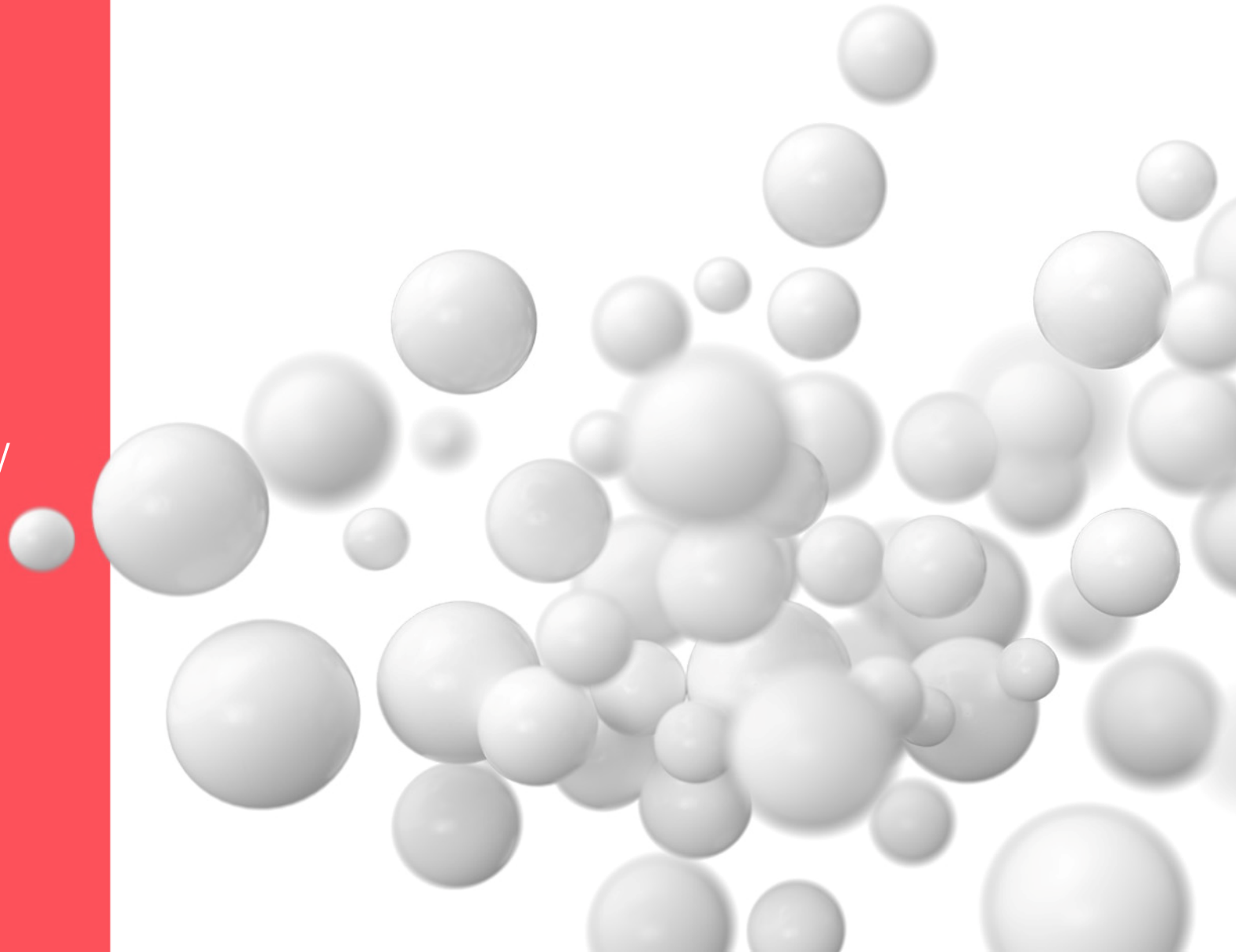


AI: stay smart

2020, Autumn

Key legal, policy and regulatory updates in artificial intelligence





EU competition regulators have launched an antitrust investigation into Internet of Things providers

