How to Prepare *Now* for Artificial Intelligence Laws That Don't Yet Exist

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Our focus today:

AI-Specific Laws

(not laws of general application that apply to AI, such as the FTC Act, copyright law, etc.)

What AI-specific laws are in force now . . .

AI-Specific Laws Currently in Force

U.S. federal

- Some funding, study, contracting provisions but not yet generally applicable requirements

U.S. states

- Various funding, study provisions
- Automated decisionmaking provisions in state omnibus privacy laws (CA, CO, CT, VA)
- AI in hiring (IL, NYC)
- Person ≠ AI (ND)

International

- Brazil - comprehensive framework for use of AI
- China - several AI laws in force
- EU - automated decisionmaking provision in the GDPR

Versus what’s coming down the pike . . .

Transitioning to our fourth spotlight: AI legislation. AI's unprecedented trajectory isn't solely a fascination for tech enthusiasts—it's now commanding significant attention from global policymakers.

Governments race to regulate AI tools

TECHNOLOGY

Senators push to give Biden's AI order more teeth

New bipartisan bill would make a federal risk framework mandatory.

NEWSLETTERS · EYE ON AI

Will U.S. states figure out how to regulate AI before the feds

Regulate AI? How US, EU and China Are Going About It

U.S. NEWS

Artificial intelligence is gaining state lawmakers' attention, and they have a lot of questions

TECH • ARTIFICIAL INTELLIGENCE

Exclusive: California Bill Proposes Regulating AI at State Level

Europeans Take a Major Step Toward Regulating A.I.

A draft law in the European Parliament has become the world's most far-reaching attempt to address the potentially harmful effects of artificial intelligence.

AI Regulation Ramping Up in States from Texas to Connecticut

EU 'in touching distance' of world's first laws regulating artificial intelligence

Dragoș Tudorache, MEP who has spent four years drafting AI legislation, is optimistic final text can be agreed by Wednesday

Biden's AI EO hailed as broad, but not deep without legislation to match

So what’s an organization to do?

A bit of good news: common themes and principles in proposed laws


PROCESS

Elementary Principles.

The ELEMENTARY (or FUNDAMENTAL) PRINCIPLES of ARITHMETIC are ADDITION, SUBTRACTION, MULTIPLICATION and DIVISION.

ADDITION.

ADDITION is the art of uniting two or more numbers into one equivalent number, and is indicated by a rectangular cross (+), read "plus," as, 3 + 5 = 8.

MABEL has one apple, and **CARL** gives her two more. How many has she then?

SUBTRACTION.

SUBTRACTION is the art of finding the difference between two numbers, and is indicated by a short line (–), read, "minus," as, 5 – 3 = 2.

EDDIE has three pears, and gives one to **ETHEL.** How many has he left?

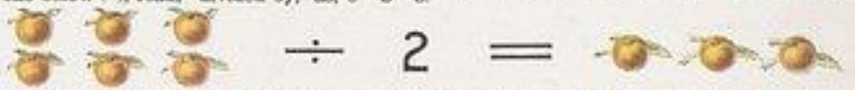
MULTIPLICATION.

MULTIPLICATION is the art of taking one number as many times as there are units in another. It is a short method for addition in special cases. It is indicated by an oblique cross (×), read, "multiplied by," as 3 × 4 = 12.

ROY has two oranges, and **BERTHA** has three times as many. How many has **BERTHA?**

DIVISION.

DIVISION is the art of finding how many times one number is contained in another. It is a short method of subtraction in special cases. It is indicated by a short line with a dot above and one below (÷), read, "divided by," as, 6 ÷ 2 = 3.



Six peaches are divided equally between **DOLLY** and **JENNIE.** How many has each?

SHORT METHODS.

ADDITION BY PERIODS.

Beginning at the bottom, add as near to 20 as possible, and place a period to the right of the last figure added. Disregard the 10, add the units figure to the next figure of the column, to begin another period, and proceed as before until the entire column is added. Place the units figure of the last addition as the units figure of the sum. The number of periods indicates the number to be added to the next column. Proceed in like manner with each succeeding column.

