

# From Virtual Reality to Artificial Intelligence:

*How to adapt IP, Data, Cyber and Governance in the New World*



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# Agenda

**01** VR and AI Technologies Defined

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**02** Emerging Legal and Regulatory  
Environments

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**03** Implementing and Creating a Flexible  
Framework

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**04** Key Takeaways

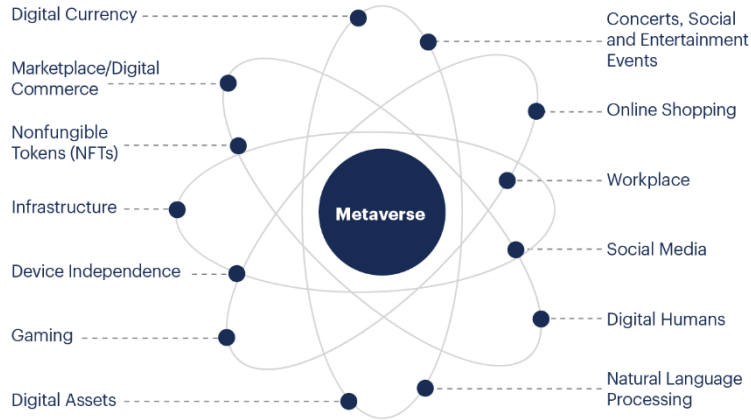
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# 01 VR and AI Technologies Defined

# Metaverse Defined

## Elements of a Metaverse



**gartner.com**

Source: Gartner  
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**Gartner**

A collective virtual open space, created by the **convergence** of virtually enhanced physical and digital reality. It is physically persistent and provides enhanced **immersive** experiences.



# NFTs Defined

## NFTs

- A type of crypto asset with unique **metadata** to track ownership.
  - Certificates of **ownership** for digital content recorded on a blockchain.
  - Provenance: previous owners can be tracked.
- **Non-fungible**: Unlike cryptocurrencies (which are fungible: all units are equivalent and interchangeable).
- NFTs do not change the fact that digital works can be infinitely replicated. Instead, they create scarcity by generating a **digitally unique record of ownership**.

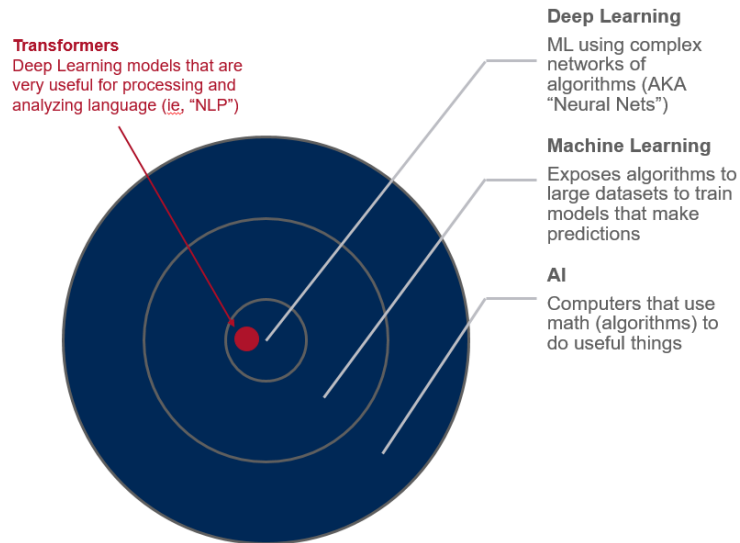
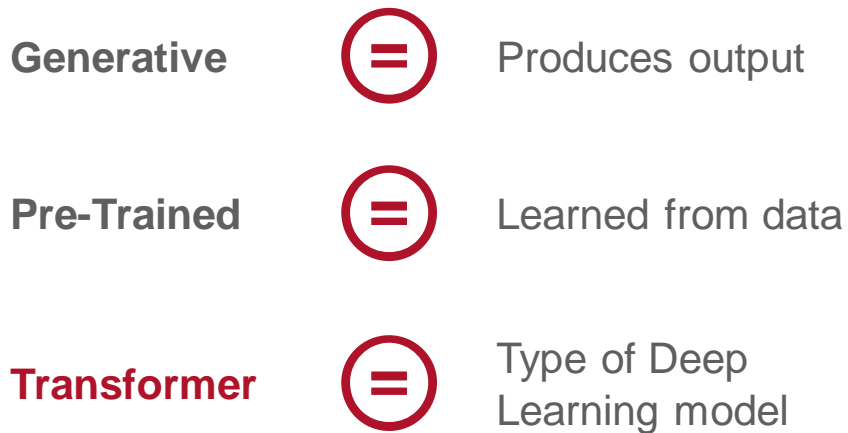


