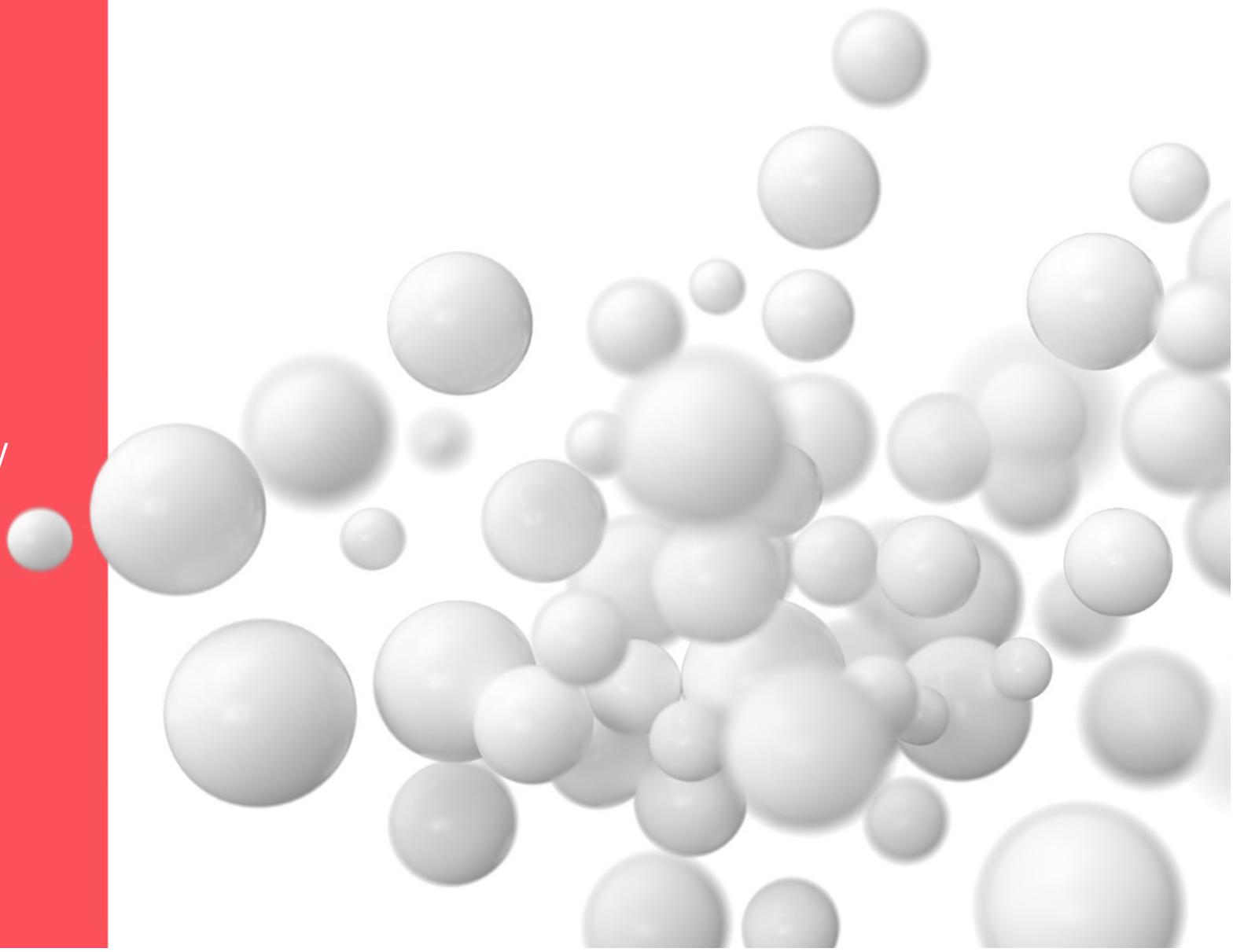


AI: stay smart

2020, Q2

Key legal, policy and regulatory updates in artificial intelligence





Washington's New Facial Recognition Law

31 March 2020

Who is affected?

General interest, especially to developers and users of facial recognition systems

What is it?

The new policy (SB 6280) seeks to regulate state and local government agencies' use of facial recognition services by July 2021.

The regulation states that before using facial recognition software a government agency must give public notice, hold at least three community meetings, and publish a report outlining the technology's potential impact on civil liberties and establishing a thorough accountability model.

What should I do?

This law is likely to be the first of many regulating facial recognition. Organisations should be wary of their use of facial recognition systems and, from a reputational perspective, their association with organisations using such systems.



Shanghai judicial courts start to replace clerks with AI assistants

01 April 2020

General interest, especially companies operating in China or with Chinese organisations

The courts in Shanghai will use AI assistants to transcribe case notes, locate files and present digitalised evidence as part of a six-month pilot programme.

This is part of China's 'worldwide AI race' and shows a renewed focus on the application of AI technology.



Patents cannot be issued to AI

May 2020

General interest, especially to developers of AI.

Patent applications filed by Dr Thaler, naming DABUS AI as the inventor of an AI system, have been rejected by the UK Patent Office, the European Patent Office and the US Patent Office, for failing to name a human inventor. In the UK, Dr Thaler has appealed the decision of the UK Patent Office to the English High Court. The appeal was heard on 15 July 2020 and a judgment is awaited.

We will continue to monitor and report on developments on this interesting case.

To find out more, read our Insights article regarding the EU application [here](#) and regarding the US application [here](#).