EX.—

·93·	
·65	
43·	
·58	
63·	
·37	
89·	
·61	
25	
43	
577	

Commence thus: 3, 5, 1, 9 = 18; reject 10, place period at right of the 9, and carry 8 to next figure. 8, 7, 3 = 18; reject 10, place a period, and proceed as before, 8, 8, 3 = 19; 9, 5, 3 = 17. Place the 7 as the units figure of the result and add 4 (tens—the number of periods), to next column, and proceed with the addition. 4, 4, 2, 6 = 16; 6, 8, 3 = 17; 7, 6, 5 = 18; 8, 4, 6 = 18; 8, 9 = 17. Place the 7 as tens figure of the sum and bring down 5 (the number of periods) for the hundreds figure of the result.

SUBTRACTION.

Minuend,	24973
Subtrahends,	298
	436
	1728
	941
	762
	106
	2304
Remainder,	18,398

BY COMBINATION the sum of two or more numbers may be taken from another larger number by a single operation. Write the subtrahends under the minuend, add the first column of the subtrahends and subtract the units figure of the sum from the units figure of the minuend. The result will be the units figure of the remainder. Add the tens with the second column of the subtrahends, and proceed as before.

MULTIPLICATION.

TO Multiply Any Number of Two Figures by 11. Add the numbers, and write their sum between them. EX.—To multiply 53 by 11, simply write the sum of 5 and 3 (8) between the figures. The result is 583. When the sum is 10 or more, add 1 to the left hand figure in the result.

TO Multiply by Any Number Beginning with 1. Multiply by the units figure, and write the first figure of the result as many places to the right of the units figure of the multiplicand as the units figure of the multiplier is to the right of the 1 in the multiplier. Multiply the tens figure, placing the first figure of the result one place further to the right, etc., and add them.

TO Multiply by Any Number Contained in 100. Annex two 0's and divide by the number of times the number is contained in 100.

EX.—378 × 161 = 37,800 ÷ 6 = 6,300.

TO Multiply by Any Number Contained in 1,000, or any multiple of 100. Annex as many 0's as there are ciphers in 1,000 or multiple of 100, and proceed as above.

PRINCIPLED ARTIFICIAL INTELLIGENCE

A Map of Ethical and Rights-Based Approaches to Principles for AI

Authors: Jessica Fjeld, Nele Achten, Hannah Hilligoss, Adam Nagy, Madhulika Srikumar

Designers: Arushi Singh (arushisingh.net) and Melissa Axelrod (melissaaxelrod.com)

HOW TO READ:

Date, Location
Document Title
Actor

COVERAGE OF THEMES:

Higher — Lower

Not referenced

References International Human Rights

Explicitly Adopts Human Rights Framework

The size of each dot represents the percentage of principles in that theme contained in the document. Since the number of principles per theme varies, it's informative to compare dot sizes within a theme but not between themes.

The principles within each theme are:

Privacy:
Privacy
Control over Use of Data
Consent
Privacy by Design
Recommendation for Data Protection Laws
Ability to Restrict Processing
Right to Rectification
Right to Erasure

Accountability:
Accountability
Recommendation for New Regulations
Impact Assessment
Evaluation and Auditing Requirement
Verifiability and Replicability
Liability and Legal Responsibility
Ability to Appeal
Environmental Responsibility
Creation of a Monitoring Body
Remedy for Automated Decision

Safety and Security:
Security
Safety and Reliability
Predictability
Security by Design

Transparency and Explainability:
Explainability
Transparency
Open Source Data and Algorithms
Notification when Interacting with an AI
Notification when AI Makes a Decision about an Individual
Regular Reporting Requirement
Right to Information
Open Procurement (for Government)