# AI Defined

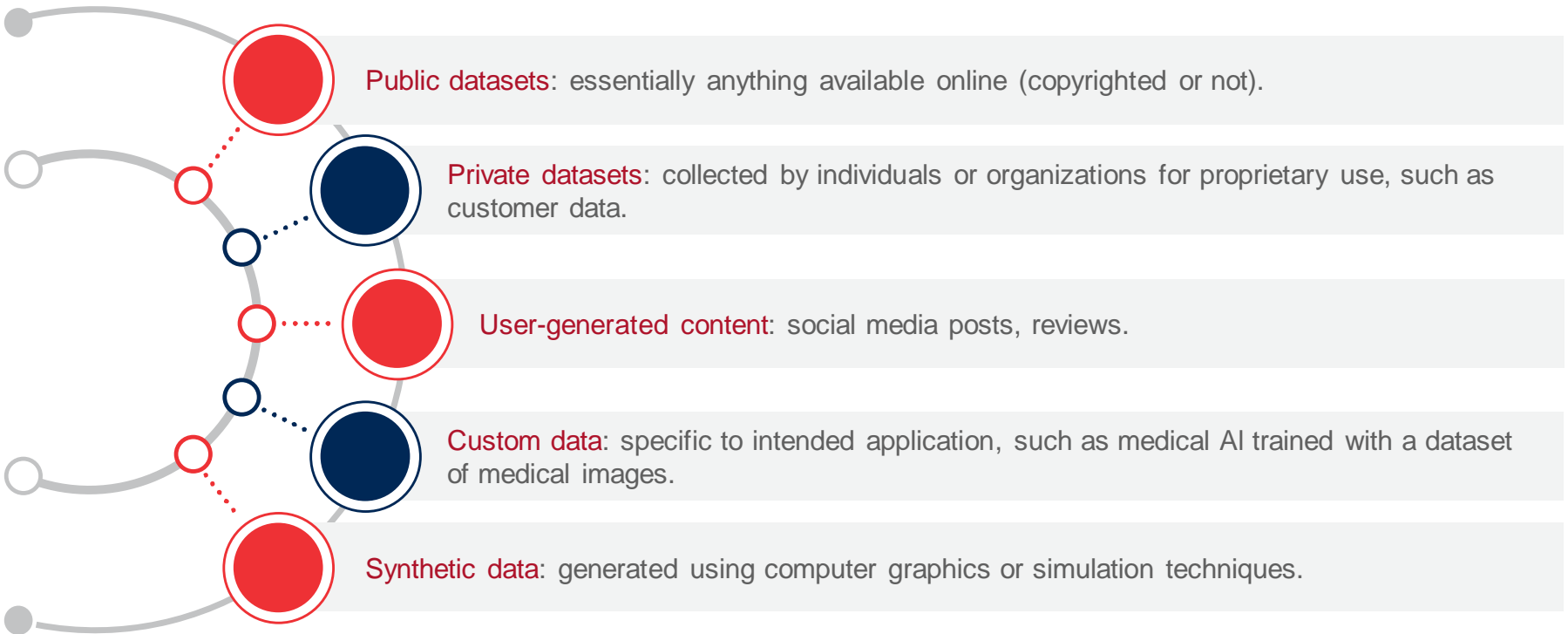
**Artificial Intelligence (AI)** is "the computerized ability to perform tasks commonly associated with human intelligence, including reasoning, discovering patterns and meaning, generalizing knowledge across spheres of application, and learning from experience" (Source: FPF)

- **Machine Learning** is a branch of AI concerned with AI models that "learn" from the success or accuracy of their outputs, and can adapt their programming over time, with minimal human intervention.
- An **AI system** is a group of machine learning models, AI and non-AI technologies that work together to accomplish specific tasks, e.g., such as ranking posts in a feed.
- An **AI model** is what is used to perform tasks moving forward, with new data, once the AI has already been trained.
- A **foundation model** is a large AI model that can be adapted to a wide variety of tasks and applications.

