# The White House Executive Order on Artificial Intelligence – the Impact on Legal Services for Businesses, and How CLOs and Corporate Legal Teams Can Prepare

## JDs, LLMs, and the Future of Law: How adept legal teams can adapt to the new reality and adopt Generative AI

***First in our series of KPMG articles sharing insights and points of view from KPMG's Legal Operations Transformation Services practice group about the ways in which generative AI will affect the law, lawyering, and lawyers***

## Strategic and Practical Implications for Chief Legal Officers and In-House Law Departments

President Biden's Executive Order (EO) on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, issued on October 30, 2023, will have significant implications for Chief Legal Officers (CLOs) and corporate legal teams serving businesses in the United States. This article analyzes the practical effect of the EO on in-house legal teams and their business clients — in particular, how the EO is likely to change (i) the nature and delivery of legal services for businesses, and (ii) corporate legal department strategy and operations.[1]

## I. How the EO may alter the delivery and mix of legal and other services provided by corporate legal teams

Many of the concerns at the heart of the EO — issues such as safety, bias and fairness, information security, data privacy, consumer protection, labor and employment, civil rights, and ethics and compliance (to name a few) — intersect with the legal and regulatory system. As the U.S. government begins acting to effectuate the EO, businesses utilizing AI[2] will increasingly be called on to focus on these issues.[3] In particular, the EO calls attention to the need for protections in "critical fields" including healthcare, financial services, education, housing, law, and transportation, in which AI has the potential to cause harm. (*See* EO § 2(e).) As the focus sharpens and stakes increase, legal teams will be essential — and should take a leading role — in developing enterprise strategies to address the core issues raised by AI, both as set forth in the EO and as such issues continue to evolve and emerge in the future.

[1] The EO has been summarized elsewhere (*see*, *e.g.*, Fact Sheet (White House overview of EO); Executive Order on Safe, Secure, and Trustworthy AI (kpmg.com) (KPMG summary of EO)). This article will not restate those digests, beyond noting that the EO reflects the U.S. government's recognition of AI's "extraordinary potential for both promise and peril," and the need for a coordinated response that involves "government, the private sector, academia, and civil society." (EO § 1.) The EO's thirteen sections set forth a range of principles to help enable the development and use of safe, secure, and reliable AI in the U.S., through policies and actions involving administration officials and federal agencies, as well as private industry, labor organizations, and other stakeholders. This article focuses on the implications of the EO for Chief Legal Officers and corporate legal teams as they advise their businesses.

[2] According to KPMG's Generative AI Survey earlier this year of approximately 300 business executives around the world, 77% deemed generative AI to be the most influential emerging technology they will utilize. Indeed, 71% anticipate implementing their first generative AI solution within the next two years. Generative AI: From buzz to business value (kpmg.com).

[3] Responsible and fair use of AI has long been a concern of many businesses. Even before the EO, for instance, leading developers of AI issued statements of principle regarding ethical considerations for the development and use of AI capabilities. *See*, *e.g.*, *Responsible AI Principles*, MICROSOFT.COM, https://www.microsoft.com/en-gb/ai/responsible-ai?activetab=pivot1:primaryr6 (last visited Nov. 17, 2023) (Microsoft principles of responsible AI); *Developing Safe & Responsible AI*, OPENAI.COM, https://openai.com/safety (last visited Nov. 17, 2023); (OpenAI statement regarding AI safety); *Our Principles / Objectives for AI Applications*, AI.GOOGLE, https://ai.google/responsibility/principles/ (last visited Nov. 17, 2023) (Google AI principles). *See also* 2023 KPMG US AI Risk Survey Report (outlining KPMG's eight principles of responsible AI; also providing overview of 2023 KPMG survey of businesses regarding generative AI); *Generative AI for Law and Legal Processes*, LAW.MIT.EDU, https://law.mit.edu/ai (lasted visited Nov. 17, 2023) (overview of work by MIT Task Force on Responsible Use of Generative AI for Law, articulating seven proposed principles for use of generative AI in law).

