significant contribution of businesses that adopt a responsible position and approach towards digital governance. The governance models, risk oversight, compliance based on use cases directly emerging from business life allow, in the case of algorithms, the *in vivo* adoption of systems for training, risk mitigation, monitoring the lifecycle of systems equipped with artificial intelligence, and tracking of all phases of the process from data creation to the final product being placed on the market in line with what is stipulated by European legislation.

⁶ On this point see the recent contribution by C. Del Federico, *Intelligenza artificiale e responsabilità civile*, in «Jus Civile», 5, 2023; in particular see par. 2 in which the author addresses the problem of sources.

Conclusions

Making businesses protagonists in the governance of digital, alongside the regulator and the institutions, makes it possible to select those actors willing to embrace the ethical challenge of digital transformation, the human-led governance of blue transformation⁷: the reputation of businesses that commit to strict and stringent standards on governance depends on the effectiveness of the systems they implement, and this guarantees them – without a doubt – a competitive advantage, since it allows them to assure all stakeholders of the long-lasting benefits produced by digital and the benefit for the community. Obviously, the processes of digitization of enterprises conceal – as is well known – multiple risks⁸, which must undoubtedly be monitored – and indeed prevented – through well-defined strategies, aimed in particular at cyber security⁹.

⁷ See among all, L. Floridi, *Etica dell'intelligenza artificiale*, Raffaello Cortina Editore, Milano, 2022; by the same author see *Il verde e il blu*, Raffaello Cortina Editore, Milano 2020. On ethical profiles see also L. Floridi, F. Casolari, C. Buttabori, *The EU Data Act in Context: A legal assessment*, in «International Journal of Law and Information Technology», 31 (4), 202, pp. 399-412. See also the document entitled Rome call for AI ethics, signed on February 28, 2020 in Rome at the Conciliation Auditorium at the Vatican as part of the meeting entitled *The good algorithm? Intelligence: ethics, law and health*, sponsored by the Pontifical Academy of Life headed by Mons. Vincenzo Paglia; as well as *Harnessing Innovation: Israeli Perspectives on AI Ethics and Governance*, Report for Cahai, October 2020.

⁸ On the possible risks associated with the use of artificial intelligence and their management see the paper entitled *Artificial Intelligence Risk Management Framework*, drawn up by the National Institute of Standards and Technology U.S Department of Commerce, January 2023, in <https://doi.org/10.6028/NIST.AI.100-1>.

⁹ For the right and informed use of systems with artificial intelligence see the paper prepared by the University of Bologna and Oxford University to help companies and organizations follow future European regulations on artificial intelligence systems: capAI, *A procedure for conducting conformity assessment of AI systems in line with the EU Artificial Intelligence Act*, in <https://ssrn.com/abstract=4064091>; see most recently the contribution of C. Novelli, F. Casolari, A. Rotolo, M. Taddeo, L. Floridi, *AI Risk Assessment: A Scenario-Based Proportional Methodology for the AI Act*, in «Digital Society», 3, 2024, pp. 1-29.