16 Jul 2020

Who is affected?	What is it?	What should I do?
<p>Developers and users of voice assistant and related technology</p>	<p>EU competition regulators have launched an antitrust investigation into Apple’s Siri, Amazon’s Alexa and other voice assistants. The regulators will analyse whether the voice assistants help their parent companies stifle market competition by restricting services and collecting user data.</p> <p>For example, the probe will look into whether companies hurt competition when their voice assistants only let users stream music from a single service (e.g. Apple Music) or send them to their own shopping websites (e.g. Amazon.com).</p> <p>It will also examine if the collection of user data by smart speakers puts the parent companies at an unfair advantage.</p> <p>This isn’t simply a European issue. The US House of Representatives also recently presented a report on the antitrust practices of Big Tech, calling for significant changes to antitrust laws and Google was served with monopoly-related charges on 20 October 2020.</p> <p>Read the announcement here.</p>	<p>If you are operating in this sector and interacting with the EU you should monitor developments as the investigations by EU competition regulators progress. So far, these investigations are at a very early stage and the first results are not expected until spring 2021.</p>
<p>Data Protection Officers and Compliance teams in the UK</p>	<p>The Court of Appeal has ruled that:</p> <ul style="list-style-type: none"> • The AFR use breached Article 8 of the European Convention on Human Rights (respect for private life) due to its broad use “without apparent limits”; • The DPIA conducted by the police was deficient, in breach of the DPA 2018; and • The police did not do all it could reasonably do to fulfil its public sector equality duties, particularly “to make sure that the software used does not have a racial or gender bias”. <p>Interestingly the judges did not disregard a lawful use of AFR, stating that the benefits of tech are “potentially great” and the intrusion into people’s privacy “minor”. But the message was clear that there is a need for greater care and clearer guidance.</p> <p>To find out more, please read our Insights article here.</p>	<p>Businesses making use of AFR or similar technology in all jurisdictions should ensure that they pursue and maintain the highest possible level of compliance with privacy and data protection laws.</p> <p>Those operating in the UK should carry out adequate and thorough DPIAs before processing any data, taking into account any potential engagement with human rights, equality laws and privacy laws.</p>



The Court of Appeal has ruled it unlawful for South Wales Police to use automatic facial recognition (‘AFR’) to search crowds

11 August 2020



LRC of SAL has established a subcommittee on Robotics and Artificial Intelligence

18 August 2020

Who is affected?	What is it?	What should I do?
<p>All developers and users of AI in Singapore</p>	<p>The Law Reform Committee (LRC) of the Singapore Academy of Law (SAL) established a Subcommittee on Robotics and Artificial Intelligence to consider and make recommendations regarding the application of the law to AI systems.</p> <p>The LRC is considering whether existing systems of law, regulation and wider public policy remain ‘fit for purpose’, given the pace and ceaselessness of change of the field of AI.</p> <p>The LRC has already published three reports in 2020 on:</p> <ul style="list-style-type: none"> <i>i. Applying Ethical Principles for Artificial Intelligence in Regulatory Reform;</i> <i>ii. Rethinking Database Rights and Data Ownership in an AI World; and</i> <i>iii. The Attribution of Civil Liability for Accidents Involving Autonomous Cars.</i> <p>Read the reports here.</p>	<p>If you are using AI and currently based in Singapore you should follow LRC updates closely. The reports are intended to encourage critical analysis of the options available and guide key stakeholders in the development of AI-related laws. We will be publishing a multi-jurisdictional article on LRC in early 2021 – watch this space.</p>
<p>AI developers or users with significant Chinese contracts</p>	<p>China announced a tightening of its export control rule on AI for the first time since 2008.</p> <p>This move has made AI interfaces (such as text and speech recognition and data analysis) a matter of national security. This means that government approval is needed before transferring or exporting the technology.</p> <p>According to Ministry of Commerce for the People's Republic of China statistics, in 2019, the value of China’s technology export contracts was \$32.1 billion.</p> <p>Read the a summary statement in English here and the full statement in Chinese here.</p>	<p>If you are exporting AI from China, be sure to reflect this significant delay into any timelines going forward (30 working days for the foreign trade department to examine the initial application to export and 15 working days for the State Council to examine the contract).</p>



China has tightened its export control on AI

28 Aug 2020



The IPO has announced a consultation on AI and IP

07 Sep 2020

Who is affected?

All those in the IP sector

What is it?

The Intellectual Property Office is seeking to understand the implication AI might have for IP policy, views from industry experts, academics and research organisations, as well as those in the IP sector and government departments.