The EO's impact on CLOs and corporate legal teams is likely to be significant and will increase over time. Although the EO focuses primarily on the federal government, corporate legal departments (as well as their outside law firms and other advisors) should watch federal activity closely, as it may contain important signals regarding government policy-making and enforcement priorities that will begin to directly affect the private sector. In fact, the EO expressly directs entities within the executive branch (*e.g.*, the Department of Commerce, through the National Institute of Standards and Technology (NIST) and the U.S. Patent and Trademark Office (USPTO); the Department of Labor; the Federal Trade Commission; and others), to begin taking action to effectuate the principles set forth in the EO[4]. Those actions will almost certainly include federal rulemaking — which would create opportunities for comments prior to promulgation, as well as litigation, both challenging the rulemaking, as well as interpretation and application of such rules once they are in place. The EO is also an implicit invitation for possible legislation on AI.[5]

***How the Executive Order extends beyond directives to administration officials and government agencies, and calls for rules that will directly affect businesses (selected examples):***

- Establishing NIST guidelines and best practices that will foster "consensus *industry* standards, for developing and deploying safe, secure, and trustworthy AI systems" (EO § 4.1(a)(i) (emphasis added))
- Establishing detailed government reporting requirements for companies developing potential dual-use foundation models (EO § 4.2(a)(i))
- Creating "principles and best practices *for employers*" to utilize AI in ways that will benefit, and not harm, employees (EO § 6(b)9i) (emphasis added).)
- Issuing new guidance to patent *applicants* to address "other considerations at the intersection of AI and IP," such as "updated guidance on patent eligibility to address innovation in AI and critical and emerging technologies" (EO § 5.2(c)(ii))
- Developing guidance and "other resources" for "*private sector actors*" regarding mitigating the risks of AI-related IP theft (EO § 5.2(d)(iii) (emphasis added))

The EO thus will catalyze a change in the mix of legal services and other advice that corporate legal teams will likely be asked to provide, both in the near and longer terms.

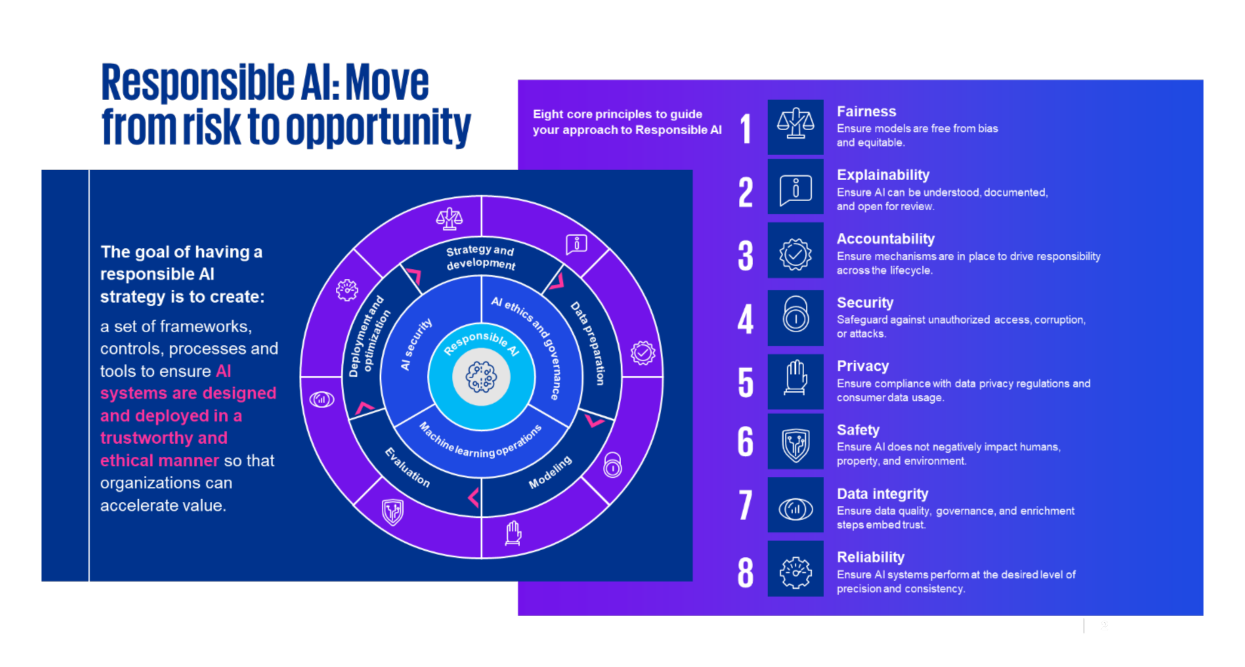
[4] See Appendix for a full list of executive branch agencies and officials that are directed in the EO to take action.

