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Welcome to the April-May edition of Akin Intelligence. This edition is a double header, covering both months as we prepare for the launch of our new AI Hub—a one-stop resource for AI coverage that will launch soon. Starting next month, each newsletter will cover the events of a single month and will be published early the following month.

Both months saw renewed statements of cooperation between the US and EU on AI-related issues, as well as steps towards finalizing the EU AI Act and confirmation that US agencies successfully completed all 150-day tasks from the October AI Executive Order. By the end of April, the Department of Commerce's Proposed Rule on Malicious Cyber-Enabled Activities received over 500 public comments. Federal and state legislatures continued their work on AI-related bills, with some focus on preventing malicious AI-generated content and other risks. On the industry side, more new and improved AI products continue to be released.

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Akin Spotlight

Senate AI Working Group Releases Long-Anticipated Roadmap for AI Policy

On May 15, 2024, the Senate AI Working Group—Senate Majority Leader Chuck Schumer (D-NY) and Sens. Mike Rounds (R-SD), Todd Young (R-IN), and Martin Heinrich (D-NM)—issued their long-anticipated Roadmap for Artificial Intelligence (AI) Policy in the United States Senate ("Roadmap") with recommendations for Senate committees of jurisdiction on sector-specific AI policy issues as they craft legislation, with the goal of reaching bipartisan consensus on key issues covered in the previously-convened Senate AI Insight Forums.

Link to Article

Federal Action

White House Announces OMB Policy for AI Risk Management

On March 28, 2024, Vice President Kamala Harris announced that the Office of Management and Budget (OMB) is issuing a government-wide policy to mitigate the risks of AI. The new policy directs the following actions:

- Federal agencies must address the risks from the use of AI through measures such as AI testing.

- Federal agencies must improve transparency in their use of AI by releasing several forms of AI-related data.

- Federal agencies are encouraged to safely experiment with the use of generative AI.

- Federal agencies must grow their AI workforces, with the goal of hiring 100 AI professionals by summer 2024.

- Federal agencies must designate Chief AI Officers and establish AI Governance Boards to ensure the proper leadership and oversight of AI efforts.

OMB's policy also includes an announcement that federal agencies have completed all of their 150-day actions assigned by the AI Executive Order.

U.S. and U.K. Announce Partnership on Science of AI Safety

On April 1, 2024, the United States and United Kingdom signed a Memorandum of Understanding (MOU) that will see them work together to develop tests for the most advanced AI models. This partnership, which follows commitments made at the AI Safety Summit held in the U.K. in November 2023, will take effect immediately. Both the U.S. and U.K. AI Safety Institutes have laid out plans to address safety concerns presented by AI, including a joint testing exercise on a publicly accessible model. The U.K. Secretary of State for Science, Innovation and Technology, Michelle Donelan, stated: "This agreement represents a landmark moment, as the U.K. and the United States deepen our enduring special relationship to address the defining technology challenge of our generation."

White House Announces Key AI Actions After AI Executive Order

On April 29, 2024, the White House announced that relevant federal agencies had completed all of their assigned 180-day actions outlined in President Biden's AI Executive Order. Agencies also progressed on other work tasked over longer timeframes. The tasks given to the various agencies can be categorized as managing risks to safety and security; standing up for workers, consumers and civil rights; harnessing AI for good and bringing AI talent into government. A table summarizing the completed actions can be found here.

White House Workshop on AI and Weather Prediction

On May 6, 2024, the White House Office of Science and Technology Policy (OSTP) and the National Oceanic and Atmospheric Administration (NOAA) hosted a joint workshop on the potential for AI to transform weather predictions. Participants covered a wide range of topics, including anticipating the benefits and challenges of AI for weather prediction, building trust in AI systems and exploring scientific unknowns that pose the biggest challenges.

FTC Announces Winners of Voice Cloning Challenge

On April 8, 2024, the Federal Trade Commission (FTC) announced four winning submissions for its Voice Cloning Challenge, the goal of which was to promote the development of ideas to protect consumers from the misuse of AI-generated voice cloning for fraud and other harms. The winning projects, from both large and small organizations, used various types of technology to detect voice cloning and prevent voice clips from being cloned—ranging from detecting biosignals to authenticating a speaker to an AI that identifies synthetic voices. This was the sixth Challenge the FTC has launched under the America COMPETES Act.

Industry Files Comments to Proposed Rule on Malicious Cyber-Enabled Activities

On April 29, 2024, the comment period closed for the Department of Commerce's Bureau of Industry and Security's (BIS) proposed rule that would impose significant know-your-customer (KYC), monitoring and reporting obligations on U.S. providers of Infrastructure as a Service (IaaS) products and their foreign resellers. The proposed rule implements the 2021 EO 13984 on "Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities" and portions of the Biden administration's EO 14110 on "Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence." More in-depth coverage of the proposed rule is available here.

BIS requested comments on "all aspects" of the proposed rule and received 522 comment submissions. Stakeholders opined on BIS' definition of "large AI model with potential capabilities that could be used in malicious cyber-enabled activities" and proposed alternative definitions for what should constitute a "large AI model." Comments also touched on the risk of incentivizing good faith AI developers to take their business to non-U.S. IaaS providers to avoid the proposed customer identification requirements. Indeed, some stakeholders noted that they already employ various cybersecurity measures to ensure that their offerings are not used for malicious cyber-enabled activities and argued that additional safeguards would impose undue cost and administrative burden. Further, while some commentators called on Commerce to abandon the disclosure requirements entirely, others urged the BIS to narrow the scope of covered products and "U.S. IaaS providers" that would be subject to any final rule.

We anticipate that BIS will issue a final rule that will impose new compliance obligations on U.S. IaaS providers and their foreign resellers. It will remain to be seen whether Commerce will narrow the scope of these requirements in response to comments received.

Commerce Department Announces New Leadership of US AI Safety Institute

On April 16, 2024, US Secretary of Commerce Gina Raimondo announced additional members of the executive leadership team of the US AI Safety Institute (AISI). The new members of the leadership team are as follows:

- Paul Christiano, Head of AI Safety

- Mara Quintero Campbell, Acting Chief Operating Officer and Chief of Staff

- Adam Russell, Chief Vision Officer

- Rob Reich, Senior Advisor

- Mark Latonero, Head of International Engagement

NIST to Launch Competition for AI-Focused Manufacturing USA Institute

On March 12, 2024, the National Institute for Standards and Technology (NIST) published a Notice of Intent (NOI) in the *Federal Register*, revealing intent to announce an open competition for a new Manufacturing USA institute focused on AI for resilient manufacturing. This AI institute would focus on conducting research and development projects, developing training resources through employer-led sectoral partnerships, and creating pathways for skilled workers to enter industrial practice. NIST has prepared a recorded information session and will host a webinar for potential applications. In addition, NIST expects to open the AI for Resilient Manufacturing competition in early spring 2024.

NIST Announces Establishment of NIST's GenAI Program

On April 29, 2024, NIST announced the establishment of NIST GenAI, a new program to evaluate and measure generative AI technologies. The GenAI pilot study, which is under the GenAI umbrella program, aims to measure and understand system behavior for distinguishing between synthetic and human-generated content in the text-to-text and text-to-image modalities. Registration for the pilot of the NIST GenAI program will be open to generators (i.e., synthetic content creation systems) and discriminators (i.e., systems to distinguish between AI-generated and human-produced content). This pilot study will provide valuable lessons for future guidance for responsible and safe use of digital content. The submission deadline for this study is in August 2024.