# What Is GPT?



# Sources of Training Data





# 02 Emerging Legal and Regulatory Environments

# Metaverse Legal and Regulatory Issues



**Consumer Protection and Safety**



**Data Privacy**



**Cyber Security**



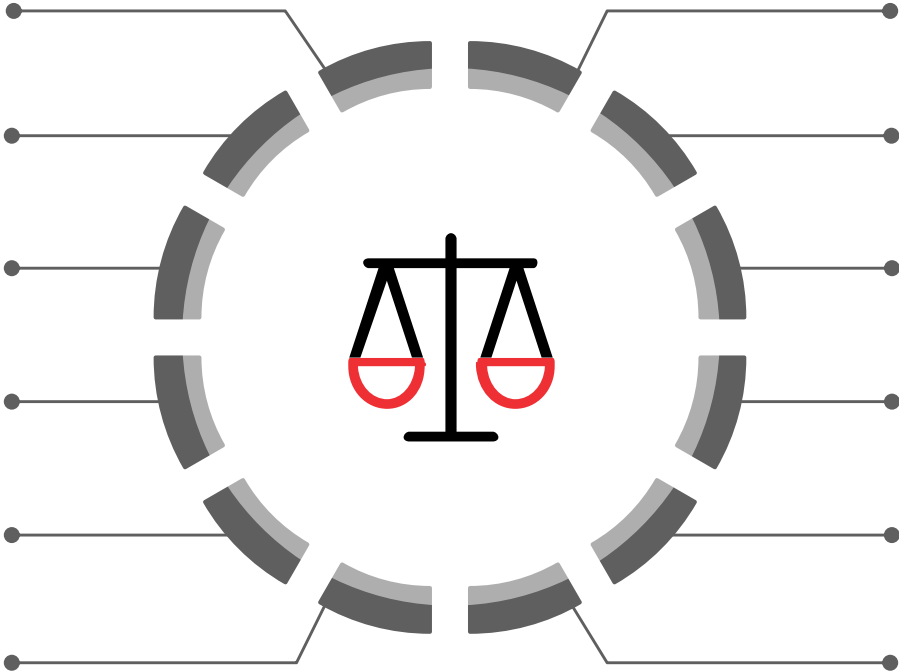
**Financial Regulation**



**Liability**



**ESG**



**IP / Brand enforcement**



**IP / Brand protection**



**Compliance**  
(e.g., AML, Sanctions, Fraud)



**Tax**



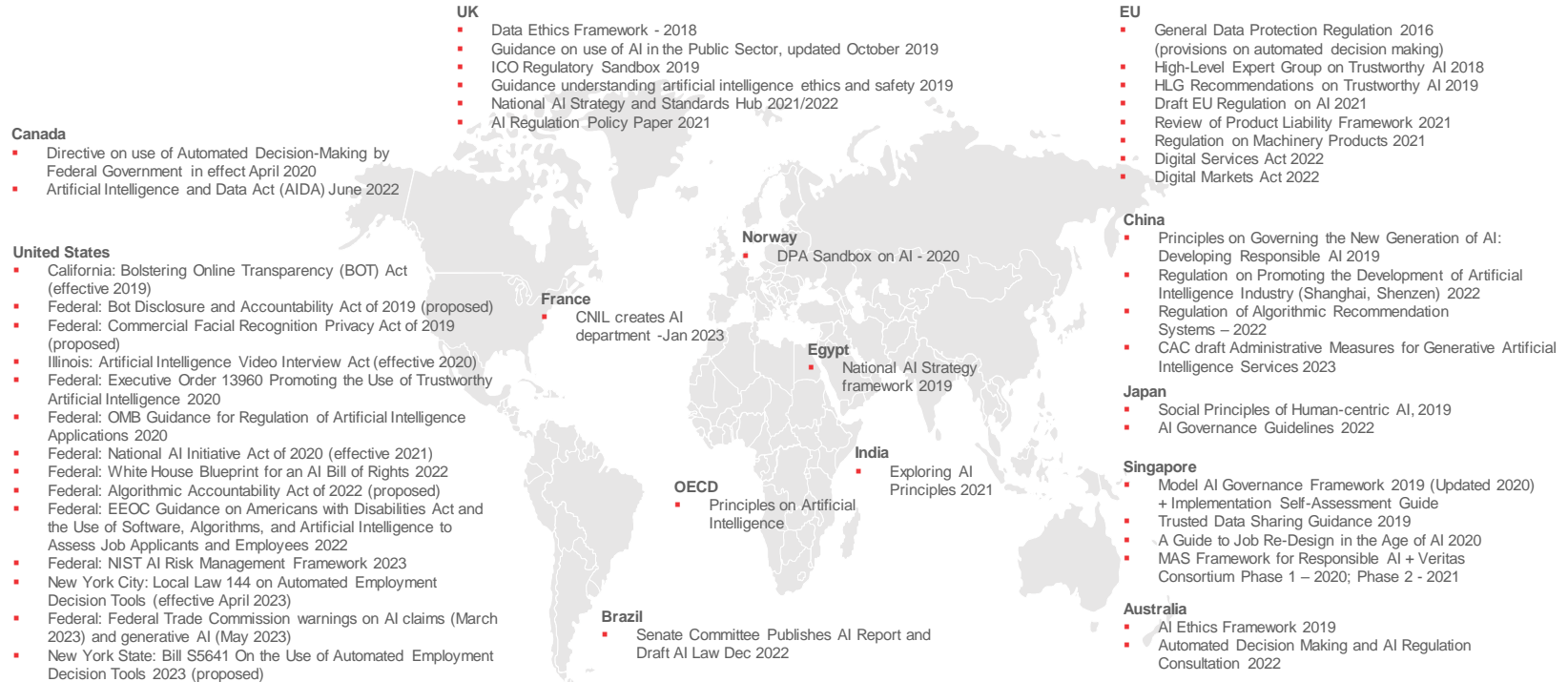
**Contracts + smart contracts**



**Disputes**



# Emerging AI legal and regulatory framework



# Metaverse Legal and Regulatory Issues



## Privacy, Data Protection and Cybersecurity

- To create immersive experiences, more data will need to be collected (e.g., haptic/biometric feedback, facial expressions for avatar rendering, sharing of content).
- The old methods of 'obtaining consent' by websites will not work – will need better privacy by design.
- Ability to 'single out' users will increase require better data practices and policies (minimization and specification).
