

# DATA PROTECTION AND CYBER SECURITY ROUND-UP NOTE

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**Weil**

As the digital landscape evolves, the UK and EU are leading efforts to foster innovation while ensuring robust regulatory frameworks. Recent key developments in data protection, cybersecurity and AI regulations reflect this balance. Following the recent European elections, the publication of the EU AI Act, and the UK King's Speech, we can anticipate significant changes in data protection and AI regulation. These changes will include reforms in data sharing and standards, enhanced regulatory powers and a push for greater consistency and clarity for businesses in the long term.

## ARTIFICIAL INTELLIGENCE

- The **EU AI Act** will enter into force on 1 August 2024 and will herald in a new era of AI regulation. The Act is designed to regulate AI technologies, emphasising safety, transparency and ethical use. It categorises AI systems based on their risk levels, imposing stricter requirements on high-risk applications such as those used in education and employment. The Act will begin applying provisions for prohibited systems on February 2, 2025 and will extend its regulations to new general-purpose AI (GPAI) systems (i.e. any GPAI models existing before this 12 month point) starting August 2025. Full compliance for high-risk systems listed in Annex III will be required by August 2026. The GPAI model rules for preexisting GPAI models and for high-risk AI systems listed in Annex II (i.e. those used in a safety component of a product) will take effect in August 2027. We recently published a note that provides an overview of the EU AI Act, the implications and practical next steps for organisations to ensure compliance. It is accessible [here](#).
- In 2022 the European Commission ("Commission") began revising its product liability regime to ensure that there are appropriate recourse and compensation mechanisms where AI causes harm to individuals. In March 2024, the EU Parliament approved the **Revisions to the Product Liability Directive (PLD)** which aims to provide easier access to compensation for consumers harmed (including psychological damage) from defective products, including AI technologies, allowing for non-fault, strict liability claims. In addition, the Commission introduced the **AI Liability Directive (AILD)** to facilitate non-contractual fault-based claims. Although the Council of the EU ("Council") still needs to adopt the PLD, and the AILD is still in draft form, organisations should start preparing as their goods and services will be subject to product liability law, potentially making them liable for damages caused by defective products, regardless of fault.

## UK DEVELOPMENTS

The **King's Speech** on 17 July 2024 marks a pivotal moment in the UK's approach to data protection and AI as the UK government outlined several key legislative initiatives that will shape the future of data protection and cyber security.

- The Cyber Security and Resilience Bill seeks to modernise and enhance the UK's cyber resilience within the existing cybersecurity regime as set out in the Network and Information Systems (NIS) regulations 2018 by introducing stringent regulatory measures in response to increasing cyber threats. The Bill will introduce proactive regulatory investigation powers to regulators including the UK's data protection authority, the Information Commissioner's Office (ICO), to identify and mitigate potential vulnerabilities. It will also mandate increased incident reporting to provide the government with better data on cyberattacks, including ransomattacks. The Bill is high-level at the time of writing and we can anticipate a more detailed draft of the bill in the coming months. You can read more about navigating cybersecurity reporting obligations in the EU and UK [here](#).
- The Digital Information and Smart Data Bill (DISDB) aims to reform data sharing and data protection standards in the UK and includes a number of initiatives including: (1) strengthening the powers of the ICO - you can read more about UK Enforcement actions [here](#); (2) establishing Smart Data schemes to facilitate the secure sharing of a customer's data upon their request with authorised third-party providers (similar to that of Open Banking) - the goal being to encourage customers to share their data with certain sectors to encourage economic growth; (3) establishing verification services and digital IDs; and (4) introducing reformed data laws where there is a lack of clarity around safely developing new technologies which will likely include AI. We can expect to hear more about this in the coming months and the impact it will have on organisations operating in the UK.
- Despite the anticipation of an AI Bill, it was notably absent from the King's Speech. However, the new Labour government has stated its intent to enact appropriate legislation to address the risks and harms associated with complex technologies such as AI. However, for now it appears the UK will continue its sectoral approach to AI regulation, relying on existing regulators to oversee AI development within their respective sectors. We will need to adopt a wait-and-see approach as the Labour government clarifies its position and any potential deviations from the current AI regulatory framework.

## EUROPEAN DEVELOPMENTS

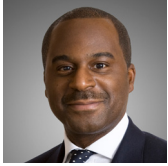
- According to Article 97 of the GDPR, the Commission must conduct a review every four years to evaluate its implementation and effectiveness. In January 2024, the Commission launched a **call for evidence to gather feedback on how the GDPR is operating in practice**, to collect insights to assess the impact of GDPR on data protection practices and innovation. On 25 July 2024, the **Commission published its findings in a report** noting there has been great benefit from the GDPR but further progress must be made over the coming years. In particular: (1) supporting compliance efforts for small and medium sized enterprises and research organisations; (2) providing clearer and more actionable guidance from the data protection authorities (DPAs), with a focus on anonymisation and pseudonymisation, legitimate interest, and scientific research; (3) revisiting next steps concerning the e-privacy Regulation proposal; and (4) achieving a more consistent interpretation and enforcement of the GDPR across the EU, including allocating sufficient resources to DPAs and facilitating dialogue between other national regulators.
- This response is in line with the proposal the Commission submitted for a **regulation on GDPR procedural rules regarding the One-Stop-Shop in July 2023** with the hope that its proposals will lead to cross-border investigations being resolved more quickly for both data subjects and the parties under investigation. The proposal will likely gain support given the findings in the report and may result in greater harmonisation, more certainty and efficiency for businesses involved in such investigations. Organisations should be aware that a more efficient and streamlined process for cross-border investigations is likely to allow DPAs to use their limited resources more efficiently, and therefore undertake more extensive enforcement activities.
- In addition to the GDPR review, the Council adopted the **EU strategic agenda 2024-2029** at the end of June 2024. The agenda outlines the EU's political priorities for the next five years, with a significant focus on AI. The Council is looking to enhance Europe's competitiveness in AI technologies and integrating AI advancements into various sectors to foster innovation and economic growth across the EU.

We can expect continued changes across the data protection and AI regulatory landscapes and it is essential for organisations to monitor these trends closely and proactively prepare to meet future challenges and opportunities effectively.

Should you have any questions about these or other topics related to AI, data protection and cybersecurity and how it may impact your organisation, please feel free to reach out to me.

# FOR MORE INFORMATION

If you would like more information about the topics raised in this briefing, please speak to your regular contact at Weil or to the author listed below.



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