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Squaring the Circle: Artificial Intelligence and Machine Learning Strategies for the Global Context

Speaking With You Today

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Overview

1. Setting the Scene – AI and Machine Learning
2. The Regulatory Landscape
3. Best Practices
4. Beyond Privacy and Security

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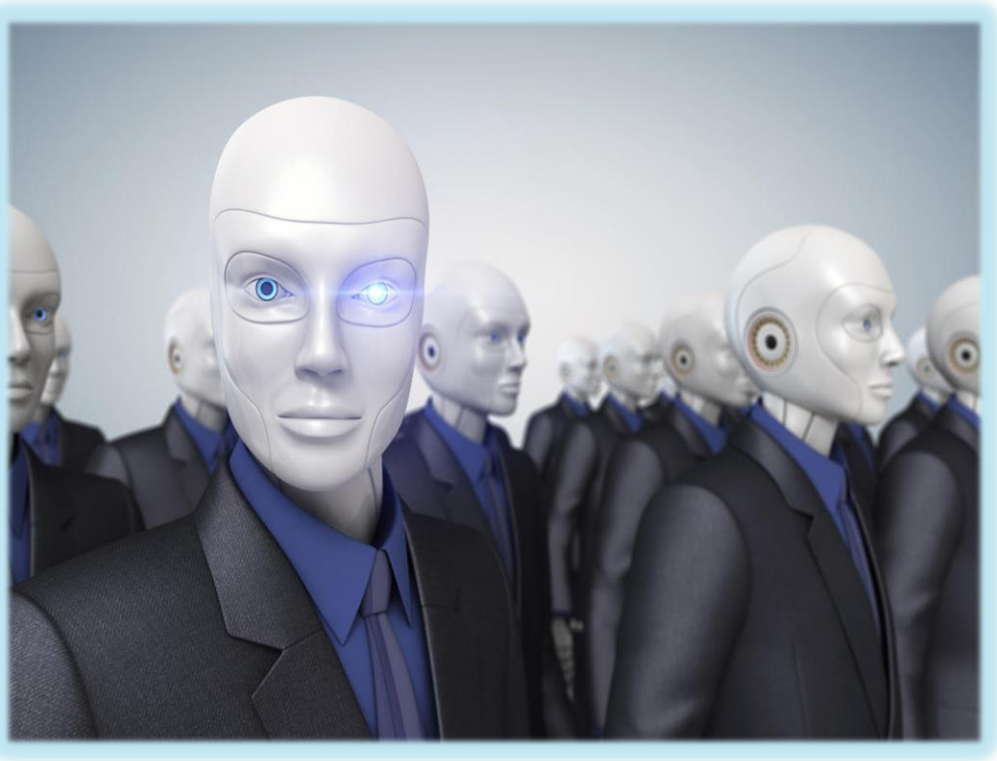
Setting the scene – AI and Machine Learning

AI and Machine Learning

- What do we mean by Artificial Intelligence and Machine Learning?
- Myths and Misconceptions



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The Regulatory Landscape

U.S. Regulatory Landscape

The FTC may bring an enforcement action targeting AI technology under existing laws:

- Section 5 of the FTC Act: Prohibits unfair or deceptive practices. This could include the sale or use of—for example—racially biased algorithms
- Fair Credit Reporting Act ("FCRA"): FCRA may come into play where an algorithm is used to deny employment, housing, credit, insurance, or other benefits
- Equal Credit Opportunity Act ("ECOA"): The ECOA prohibits use of an algorithm that, for example, results in a denial of credit on the basis of race, color, religion, national original, sex, marital status, or age

U.S. Regulatory Landscape

Federal Trade Commission April 2021 Guidance

- Start with the right foundation – ensure that data is robust and account for gaps
- Monitor for discriminatory outcomes
- Be transparent and embrace independence
- Don’t exaggerate what your algorithm can do – including whether it can deliver fair or unbiased results
- Be truthful about how you use and collect data
- Do more good than harm
- Hold yourself accountable for compliance, ethics, and fairness

EU Regulatory Landscape

Draft EU AI Regulation

- Extra-territorial effect
- Risk-based regulation (Prohibited, High Risk, Low Risk)
- High Risk AI Requirements:
  - Accuracy and data quality standards
  - Human oversight and transparency
  - Conformity assessments
- Significant fines - Up to 6% of worldwide annual turnover
- Next Steps? A long legislative road ahead…

GDPR

- Comprehensive data protection standards and individual rights

EU Regulatory Landscape

European Commission: Ethics Guidelines for Trustworthy AI

- Human agency and oversight
- Technical robustness and safety
- Privacy and data governance
- Transparency
- Diversity, non-discrimination and fairness
- Societal and environmental well-being
- Accountability

UK Regulatory Landscape

- Is a comprehensive AI regulation on the horizon?
- Data privacy:
  - UK GDPR and Data Protection Act 2018
  - Extensive ICO AI framework
- IP – UK IPO consultation on AI and IP

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Best practices

AI Strategies and Governance

Why do we need AI governance? What does effective AI governance look like?

- Multiple governance aspects - Technology, data, cyber security, privacy, IP, procurement/ supply chain
- Strategic governance from C-suite
- Flexible governance to reflect rapid AI adaptations
- Documenting risk decisions and AI governance is valuable in practice

Ethics and Integrity Safeguards

How do we address ethics and integrity risks?

- Conduct specific ethics risk assessments – bias; discrimination; unfairness
- Comprehensive and robust testing process to identify and pre-empt ethics incidents
- Formulate ethics incident response plan in advance

- EC Requirements for Trustworthy AI: Diversity, non-discrimination and fairness; and societal and environmental well-being

- FTC guidance: Hold yourself accountable for compliance, ethics, fairness, and non-discrimination

Data and Privacy

How do we comply with data privacy requirements?