The call for views was split into five sections: patents; copyright and related rights; designs; trademarks; and trade secrets.

Read the consultation description [here](#).

What should I do?

The consultation closed on 30 November 2020 and we expect the response in mid-2021.

For a general overview of our thoughts on how AI is impacting IP law, please see a recent article authored by members of our IP team and published in the Intellectual Property magazine [here](#).



Uber back-up driver for self-driving car charged with negligent homicide

15 Sep 2020

Developers of autonomous technology

The Uber back-up safety driver in one of the company's self-driving cars, that hit and killed a pedestrian in Arizona in 2018, was charged with negligent homicide

The courts heard that the individual who was responsible for monitoring the car was distracted and that the fatality could have been avoided.

This follows the decision in March 2019 that Uber would not be held criminally liable by prosecutors. This was especially noteworthy as it was acknowledged that there was a series of development decisions made by Uber that contributed to the crash. For instance, the modified software failed to identify the pedestrian and did not flag the operators' complacency.

The trial is due to begin in February 2021.

This will prove a key case in the development of AI regulation and is definitely worth monitoring, regardless of your current jurisdiction.



US and UK have signed an agreement to jointly advance trustworthy AI

25 Sep 2020



European framework on ethical aspects of artificial intelligence, robotics and related technologies

28 Sep 2020

Who is affected?	What is it?	What should I do?
<p>All developers and users of AI in US and UK</p>	<p>The US and the UK have signed an agreement to jointly advance trustworthy AI. The partnership, known as the <i>Declaration on Cooperation in Artificial Intelligence Research and Development</i>, will focus on AI R&D, innovations, and workforce development.</p> <p>This agreement stems from a meeting last year between US President Trump and British Prime Minister, Boris Johnson to promote the countries' economic growth. Together the governments will prioritise areas where they have a “strong common interest”, and will coordinate collaboration among their AI experts.</p> <p>Read the declaration here.</p>	<p>Your compliance team should already be aware of the importance of ethical AI. It is unlikely that this agreement will directly result in increased regulation in either jurisdiction, but it may make international collaboration easier if legislation is aligned.</p>
<p>Policy-makers and those interested in the politicisation of AI</p>	<p>The European Parliamentary Research service has published an Added Value Assessment pushing for timely, common EU legislation on the ethical use of artificial intelligence, robotics and related technologies. The report details the strength of current EU laws in this area and the significant economic value of being a ‘first mover’ in AI-specific legislation.</p> <p>Read the report here.</p>	<p>Watch this space. The EU are likely to confirm synchronised legislation on the use of AI in early 2021, which will have a significant impact on the shaping of worldwide AI legislation.</p>





UK government announced increased AI spending

19 Nov 2020

Who is affected?

All developers and users of AI in the UK

What is it?

The UK Prime Minister announced a £16.5 billion funding boost to the defence budget over 4 years. This increase in spending will facilitate the opening of a National Cyber Force and a new agency dedicated to artificial intelligence.

The funding is expected to facilitate AI-led defence innovation such as drone technology and automated weaponry.

Read the press release [here](#).

What should I do?

If you're using AI in the UK, you should monitor developments and announcements from the new organisations. We expect the increased funding to be matched with increased regulation.



Executive Order promoting the use of trustworthy AI in Government

03 Dec 2020

Public bodies using or interested in the use of AI

The executive order provides further guidance for the use of artificial intelligence in government decision-making.

The guidelines contain familiar principles of, amongst other things, transparency, lawfulness and accuracy, which are intended to act as a foundation for future regulations and laws.

The order directs agencies to prepare inventories of AI-use throughout their departments and directs the White House to develop a road map for policy guidance for administrative use.

Read the executive order [here](#).

Regardless of your jurisdiction, but especially if you are currently using AI in the US, you should take this as a prompt to similarly audit your use of AI, especially if it's being used to make decisions that affect individuals.

Contact us for further information:



Minesh Tanna

AI Lead, Managing Associate

+44 (0) 20 7825 4259

minesh.tanna@simmons-simmons.com



William Dunning

Associate

+33 1 5329 1627

william.dunning@simmons-simmons.com



Emily May

Trainee Solicitor

+44 (0) 20 7825 3881

emily.may@simmons-simmons.com

simmons-simmons.com

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