NIST Releases Four AI Guidance Drafts and Generative AI Program

On April 29, 2024, the Department of Commerce announced that NIST published four drafts for public comment, pursuant to the October AI Executive Order (EO), and created the NIST GenAI program. The NIST GenAI program will evaluate and measure generative AI to promote the safe and responsible use of the technology. Registration for the pilot of the NIST GenAI program will open to generators (i.e., synthetic content creation systems) and discriminators (i.e., systems to distinguish between AI-generated and human-produced content) in May. The four draft publications are:

- *AI Risk Management Framework: Generative AI Profile* (NIST AI 600-1) is designed to complement NIST's AI Risk Management Framework and focuses on risks unique to generative AI and ways to mitigate those risks.

- *Secure Software Development Practices for Generative AI and Dual-Use Foundation Models* (NIST Special Publication (SP) 800-218A) is a companion to NIST's Secure Software

Development Framework (SSDF) to address malicious training data and associated risks.

- *Reducing Risks Posed by Synthetic Content* (NIST AI 100-4) is designed to help understand generated content, including detecting, authenticating and labeling synthetic content, with a focus on transparency.

- *A Plan for Global Engagement on AI Standards* (NIST AI 100-5) provides guidance on development and implementation of AI-related consensus standards, cooperation and coordination, and information sharing.

USPTO Requests Comments on AI and Prior Art

On April 30, 2024, the United States Patent and Trademark Office (USPTO) published a Request for Comment (RFC) on the impact of the proliferation of AI on prior art, the knowledge of a person having ordinary skill in the art (PHOSITA), and determinations of patentability. The USPTO is seeking comments on the following and is also accepting related comments:

- **The Impact of AI on Prior Art**: Whether a prior art disclosure be authored by humans; how non-human authorship affects availability of prior art; what types of AI-generated disclosures would be pertinent to patentability determinations made by the USPTO; and how are such disclosures are currently being made available to the public.

- **The Impact of AI on a PHOSITA**: Whether the term "person" in the PHOSITA assessment requires that the "person" is a natural person; how the availability of AI as a tool affects the level of skill in the art; and how the USPTO should determine which AI tools are in common use.

- **The Implications of AI That Could Require Updated Examination Guidance and/or Legislative Change**: what guidance from the USPTO on the impact of AI on prior art would be helpful and other ways in which the proliferation of AI impacts patentability determinations made by the USPTO.

USPTO Issues Guidance on the Use of AI Tools by Practitioners and the Public

On April 10, 2024, the USPTO published additional guidance for practitioners and the public on important issues they must navigate when using AI in matters before the USPTO. This guidance builds off the USPTO's previous AI guidance on the use of AI tools by practitioners, which was released on February 6, 2024. The new guidance reminds individuals involved in proceedings before the USPTO of the importance of the agency's rules and policies, informs individuals of the risks associated with the use of AI and provides recommendations to mitigate those risks.

Space Force Publishes Data, AI Strategic Action Plan

On May 14, 2024, the US Space Force published its Data and Artificial Intelligence FY 2024 Strategic Action Plan. According to the Plan, the Space Force must adopt modern, adaptive and agile data and analytic capabilities to enable the secure use of intelligence data at the speed of mission requirements. To do so, the Plan focuses on mature, enterprise-wide data and AI governance; advancing a data and AI-driven culture; reoptimizing data, advanced analytics and AI technologies and strengthening government, academic, industry and international partnerships.

OSTP-NSF-PCAST Event on AI Research Frontier

On May 6, 2024, the White House Office of Science and Technology Policy (OSTP), the US National Science Foundation (NSF) and the President's Council of Advisors on Science and Technology (PCAST) held an event to recognize the first round of the National AI Research Resource (NAIRR) Pilot awards and the release of a PCAST report on AI. The NAIRR award allows participating researchers to investigate responsible AI and advanced research domains across sectors. The PCAST report highlights the promise of AI to tackle major societal and global challenges across a broad range of domains.

CFTC Announces First Chief Artificial Intelligence Officer

On May 1, 2024, the Commodity Futures Trading Commission (CFTC) announced the designation of Dr. Ted Kaouk as the agency's first Chief Artificial Intelligence Officer. In this role, Dr. Kaouk will be responsible for leading the development of the CFTC's AI and enterprise data strategy to advance CFTC's data-driven capabilities.

CFTC TAC Advances Recommendations to CFTC on Responsible AI in Financial Markets

On May 2, 2024, the CFTC Technology Advisory Committee (TAC) released a Report on Responsible AI in Financial Markets. The goal of this report was to facilitate an understanding of the impact and implications of the evolution of AI on financial markets. The TAC made five recommendations in the report:

- The CFTC should host a public roundtable discussion and engage in outreach to seek guidance on AI's involvement within the sector.

- The CFTC should consider the definition and adoption of an AI Risk Management Framework (RMF) for the sector to assess the efficiency of AI models and consumer harms.

- The CFTC should create an inventory of existing AI regulations in the sector and analyze existing gaps to create further guidance.

- The CFTC should strive to align their AI policies with other federal agencies, such as the Securities and Exchange Commission and the Department of the Treasury.

- The CFTC should engage staff in dialogues surrounding AI and, where possible, supplement budgets to build sufficient capacity to support the agency's endeavors in AI.

DHS Establishes the Artificial Intelligence Safety and Security Board

On April 26, 2024, the Department of Homeland Security (DHS) announced the establishment of the Artificial Intelligence Safety and Security Board. The Board will advise the Secretary of Homeland Security and other stakeholders on the safe and secure development of AI in critical infrastructure. It will also develop recommendations to prevent and prepare for AI-related disruptions to critical services.

DHS Publishes Guidelines and Report on Securing WMDs from AI-Related Threats

On April 29, 2024, DHS marked the 180-day mark of Executive Order (EO) 14110 by unveiling new resources to address threats posed by AI:

- Guidelines to mitigate the risks of AI to critical infrastructure. These guidelines analyze attacks using AI, attacks targeting AI systems and failures in AI design and

implementation, then lay out a four-part mitigation strategy for critical infrastructure owners and users to consider when approaching risk situations.

- A report on AI misuse in the development and production of chemical, biological, radiological and nuclear (CBRN) threats. This report analyzes the risk of AI being misused for the development of CBRN threats and provides recommended steps to mitigate potential threats.

DHS Unveils Artificial Intelligence Roadmap

On March 18, 2024, the Department of Homeland Security (DHS) announced its first "Artificial Intelligence Roadmap," which outlines three new pilot programs that will allow the DHS to test the efficacy of AI in carrying out its operations. The three pilot programs will:

- Allow Homeland Security Investigations (HSI) to test AI to enhance investigative processes by leveraging a large language model (LLM)-based system to enhance summaries, which could assist in detecting drug-related crimes and investigations combating child sexual exploitation.

- Assist the Federal Emergency Management Agency (FEMA) with deploying generative AI to help communities plan for and develop hazard mitigation plans.

- Allow United States Citizenship and Immigration Services (USCIS) to use AI to improve immigration officer training by personalizing training materials adapted to the trainee's needs.

NSA Publishes Guidance for Strengthening AI System Security

On April 15, 2024, the National Security Agency (NSA) released a Cybersecurity Information Sheet (CSI) meant to support National Security System owners and Defense Industrial Base companies that will be using AI systems designed and developed by an external entity. This guidance is intended for national security purposes but can be used by anyone bringing AI capabilities into a managed environment, especially those in high-threat, high-value environments.