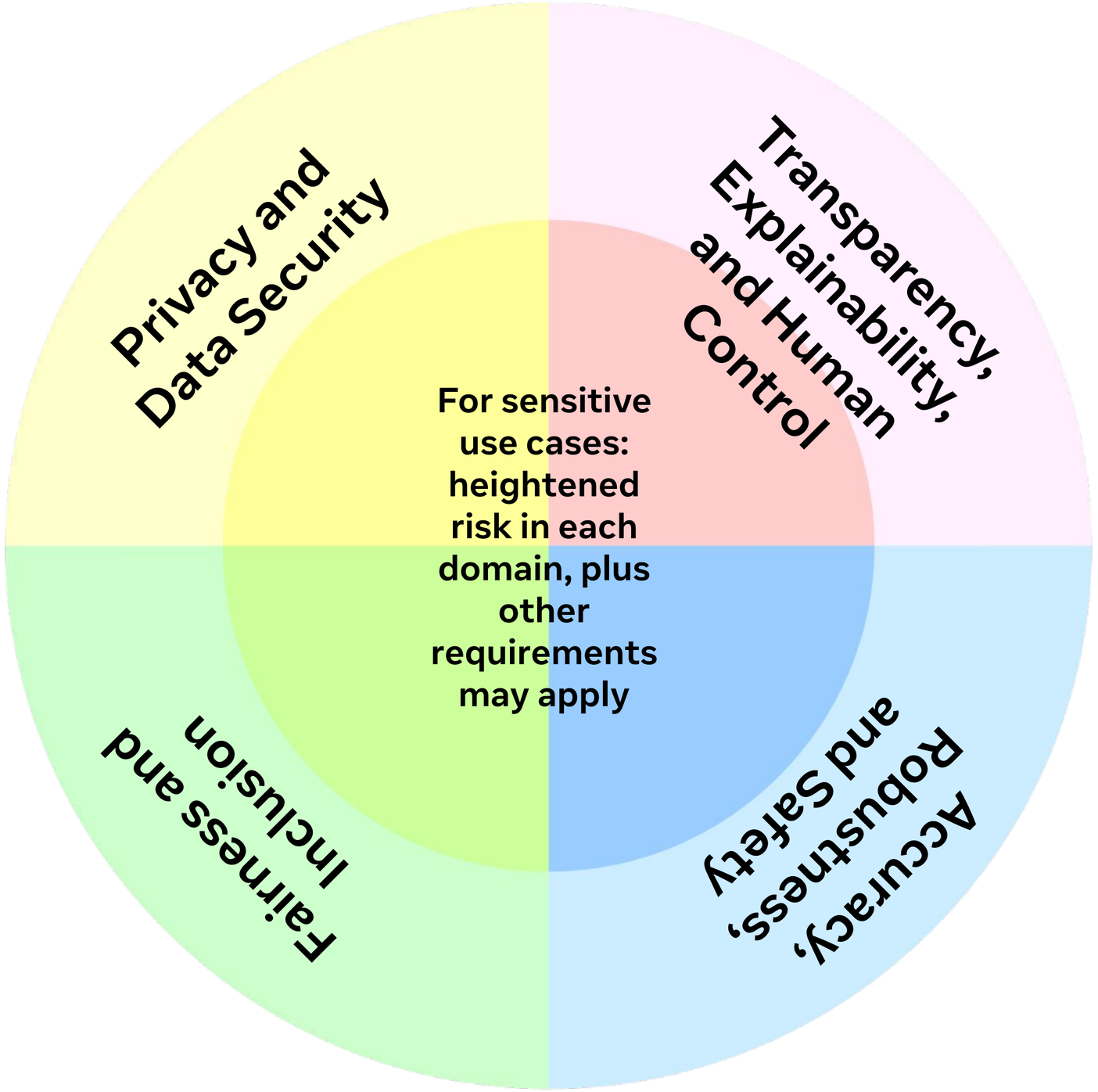
Fairness and Non-discrimination:
Non-discrimination and the Prevention of Bias
Fairness
Inclusiveness in Design
Inclusiveness in Impact
Representative and High Quality Data
Equality

Human Control of Technology:
Human Control of Technology
Human Review of Automated Decision
Ability to Opt out of Automated Decision

Professional Responsibility:
Multistakeholder Collaboration
Responsible Design
Consideration of Long Term Effects
Accuracy
Scientific Integrity

Promotion of Human Values:
Leveraged to Benefit Society
Human Values and Human Flourishing
Access to Technology

