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Global AI Regulatory Trends: what lessons can directors learn for good corporate governance?

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The UTS Human Technology Institute (HTI) is an impact-oriented institute building human values into new technologies. Bringing together policy, legal and technical experts, HTI provides independent expert advice, policy development, capability building, and data science solutions to support government, industry and civil society.

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Executive summary

As legislatures and regulators around the world explore a variety of approaches to managing the risks of artificial intelligence (AI), Australian company directors should carefully and proactively consider what is being asked of both boards and directors in exercising their roles and duties.

While regulatory strategies and approaches are far from settled, signals from other jurisdictions provide useful guidance to corporate Australia. In particular:

- Boards and directors should be aware of common features in regulatory responses to AI, which may influence Australia's future regulation.

- Regulators and governments are putting significant effort into providing guidance to the market on the responsible and lawful use of AI, signalling that AI systems require particular attention.

- Regulators are taking enforcement and other action in response to a range of AI-related activities that are considered to breach existing laws—including false or misleading claims about AI, false, misleading or anti-competitive algorithms, misuse of personal data, AI-facilitated discrimination and impersonation, and the failure to take reasonable steps to prevent AI-related harm.

Taking note of these trends, directors can and should take practical action to discharge their corporate oversight responsibilities in the AI context. They can:

- Keep up with developments in AI and understand their strategic relevance and potential risks

- Monitor the regulatory landscape and focus of enforcement action in Australia and other jurisdictions

- Actively consider how AI impacts their role and duties as a director

- Initiate discussions on AI within the board and with management, and

- Ensure the company has a comprehensive AI governance program in place.

1. Introduction

The role of boards and company directors is shifting as Australian companies increase their use of, and reliance on, AI systems.[1]

With the rising use of AI systems, governments in Australia and around the world are exploring a wide range of policy and legislative responses targeted to the unique characteristics of AI systems—which can both amplify existing risks and create new harms to individuals, groups and society at large.[2]

While Australia's approach to regulating AI is not settled, company directors have existing oversight responsibilities and legal duties. These apply to the use of all technologies, including AI.

Boards and company directors can look to international trends in AI regulation for guidance as to how AI affects their corporate oversight role. These trends reveal that a wide range of regulatory tools are being applied to manage AI-related harms. Regulators and governments are providing signals, guidance and advice to the market on compliance with existing laws and community expectations, and there has been an increase in AI-related enforcement action.

2. Corporate governance and AI

The increasing adoption of AI technologies across Australian companies and value chains is impacting corporate governance practices. This flows from the potential for AI systems to influence and place new stresses on strategy, operational and financial performance, risk management, and organisational culture.

As companies adopt and expand their use of AI, their boards should actively engage with management to provide effective oversight across these functions, while directors should consider how they can best contribute to these board discussions.

Company directors should also consider their own legal duties in relation to a company's use of AI.[3] They should ensure that the company has effective frameworks in place to manage AI-associated risks, and a robust compliance framework to deal with the range of laws that may apply to its use of AI—especially in areas such as privacy, cybersecurity, consumer protection, competition, anti-discrimination, work health and safety, negligence and intellectual property.

Directors should also consider the risk of civil litigation against the company in relation to its use of AI, and how best to manage or mitigate this risk. For example, in the United States, shareholders have initiated class actions based on company statements about their use of AI that are alleged to have been false or misleading (and to have breached securities legislation).[4] In both the US and United Kingdom, companies have faced civil litigation for copyright infringement— for example where material has been used to train AI models without permission.[5]

3. Regulatory trends across jurisdictions

3.1 Diverse regulatory approaches

Some jurisdictions around the world are implementing AI-specific legislation to regulate the development, deployment and use of AI. These vary considerably in scope. For example:

- The European Union has adopted an AI Act that regulates AI systems according to the level of risk they present[6]

- China has enacted regulations dealing with specific types of AI system[7]

- The Canadian Government has proposed a Bill to enact an Artificial Intelligence and Data Act[8], and