GSA Releases Generative AI Acquisition Resource Guide for Federal Buyers

On April 29, 2024, the US General Services Administration (GSA) released its Generative AI and Specialized Computing Infrastructure Acquisition Resource Guide. This resource will support the federal acquisition community as it buys generative AI solutions and related specialized computing infrastructure. The guide includes considerations for the responsible acquisition of generative AI and includes questions that contracting officers can ask to make informed decisions.

Congressional Action

Sens. Cantwell, Young, Blackburn and Hickenlooper Unveil AI Innovation Act

On April 18, 2024, Senate Commerce Chair Maria Cantwell (D-WA) and Gang of Four Member Todd Young (R-IN) notably joined Sens. Marsha Blackburn (R-TN) and John Hickenlooper (D-CO) in unveiling the Future of AI Innovation Act (S. 4178), which authorizes the U.S. AI Safety Institute at NIST to promote the development of voluntary standards, and creates

testbeds with national labs. The bill text is available <u>here</u>, and the section-by-section is available <u>here</u>.

Sens. Romney, Reed, Moran, King Unveil Framework to Mitigate Extreme AI Risks

On April 17, 2024, Sens. Mitt Romney (R-UT), Jack Reed (D-RI), Jerry Moran (R-KS) and Angus King (I-ME) <u>proposed</u> a new legislative framework to mitigate extreme AI risks, urging senators already working on the issue to establish federal oversight of frontier model hardware, development, and deployment to mitigate AI-enabled extreme risks from biological, chemical, cyber and nuclear threats. The four lawmakers outlined their plans in a <u>letter</u> to the Gang of Four.

Senate Judiciary Committee Explores Deepfakes

On April 17, 2024, the Senate Judiciary Committee's Privacy Subcommittee held a <u>hearing</u> titled, "Oversight of AI: Election Deepfakes." During the hearing, Subcommittee Richard Blumenthal (D-CT) outlined the need to advance legislation to address election deepfakes and disinformation by advancing legislation such as the Protect Elections from Deceptive AI Act (<u>S. 2770</u>) and the NO FAKES Act (<u>discussion draft</u>), and the No Section 230 Immunity for AI Act (<u>S. 1993</u>).

Lawmakers Introduce Slew of Standalone AI Bills

- **Elections:** On March 11, 2024, Sens. Amy Klobuchar (D-MN) and Susan Collins (R-ME) introduced the Preparing Election Administrators for AI Act (<u>S.3897</u>) which requires the Election Assistance Commission (EAC), in consultation with NIST, to develop voluntary guidelines for election offices on the use and risks of AI in election administration, cybersecurity, information sharing about elections and the spread of election-related disinformation.

- **Automated Decision Systems:** On March 12, 2024, Reps. Suzanne Bonamici (D-OR) and Chris DeLuzio (D-PA) introduced the No Robot Bosses Act (<u>H.R. 7621</u>), which aims to prohibit certain uses of automated decision systems by employers. <u>A</u> Senate companion has been introduced by Sens. Bob Casey (D-PA) and Brian Schatz (D-HI). This is the first bill that Rep. Bonamici has introduced since being named to the House AI Task Force in February.

- **Tax:** On March 15, 2024, Reps. Clay Higgins (R-LA) and Eric Burlison (R-MO) introduced the NO AI Audits Act (<u>H.R. 7694</u>), which would limit the use of AI at the Internal Revenue Service (IRS) and require tax investigations and examinations of taxpayers to be initiated by staff investigators.

- **Privacy:** On March 19, 2024, Sens. Peter Welch (D-VT) and Ben Ray Lujan (D-NM) introduced the AI Consent Act (<u>S. 3975</u>), which directs online platforms to obtain consumers' express informed consent before using their personal data to train AI models. Failure to do so would be considered a deceptive or unfair practice, and subject to Federal Trade Commission (FTC) enforcement. The bill also directs the FTC to study the efficacy of data de-identification given advances in AI tools.

- **Misinformation:** On March 21, 2024, Reps. Zach Nunn (R-IA) and Abigail Spanberger (D-VA) introduced the AI Plan Act (<u>H.R. 7781</u>), which would direct the development of a plan by the U.S. Departments of Treasury, Commerce, and Homeland Security to counter malicious AI use by utilizing existing enforcement tools, deploying new cross-jurisdictional techniques and fostering innovation in AI and emerging technologies within the U.S.

- **Identifying/Labeling AI-Generated Content**: On March 21, 2024, Reps. Anna Eshoo (D-CA), Neal Dunn (R-FL), Don Beyer (D-VA) and Valerie Foushee (D-NC) introduced the Protecting Consumers from Deceptive AI Act (H.R. 7766), which requires NIST to establish task forces to facilitate and inform the development of technical standards for identifying and labeling AI-generated content and require generative AI developers and online content platforms to provide disclosures on AI-generated content.

- **Copyright**: On April 9, 2024, Rep. Adam Schiff (D-CA) introduced the Generative AI Copyright Disclosure Act (H.R. 7913), which would require a notice to be submitted to the Register of Copyrights before the release of a new generative AI system with regard to all copyrighted works used in building or altering the training dataset for that system. The bill's requirements would also apply retroactively to previously released generative AI systems.

- **Procurement**: On March 22, 2024, Sens. Gary Peters (D-MI) and Ted Cruz (R-TX) introduced the Federal Improvement in Technology (FIT) Procurement Act (S.4066), which aims to streamline federal procurement procedures by removing outdated regulations, simplifying bidding processes, fostering private-public collaboration and enhancing training for acquisition professionals to manage technologies like AI effectively.

House Committees Hold Hearings on AI Implementation and IP Protections

- On March 21, 2024, the House Oversight and Accountability Subcommittee on Cybersecurity, Information Technology and Government Innovation held a hearing titled "White House Overreach on AI," which marked the panel's second hearing discussing the Biden administration's implementation of the Safe, Secure and Trustworthy Development and Use of Artificial Intelligence (EO 14110). During the hearing, Chair Nancy Mace (R-SC) and multiple witnesses characterized the EO as "overbroad," and questioned why the order invokes the Defense Production Act (DPA; P.L. 81-774). Ranking Member Gerry Connolly (D-VA) pushed back on the notion that the AI EO was overreaching, instead asserting that the order is a crucial step to kickstarting federal government action on AI.

- On April 10, 2024, the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet held a hearing titled "Artificial Intelligence and Intellectual Property: Part III – IP Protection for AI-Assisted Inventions and Creative Works," which is the third hearing in the Committee's series to examine the intersections of AI and intellectual property (IP). Chair Darrell Issa (R-CA) focused on the need to protect IP, while acknowledging the growing role that AI will play in creation and innovation. Ranking Member Hank Johnson (D-GA) called for legislative action to ensure that IP protections maintain pace with AI advancements.

House Judiciary Chair Pens Letter Regarding the IRS's Use of AI

On March 21, 2024, House Judiciary Committee Chair Jim Jordan (R-OH) and Rep. Harriet Hageman (R-WY) sent a letter to Treasury Secretary Janet Yellen, along with a letter to Attorney General Merrick Garland, announcing the initiation of an inquiry into the IRS's use of AI for monitoring Americans' financial data without legal processes.