- The identity management question?

## IP/Technology

- Brands will need a framework / strategy for the protection of IP (e.g., virtual counterfeit apparel).
- Untangling 'ownership' and IP rights – the idea of real property rights is gaining traction (SecondLife's dilemma – denial of user access?).
- IP dispute resolutions and takedown – obligation for metaverse creators.
- Commercial terms and EULA's will play a big role (e.g., NFT minting exchanges T's & C's).

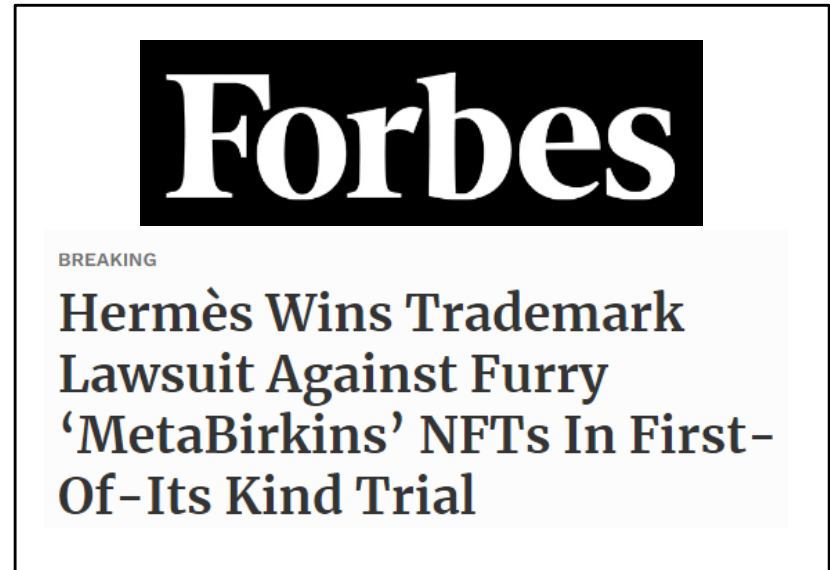
# Case Study 1: Data Protection and AI



- Italian data protection authority (Guarantee) issued ban of ChatGPT in March 2023 and launched investigation into potential GDPR violations.
- These actions followed a reported data breach targeting ChatGPT systems involving chat logs and payment information.
- Guarantee complaint focused on mass collection of user data for training AI models and potential harms to children.
- Ban lifted in April 2023 after ChatGPT introduced age verification and publicly accessible privacy policy.