- Numerous US states have introduced bills or enacted specific laws dealing with AI.[9]

Other major jurisdictions are, at this stage, focusing efforts on applying existing laws to AI. For example, in the UK, regulators are expected to apply existing powers consistently with a set of principles outlined by the UK Government; and a central government function has been established to bring 'coherence' to the regime and address regulatory gaps.[10] However, the UK's new government has indicated that "it will seek to establish the appropriate legislation to place requirements on those working to develop the most powerful artificial intelligence models".[11]

In the US, President Biden has released an *Executive Order on Safe, Secure and Trustworthy Development and Use of Artificial Intelligence*. It requires federal agencies to develop standards, tools and tests to help ensure that AI systems are safe, secure, and trustworthy. It also requires developers of the most powerful AI systems to share their safety test results and other information with the US Government.[12]

3.2 Common factors

While jurisdictions differ in their legislative approach to managing the risks and opportunities of AI systems, a number of visible regulatory trends are likely to influence Australian policy makers and regulators and are therefore pertinent for directors to understand.[13] These include:

- **Broad alignment around the definition of AI,** in ways that support international interoperability and distinguishes AI systems from simpler software systems[14]

- **A focus on increasing legal certainty** through law reform or by issuing guidance from government or regulators

- **A risk-based approach to AI regulation,** featuring greater regulatory focus on AI systems perceived to present higher risks and, in some jurisdictions, duties on organisations to assess and understand the risks that AI systems pose to their stakeholders[15]

- **Promoting responsible innovation** by setting reasonable limits on the use of AI and, in some cases, establishing regulatory sandboxes

- **Seeking interoperability through alignment with international standards**, such as the ISO/IEC 42001 AI management system standard[16]

- **Supporting compliance** by developing guidance, oversight and enforcement mechanisms to help organisations improve their governance and legal compliance, and

- **A commitment to cooperation and coordination among governments**, regulators and the technology companies themselves.[17]

4. Regulators and governments are providing guidance and setting expectations on the responsible and lawful use of AI

Regulators and governments, including national standards bodies, are putting significant effort into providing guidance and advice to the market on the responsible and lawful use of AI. These include recommendations, tools, national standards and frameworks, as well as guidance documents intended to clarify how existing laws apply and the role of regulators in relation to specific use cases. In this way, they are establishing clear expectations for companies on their development and use of AI.

Table 1. Selected guidance from regulators and governments to support compliance

Jurisdiction	Examples of guidance material
Canada	• Innovation, Science and Economic Development Canada, _Voluntary Code of Conduct on the Responsible Development and Management of Advanced Generative AI Systems_ (2023) which identifies measures to be applied by firms in advance of binding regulation
United Kingdom	• Department for Science, Innovation and Technology, _Emerging Processes for Frontier AI Safety_ (2024) which outlines ideas and emerging processes and practices in AI safety • Department for Science, Innovation and Technology, _Implementing the UK's AI Regulatory Principles: Initial Guidance for Regulators_ (2024), which provides guidance for regulators when developing their tools and guidance • Information Commissioner's Office, _Guidance on AI and data protection_ (2023) which outlines best practice for AI systems that are compliant with data protection laws • Competition & Markets Authority, _Algorithms: How they can reduce competition and harm consumers_ (2021) which outlines the harms to consumers and competition posed by algorithms and the role of regulators in addressing these harms
United States	• National Institute of Standards and Technology, _Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile_ (2024) which is a draft companion resource for generative AI to the AI Risk Management Framework • National Institute of Standards and Technology, _AI Risk Management Framewor_k (2023) which provides guidance to incorporate risk considerations into the design, development, use and evaluation of AI • White House Office of Science and Technology Policy, _Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People_ (2022) which has principles and practices to help guide the design, use and deployment of AI in order to protect the public from harm • Consumer Financial Protection Bureau, _Consumer Financial Protection Circular 2022-03_, which advises that creditors must provide reasons to customer adversely affected by credit decisions, even where those decisions are made using complex algorithms that make it difficult to identify the specific reasons for the decision
Singapore	• Personal Data and Protection Commission, _Advisory Guidelines on the use of Personal Data in AI Recommendation and Decisions Systems_ (2024) which provides organisations with guidance on when they can use personal data to develop and deploy AI systems • _A.I. Verify_ (2022) which is an AI governance testing framework and software toolkit that validates performance according to best practice • Info-communications Media Development Authority and Personal Data Protection Commission, _Model Artificial Intelligence Governance Framework_ (2020) which translates ethical principles into practical recommendations for organisations to deploy AI responsibly • World Economic Forum, _Implementation and Self-Assessment Guide for Organisations_ (2020), which complements the Model Framework; and Info-communications Media Development Authority and Personal Data Protection Commission, _Compendium of Use Cases_ (2020) which provides examples of how organisations have implemented or aligned their AI governance with the Model Framework
Japan	• Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry, _(Draft) AI Guidelines for Business_ (2024) which are centred around 10 common guiding principles.