Bicameral Letter Issued to OSTP Director on Establishing Biosecurity Guardrails in DNA Research

On April 1, 2024, Reps. Julia Brownley (D-CA), Dan Crenshaw (R-TX), Neal P. Dunn (R-FL), Bill Foster (D-IL), Andy Harris (R-MD), Sara Jacobs (D-CA), Rich McCormick (R-GA), August Pfluger (R-TX), Haley Stevens (D-MI), alongside Sen. Ed Markey (D-MA), sent a letter to

Office of Science and Technology Policy (OSTP) Director Arati Prabhakar, in which they urged her to issue the framework around mitigating risks associated with synthetic nucleic acids, emphasizing safety and innovation in gene synthesis practices. The letter calls on OSTP to include funding for infrastructure to facilitate screening, the implementation of biannual confidential stress-testing reporting, and international engagement to harmonize gene synthesis screening protocols.

Senate AI Working Group Releases Long-Anticipated Roadmap for AI Policy

On May 15, 2024, the Senate AI Working Group—Senate Majority Leader Chuck Schumer (D-NY) and Sens. Mike Rounds (R-SD), Todd Young (R-IN) and Martin Heinrich (D-NM)—issued their long-anticipated Roadmap for Artificial Intelligence (AI) Policy in the United States Senate with recommendations for Senate committees of jurisdiction on sector-specific AI policy issues as they craft legislation, with the goal of reaching bipartisan consensus on key issues covered in the previously-convened Senate AI Insight Forums.

The Roadmap recommends the following: implementing a comprehensive law to protect personal information; ensuring AI systems are transparent and their outputs are explainable; establishing protections for intellectual property and copyright in the context of AI; promoting robust investment in AI research and development; involving agencies like the National Science Foundation (NSF), US Department of Energy (DOE) and US Department of Defense (DoD); emphasizing training, retraining and upskilling to prepare the workforce for an AI-enabled economy; mitigating AI risks, particularly in national security, through advanced AI capabilities; prioritizing the ethical use of AI in healthcare to protect patient rights and improve health outcomes; protecting elections and democracy from the impacts of AI-generated content and developing policies to prevent the misuse of AI, includingunauthorized use of personal data and AI-driven fraud. The Roadmap also endorses the *CREATE AI Act* (S. 2714) and the *Future of AI Innovation Act* (S. 4178), amongst other bills. Read our client alert on the release of the Roadmap here.

Senate Rules Committee Reports Election-Related AI Bills Out of Committee

Senate Rules Committee Chair Amy Klobuchar (D-MN) has led the advancement of three election-related AI bills in the Senate, with the Committee advancing the following bills on May 15, 2024:

- *Protect Elections from Deceptive AI Act* (S. 2770): The Act would amend the Federal Election Campaign Act of 1971 (FECA) to prohibit the distribution of materially deceptive AI-generated audio, images or video relating to federal candidates in political ads or certain issue ads to influence a federal election or fundraise, and provides legal recourse to allows federal candidates to have this content taken down. This bill was the only of the three bills to gain the support of Republicans on the Committee, advancing via a unanimous vote.

- *Preparing Election Administrators for AI Act* (S. 3897): The Act requires the Election Assistance Commission (EAC) to issue a report with voluntary guidelines to address the use and risks of AI technologies and cybersecurity risks in election administration, how information by AI technologies can affect the sharing of accurate election information and how election offices should respond. This bill was reported out of Committee via a 9-2 vote.

- *AI Transparency in Elections Act* (S. 3875): The Act requires political advertisements created or altered by AI to have a disclaimer, except when AI is used for only minor alterations, such as color editing, cropping, resizing and other immaterial uses. This bill was reported out of Committee via a 9-2 vote.

House Armed Services Approves FY25 NDAA with AI Provisions

On May 28, 2024, the House Armed Services Committee approved its Fiscal Year (FY) 2025 *National Defense Authorization Act* (NDAA; H.R. 8070), legislation that Congress adopts each year to establish funding and programming for the Department of Defense (DoD). As in past years, the bill now includes a series of provisions pertaining to AI, including provisions (1) establishing a pilot program to utilize AI to improve marine corps' supply chain and logistics; (2) developing a plan for the establishment of a secure computing and data storage environment to facilitate the testing of AI models trained on biological data and (3) directing DoD's Chief Talent Management Officer to partner with stakeholders to identify individuals with AI expertise. A number of other key amendments have been filed prior to the full House taking up the bill, including the *ENFORCE Act* (H.R. 8315), which was introduced by House Foreign Affairs Committee Chair Michael McCaul (R-TX) and recently passed out of committee. H.R. 8315 aims to prevent foreign adversaries from exploiting US AI and other enabling technologies by giving the Bureau of Industry and Security (BIS) the authority to export control-covered AI systems or other national security-related emerging technologies.

The House Rules Committee will convene in the coming days to consider which additional amendments will be in order when the full House takes up the bill. We expect additional AI measures to ride on the final NDAA—our summary of the AI measures signed into law as part of last year's NDAA is available here.

E&C Subcommittee Advances Privacy Bill with Revised Covered Algorithms Provision

On May 23, 2024, the House Energy and Commerce (E&C) Committee's Innovation Subcommittee advanced (1) the revised *American Privacy Rights Act (APRA)* discussion draft, which includes changes related to impact assessments of covered algorithms and the text of the Children and Teens' Online Privacy Protection Act (COPPA 2.0; H.R. 7890/S. 1418); and (2) the *Kids Online Safety Act* (H.R. 7891) to the full Committee via voice vote. A full Committee markup is possible in June. The path forward on the floor and in the Senate remains unclear. The private right of action provision remains a point of contention for Republicans.

Bipartisan Senators Release Framework For Mitigating Extreme AI Risk

Sens. Mitt Romney (R-UT), Jack Reed (D-RI), Jerry Moran (R-KS) and Angus King (I-ME) have proposed a legislative framework, titled "Framework For Mitigating Extreme AI Risk," urging senators already working on the issue to establish federal oversight of frontier model hardware development and deployment to mitigate AI-enabled extreme risks from biological, chemical, cyber and nuclear threats. The four lawmakers outlined their plans in a letter to the Gang of Four.

Senate Holds Hearings on Deepfakes and Digital Replicas

On April 16, 2024, the Senate Judiciary Subcommittee on Privacy, Technology and the Law held a hearing titled "Oversight of AI: Election Deepfakes." The session focused on the imminent threats posed by AI-generated deepfakes in the context of elections, with key testimony from witnesses including David Scanlan, Secretary of State of New Hampshire, and CEOs from AI companies like Resemble AI and Reality Defender. Chair Richard Blumenthal (D-CT) emphasized the dangers deepfakes pose to democracy, highlighting incidents such as fake robocalls and manipulated media. The hearing underscored the need for bipartisan legislative action, with references to proposed bills like the *Protect Elections from Deceptive AI Act*. Ranking Member Josh Hawley (R-MO) echoed the urgency, citing the widespread potential for electoral manipulation. Witnesses advocated for robust safeguards,

including mandatory labeling and a public database for AI-generated election content, to protect the integrity of democratic processes.