BERKMAN KLEIN CENTER FOR INTERNET & SOCIETY AT HARVARD UNIVERSITY

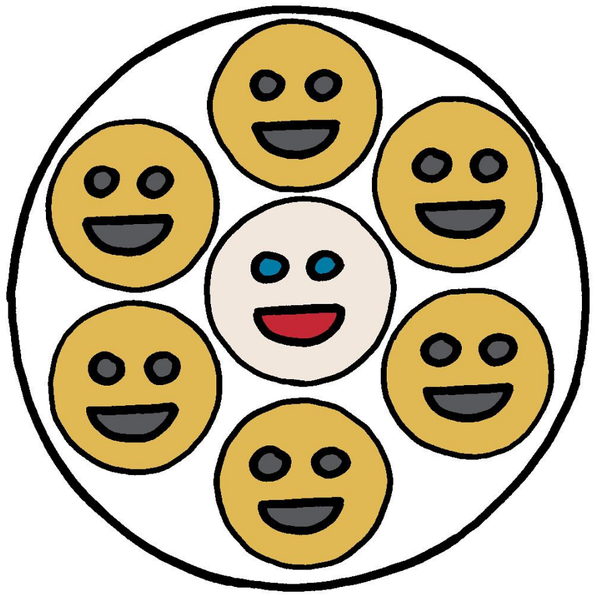

Privacy and Data Security
Transparency, Explainability, and Human Control
Fairness and Inclusion
Accuracy, Robustness, and Safety
For sensitive use cases: heightened risk in each domain, plus other requirements may apply

Action plan: build compliance tooling now (people, processes, principles)

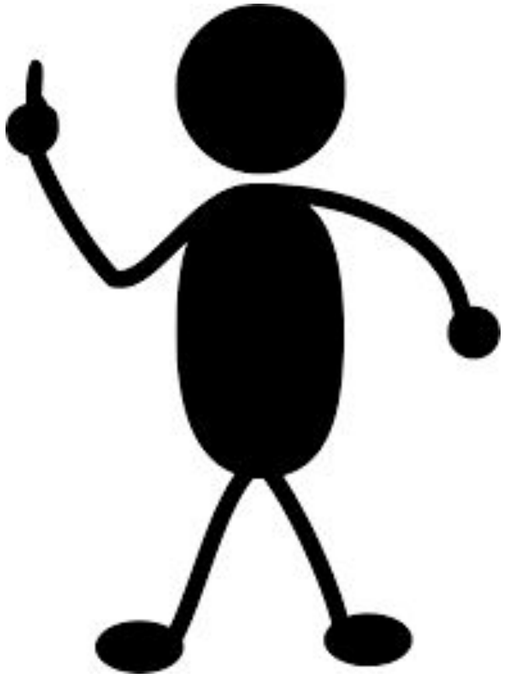
People: Who will decide?

For AI, who are your organization's:

Internal stakeholders

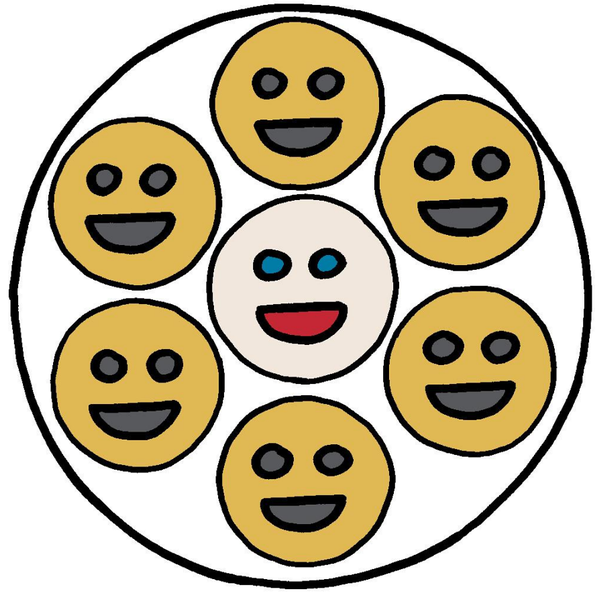


Decisionmakers



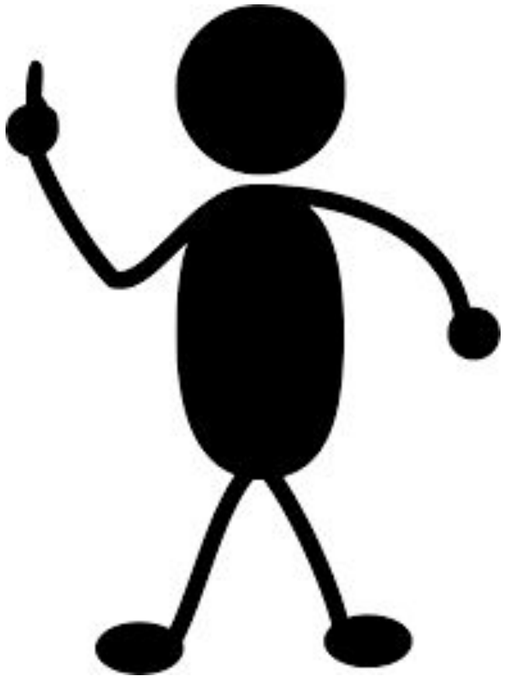
Individuals affected by the AI

Internal Stakeholders



- Build, develop, or train AI models or tools
- Use AI-powered models or tools
- In charge of products or services that use AI
- Own the relationship with individuals who may be affected by your AI
- Privacy, IP, security, IT, dev/engineering
- Legal, policy, compliance/risk/audit, HR, finance

Decisionmakers



- No one-size-fits-all answer
- May be distributed
- Consider existing decisionmaking authority
- Expect this to change over time
- Most important thing is to decide who are your decisionmakers regarding use of AI and document and communicate that internally

Individuals Affected by the AI

- Could be internal: HR use cases
- Providers of data used for model training
- Consumers/users of your product/service
- Job applicants, prospective consumers/users
- Individuals at B2B partners
- The public
- Other?

Processes: How will you decide?

Decide How You Will Decide

- Green light, red light, or green/red/yellow light approach?
- Vary by use case, business unit, or affected individuals?
- Vary for first-party AI versus third-party AI tools?
- Can you leverage an existing decisionmaking process (e.g., privacy by design)?