5. Regulators are enforcing rules and intervening in relation to AI

Company directors should be aware of the enforcement activity and other interventions by regulators around the world related to AI-related activities.

5.1 False or misleading claims about AI

Recently, the US Securities and Exchange Commission imposed civil penalties under the Investment Advisers Act against two firms for a practice known as "AI washing"; that is, making misleading statements to exaggerate their use of AI or machine learning in their investment services.[18]

The US Federal Trade Commission (FTC) enforces the *Federal Trade Commission Act* (FTCA), including section 5 which prohibits unfair or deceptive practices in or affecting commerce. It has advised firms to ensure that they do not exaggerate what an AI product can do; do not promise that an AI product does something better than another product unless they have adequate proof that this is the case; and to ensure that they are aware of the reasonably foreseeable risks and impact of an AI product before putting it on the market.[19]

The FTC has taken action against a scheme that claimed to be using AI to boost earnings for e-commerce storefronts. The FTC alleged that the defendants, Automators LLC and its affiliated entities and individuals, breached section 5 of the FTCA by making unfounded claims about income and profits. They also claimed to use AI to ensure success and profitability for consumers who invested in the online stores.[20]

Australian position

In Australia, engaging in misleading or deceptive conduct in trade or commerce is prohibited by section 18 of the *Australian Consumer Law*,[21] and the regulators are the Australian Competition and Consumer Commission (ACCC) and state and territory-based agencies. ASIC is the regulator for a similar prohibition in relation to financial services under the *Australian Securities and Investments Commission Act 2001* (Cth).

In June 2024, the Australian Securities and Investment Commission (ASIC) Chair, Joe Longo, referred to recent cases of AI washing overseas, noting that "[t]his is a serious emerging issue and all Australian companies and their directors should be on notice that ASIC is on the lookout for this conduct here."[22]

5.2 False, misleading or anti-competitive algorithms

The UK Competition and Markets Authority has published several papers dealing with algorithms, outlining the conditions under which their use can cause harms to consumers (such as by misleading them), and reduce competition including through collusive agreements.[23]

The FTC and US Department of Justice have filed a statement of interest in third-party proceedings submitting that competitors who coordinate using pricing algorithms are engaging in unlawful price fixing. The FTC said in its press release that "hotels cannot collude on room pricing and cannot use an algorithm to engage in practices that would be illegal if done by a real person."[24]

Australian position

In Australia, anti-competitive algorithmic pricing may be prohibited under the *Competition and Consumer Act 2010* (Cth) (CCA) as either cartel conduct or concerted practices, which is cooperation between competitors that lessens competition.[25]

The use of algorithms in a way that is false or misleading could constitute misleading or deceptive conduct in trade or commerce (as outlined above).