On April 30, 2024, the Senate Judiciary Subcommittee on Intellectual Property held a hearing titled, "The NO FAKES Act: Protecting Americans from Unauthorized Digital Replicas." The hearing focused on addressing the misuse of AI technology in creating unauthorized digital replicas of individuals' likenesses and voices. During the hearing, Chair Chris Coons (D-DE) highlighted the risks posed by advanced AI tools in creating fake images and voices and noted that the NO FAKES Act will be introduced in the coming months. Ranking Member Thom Tillis (R-NC) emphasized the need for precise legislative action to protect personal rights while fostering AI innovation. Witnesses discussed the importance of consent, robust intellectual property rights and clear legal frameworks to prevent misuse. They also stressed the need for preemptive federal legislation.

Sen. Warner Sends Letter to Munich Tech Accord Signees

On May 14, 2024, Sen. Mark Warner (D-VA) sent letters to the CEOs of Anthropic PBC, X Corp., LinkedIn Corp., Microsoft Corp., NetApp Inc., Snap Inc., TikTok Ltd., Amazon.com Inc., McAfee Corp., LG AI Research, Nota AI, Gen Digital Inc., Truepic Inc. and ARM Holdings PLC. He urged the companies to take proactive measures to combat the deceptive use of AI in the 2024 elections and also called for detailed responses related to content credentials, public engagement initiatives, resources for media and civil society and measures to detect and manage AI-generated content.

House and Senate Lawmakers Introduce Standalone Bills

- On April 18, 2024, Sens. Maria Cantwell (D-WA), Todd Young (R-IN), John Hickenlooper (D-CO) and Marsha Blackburn (R-TN) introduced the *Future of AI Innovation Act* (S. 4178). The bill would authorize the NIST AI Safety Institute to create AI standards, initiate new AI testbeds with national laboratories for system evaluation, launch grand challenge prize competitions to encourage AI innovation, direct federal agencies to make datasets publicly available and foster international alliances for AI standards and research to promote collaborative global AI development.

- On April 15, 2024, a bipartisan group of Members, led by Rep. Nick Langworthy (R-NY), introduced the *Child Exploitation & Artificial Intelligence Expert Commission Act* (H.R. 8005). The bill aims to establish a commission to develop a legal framework to assist law enforcement in preventing, detecting and prosecuting AI-generated crimes against children.

- On May 1, 2024, Sens. Mark Warner (D-VA) and Thom Tillis (R-NC) introduced the *Secure AI Act* (S. 4230). The bill aims to improve the tracking and processing of security and safety incidents and risks associated with AI. The bill also aims to improve information sharing between the federal government and private companies by updating cybersecurity reporting systems to better incorporate AI systems and creates a voluntary database to record AI-related cybersecurity incidents, including "near miss" events.

- On May 9, 2024, Sens. Jacky Rosen (D-NV) and Ted Budd (R-NC) introduced the *Five AIs Act* (S. 4306). The bill would direct DoD to establish a working group to develop and coordinate an AI initiative among the Five Eyes countries, with the intention of addressing the weaponization of AI by adversaries by ensuring the US and its allies stay ahead in AI and develop a shared AI strategy to prepare for future threats. Companion legislation was introduced in the House by former Rep. Mike Gallagher (R-WI) and Rep. Ro Khanna (D-CA).

- On May 10, 2024, Reps. Troy Carter (D-LA) and Bennie Thompson (D-MS), introduced the

Health Care

FDA Authorizes First AI-Enabled Test to Predict Sepsis

On April 5, 2024, the Food and Drug Administration (FDA) gave the green light to the first AI-enabled diagnostic tool for sepsis. Roughly 1.7 million adults in the U.S. develop sepsis each year, and nearly 270,000 die as a result. Prenosis Inc.'s Sepsis ImmunoScore device uses data from the patient's electronic health record in conjunction with other laboratory findings and clinical assessments to aid in risk assessment for presence of or progression to sepsis. In line with the FDA's approach to AI-driven medical devices thus far, the *De Novo* authorization for this device establishes specific postmarket requirements.

FDA Could Use Predictive Algorithms to Address Drug Shortages

The Commissioner of the FDA, Robert Califf, told the House Oversight & Accountability Committee that the FDA could use predictive algorithms to predict drug shortages. Califf testified that the FDA needs additional information from drug manufacturers to better understand drug supply chain issues and anticipate drug shortages. With this comprehensive information, the agency could use AI to alleviate developing shortages.

FDA Explores Use of Augmented Reality/Virtual Reality in Home Prototype

On April 23, 2024, the FDA launched a new initiative, Home as a Health Care Hub, to advance health equity across the United States. Although many innovative care options seek to use the home as a virtual care site, few consider the critical elements of the home that are required for remote care, such as how different medical devices and technologies must work together. The agency is working with an architectural firm to design an Augmented Reality/Virtual Reality (AR/VR)-enabled home prototype, which will serve as an idea lab for connecting the populations most affected by health inequity with medical device developers, policymakers and providers. The FDA chose diabetes as the example health condition for the prototype given the "impacts over the lifecycle of someone living with this condition."

FDA Evaluates AI-Driven Cancer Vaccine

The FDA's ongoing review of a cancer vaccine raises critical questions about FDA's approach to the use of AI to develop drugs, biologics and vaccines. Moderna and Merck used AI to determine the formulation of the individualized vaccine for their mRNA-4157 cancer vaccine, for which the FDA granted breakthrough therapy designation in February 2023.

Peter Marks, M.D., PhD., director of the Center for Biologics Evaluation and Research (CBER), which is charged with reviewing the vaccine, indicated that review of the AI component of the vaccine may be "a step ahead" for the FDA. Specifically, the agency may not yet be ready to address what degree of modification to an AI algorithm is permissible before the change makes the vaccine an entirely new product. Director of the Center for Drugs Evaluation and Research (CDER), Patrizia Cavazzoni, M.D., said that the FDA is also finding that they need additional computational capacity and resources to adequately assess algorithms like these and a private-public framework to allow for exchange of data may be necessary.

Federation of State Medical Boards Outlines Guidelines for Physician's Use of AI

The Federal of State Medical Boards (FSMB) issued a report that sets forth guidelines for regulating physicians' use of AI in clinical settings. The report emphasizes that physicians are accountable for their application of AI and outcomes of its use. FSMB recommends that physicians only use AI as a supplementary tool and avoid using AI to replace medical decision-making. They also urge state medical boards to require physicians' proficiency with AI technologies and advise against using chatbots for direct physician-patient interactions in lieu of human interaction.

Judicial Action & Administrative Proceedings

California Plaintiffs Denied Request to Intervene in NYT Cases

On April 1, 2024, U.S. District Judge Sidney Stein (SDNY) denied a request by plaintiffs of copyright cases in Northern District of California (e.g., *Kadrey* and *Silverman* cases) to intervene in four AI cases in the Southern District of New York, including New York Times and Authors Guild cases against OpenAI. Judge Stein determined that the California plaintiffs cannot intervene as a right under FRCP 24(a) because they do not have a cognizable interest and, if they did, the NY plaintiffs would adequately represent an interest in protecting allegedly infringing copyrighted works. Judge Stein further determined that the California plaintiffs do not satisfy the requirements of permissive intervention, noting that an intervention would prejudice the NY plaintiffs and disrupt the NY cases, which have party-agreed expedited timelines and have substantially progressed.

The California plaintiffs filed a notice of interlocutory appeal on April 15 and filed the appeal with the Second Circuit on April 18.

More Copycat Copyright Cases Filed

New cases, with similar allegations to ongoing cases in the Northern District of California (N.D. Cal.) and the Southern District of New York (SDNY), were filed this month.