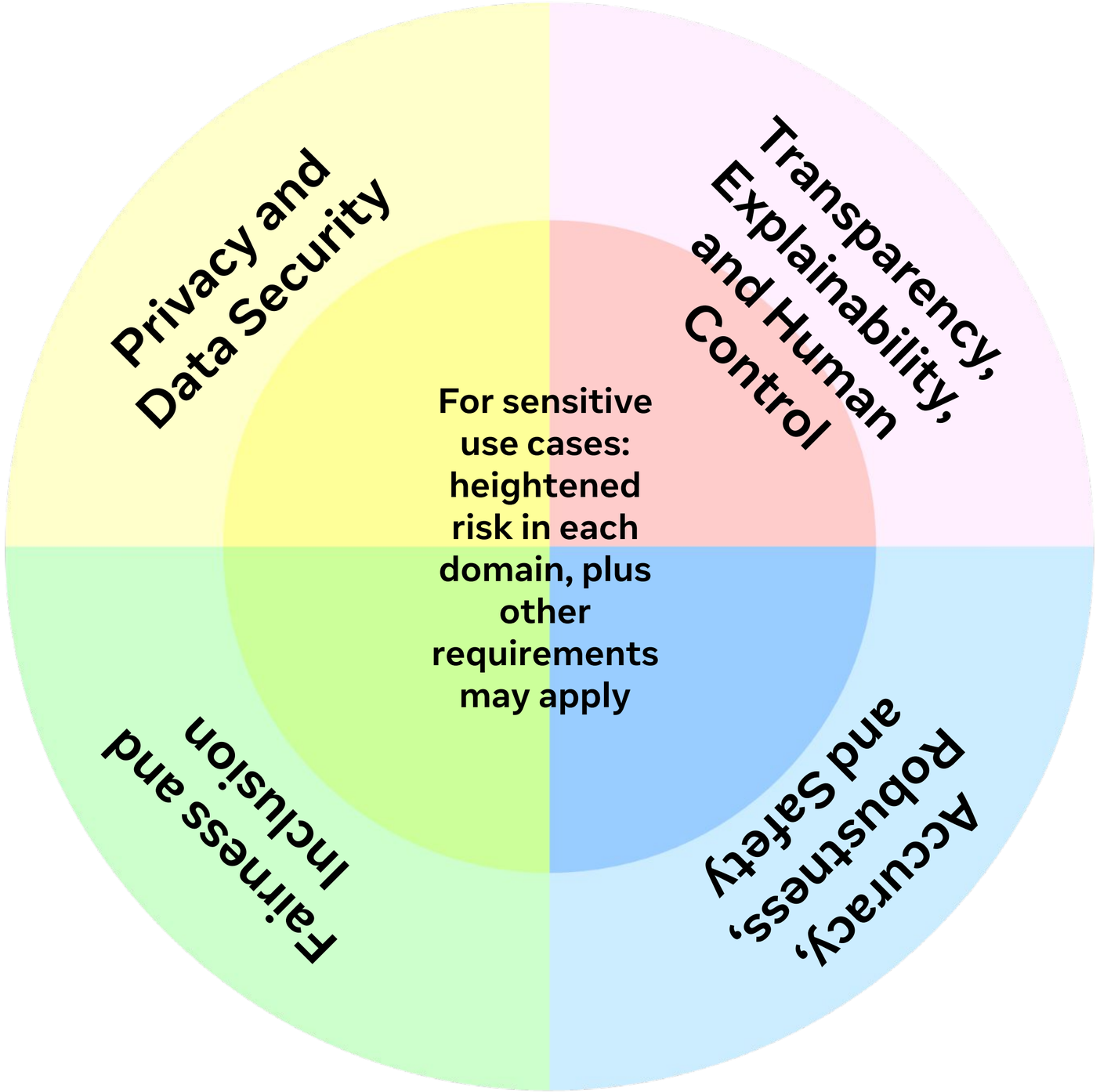
Possible New Documentation of Process

- ❑ Internal “acceptable use of AI” policy?
- ❑ Internal policies specific to sensitive use cases?
- ❑ AI steering committee charter?
- ❑ Standard set of questions for AI use cases?

Possible Updates to Existing Documentation

- ❑ Existing written policies?
- ❑ Privacy by design workflows?
- ❑ Code review/engineering workflows?
- ❑ Approval flows (checklist, wiki, SOP) for software solutions/SaaS?
- ❑ Approval flows for inbound/outbound integrations, APIs, and SDKs?
- ❑ Approval flows for vendor relationships?

Principles: What will you decide to do or not do, and what guardrails will you impose?


Privacy and Data Security
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For sensitive use cases: heightened risk in each domain, plus other requirements may apply

Privacy and Data Security

Sources

- Existing privacy and data security laws applicable to your organization/the use case for the AI
- E.g., FTC Act, federal sector-specific privacy laws, U.S. state omnibus privacy laws and other state privacy laws, GDPR, etc.

Transparency, Explainability, Human Control

Sources

- U.S. automated decisionmaking laws (CA, CO, CT, VA)
- GDPR automated decisionmaking provision
- Guidance/recommendations from FTC (see later slide), NIST (https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf), EU AI Act (https://eur-lex.europa.eu/resource.html?uri=cellar:e0649735-a372-11eb-9585-01aa75ed71a1.0001.02/DOC_1&format=PDF), White House Executive Order (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/)