The ICO and Alan Turing Institute published joint guidance on explaining decisions made with AI




20 May 2020



The Board of the International Organisation of Securities Commissions (IOSCO) has released a consultation paper on the use of AI and machine learning by market intermediaries and asset managers

25 June 2020

Who is affected?	What is it?	What should I do?
<p>All organisations that use or are considering using AI, particularly involving personal data</p>	<p>The Guidance is divided into three parts: (1) the basics of explaining AI; (2) the practicalities of explaining decisions taken using AI; and (3) the steps organisations should take to explain their use of AI.</p> <p>The Guidance provides detailed, practical advice on how organisations can comply with the requirements of the GDPR and the trend towards greater explainability of AI.</p> <p>To find out more, please read our Insights article.</p>	<p>The Guidance is not binding. However, it provides a strong indication of the steps that the ICO will expect organisations to take in order to comply with their obligations.</p> <p>We strongly advise organisations using AI (particularly involving personal data) to consider the concept of explainability and to take steps to ensure that their use of AI is transparent and can be communicated to a regulator. We expect that this Guidance is the start of a trend towards greater AI explainability requirements.</p>
<p>Financial intermediaries and asset managers in Europe, Asia, North America, South America or Africa</p>	<p>IOSCO suggested six measures to regulate the use of AI and ML:</p> <ol style="list-style-type: none"> 1. Detailed governance and senior oversight; 2. Adequate algorithm development testing and ongoing monitoring; 3. Appropriate controls in place to prevent data bias; 4. Enhance transparency and explainability; 5. Ongoing oversight and monitoring of outsourcing with adequate accountability; and 6. Develop and maintain adequate skills, expertise and experience to oversee AI and ML. <p>Read the consultation report here.</p>	<p>Organisations wishing to respond to the consultation should do so by email before 26 October 2020.</p> <p>More generally, IOSCO’s guidance is consistent with general themes we are seeing on the ethical use of AI, notably around transparency, bias and corporate governance. There is likely to be considerable scrutiny of the use of AI in the financial services sector in the coming years and we would advise all financial institutions using or intending to use AI to ensure that they follow guidance such as this.</p>

	Who is affected?	What is it?	What should I do?
 <p>EU Artificial Intelligence Forum</p> <p>30 June 2020</p>	<p>Entrepreneurs and stakeholders across Europe, including corporate companies, start-ups, research institutes and public organisations</p>	<p>High-level keynotes and three panel discussions offered insight into a possible European regulatory framework for AI and European AI infrastructure projects.</p> <p>The keynotes included a speech by Margrethe Vestager, the European Commission's VP for digital policy who offered her views on the risks and rewards of AI.</p> <p>Video for the event available here.</p>	<p>European legislation on AI is forthcoming. Organisations in the EU using or intending to use AI should start to consider how they can prepare themselves for this legislation.</p> <p>We have provided guidance on this – based on the EU White Paper – here.</p>
 <p>World Intellectual Property Office's convention on the impact of artificial intelligence on IP law and policy</p> <p>07-09 July 2020</p>	<p>Lawyers, academics, scientists and private organisations</p>	<p>WIPO (the World Intellectual Property Office) held a three-day convention with interested stakeholders around the world, to discuss how the IP community should address the development of AI, its impact on various aspects of IP law and policy, and whether new IP laws or guidelines are required. Including a discussion of the recent WIPO publication on IP policy and AI.</p> <p>To find out more, please read our Insights article.</p>	<p>WIPO intends to publish a document outlining the preliminary considerations and potentially a list of priority areas on which WIPO intends to focus. We will comment further on this once the considerations are published.</p> <p>WIPO also intends to facilitate further discussions by holding a third session of the Conversation on IP and AI in November 2020. We will circulate links to these events once they are released.</p>
 <p>EU commission launched inquiry into IoT devices</p> <p>16 July 2020</p>	<p>Companies with an interest in Internet of Things operating in the EU</p>	<p>EU competition regulators have launched an antitrust investigation into smart speakers, wearable and smart home devices to analyse whether they help their parent companies stifle market competition by restricting services and collecting user data.</p> <p>It will also examine if the collection of user data by smart speakers and wearables puts the parent companies at an unfair advantage.</p> <p>Read the press release here.</p>	<p>The EU commission will be sending formal requests for information to around 400 IoT companies. If you are contacted, we would be happy to assist with any reply.</p> <p>The preliminary report is expected in spring 2021, and the final report will likely be published in summer 2022.</p>



**ICO publishes
Guidance on AI
and data
protection**

30 July 2020

Who is affected?	What is it?	What should I do?
<p>In-house counsel and compliance officers in companies developing or using AI</p>	<p>The Guidance advises on how to interpret data protection law in relation to AI, and recommends good practice on organisational changes (e.g. accountability and transparency) and technical steps (e.g. data minimisation and implementation of mathematical 'fairness' measures) that can be taken to mitigate the risks that AI may cause or exacerbate.</p> <p>Read the full Guidance here.</p>	<p>The ICO has clarified that, in the majority of cases organisations will be obliged to complete a data protection impact assessment ('DPIA') for any AI system. This DPIA should include a consideration of the role of the processor and the unique risks associated with the particular use of AI.</p> <p>Overall this Guidance is in line with other ICO publications we have seen, and highlights the importance of explainability when using AI. We strongly recommend that organisations seriously consider the explainability of their AI and update their compliance documentation accordingly.</p>

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