- On April 26, 2024, a copyright case was filed in the Northern District of California (N.D. Cal.) alleging that Google's Imagen image generator was trained on a dataset containing copyrighted works. The complaint is similar to the other N.D. Cal. Copyright cases (e.g., the *Silverman* and *Kadrey* cases) and was filed by the same law firm representing the plaintiffs in those cases. The complaint alleges that Google used the LAION-400M image dataset, instead of the books3 text dataset at the core of the similar cases, to train Imagen. Like the complaints in the later-filed N.D. Cal. cases, the complaint in this case focuses on direct copying claims instead of derivative work theories.

- On April 30, 2024, another copyright case was filed in SDNY by several newspapers, including the *New York Daily News* and the *Chicago Tribune*, against Microsoft and OpenAI. The complaint makes nearly identical allegations as in the *New York Times* (NYT) case, including outputs that are allegedly similar to the newspaper's articles, and was filed by the same law firm representing the NYT in that case. Unlike the N.D. Cal. cases, this case includes various indirect infringement theories.

Alabama

On April 24, 2024, House Bill 161 passed. The bill serves as an amendment to Section 13A-6-240 of the Code of Alabama 1975. The amendment prohibits a person from "creating a private image." If a person knowingly makes records or alters a private image where the individual in the image has not consented, they can face criminal penalties for such a violation. The amendment also clarifies that "no internet service provider, search engine, cloud service provider, or affiliate," will be held in violation solely for providing or creating the technology that was used against someone. This law will take effect on October 1, 2024.

Colorado

On May 17, 2024, Colorado Governor Jared Polis signed Senate Bill 205 into law, which adopts a risk-based approach to algorithmic consumer discrimination and imposes new requirements on developers and deployers of high-risk AI systems. The bill shares some similarities with the EU AI Act, for example, the bill uses "deployer" to describe using high-risk AI in the course of business and defines a "high-risk artificial intelligence system" as one that "makes, or is a substantial factor in making, a consequential decision." Consequential decisions include those affecting education, employment, essential government services, finance, health care, housing insurance and legal services. Developers and deployers of high-risk AI systems are required to take reasonable care to protect consumers, implement a risk management program and maintain documentation regarding risks and mitigation. The bill also requires disclosure to consumers when they are interacting with an AI, unless it would be obvious to a reasonable person. The law becomes effective on February 1, 2026. A more in-depth analysis of the bill is available here on Akin's Data Dive blog.

On May 24, 2024, Colorado Governor Jared Polis signed House Bill 1147 into law, which "regulate[s] the use of deepfakes produced using generative artificial intelligence in communications about candidates for elective office." The bill additionally grants greater authority to an administrative hearing officer under the "Fair Campaign Practices Act" to impose civil penalties for individuals who distribute a form of communication that includes a deepfake related to a political candidate. In an instance where such deepfakes are produced, a clear and understandable disclosure statement is required. If a person believes there has been such a violation, they can file a complaint with the office of the secretary of state.

Florida

On April 26, 2024, Senate Bill 1680 and House Bill 919 were approved by Governor Ron DeSantis. Senate Bill 1680 creates the Government Technology Modernization Council within the Department of Management Services. The purpose of the council is to monitor and review the development of emerging technologies. The council will provide reports on recommendations for regulating these systems. The reports will be presented to the Florida Governor, President of the Florida Senate, as well as the Speaker of the Florida House.

House Bill 919 requires a disclaimer in political advertisements if it were produced by AI. Advertisements that are included in this bill include: printed, television or video, internet public, audio and graphic communication. Complaints can be filed with the Florida Elections Commission. The requirement will take effect on July 1, 2024.

Indiana

On March 13, 2024, Senate Bill 150 passed and was signed by Governor Eric Holcomb. The bill will create an AI task force with the intention to study and assess various uses of AI technology. An executive or legislative agency may also submit an inventory of the AI technology that is currently in use or being considered for use to the AI task force as well as the Office of Technology. The bill also states that government entities are subject to adopt policies regarding cybersecurity and technology resources. Additionally, the bill mentions a state agency's licensing contracts for specific software applications may not restrict the hardware the agency uses to install or run the software.

Mississippi

On April 30, 2024, Senate Bill 2577 passed, creating criminal penalties for the wrongful dissemination of digitization. Digitization refers to the creation of images or audio through AI or "other computer-generated or technological means." If an individual is found to publish AI generated content with the intent to cause violence, harm, or deter someone from voting, the person may be sentenced to up to 5 years in prison or to pay a fine as high as $50,000.

Oregon

On March 27-28, 2024, House Bil 4153 and Senate Bill 1571 passed and were signed by Governor Tina Kotek. Bill 4153 will create a task force to research AI-related terms may be used in legislation. The task force will be required to report its findings and recommendations to the interim committee of the Legislative Assembly pertaining to "information management and technology on or before December 1, 2024." The task force will be sunset on January 1, 2025. Senate Bill 1571 requires disclosure of "the use of AI or other similar technology in campaign ads." In the event where a campaign ad fails to disclose if it was produced by AI, the violation would result in a civil penalty not to exceed $10,000.

Utah

On March 13, 2024, Senate Bill 149 and Senate Bill 131 passed and were signed by Governor Spencer Cox. Senate Bill 149 creates the "Artificial Intelligence Policy Act." According to the bill, it will establish liability for instances where AI violates consumer protections. It will also create the Office of AI Policy and will establish the AI Learning Laboratory Program to review current technology, risks, and policies to maintain the integrity of AI use. Senate Bill 131 will create provisions pertaining to "disclosures and penalties associated with the use of synthetic media and artificial intelligence." The bill also states that any "synthetic media" used to influence voting requires a disclosure, and a failure to disclose would result in penalties.

Virginia

On April 8, 2024, Senate Bill 487 passed and was approved by Governor Glenn Youngkin. The bill directs the state's Joint Commission on Technology and Science (JCOTS) to consult with relevant stakeholders to conduct a report in which they analyze the use of AI by public bodies. The bill will also create a commission on AI. A report with relevant findings and recommendations will be submitted by JCOTS to the Chairmen of the House Committees on Appropriations and Communications, Technology, and Innovation, and the Senate Committees on Finance and Appropriations and General Laws and Technology no later than December 1, 2024.

Washington

On March 18, 2024, Senate Bill 5838 passed and was signed by Governor Jay Inslee, creating a task force to better understand the benefits and risks of AI. The task force will be comprised of 19 members from varying backgrounds, including AI experts, industry representatives, civil liberty groups and other stakeholders. The group will meet twice a year, tasked with investigating and submitting reports pertaining to several topics regarding AI. These topics include a review of current protections and issues within them, identifying issues with racial equity, civil liberty and high-risk uses; and recommending new guidance as well as changes in regulatory structures.

Industry Action

Stanford Releases Its Annual AI Index Report

The Stanford Institute for Human-Centered Artificial Intelligence released its seventh annual AI Index Report. The report provides aggregated data to help inform policy-makers, the general public and others to help understand a broad swathe of information about AI. This year's top takeaways include the increased cost of frontier models, research showing that AI improves productivity and quality of work, and that AI is making significant impacts on scientific discovery.

Flurry of New and Updated Foundation Models Released

- On April 9, 2024, Google released its Gemini 1.5 Pro model to public preview. Gemini 1.5 Pro is a multimodal model with a 1 million-token context window and is available on Vertex AI, which is Google Cloud's AI platform. Google also revealed "text-to-live images" for its Imagen 2 models, a feature that generates short videos and will use SynthID to watermark generated content.