The ACCC has brought proceedings against Trivago, a hotel comparison website, for misleading representations. Trivago represented that it would help users to identify the best deal or cheapest rates. However, its algorithm placed significant weight on sites that paid Trivago the highest fee, which meant that it did not identify the best offer in 66% of listings. The Federal Court of Australia ordered Trivago to pay $44.7 million in penalties for misleading consumers.[26]

In 2023, ASIC commenced civil penalty proceedings against IAG subsidiaries alleging that they misled customers about the loyalty discounts available for certain types of home insurance. It alleged that their pricing algorithm operated inconsistently with their discount promises, and that their representations about the manner in which the premiums would be calculated were false, misleading and liable to mislead in breach of the ASIC Act.[27]

5.3 Misuse of personal data

The UK Information Commissioner's Office (ICO) has issued a preliminary enforcement notice to social media platform, Snap, for an alleged failure to assess the data protection risks posed by a generative AI chatbot. It has also fined Clearview AI, Inc (Clearview) for breaching UK data protection laws. The developer had collected more than 20 billion images of people's faces and data from the internet to create an online database that could be used for facial recognition.[28]

In the US, the FTC has brought several actions relating to the unlawful collection of user data. As part of the settlement of these actions, it has used a remedy called "algorithmic disgorgement" in which it requires the deletion of not only the data, but also all algorithms and "work product" that was trained on it.[29]

The FTC has also taken several enforcement actions in relation to the extraction and mishandling of consumer's sensitive personal data.[30] It has identified the potential conflict of interest for companies developing AI products who have business incentives to use their own user information (eg, for training AI models), but also have privacy policies in place in relation to that data. It noted that these companies might be tempted to surreptitiously change the terms of their service or their privacy policy to remove restrictions on the way they can use customer data. The FTC warned that companies that do so are at risk of being found to have engaged in unfair or deceptive practices.[31]

Australian position

In Australia, the collection, use, storage and disclosure of personal information is regulated primarily through privacy legislation. *The Privacy Act 1988* (Cth) (*Privacy Act*) applies to Australian Government agencies and organisations with an annual turnover of more than $3 million and is regulated by the Office of the Australian Information Commissioner (OAIC).

The OAIC has taken regulatory action in relation to the use of facial recognition by several organisations.

- In 2021, the OAIC determined that 7-Eleven had breached the *Privacy Act* after it had collected facial images while surveying customers about their in-store experience. The Commissioner found that it had collected sensitive information that was not reasonably necessary for its functions and activities, without adequate notice or valid consent.[32]

- The UK ICO's action against Clearview (outlined above) followed a joint investigation with the OAIC. The OAIC determined that Clearview had breached the *Privacy Act* by scraping biometric information from the web and disclosing it through the facial recognition tool. The Commissioner found that the privacy impacts of the system "were not necessary, legitimate and proportionate, having regard to any public interest benefits".[33]

- The OAIC has also opened an investigation into the use of personal information by several other major stores, focusing on their use of facial recognition technology.[34]

5.4 AI-facilitated discrimination

The US Equal Employment Opportunity Commission (EEOC) has taken action against firms on the grounds of AI-facilitated age discrimination that several integrated companies had used application software to hire English language tutors that was programmed to automatically reject female applicants aged 55 years or more, and males aged 60 years or more.[35]

In the UK, the Equality and Human Rights Commission helped fund a case that alleged that the facial recognition checks required for an Uber Eats driver to access his work app were racially discriminatory. The driver experienced continuous difficulties with the verification checks which used facial recognition software and was removed from the platform.[36]

The US Department of Housing and Urban Development has cautioned housing providers to avoid using third party screening companies that use algorithms that: may have racial or prohibited bias in their design; have not been shown to reliably predict risk; may produce inaccurate information about the applicant; or that make the decision for the housing provider.[37]

The US Department of Health and Human Services has prepared a rule interpreting section 1557 of the *Affordable Care Act* to prevent AI-powered algorithms from contributing to bias and discrimination in healthcare. It has also made a rule to enable clinical users to access a consistent set of information about the algorithms they use to support their decision making, and to assess them for fairness, appropriateness, validity, effectiveness, and safety.[38]

Australian position

In Australia, there is a range of federal, state and territory anti-discrimination legislation that prohibits discrimination based on protected characteristics such as race, sex, disability and age.[39] The federal anti-discrimination legislation is overseen by the Australian Human Rights Commission, and the state and territory legislation is overseen by local bodies.

