

**Baker
McKenzie.**

**Updates in AI Regulation &
Enforcement**
From CA to the EU

Berkeley Center for Law & Technology (BCLT)

Contacts



Cynthia Cole
Partner

Baker McKenzie
Palo Alto
cynthia.cole@bakermckenzie.com
+1 650 251 5909

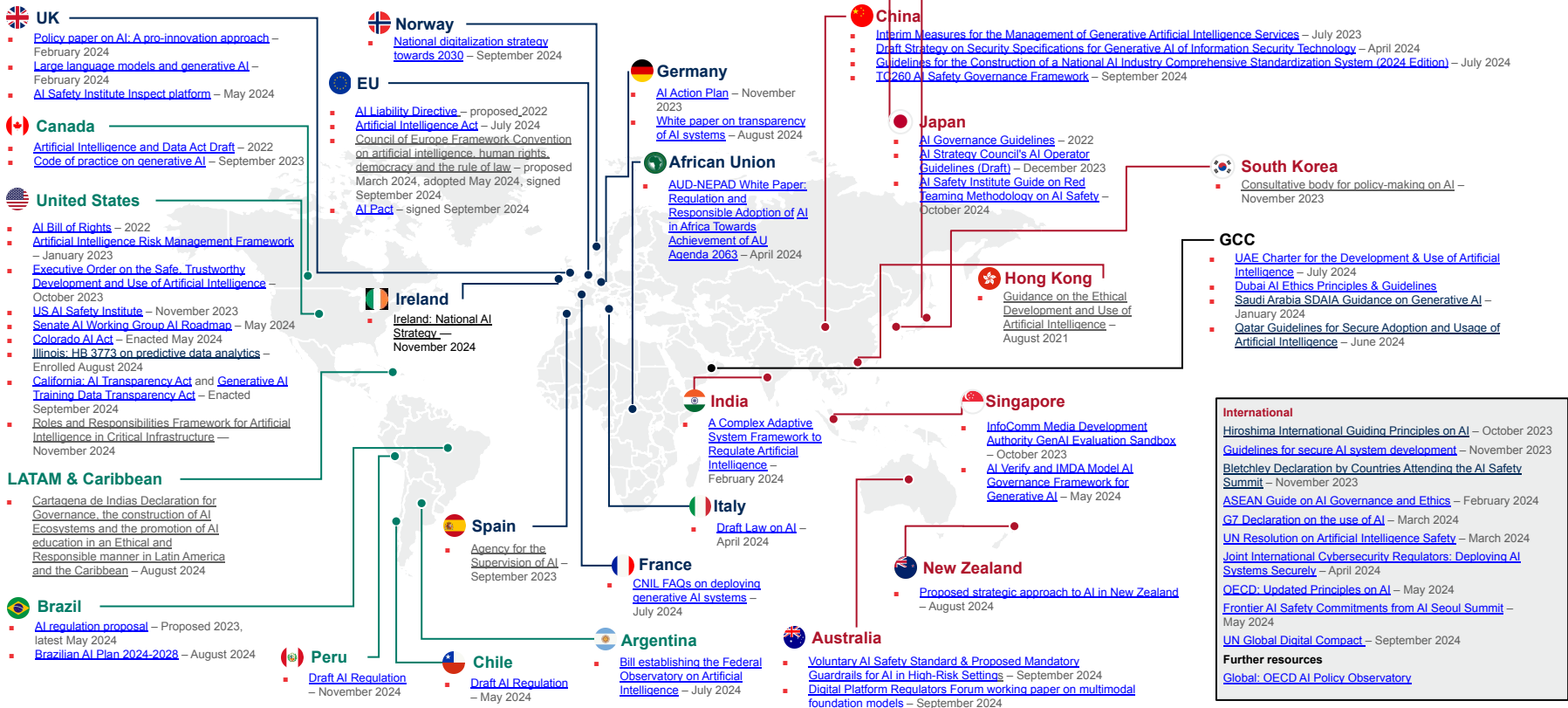


Rachel Ehlers
Partner

Baker McKenzie
Dallas/Houston
rachel.ehlers@bakermckenzie.com
+1 713 427 5027

This map shows only some of the specific AI regulation that is emerging around the globe. Other existing regulation (adjacent legislation), such as discrimination legislation and data privacy, also applies to AI. This global map focuses on key regulation, with further detail in our regional maps.