- Know your data – data mapping/ inventory; quality and quantity of data
- Quality, nature and volume of training data are critical factors for performance and compliance
- Data minimisation: Understand what data you do (and do not) need
- Risk assess ethical implications of data sets

- EC Requirements for Trustworthy AI: Privacy and data governance
- EU Proposed AI Regulation: Quality standards for training data sets and models

- FTC guidance: Ensure that your data is complete and robust, and tell the truth about how you use data

Transparency

How do we meet multiple transparency requirements?

- AI and its results should be “explainable” in practice - to regulators and to users
- Build explainability in to AI development and deployment from the start – “explainability by design”
- Implement explainabiltiy standards throughout the supply chain
- Transparency underpins numerous other compliance requirements

- EC Requirements for Trustworthy AI: Transparency
- EU Proposed AI Regulation: Transparency requirements

- FTC guidance: Embrace transparency and independence

Cyber Security

Do we need to enhance our cyber security protocols?

- Assess specific impact of AI/ ML deployment on your cyber risk environment – including testing and incident response procedures
- Consider unintended applications of the AI system, and potential abuse of the system

- EC Requirements for Trustworthy AI: Technical robustness and safety
- EU Proposed AI Regulation: Accuracy and security standards. Notification obligations in the event of certain risks

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Beyond Privacy and Security

Human Involvement

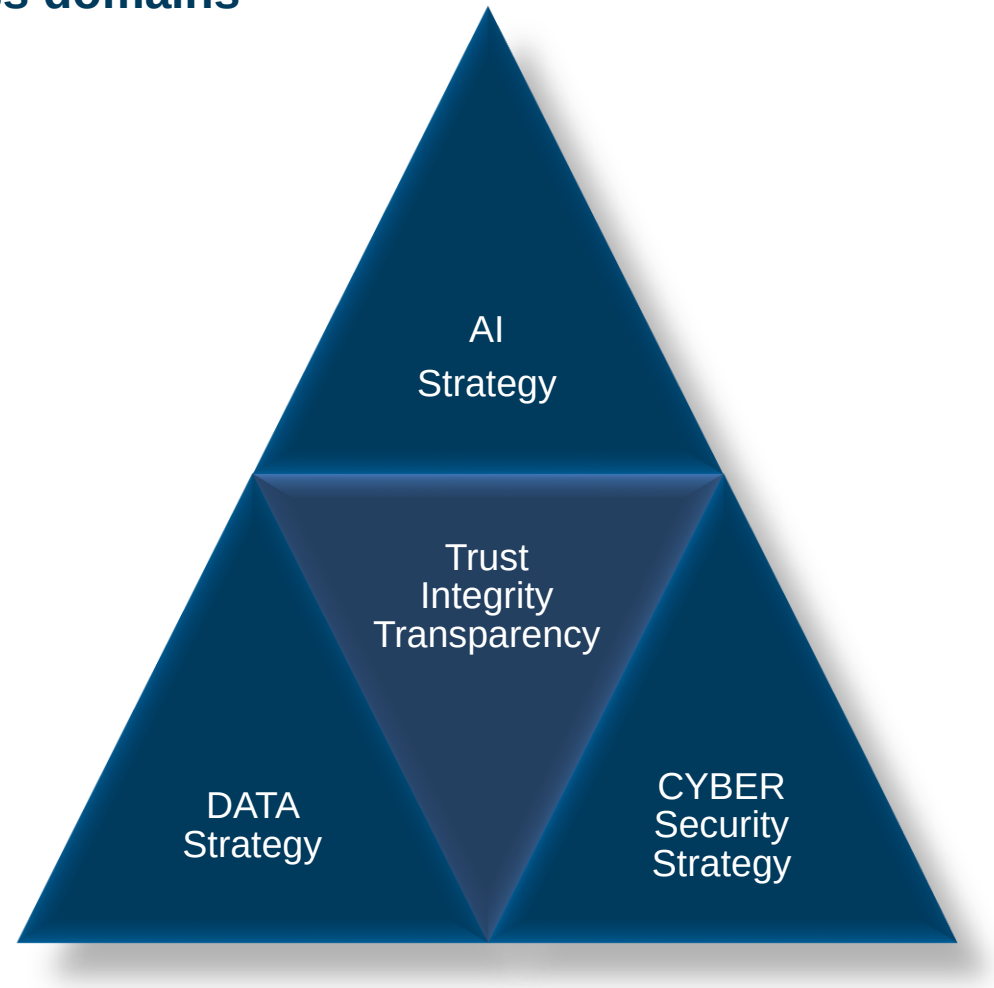
When and how should human oversight be integrated?

- Identifying appropriate uses and deployment
- Defining ethical boundaries
- Designing training and testing standards
- Cyclical assessment of outcomes and consequences

- EC Requirements for Trustworthy AI: Human agency and oversight
- EU Proposed AI Regulation: Human oversight requirements

Ethics and Integrity Safeguards

Integrity across domains



Getting it All to Work:

- Interdependencies
- Goals
- Outcomes

Ethics and Integrity Safeguards

Integrity across the AI lifecycle

Building competency, trust and transparency at each stage

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Questions?

You Might Be Interested In….

PODCAST – AI IS HERE. NOW, CAN WE TEACH THE ROBOTS ETHICS AND LEGAL COMPLIANCE?

Key questions for businesses deploying AI to consider, from data privacy to governance

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PODCAST – HEALTHCARE TECH: HOW WILL THE FDA REGULATORY FRAMEWORK ADAPT TO AI?

Companies leveraging AI to innovate in the healthcare space will soon face a new regulatory landscape.

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