Accuracy, Robustness, Safety

Sources

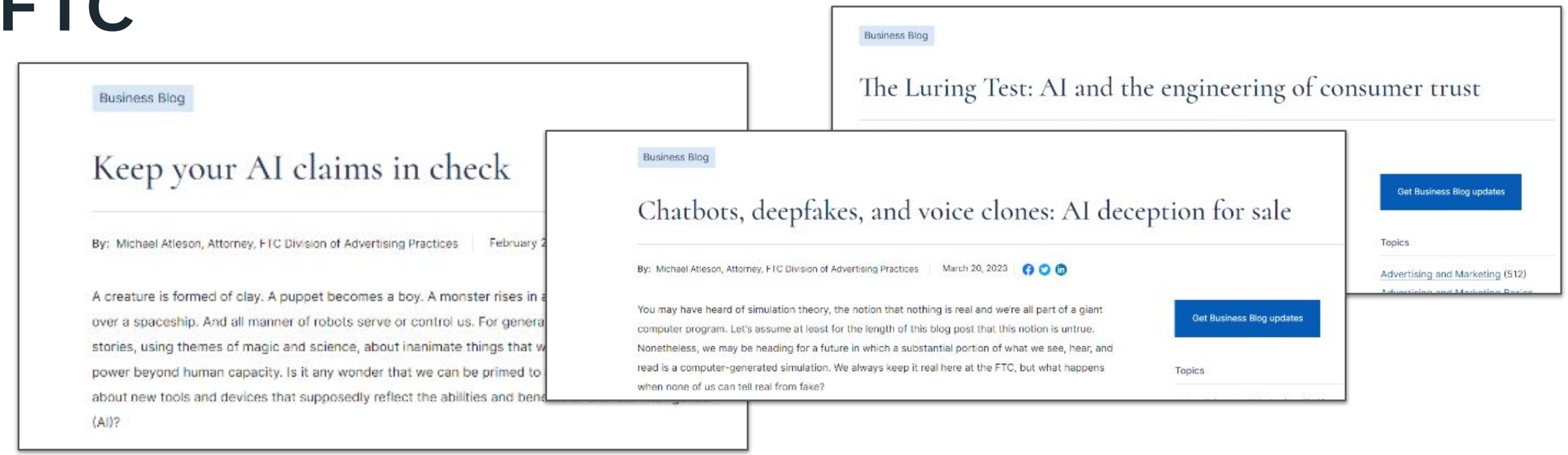
- Guidance/recommendations from FTC (see later slide), NIST (https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf), EU AI Act (https://eur-lex.europa.eu/resource.html?uri=cellar:e0649735-a372-11eb-9585-01aa75ed71a1.0001.02/DOC_1&format=PDF), White House Executive Order (https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/)

Fairness and Inclusion

Sources

- Existing civil rights or antidiscrimination laws applicable to your organization/the use case for the AI
- Guidance/recommendations from FTC (see later slide), NIST (https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf), EU AI Act (https://eur-lex.europa.eu/resource.html?uri=cellar:e0649735-a372-11eb-9585-01aa75ed71a1.0001.02/DOC_1&format=PDF), White House Executive Order (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/)