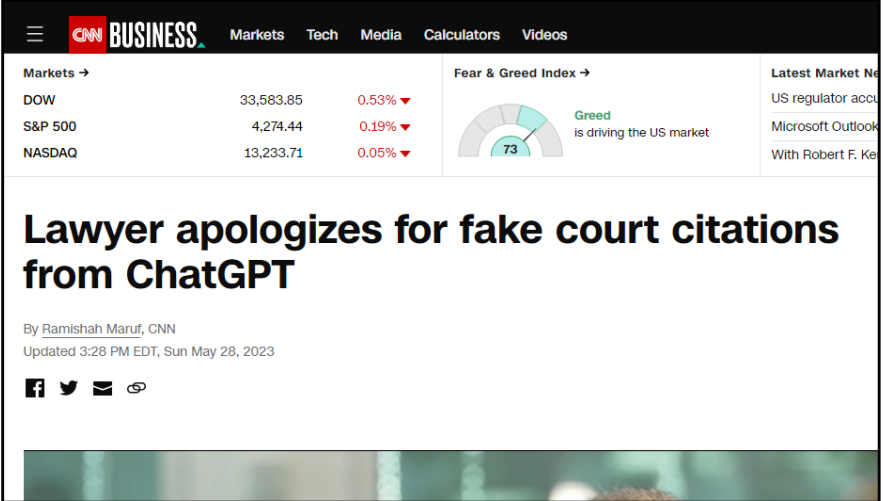
# Case Study 2: Trademarks and NFTs

- Luxury fashion house Hermès sued artist Mason Rothschild for creating series of NFTs called MetaBirkins.
- Hermès alleged that the NFTs, which depicted the iconic Birkin handbags covered in fake fur, infringe its trademarks in the bags' designs.
- Rothschild argued the NFTs are works of art and therefore aren't subject to usual trademark likelihood-of-confusions restrictions.
- Jury found in favor of Hermès.



# Case Study 3: Lawyers and ChatGPT

- Roberto Mata sued Avianca airlines for injuries he says he sustained from a serving cart while on the airline in 2019, claiming negligence by an employee.
- at least six of the submitted cases by Schwartz as research for a brief “appear to be bogus judicial decisions with bogus quotes and bogus internal citations,” said Judge Kevin Castel of the Southern District of New York in an order.
- When asked, ChatGPT double down, stating that the cases were real sources.
- The unprecedented situation will culminate on June 8, 2023 in a sanctions hearing against the lawyer.



The image is a screenshot of a CNN Business website article. The top navigation bar includes the CNN logo, 'BUSINESS', and links for Markets, Tech, Media, Calculators, and Videos. Below the navigation, there are three main sections: 'Markets' with a table of stock indices, 'Fear & Greed Index' with a gauge chart, and 'Latest Market News' with a list of headlines. The main article headline is 'Lawyer apologizes for fake court citations from ChatGPT' by Ramishah Maruf, updated on Sun May 28, 2023. Social media sharing icons for Facebook, Twitter, Email, and Print are visible below the article information.

Markets →			
DOW	33,583.85	0.53%	▼
S&P 500	4,274.44	0.19%	▼
NASDAQ	13,233.71	0.05%	▼

**Fear & Greed Index →**  
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Greed is driving the US market

**Latest Market News**  
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## Lawyer apologizes for fake court citations from ChatGPT