Evolving AI Regulation Across the Globe



EU AI Act – risk-based approach

The EU AI Act targets regulation to assigned risk categories. It identifies four specific levels of risk, as well as risks specific to general purpose models:

Unacceptable risk: prohibited



Art 5: violates fundamental rights (e.g., social scoring, facial recognition in public, emotion recognition in workplace, biometric categorization using sensitive data)

High risk: Conformity Assessment



Art 6: significant potential harm to health, safety, fundamental rights, environment, democracy and the rule of law - in education, employment, critical infrastructure, law enforcement, and AI as a medical device

Limited risk: Transparency



Art 52: AI systems interacting with humans where there is risk of manipulation (e.g., chat bots, deep fakes)

Minimal risk: Voluntary code of conduct



Art 69: Spam filters, video games

Focus: high-risk system

Penalties: up to EUR 35 million or 7% annual worldwide turnover

Other Key International Laws to Watch



China's Interim Measures:
apply to GAI technologies



Brazil: proposed AI
regulation under review



African Union's AI
Strategy: possible
unified approach
across continent



Canada: Artificial Intelligence and Data
Act under review; would regulate AI at
federal level; expect provinces to follow

U.S. Enforcement of AI

Existing laws

Federal, state regulators using existing frameworks to regulate AI (privacy, IP, biometrics)

New laws

2024: 700+ AI bills considered
2025: already 300+

Regulations

FTC and State AGs have made regulating AI a priority

Changing AI Policy under Trump Administration



Executive Order 14110 on **Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence**
October 30, 2023

- Reporting requirements for developers of certain powerful AI models
- Establishes AI Safety Institute
- NIST to develop guidance on content authentication
- Address AI risks on critical infrastructure



Executive Order 14179 on **Removing Barriers to American Leadership In Artificial Intelligence**
January 23, 2025

- President Trump had previously rescinded Executive Order 14110
- Announces policy to “*sustain and enhance America’s global AI dominance in order to promote human flourishing, economic competitiveness, and national security*”
- Instructs advisors to review measures under Biden order for consistency with new policy

Changing AI Policy under Trump Administration



Executive Order 14141

Advancing United States Leadership in Artificial Intelligence Infrastructure (January 14, 2025)

- Provides streamlined processes for leasing federal land for AI data centers and clean energy facilities
- Not (yet?) revoked by Pres Trump



Project Stargate

(Announced January 14, 2025)

- New joint venture, touted by Pres Trump, to invest \$500 bn in new AI infrastructure



DeepSeek

(Launched January 10, 2025)

- New Chinese consumer language model, whose training costs amounted to just \$6m
- Developer had stockpiled 10,000 Nvidia GPUs, which were subsequently export-restricted, to train model
- Italy's data protection regulator (Garante) has blocked DeepSeek, on the grounds that it doesn't disclose its data use policies

Existing Legal Frameworks Regulate AI



JOINT STATEMENT ON ENFORCEMENT EFFORTS AGAINST DISCRIMINATION AND BIAS IN AUTOMATED SYSTEMS

“Existing legal authorities (e.g., civil rights, non-discrimination, fair competition, consumer protection laws) apply to the use of automated systems and innovative new technologies just as they apply to other practices.”