[5] Before the EO was issued, Congress enacted the National Artificial Intelligence Initiative of 2021; other bills proposing to regulate AI have also been introduced in Congress. In addition, a number of U.S. states have enacted legislation beginning to regulate AI. *See Artificial Intelligence 2023 Legislation*, NCSL.ORG, https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation (last visited Nov. 17, 2023) (report from the National Conference of State Legislatures summarizing state-level legislation during 2023 regulating AI). Legislation is also being considered by the European Union, among other jurisdictions. *See* Shana Lynch, *Analyzing the European Union AI Act: What Works, What Needs Improvement*, HAI.STANFORD.EDU, https://hai.stanford.edu/news/analyzing-european-union-ai-act-what-works-what-needs-improvement (last visited Nov. 17, 2023) (overview and analysis of proposed EU AI Act).

## A. New areas of legal and regulatory focus under the EO

- **Ethics:** Ethics considerations about AI run throughout the EO. The ethics principles set forth in the EO in many ways reflect ideas contained in long-established principles of law and equity, as well as American political history and theory. Lawyers tend to be well-trained in these principles, and as the federal government begins applying them to this evolving technology, legal teams will be essential advisors to their businesses. KPMG's approach to AI ethics appears in Figure 1.

*Figure 1: KPMG Responsible AI Framework*



**Responsible AI: Move from risk to opportunity**

**The goal of having a responsible AI strategy is to create:**

a set of frameworks, controls, processes and tools to ensure AI systems are designed and deployed in a trustworthy and ethical manner so that organizations can accelerate value.

Eight core principles to guide your approach to Responsible AI

1 **Fairness** Ensure models are free from bias and equitable.

2 **Explainability** Ensure AI can be understood, documented, and open for review.

3 **Accountability** Ensure mechanisms are in place to drive responsibility across the lifecycle.

4 **Security** Safeguard against unauthorized access, corruption, or attacks.

5 **Privacy** Ensure compliance with data privacy regulations and consumer data usage.

6 **Safety** Ensure AI does not negatively impact humans, property, and environment.

7 **Data integrity** Ensure data quality, governance, and enrichment steps embed trust.

8 **Reliability** Ensure AI systems perform at the desired level of precision and consistency.

- **Safety and trustworthiness:** Core concerns of the EO, such as safety and trustworthiness (or dependability[6]), raise issues that will inevitably wind up before legal teams. That may be especially true in sectors designated as critical fields, as noted above. Although legal teams will likely defer to computer science, IT, and data science experts regarding the precise workings and parameters of specific AI applications, lawyers can and should advise with regard to the appropriate standards of safety and dependability, with an eye both towards general principles of ethical and responsible use of AI, as well as specific regulations and laws that may be forthcoming. For instance, as NIST develops guidelines for implementing the AI Risk Management Framework, as well as standards for AI-related red teaming, legal departments may need to take a role in interpreting and applying those standards, and by participating in red teaming exercises themselves. (*See* EO § 4.1(a).)

