



## **Translation from Dutch original**

Ministerie van BZK  
Postbus 20011  
2500 EA DEN HAAG

Ministerie van Volksgezondheid, Welzijn en Sport

Postbus 20350  
2500 EJ DEN HAAG

Date: March 28, 2024  
Subject: Call for governmental regulation for the use of AI tools in coaching

Dear State Secretary Van Huffelen and Minister Helder,

NOBCO, the largest professional organisation in the area of coaching in the Netherlands, is committed to the professionalisation of the coaching profession. One of our activities is to inform our coaches about relevant developments. An important development is the rapid and irreversible rise of generative AI. We see a significant increase in - and corresponding danger of - the use of this technology in coaching. In this letter we call on you to consider the regulation of the application of this technology.

### **Context**

At the beginning of 2024, NOBCO created the 'Ethical Manifesto AI' for coaches including '10 tips on how to deal with AI'. We addressed the issues that coaches have to arrange for the safe use of Artificial Intelligence. We also remind providers of AI tools of their obligation regarding privacy and data security.

Coaches, affiliated with NOBCO undersign an International Code of Ethics, . This means their work is embedded in an ethical framework. Together with the AI Ethical Manifesto which we developed; we try to ensure that coaching is safe. However, this is insufficient to protect the community for the use AI tools in coaching. We need the government to regulate and protect the boundaries of AI in relation to the coaching profession.

### **Reality**

What does AI coaching look like in reality? The range of AI coaching can be roughly divided into two categories: 'white box AI' and 'black box AI'. In the first, it is transparent what happens to the data and why. In the second case this is unclear and not transparent. It is commonly known that when tools are made available to users free of charge, the supplier applies a different commercial business, they usually trade the data. Technically speaking, transparency is no guarantee that the data is safe for commercial purposes. In practice, providers of 'white box AI' applications in particular will provide guarantees about the safe handling and storage of data.

We notice the following issues, t which we are concerned about:

1. Many people don't know the difference between the different applications of AI.
2. People easily share personal information about themselves and their lives in AI-tools, without knowing what will happen with these data. On top of that, in many free AI applications, it is unclear who they can contact regarding this.
3. Handy entrepreneurs offer tools which use combinations of AI applications, where there is a good chance that the tool does not meet privacy standards and the ethical standards of the coaching profession. In addition, tools that store their data in the US have different privacy rules than tools offered by providers based in Europe, falling under European regulations.
4. Generative AI was not created for coaching purposes. Training an AI tool for coaching purposes takes a lot of effort. Simply put, this is because a coach is trained to ask questions, while an untrained AI tool provides advice and answers, without always being aware of ethical boundaries and risks of escalation on the part of the questioner.
5. Sometimes an entrepreneur's AI tool is enriched with the offer of a flesh-and-blood coach. By referring to a real coach, the entrepreneur provides the impression as if the service is safe to use; while in fact the coach only comes into the picture after someone has shared their personal information in the AI environment. This AI environment can be either a 'black box' or a 'white box' AI application.
6. We notice that companies collect data about people's health and well-being, without clarifying how they will be used at a later stage. This may involve selling data, but also optimizing services and commercial gain. This leads to building profiles of users, without the user being aware of it, or having any influence on it.

### **Urgency**

To illustrate that the above is not just a theoretical consideration: Recently NOBCO had to deal with a provider of an AI coaching tool who approached affiliated coaches under the banner of NOBCO to introduce its tool. He used the name of NOBCO without being familiar with the ethical boundaries of the profession. The entrepreneur in question thought that by arranging a coach as a backup, he had provided sufficient security in case of emergency situations. The issue is that, for example while interacting with a generative AI tool, suicide could be discussed for some time, without a professional being aware of it or being able to intervene. There are known examples in the market of suicide due to the use of a generative AI tool. We are unable to verify this information sufficiently to be able to use it as an official source. However, it is a real scenario.

In short, we are concerned about AI in relation to the coaching profession considering:

1. Privacy and data processing;
2. Quality and ethics; and
3. Contracts and liability.

Given the rapid developments in AI, answers are needed in the short and long term, including from politicians.

### **Our wish**

Our wish is that the government creates a framework for AI tools for coaching that enables the safe and responsible use of AI in this privacy-sensitive domain.

We are considering the following solutions, which we will explain in more detail below:

1. Introducing an independent quality mark for coaching-related AI tooling;
2. Treating the use and resale of personal data in AI tools as a data breach;
3. Setting requirements for datasets and algorithms with regard to the prevention of discrimination and prejudice;
4. The obligation to clarify who is responsible and liable for the services provided when using a coaching-related AI tool; and
5. The obligation to ensure that there is always the possibility of referral to a real coach/supervisor/care provider when using a coaching-related AI tool.

**Ad 1: Towards an independent hallmark** – We call upon the government to introduce an independent hall mark for coaching-related AI tooling. This quality mark should ensure that the AI tooling complies with European regulations around privacy and data, and with the International Code of Ethics for coaching. At all times, it must be clear to the user whether he or she is in a public or a closed environment, where the data is safe. All of this to reduce the chance that sensitive data of individuals end up in the public domain.

**Ad 2: Treating the use of personal data as a data breach** – The privacy, protection and confidentiality of personal data are important. This information may not be made public. This means that personal-sensitive data that end up in the public domain should be treated as a data breach. It is up to the government to take appropriate measures against this. This is to guarantee the anonymity and the safe use of AI in our sector.

**Ad 3: Requirements for datasets and algorithms** – It has already been shown how datasets and algorithms can lead to discrimination around gender identity or skin colour. This is euphemistically called an 'undesirable bias'. AI tools for coaching should be registered and tested for the undesirable bias to stop discrimination.

**Ad 4: Clarity about the provider** – Nowadays, user-conditions are very extensive and often written in the English language. They are mainly intended to exclude legal liability. The importance of accessibility and the possibility to contact has therefore been pushed into the background. We advocate for conditions whereby the company can be reached with a name of a person and a telephone number. This mandatory accessibility is intended to both report complaints and to discussion in case the AI tool has or may cause undesirable side effects.

**Ad 5: Obligation to provide a backup** – The platform on which AI coaching runs should be obliged to provide a backup for crisis situations. This may involve a pop-up notification, the option to transfer to a real coach, a psychologist or a professional helpline, such as 113 in case of suicidal thoughts. When people allow themselves to be coached with the help of AI, it may reveal previously unknown issues. Its effects can range from new, sometimes painful insights to depressive feelings. With real life coaching, a coach can screen someone for fears or suicidal thoughts and refer them whenever necessary. AI tooling lacks this professional judgment to set these boundaries and refer the user when needed.

### **Follow-up and call**

We hope the government will take the signal from this letter seriously and follow up on the above-mentioned solutions by developing appropriate policy measures. To prevent excesses and proliferation around AI-coaching. Only the regulation of the above-described matters by the government will make a safe and responsible future use of AI possible.

We realize that adjacent areas may have similar concerns. It is because the field of coaching is in the open domain, that we write this as a professional organization for coaching.

As a professional organization, we are ready to contribute to the dialogue, solutions and frameworks for the use of AI in coaching. We care about the well-being and safety of people.

Drs. Marieke Jellema MC Chairman of NOBCO

Attachments:

- AI ethics manifesto '10 tips on how to deal with AI'

- International Code of Ethics