- On April 12, 2024, OpenAI announced that GPT-4 Turbo is available in ChatGPT for subscribers. GPT-4 Turbo was announced in November and was available to developers prior to being added to ChatGPT. The updated version of GPT-4 Turbo has improved multimodal capabilities and has knowledge up to December 2023.

- On April 17, 2024, Mistral launched its Mixtral 8x22B model, emphasizing that its cost-to-performance efficiency exceeds its previous models.

- On April 18, 2024, Meta released Llama 3, its next generation of Llama LLM. The new models remain open source and were trained on a data set seven times larger than Llama 2. The 8B- and 70B-parameter models are now available and Meta intends to release additional models. Meta uses Llama 3 to power its chatbot, Meta AI.

AI-Focused Devices Begin Shipping to Consumers

The Humane AI Pin and Rabbit R1 began shipping to customers in April. These AI-powered devices are designed to provide users with a direct interface to AI models and can function as an assistant for certain tasks. For example, the Rabbit R1 uses a "large action model" to carry out user requests like ordering food or calling a ride. Additional features are planned as the products mature.

Industry Groups React to Senate AI Roadmap

Industry groups have begun to respond to the Senate Gang of Four's AI Roadmap summarizing last year's closed-door Senate Insight Forums with industry, civil rights and

labor leaders, academics and other stakeholders. BSA-The Software Alliance CEO Victoria Espinel Espinel said the roadmap "supports the ability of small businesses to better leverage cloud infrastructure and AI, recognizes the important role of federal procurement in setting rules for AI, promotes the use of content authentication tools, and underscores the need for enabling the trusted free flow of information across borders."

The Information Technology and Innovation Foundation (ITIF) Center for Data Innovation stated that the Roadmap "is designed to spur a wave of legislative activity in Congress to address concerns about AI—privacy, safety, workforce disruptions, etc.—and the challenge for Congressional lawmakers will be to pick the right policy solution for each concern. They should recognize that certain issues may require new regulations, but many can be addressed by legislation that sets guidelines, promotes certain practices, or incentivizes desired behaviors."

Further, TechNet president and CEO Linda Moore stated, "[t]he Senate AI Roadmap will bolster our workforce through investments in upskilling and training programs and our ability to attract and retain the world's best talent, policies TechNet has long championed and that are needed to counter actions being taken by our foreign competitors. It also urges the passage of the CREATE AI ACT, which would authorize the NAIRR and lower the barrier to entry for AI research. TechNet has worked with Rep. Anna Eshoo (D-CA) to advocate for the bill's passage."

Stakeholders Submit Feedback to OMB on Federal Procurement of AI

On April 29, 2024, the 30-day comment period closed for the Office of Management and Budget (OMB) request for information on responsible federal procurement of AI. Industry groups such as the Information Technology Industry Council (ITI), BSA-The Software Alliance and the US Chamber of Commerce urged OMB to rely on "commercial solutions" and argued that vendor safety assessments can meet the federal government's needs.

SIIA stated in its comments, "Existing processes for government procurement of information technologies will continue to be effective. Standards and frameworks such as the NIST AI Risk Management Framework and ISO standards should serve as a starting point when considering responsible AI procurement. We believe that reliance on these existing frameworks and standards will largely apply in the context of AI technologies."

EU and U.K. Updates

The EU and US Agree to Increase Cooperation in the Development of AI Technologies

On April 4 and 5, 2024, the sixth ministerial meeting of the Trade and Technology Council of the EU took place in Leuven, Belgium. The meeting was co-chaired by the European Commission Vice Presidents, Margrethe Vestager and Valdis Dombrovskis, and United States government officials. A key outcome of the meeting was a commitment to advance transatlantic leadership on "*critical and emerging technologies*," including AI. The EU and US have committed, amongst other things, to establishing a dialogue between the European AI Office and the United States AI Safety Institute, as well as coordinating to ensure the safe, secure, and trustworthy development and use of AI.

EU and Japan sign Memorandum of Cooperation on digital identities and trust services

On April 20, 2024, the EU and Japan signed a Memorandum of Cooperation on digital identities and trust services. This took place at the EU and Japan's second Digital Partnership Council hosted in Brussels. The Memorandum marks the EU and Japan's commitment to advance joint work on digital identity, semiconductors and AI. At the Council, the EU and Japan also agreed to establish information sharing on the regulation of online platforms, including the European Digital Services Act and the Digital Markets Act.

The UK's financial services regulators publish their approach to AI

On April 22, 2024, the Financial Conduct Authority (FCA), the Bank of England and the Prudential Regulation Authority (PRA) each published their approach to regulating the use of artificial intelligence and machine learning (AI) in the U.K. These publications follow the U.K. government's response to the consultation on its White Paper entitled "A Pro-Innovation Approach to AI Regulation" (White Paper). The U.K. government requested that regulators publish their "*strategic approach to AI*" by 30 April 2024. The FCA's update confirmed its support of the government's pro-innovation approach to AI and recognized that it would have to adapt to keep up with the complexity of AI. The Bank of England and the PRA published a joint letter in which they also expressed support for the government's approach and noted that AI remains an area of focus.

Competition & Markets Authority publishes its AI strategic update

On April 29, 2024, the Competition & Markets Authority (CMA) also published a strategic update on its approach to AI. The publication sets out the CMA's understanding of the risks posed by AI, its current capabilities and how it plans to address AI issues. The CMA notes, in particular, that the U.K.'s Digital Markets, Competition and Consumers Bill (which is currently progressing through the U.K. Parliament) will enhance the CMA's ability to protect competition, consumers and promote growth in the U.K. once in force. This follows the CMA's update to its world-leading AI Foundational Models report which sets out key principles to ensure "*fair, open and effective competition, to protect consumers, and to shape positive market outcomes*" in the context of AI.

Information Commissioner's Office publishes its approach to AI

On April 30, 2024, the U.K.'s data protection authority, the Information Commissioner's Office (ICO), also published a report on its strategic approach to AI, detailing how it intends to implement the principles set out in the UK government's White Paper on AI (see above). The report highlights the role of personal data protection law in AI and the landmark work which the ICO has done already in this respect, including policy and guidance and on-going consultations on generative AI, biometric classification and other Big Data, AI/ML and privacy topics. The ICO also sets out how it plans to drive forward the principles set out in the White Paper, including by collaborating with other regulators and the UK government's new central AI functions designed to promote regulatory coherence.

The UK AI Safety Institute Launches New AI Safety Platform

On May 10, 2024, the UK AI Safety Institute announced the launch of 'Inspect', an AI safety testing platform. Inspect, which has been made available to the global AI community, is a software library which enables testers to assess specific capabilities of AI models. Testing areas include core knowledge, ability to reason and autonomous capabilities. This marks the first time an AI safety testing platform has been launched by a state-backed body for use by the wider public. Remarking on the launch, Michelle Donelan, the Secretary of State for Science, Innovation and Technology, stated, "*This puts UK ingenuity at the heart of the global effort to make AI safe, and cements our position as the world leader in this space.*"

Responsible AI UK Awards £12 Million of Funding to AI Projects

Responsible AI UK (RAI UK), led by the University of Southampton and backed by UK Research and Innovation (UKRI), has underlined £12 million to a series of projects which seek to address the challenges associated with AI. The projects will look to tackle the concerns associated with generative and other forms of AI across various sectors, including the health and social care sectors, law enforcement and financial services. This funding is part of RAI UK's £31 million program which is to run for four years

France and China Sign Joint Declaration on AI

On May 6, 2024, France and China released a joint declaration on AI and global governance during President Xi Jinping's recent state visit to France. The declaration acknowledges France and China's recognition of the crucial role of AI in development and innovation, but also recognizes the potential risks associated with it. The declaration sets out both countries' commitment to promote secure, reliable and trustworthy AI systems. China has also invited France to participate in its World Artificial Intelligence Conference taking place in July this year.