FTC



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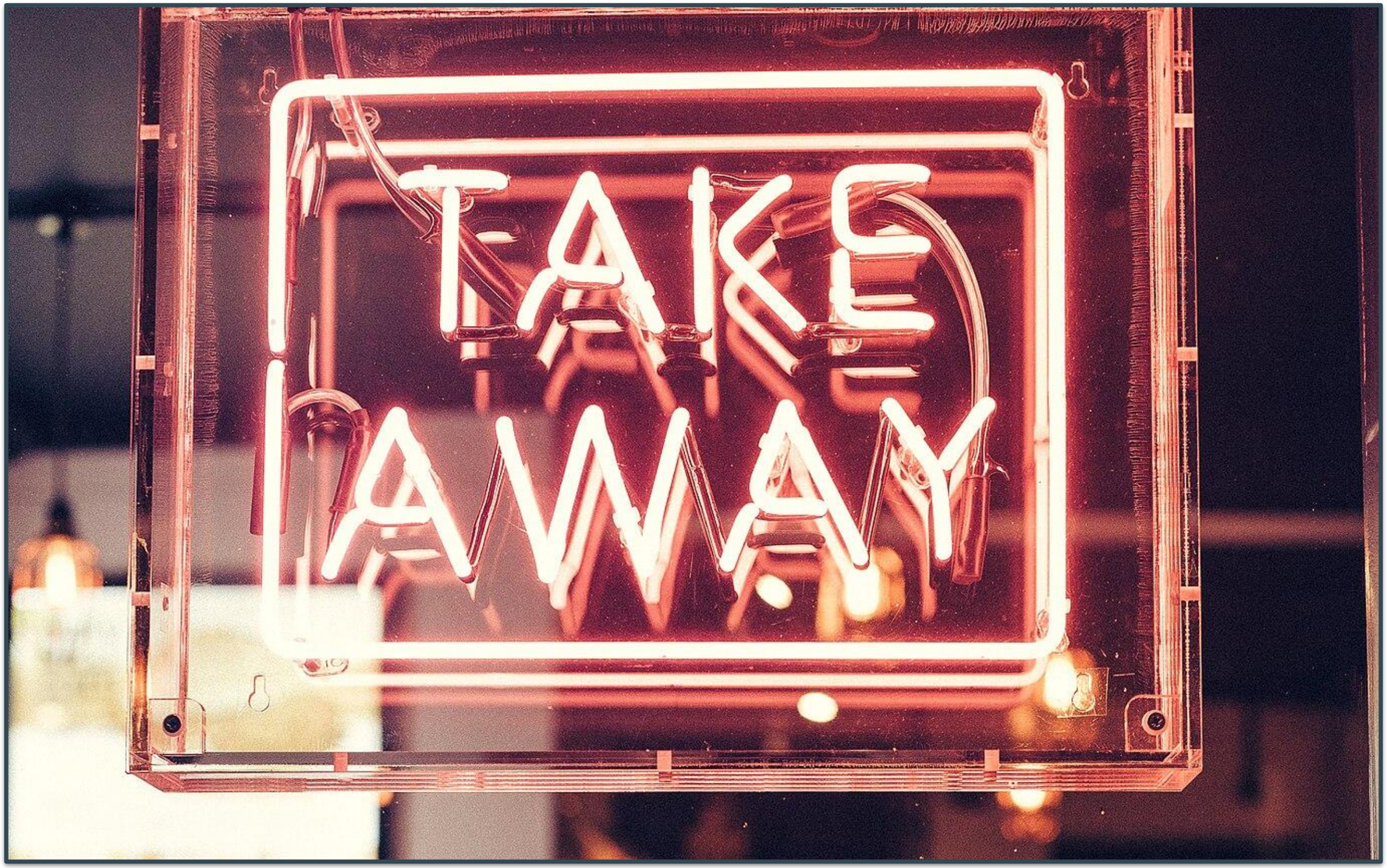
https://www.ftc.gov/business-guidance/blog/2020/04/using-artificial-intelligence-and-algorithms

“Algorithmic Disgorgement” Risk



Deliverables to Consider

- ❑ Internal statement of “responsible AI” principles?
- ❑ Update contractual terms?
- ❑ Assess terms and “codes of conduct” for third-party AI solutions that you allow your organization to use?
- ❑ External-facing documentation or descriptions to provide transparency, explainability, notice?
- ❑ In-product UI or notices?

Privacy & Security	Safety & Robustness	Transparency & Control	Fairness & Inclusion	Accountability & Governance
Training and tuning to limit private user information in model responses In-app deletion mechanisms	Adversarial testing Fine-tuning the model for safety and helpfulness (RLHF) Leveraging user feedback and industry-wide learnings Input/output filters	New Gen AI system cards Contextual and off-product education Visible watermarking for image generation Invisible watermarking User control over interactions	Research on fairness evaluation Using prompt engineering to reduce bias resulting from training data Addressing toxicity and harmful stereotypes Consultation in developing AI Characters	Risk analyses across key policy areas Dedicated terms governing the acceptable use of Meta AI features Innovating new approaches to governance and decision-making (ex: upcoming Community Forum)

Staying abreast of legal changes

Legislation Trackers

- **U.S. federal and California AI law tracker:** https://citrispolicylab.org/ailegislation/
- **U.S. state AI law tracker:** https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation
- **U.S. federal AI law tracker:** https://www.brennancenter.org/our-work/research-reports/artificial-intelligence-legislation-tracker
- **Global AI law tracker:** https://iapp.org/media/pdf/resource_center/global_ai_legislation_tracker.pdf

Questions? Thank you for coming!