



The new Compensation Model – new perspectives for liability of robots and AI

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EU-Parliament

- European Parliament resolution of 16.02.2017:
 - Legal status for robots on the long run.
 - Robots shall gain status as electronic person.
 - Hence creating legal liability for caused damages.
 - Liability regardless of negligence or fault.

Key questions



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- Robots are approximated to the human being as a legal person.
- Does this make sense?
- Or does this legal construct take it too far?
- Should the system of liability be replaced by a compensation model?



Traditional systems of liability

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- According to traditional systems of liability it is the human controlling cars, railways or ships.
- As the human controls the machine, he, she, or they is/are liable for any damages caused.
- Reason: Human being is to change behaviour due to the threat of liability.

Robots



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- Actions of robots are not controlled by consciousness or will.
- But by an algorithm-based self-learning and amending software.
- A robot is ready to retrain at any time, it only needs an impulse to do so.
- Why do we need a system of liability for robots even though they do not act consciously or will controlled?



The case of ThyssenKrupp

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- ThyssenKrupp has a supply contract for car parts with Volkswagen (VW).
- A truck with parts arrives at the VW factory.
- The parts do not fit.
- VW asks why ThyssenKrupp is delivering these parts?
- ThyssenKrupp replies: the Software-Cloud made the decision.
- Who is liable? VW? ThyssenKrupp? Or the Cloud?
- It will never be detected who caused the mistake in the cloud.



The case of health insurances

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- In health insurance we also do not ask who caused or is liable for the illness.
- Instead, the costs for the cure are reimbursed.
- Exceptions exist only in case of intent.
- Why do we apply the compensation model in health insurance, but not in self-learning AI systems and robots?



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International comparison

- There are countries where the compensation model is already practiced in road traffic as well.
- These include New Zealand, Canada, Australia and Sweden.
- Would it make sense to use the compensation model for the principal compensation of damage caused by robots and AI (including cyber risks)?

Advantages



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- People need robotics and AI-that makes their lives easier and increases prosperity.
- Robots are not people - it makes no sense to hold them liable.
- Damage caused by robots, in order to incentivize robotics, should be compensated.
- At the same time, the software should be updated and improved so that no further damage occurs.

More advantages



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According to Hans-Werner Sinn, a compensation model promotes prosperity because

- people are willing to ... take new risks if general risks (damage caused by robots) are covered.
- in this sense, risk is a prosperity-enhancing production factor.

The same applies to the insurance principle, which distributes risks over many shoulders and transforms them in this way (also Ulrich Meyer, Univ. Bamberg).



Cost of the Compensation Model

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- The compensation model dispenses with the question of who caused or is responsible for damage.
- Instead, all damages are compensated.
- Isn't that far too expensive?



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Costs

- Currently, the damages of the injured party are borne by insurance companies.
- When it comes to robots this is how it should also be done (according to the EU Parliament).
- In fact, the damages of the damaging party must also be compensated, these damages are currently borne by the damaging parties themselves.
- Either they have financial reserves or they go bankrupt, so that it is the public which (subsequently) bears the damages.



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More cost-related aspects

- The compensation model therefore does not create any new costs, but merely distributes the costs between all parties right from the beginning.
- There is no longer any differentiation between the damaging party and the injured party.
- The compensation model works in the same way as health insurance.
- As a result, society does not incur additional costs but tends to reduce costs by minimizing risks.
- In this way, prosperity for all increases.
- Instead of liability for robotics, we should practice the compensation model and compensate all damages caused by robotics and AI.
- Exception: machines are intentionally controlled to abuse the system.



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**Thank you for your
attention!**