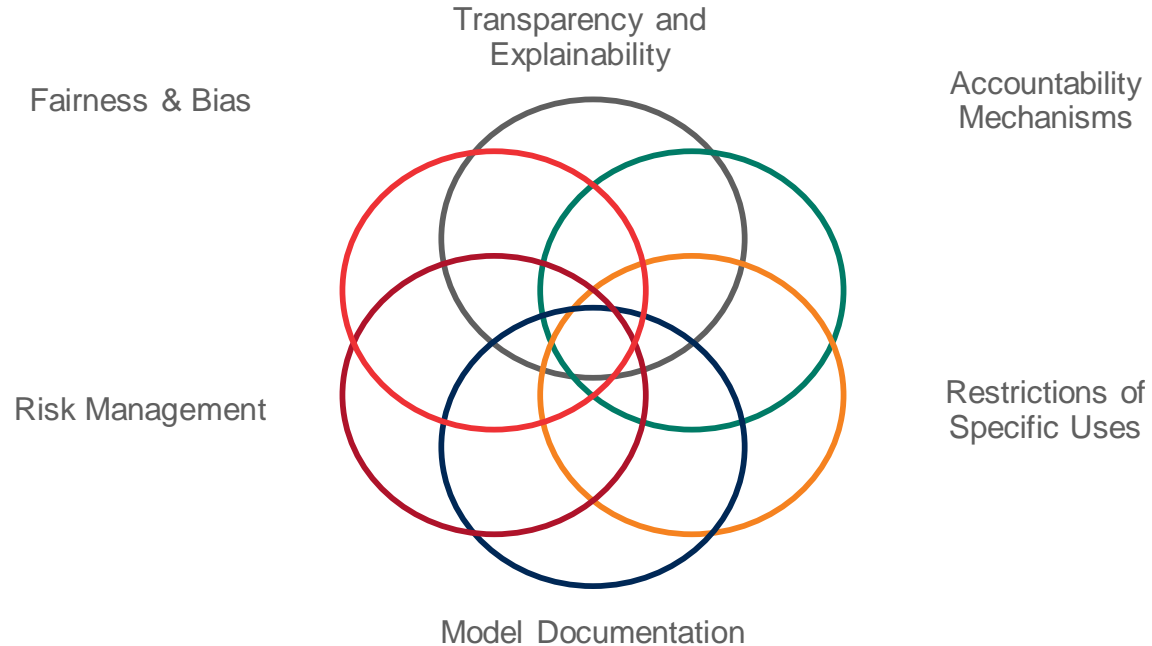
By [Ramishah Maruf](#), CNN  
Updated 3:28 PM EDT, Sun May 28, 2023

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# 03 Implementing and Creating a Flexible Framework