Final approval of ground-breaking EU AI Act

On May 21, 2024, the Council of the European Union (EU) announced the final approval of the landmark EU Artificial Intelligence Act (AI Act). The AI Act is a first of its kind, sector-agnostic law with extra-territorial impact, regulating general-purpose AI models, imposing obligations regarding high-risk AI systems and low risk AI systems on developers, deployers and a wide range of other participants in the AI value chain (i.e. supply chain), and prohibiting certain AI systems. There will now be a staggered entry into force, with the provisions relating to prohibited AI systems applying from around December 2024 (six months after the publication of the AI Act in the Official Journal, which is expected to occur shortly). The obligations relating to GP AI models will apply from around June/July 2025, and most of the remaining provisions, including as to high-risk AI systems, from June/July 2026. See our recent alert for more information.

UK Co-Hosts AI Seoul Summit with the Republic of Korea

On May 21-22, 2024, the UK co-hosted the AI Seoul Summit at the Korea Institute of Science and Technology. The event followed the AI Safety Summit which was hosted by the UK at Bletchley Park in November 2023, bringing together international governments, AI companies, academia and civil society. The UK and the Republic of Korea secured commitments from 16 global technology companies, including Amazon, Meta and Microsoft, known as the 'Frontier AI Safety Commitments'. Prime Minister Rishi Sunak stated, "*These commitments ensure the world's leading AI companies will provide transparency and accountability on their plans to develop safe AI.*" A further AI summit is scheduled to take place in France in 2025.

ICO Launches Consultation on Generative AI and Data Protection Issues

The UK's Information Commissioner's Office (ICO) launched the fourth installment in its consultation on data protection issues in relation to developing and using generative AI models. The responses to the consultation will assist the ICO in developing its regulatory position in relation to generative AI and will be reflected in its upcoming AI guidance. The consultation is open for responses from organizations until June 10, 2024.

China Updates

Scholar-Recommended AI Law Published For Consideration

On March 16, 2024, a "scholar recommended Artificial Intelligence Law" issued to the public and for legislative body to consider. The document was drafted by seven law schools with support from other universities. A comprehensive Artificial Intelligence Law is listed in the Legislative Work Plan for 2023 by the State Council. Earlier in 2024, the relevant government official stated that the government has been conducting in-depth research on important issues including ethics, morality, and safety in cutting-edge scientific and technological fields like AI. A timeline for an Artificial Intelligence Law to enter into force is uncertain, due to the complexity of related legal issues.

AI-Supporting Provisions on Cross-Border Data Flow Announced

On March 22, 2024, the Cyberspace Administration of China published Provisions on Facilitating and Regulating Cross-border Data Flow, which took effect on the same day. The Provisions provides some exceptions to the requirements for security assessment, standard, contract for personal information, and personal information protection certification. These exceptions are expected to benefit AI development. According to the Provisions, data that have not been specified by relevant departments, or publicly notified as important data, are not subject to the cross-border security assessment. In addition, the Provisions also authorize a pilot of free trade zones able to formulate their own data lists, and cross-border transfers of data outside those lists will not be subject to the cross-border transfer requirements.

China's Legislative Plan for AI Law

According to the State Council's 2024 Legislative Plan, it will submit the draft AI Law to the Standing Committee of the National People's Congress for review in 2024. The draft law is not available to the public.

On April 16, 2024, various Chinese legal institutes and universities jointly published Artificial Intelligence Model Law 2.0 (Expert Suggestion Draft), which clearly distinguishes the AI license management system implemented based on the negative list from the registration system for AI activities outside the negative list to avoid excessive compliance burdens that affect the business expectations of the AI industry.

China's First Voice-Cloning Infringement Judgment

On April 23, 2024, the Beijing Internet Court ruled on China's first case regarding infringement of personal rights involving AI-generated voices. According to the judgment, the court held the view that a synthetic voice can be deemed to be identifiable if the general public or the public in related fields can associate it with the natural person based on its timbre, intonation and pronunciation style.

Compliance Guidelines for Generative AI Data Applications

On April 16, 2024, China Electronics Chamber of Commerce issued its Compliance Guidelines for Generative Artificial Intelligence Data Applications, which came into effect on May 1, 2024. The compliance guidelines are applicable to data applications carried out by generative AI service providers who provide generative AI content generation services in the PRC. The guidelines include data compliance principles and requirements that generative AI

services should follow in various data practices such as data collection, data annotation, training, data preprocessing, model training and testing and content generation services.

China's National Supercomputing Internet Platform

On April 11, 2024, China underlined launched a National Supercomputing Internet Platform, which aims to connect the supercomputing centers across the country to build an integrated supercomputing network and service platform. Over 200 service providers offering applications, data and computing models have joined the network, contributing over 3,200 products that include cutting-edge digital innovations such as scientific computing, industrial simulation and AI model training.

Promoting Industrial Equipment Upgrades

On April 9, 2024, the Ministry of Industry and Information Technology and six other departments jointly issued its Implementation Plan for Promoting Industrial Equipment Upgrades. The plan calls for accelerating the development of intelligent factories, promoting the use of new technologies (e.g., AI, 5G and edge computing) in manufacturing and developing several standard practices, such as virtual testing and debugging, process, digital design, and intelligent online detection.

Action Plan for Information Standard Construction

On May 29, 2024, the Cyberspace Administration of China, the State Administration for Market Regulation and the Ministry of Industry and Information Technology jointly issued an Action Plan for the Construction of Informatization Standards (2024-2027), which aims to improve the national information technology standards system and enhance the comprehensive capabilities of information technology development. Regarding AI, the plan seeks to promote the development of application standards for AI chips and to accelerate the development of large-model and generative AI standards.

Vice Premier Calls for "AI +"

On May 24, 2024, Vice Premier Ding Xuexiang said that China should accelerate the construction of a national integrated computing network, accelerate the development of core industries in the digital economy and implement an "AI+" action plan.

International Cooperations

On May 14, 2024, the US and China held closed-door talks in Switzerland to discuss various issues about AI. The talks are expected to have concerned reducing AI risks and improving safety.

Akin Thought Leadership

Colorado Passes New Watershed AI Consumer Protection Bill (May 28, 2024)

Final Approval of Ground-breaking EU AI Act (May 23, 2024)

Reggie Babin Discusses AI Roadmap with POLITICO Tech and Washington Post (May 15, 2024)

Senate AI Working Group Releases Long-Anticipated Roadmap for AI Policy (May 15, 2024)

[AI Tools Could Enhance UK Gov't Public Services Strategy](#) (May 9, 2024)

[Utah Updates Consumer Privacy and Protection Acts with AI-Focused Provisions](#) (May 8, 2024)

[Michelle Reed Discusses the Legal Complexities of Data Breaches and Cybersecurity on TalksOnLaw Podcast](#) (April 5, 2024)

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