From Oregon AG (December 2024):
existing state laws apply to AI

- **Unlawful Trade Practices Act** prohibits misrepresentations, using AI to set unconscionable prices
- **Oregon Consumer Privacy Act** requires disclosure in privacy notice of personal data use to train AI
- **Oregon Consumer Information Protection Act** requires developers to safeguard personal information
- **Oregon Equality Act** prohibits discrimination based on protected characteristics

Existing Laws and Frameworks

CCPA - Automated Decision-Making Technology Regulations

- Requires: risk assessment when PI processing presents risk to individual (e.g., sensitive PI or use for consequential decision-making)
- Risk assessment must:
 - Be done within 24 months
 - Be Submitted to CPPA
 - Identify purpose of processing, categories of data, benefits to business, negative impact, safeguards
 - Evaluate if benefits outweigh risks, data minimization, reliability, retention, third party vendors, logic
- Additional requirements for high risks (e.g., opt-outs)

Existing Laws and Frameworks

NYC Ordinance on Automated Employment Decision Tools



- **Effective** January 1, 2023
- Applies to jobs in NYC, jobs associated with NYC office or NYC agency
- Applies when tool: (i) uses AI or ML; (ii) helps employers make employment decisions; and (iii) assists/replaces discretionary decision-making
- Requires:
 - Candidates must receive notice of AEDT
 - Annual bias audit by independent auditor; summary must be shared publicly
- **One to watch:** Even stricter requirements have been proposed in California (AB 2930)

New Laws

Colorado AI Law (SB 205)

- Effective February 2026
- Focus on **consequential decisions** that can impact individual's lives
- Applies to **high-risk AI systems** (used in consequential decision-making)
- Requires:
 - Documentation
 - Risk Management, Impact Assessments
 - Notice; disclosure of consequential decisions
 - Reporting to AG



New Laws

California AI Models Act (SB 1047)



- Vetoed in September 2024
- Focus on models with **excessive computing power**
- Requires:
 - Written safety and security protocols, including measures to protect unauthorized access, misuse
 - Risk assessments
 - Full shutdown capabilities, reporting of safety incidents
- Prohibits models capable of “critical harm”

What's next: Expect to see laws with a mix of risk-based and computing power analysis

Current Enforcement Actions and Regulatory Guidance

- **DOJ** prosecution of musician charged with music streaming fraud aided by AI
- **DOJ** brief favoring plaintiff accusing hotels of colluding via algorithmic pricing
- **DOJ** updated compliance program guidance for AI risks in new technology
- **DOJ and FTC** action for misrepresentations of AI-powered security software
- **FTC** order requires online marketer to pay \$1M for deceptive claims that AI product could make websites compliant
- **FTC** launches Operation AI Comply to crackdown on AI overpromises
- **FTC** action against pharmacy for discrimination in facial recognition security system
- **CFPB** using FCRA authority to crack down on employer monitoring with AI
- **SEC** charged investment firms for false/exaggerated statements on their AI use
- **SEC** charged recruitment startup with “AI-washing” fraud
- **EEOC** settled discrimination claim against resume automated screening company
- **Texas AG** settled first healthcare generative AI investigation
- **Texas AG** investigating AI companies over children’s privacy and safety

Baker McKenzie delivers integrated solutions to complex challenges.

Complex business challenges require an integrated response across different markets, sectors and areas of law. Baker McKenzie's client solutions provide seamless advice, underpinned by deep practice and sector expertise, as well as first-rate local market knowledge. Across more than 70 offices globally, Baker McKenzie works alongside our clients to deliver solutions for a connected world.

bakermckenzie.com

Baker & McKenzie Compliance Consulting LLC provides compliance management and support services and does not provide legal advice or services. Baker & McKenzie Compliance Consulting LLC is a corporation wholly owned by Baker & McKenzie LLP, a member firm of Baker & McKenzie International, a global law firm with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a "partner" means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an "office" means an office of any such law firm. This may qualify as "Attorney Advertising" requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

© 2024 Baker & McKenzie Compliance Consulting LLC