5.5 AI-facilitated impersonation

In the US, the FTC has responded to complaints about impersonation fraud with proposed prohibitions on impersonation. It is also consulting on whether to prohibit a firm—such as an AI platform creating images, video or text—from providing goods or services that they know (or have reason to know) are being used to harm consumers through impersonation. The FTC Chair, Lina Khan noted that "[w]ith voice cloning and other AI-driven scams on the rise, protecting Americans from impersonator fraud is more critical than ever".[40]

Australian position

In Australia, this type of conduct could potentially fall under the prohibition on misleading or deceptive conduct in the *Australian Consumer Law*.

5.6 Failure to take reasonable steps to prevent harm

The US FTC has taken enforcement action for Rite Aid's failure to take reasonable steps to prevent harm to consumers when using AI. Rite Aid used facial recognition technology for surveillance purposes. The FTC alleged that the system had been used to identify customers who appeared to be shoplifting or engaging in other problematic behaviours; and that it generated a significant number of false positives. The FTC alleged that the company had failed to: consider and mitigate potential risks to consumers; test, assess, measure, document or inquire about the technology's accuracy; regularly monitor or test its accuracy after it was deployed; or adequately train the employees who operated it.[41]

Australian position

In Australia, the use of facial recognition technology is likely to be dealt with under the *Privacy Act* (see regulatory action by OAIC outlined above).

6. Regulators are collaborating to improve their impact

Some AI may raise issues across a range of laws that are covered by different regulators (such as digital regulation, competition, privacy and consumer protection).

Overseas, there is evidence of increasing collaboration between regulators in their educational and enforcement activities in the AI context.

- In the UK, the four digital regulators have established the Digital Regulation Cooperation Forum (DRCF) to provide a clear, coordinated and coherent regulatory approach to AI and the broader digital context. In April 2024, they launched an AI and Digital Hub pilot, which provides informal advice to innovators with regulatory questions that cross more than one regulator's remit.[42]

- In the US, nine federal agencies have issued *a joint statement on the enforcement of civil rights, fair competition, consumer protection, and equal opportunity laws in automated systems*. The joint statement makes clear that "existing legal authorities apply to the use of automated systems and innovative new technologies just as they apply to other practices".[43]

Regulators have also collaborated across countries in responding to AI.[44]

In Australia, leading regulators highlighted the importance of collaboration on AI at the ASIC x UTS: AI Regulators Symposium held on 21 May 2024. The Digital Platform Regulators Forum is an example one such collaboration. It comprises the ACCC, eSafety Commissioner and OAIC, and has published working papers on algorithms and large language models.[45]

7. Company directors should take practical action to discharge their duties

To effectively execute their corporate oversight role, company boards need to consider the opportunities that AI can provide for companies, the potential risks involved and how best to manage them.

As board members, individual company directors can do several things to ensure that they are effectively discharging their corporate oversight role:

- **Keep up with developments in AI** so that they can evaluate its strategic and operational value to the company, and the risks involved

- **Monitor the regulatory landscape in Australia and other jurisdictions**, for example as guidance is released to support the responsible and lawful use of AI, and enforcement action is taken in response to AI-related activities that are causing concern

- **Actively consider how AI impacts** the way they approach their role as a director; for example they may need to become more actively engaged in the oversight of AI across the company's strategy, operations, risk management and governance activities

- **Initiate discussions within the board** about the company's current and planned uses of AI, the regulatory obligations applying to it, the opportunities and risks, and how they can be managed (and seek management advice on these issues), and

- If AI is being used, **ensure the company has a comprehensive AI governance program** in place to manage any AI-related risks, with clear accountabilities, and a governance framework that provides regular reporting to the Board.