[6] The EO's use of the term "trustworthy" potentially risks anthropomorphizing AI. Whereas humans are capable of granting trust — and earning it — inanimate systems arguably are not. Trust, in some senses, may connote intentionality, especially when the thing being "trusted" appears to be communicating in a human-like way. One of the risks of AI (especially generative AI) is that people may begin to regard it as something it is not: sentient, and possessed of intention. Language that anthropomorphizes AI can create confusion regarding the technologies at issue. *See*, *e.g.*, Cindy M. Grimm, *The Danger of Anthropomorphic Language in Robotic AI Systems*, BROOKINGS.EDU, https://www.brookings.edu/articles/the-danger-of-anthropomorphic-language-in-robotic-ai-systems/ (last visited Nov. 17, 2023) (describing risks of anthropomorphizing AI via semantic choices). Legal teams should be cognizant of the implications of such language. Alternatives to the EO's term, "trustworthy," could include "reliable" and "dependable." Legal teams may wish to consider the terms they use in referencing and describing AI and its capabilities as they advise their businesses.

***How the EO may alter the mix of legal and regulatory issues that CLOs and law departments need to address…***

- Ethics: ethical implications of AI
- Safety & trustworthiness: how safety concerns/factors in AI alter legal risk and exposure
- IP: implications of AI for creation and protection of IP
- Employees: mitigating negative effects of AI with respect to employees and employment conditions
- Privacy, protection of individuals, & fairness: extending existing legal principles to mitigate harms of AI in these areas
- Transparency: disclosure requirements relating to AI usage/roles, incidents, and risks
- Rulemaking: proposed rules emanating from actions taken under the EO

***…and how CLOs and their legal teams will need to respond:***

- Policies: developing AI use policies
- Governance: defining and overseeing enterprise AI strategy
- Compliance: monitoring of adherence to AI laws and regulations, as well as enterprise AI policy

- **IP:** The EO directs the USPTO to publish guidance for patent examiners and applicants regarding inventorship and the role of AI, as well as additional guidelines addressing "other considerations at the intersection of AI and IP," possibly including guidance on patent eligibility and innovation in AI and critical and emerging technologies. (EO § 5.2(c).) Moreover, there is a large and evolving literature, not to mention a number of court decisions, regarding the role of generative AI in the development of intellectual property. This area of law and regulation is likely to evolve in ways that will be of significant importance to businesses. Legal teams will increasingly be asked to advise on the AI-related aspects of IP law, as well as developing sound processes and practices for their businesses to utilize in documenting the role (or lack thereof) of AI in creating particular IP. Legal teams will also be in a position to advise on strategies for deploying AI to monitor for potential infringements of a company's existing IP.

- **Employment Law & Employee Protections:** The EO prioritizes ensuring that AI in the workplace advances employees' well-being, and directs the Department of Labor to "develop and publish principles and best practices for employers" to utilize AI in ways that maximize benefits to workers, while minimizing harms. These forthcoming DOL principles and best practices are to include "specific steps for employers to take with regard to AI," covering a range of matters including labor standards and job quality, compensation, and safety; collection and use of data regarding employees; and job displacement risks and career opportunities relating to AI. (EO § 6(b)(i).) Legal teams will be called upon to interpret these new DOL principles and best practices and advise their businesses regarding any new obligations they create.

- **Privacy, protection, and fairness – established principles, new area:** Privacy, consumer protection, and fairness are among the core concerns of the EO. Interestingly, none of these issues is new; in fact, they are long-established in U.S. law and regulation — but now they will be applied to this evolving technology. For example, the EO instructs the Attorney General to "coordinate with and support agencies in their implementation and enforcement of existing Federal laws to address civil rights and civil liberties violations and discrimination related to AI." (EO § 7.1(a)(i).) Just as the federal government will do, corporate legal teams will be called on to apply familiar principles of law and equity, but in new ways.

- **Transparency:** Among the EO's principles is disclosure of when and how AI is being utilized, for instance in interacting with citizens and consumers, and in developing and providing products and services. Accordingly, businesses will need to develop strategies to address forthcoming regulations governing disclosure of AI use. As noted above, the EO consistently urges agencies to extend established principles of law and regulation to the governance of AI. In the case of disclosure requirements, that might involve looking to areas such as privacy and consumer product notification. Legal teams know how to apply these rules and how to develop systems to comply while mitigating risk; they may soon be called on to cross-apply those principles and practices to AI.