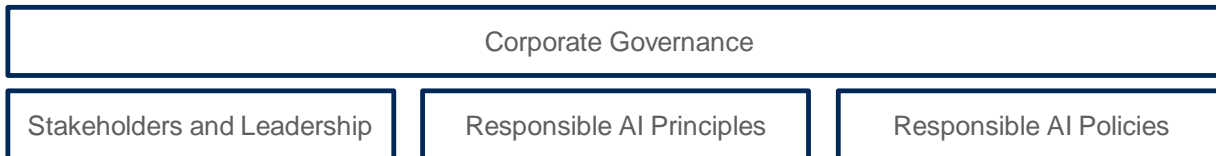
# Key AI Compliance Themes



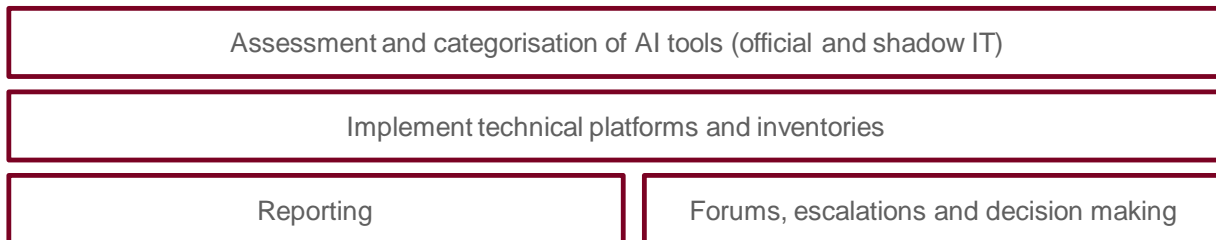
# Responsible AI Governance



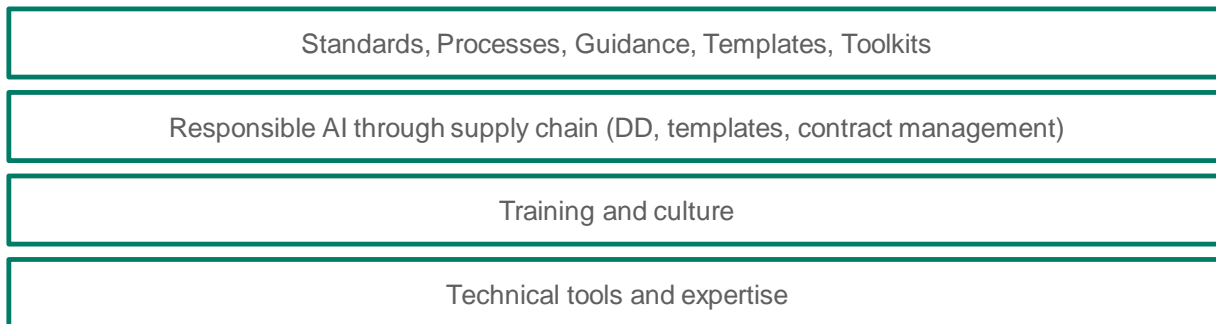
Enterprise  
Governance



Implementation-  
AI Lifecycle  
Management



Building  
Best practice



# Legal's Role in the AI Lifecycle

## 7. Disputes and Investigations

- Advising on disputes relating to the use and deployment of AI.
- Advising on regulatory investigations and enforcement actions relating to the use of AI and data, including disputes relating to cyber risk arising from AI.

## 6. Management and Monitoring

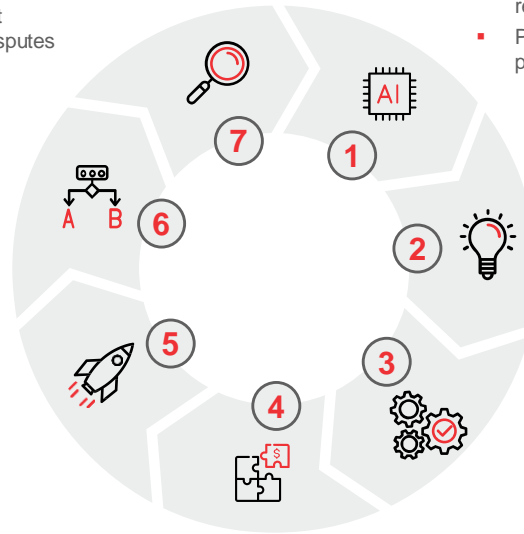
- Advising on ongoing monitoring and audit requirements, as well as additional specific protocols and controls of AI solutions (including black box risks).
- Monitoring legal developments and supporting colleagues on regulatory and third party audits, and changes in law.

## 5. Deployment

- Advising on legal risks and liabilities that arise from how AI is deployed in decision-making and the data set used to train AI models.

## 4. Procurement

- Advising on contracts with AI solution vendors, developers and project participants, including
- MSAs / JVs / Collaboration and Multi-Party Agreements
- Embedding good practice around responsible AI throughout the supply chain.



## 1. Establishing AI Governance

- Supporting colleagues on AI compliance audits and readiness assessments.
- Preparing and rolling out responsible AI principles, policies and procedures.

## 2. Ideation and Assessment

- Advising on the regulatory risks (e.g., competition, data protection) surrounding the proposed use case.
- Advising on proof of concept and pilots (including key differences) and contracting models.
- Advising on marketing and related risks when undertaking any collaboration events, hackathons etc.

## 3. Design and Build

- Advising on the use of data, third party materials and creation of new IP.
- Supporting colleagues on implementing ethics by design and navigating regulatory, competition, cybersecurity and reputational risks.

# 04 Key Takeaways

# Best Practices and Ways to Mitigate Legal Risks

## Implement internal use guidelines

Identify permitted use cases and build appropriate guardrails and governance

## Crisis management

Continuously monitor risks (e.g., for IP infringement, breaches) and have response plan in

## Adopt policies for third party uses

Update customer terms and privacy policies

## Monitor supply chain

Update third party vendors diligence for and vendor management processes

## Improve on raw AI output

Show work has substantial human contribution

## Consult legal counsel

Consult with IP and data specialist counsel to help understand the legal risks

The image features a white speech bubble shape on a red background. The background is filled with a dense, wavy pattern of thin, curved lines that create a textured, ripple-like effect. The speech bubble is a simple, clean shape with a pointed bottom, and the word "Questions" is written inside it in a bold, black, sans-serif font.

**Questions**

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