8. About HTI's AI Corporate Governance Programme

The AI Corporate Governance Program is an initiative of the University of Technology Sydney's Human Technology Institute (HTI). It aims to broaden understanding of corporate accountability and governance in the use of AI.

HTI's AI Corporate Governance Program analyses current and emerging AI governance practices and provides organisations with the resources and strategic insight to navigate this developing terrain.

With the support of philanthropic partner Minderoo Foundation, and project advisory partners KPMG, Gilbert + Tobin, and Atlassian, HTI is working to identify the governance strategies that can support investment in accurate and effective AI systems, while ensuring safe and inclusive outcomes.

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You can also access the resource, _A Director's Guide to AI Governance_ (2024) which has been jointly published by the HTI and the Australian Institute of Company Directors.

Endnotes

1   Nearly two-thirds of Australian corporate leaders surveyed by HTI in 2023 were either already using or planning to use AI in their operations: Lauren Solomon and Nicholas Davis, *The State of AI Governance in Australia* (Report, UTS Human Technology Institute, 31 May 2023), 12 <https://www.uts.edu.au/human-technology-institute/projects/ai-corporate-governance-program/state-ai-governance-australia-report>.

2   See, eg, Lauren Solomon and Nicholas Davis, *The State of AI Governance in Australia* (Report, UTS Human Technology Institute, 31 May 2023), 12 <u>https://www.uts.edu.au/human-technology-institute/projects/ai-corporate-governance-program/state-ai-governance-australia-report</u>; Department of Industry, Science and Resources (Cth), *Safe and responsible AI in Australia consultation* (Interim Response, 17 January 2024) <<u>https://storage.googleapis.com/converlens-au-industry/industry/p/prj2452c8e24d7a400c72429/public_assets/safe-and-responsible-ai-in-australia-governments-interim-response.pdf</u>>.

3   Directors have a duty to act in good faith in the company's best interests and a duty to exercise their powers and discharge their duties with care and diligence: *Corporations Act 2001* (Cth) ss 181, 180; see also Lauren Solomon and Nicholas Davis, *The State of AI Governance in Australia* (Report, UTS Human Technology Institute, 31 May 2023), 37 <<u>https://www.uts.edu.au/sites/default/files/2023-05/HTI%20The%20State%20of%20AI%20Governance%20in%20Australia%20-%2031%20May%202023.pdf</u>>. In addition, some laws (eg, work health and safety and environmental protection legislation) extend personal liability to directors where the company is in breach of its obligations.

4   See H Gregory Baker and Josie Dikkers, 'Increase in Securities Litigation and Regulatory Scrutiny Concerning Artificial Intelligence', *Patterson Belknap Webb & Tyler LLP* (Blog Post, Securities Enforcement and Litigation Insider Blog, 5 March 2024). <<u>https://www.lexology.com/library/detail.aspx?g=cbf33213-e997-4833-af5d-738178f00125</u>>.

5   Cat Greenwood-Smith et al, 'AI Litigation and Regulatory Enforcement: Where are we and what's on the horizon?', *Freshfields Bruckhaus Deringer* (Blog Post, Risk and Compliance Blog, 16 May 2024) <<u>https://riskandcompliance.freshfields.com/post/102j7u4/ai-litigation-and-regulatory-enforcement-where-are-we-and-whats-on-the-horizon</u>>.

6   *Proposal for a Regulation Of The European Parliament And Of The Council Laying Down Harmonised Rules On Artificial Intelligence (Artificial Intelligence Act) And Amending Certain Union Legislative Acts* [2021] COM/2021/206 (EU AI Act) <<u>https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138_EN.pdf</u>>. See Tambiama Madiega, *Artificial Intelligence Act* (Briefing, European Parliamentary Research Service, March 2024) <<u>https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698792/EPRS_BRI(2021)698792_EN.pdf</u>>.

7   *Provisions on the Management of Algorithmic Recommendations for Internet Information Services* (People's Republic of China) Cyberspace Administration of China, Order No 9, 16 November 2021 <<u>https://www.cac.gov.cn/2022-01/04/c_1642894606364259.htm</u>>*; Provisions on the Administration of Deep Synthesis Internet Information Services* (People's Republic of China) Cyberspace Administration of China, Order No 12, 3 November 2022 <<u>https://www.cac.gov.cn/2023-07/13/c_1690898327029107.htm</u>>; *Interim Measures for the Management of Generative Artificial Intelligence Services* (People's Republic of China) Order No 15, 23 May 2023 <<u>https://www.cac.gov.cn/2023-07/13/c_1690898327029107.htm</u>>. See Joshua Cole, Michael Sheng and Hoi Tak Leung, 'New Generative AI Measures in China', *Ashurst* (Web Page, 26 September 2023) <<u>https://www.ashurst.com/en/insights/new-generative-ai-measures-in-china/</u>>. China has also indicated an intention to develop a general AI law in the future: James Gong, Harry Qu and Hunter Dorwart, 'AI Governance in China: Strategies, Initiatives, and Key Considerations, *Bird & Bird* (Web Page, 14 March 2024) <<u>https://www.twobirds.com/en/insights/2024/china/ai-governance-in-china-strategies-initiatives-and-key-considerations</u>>.

8   Bill C-27, *An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts*, 1st Sess, 44th Parl, 2021 <<u>https://www.parl.ca/legisinfo/en/bill/44-1/c-27</u>>.

9   See for example *Colorado SB24-205 Consumer Protections for Artificial Intelligence*; *California SB1047 Safe and Secure Innovation for Frontier Artificial Intelligence Models Act*; and the *Connecticut SB1103 An Act Concerning Artificial Intelligence, Automated Decision-making And Personal Data Privacy*.

10 UK Department for Science, Innovation and Technology, *A pro-innovation approach to AI regulation* (Government Response, 6 February 2024) <<u>https://www.gov.uk/government/consultations/ai-regulation-a-pro-innovation-approach-policy-proposals/outcome/a-pro-innovation-approach-to-ai-regulation-government-response</u>>.

11 King Charles III, *The King's Speech 2024* (UK Prime Minister's Office, 17 July 2024) < <u>https://www.gov.uk/government/speeches/the-kings-speech-2024</u>>.

12   United States White House, 'Executive Order on the Safer, Secure and Trustworthy Development and Use of Artificial Intelligence' (Executive Order, 30 October 2023) <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>. See also United States White House, 'President Biden Issues Executive Order on Safe, Secure and Trustworthy Artificial Intelligence' (Fact Sheet, 30 October 2023) <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/fact-sheet-president-biden-issues-executive-order-on-safe-secure-and-trustworthy-artificial-intelligence/>.

13   See generally the discussion in Simon Burns and Jen Bradley, 'Navigating Diverse Global AI Regulation: The Vital Role of International Standards', *Gilbert + Tobin* (Web Page, 11 June 2024) < https://www.gtlaw.com.au/knowledge/navigating-diverse-global-ai-regulation-vital-role-international-standards>.

14   Based on the OECD's definition of an AI system: Stuart Russell, Karine Perset and Marko Grobelnik, 'Updates to the OECD's definition of an AI system explained', *OECD AI Policy Observatory* (Blog Post, 29 November 2023) <https://oecd.ai/en/wonk/ai-system-definition-update>.

15   For example, the EU AI Act classifies AI systems into four risk levels: unacceptable, high, limited and minimal. AI systems are subject to different regulatory requirements and obligations depending on their risk classification. For example, AI systems that have unacceptable risks are prohibited.

16   ISO/ IEC 42001:2023, *Information technology—Artificial Intelligence—Management System* (2023) https://www.iso.org/standard/81230.html>.

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