- **Rulemaking:** As federal agencies begin promulgating proposed rules to effectuate the principles set forth in the EO, there will be opportunities for the public, including business groups, trade associations, and even individual companies, to provide formal comments, and also to lobby regarding the form and content of the rules. Lawyers and compliance professionals alike will be front and center, helping business stakeholders provide comment. CLOs and their legal teams should be alert for opportunities to engage with the rulemaking process.

## B. Other legal department actions to address AI risks and issues

- **Policies:** Legal teams will be central to drafting company policies that balance competing interests and concerns regarding AI. The easy answer (albeit antithetical to business and commercial facilitation) of simply saying “no” to AI may appear to be a straightforward path to mitigating risk by avoiding the issue. But in fact such an answer is just as likely to create risk — in the form of missed opportunities to capitalize on the potential of AI; of being an early (if not first) mover in this space; and by pushing individuals in the enterprise who may be convinced of the value of AI either to leave, or to experiment with AI outside the system, thus creating an even greater risk. The fact is, AI is here, and companies that try to rule it categorically out-of-bounds are likely to find that position practically untenable — and they may well fall quickly behind their peers in terms of embracing innovation. But the converse of “anything goes” is equally untenable and creates self-evident risks of its own. CLOs and their legal teams will be called on in the near future to either draft, or quickly and regularly update, their businesses’ policies on the use of AI. If a business is to embrace AI as an innovation that provides a competitive advantage, the legal team may not have the luxury of scanning the marketplace for what has been put in place elsewhere, and in some ways the drafting of policies may well constitute an issue of nearly first impression. Again, however, established legal principles and legal reasoning will form the critical foundation for effective policies. Given the speed at which generative AI is taking hold, and the demands of boards of directors and shareholders to leverage it for competitive advantage, legal teams will be asked to work expeditiously to draft policies that lend themselves to practical application.
- **Governance and approvals:** Governance and review of proposed applications of AI within the enterprise is another area where legal advice and expertise will be invaluable. Although the AI-regulatory framework is only beginning to emerge, businesses need to operate with maximum awareness of what likely is forthcoming, and with an eye on potential exposure that certain uses or approaches to AI may create. Again, lawyers are well positioned to exercise this judgment and provide these inputs. This is a space where legal teams will be called upon to “see around corners,” and use their well-reasoned predictive skills to be proactive in mitigating risks of all kinds (legal, regulatory, reputational, and the like) attendant to applications of AI before the risks arrive at the business’s doorstep. Moreover, legal teams tend to be effective at governance, analysis, debate, and consensus-building. In a high-stakes, multi-disciplinary arena with so many unknowns, and that is developing this fast, lawyers’ skills will be essential.
- **Compliance and monitoring:** Legal teams often partner with compliance teams to monitor and maximize compliance with laws, regulations, and company policies. In an emerging area such as AI — and especially with the current degree of interest in generative AI — it will be important to develop a compliance and monitoring system, consistent both with regulations emerging from the EO and with company AI policies (see above), to understand how AI is being used in the enterprise, by whom, what risks arise as a result, and how those risks can be mitigated. An inventory or a single “source of truth” with regard to AI usage in the enterprise will be mission critical to ensure robust compliance.

## II. Legal department strategy and operations: practical considerations and steps for CLOs and their teams in preparing to address the EO and oncoming issues of AI

The range of issues raised by the EO, and the breadth of forthcoming federal action, are likely to challenge the legal teams of many businesses. To be ready to address these issues, CLOs and their legal teams should take a number of strategic and operational steps now:

### A. Legal department strategies for responding to the EO and managing AI challenges

- **Stay informed**: Keep abreast of all developments related to the Executive Order and any subsequent regulations or standards that are established. This includes monitoring updates from the federal government, industry groups, legal publications, and law firm and professional services firm announcements/newsletters. It is likely that state and local governments and international agencies will enact their own rules and regulations regarding AI (some states have already started to do so), so legal teams should monitor at all levels. Moreover, legislators and regulators elsewhere in the world are also likely to promulgate regulations soon (for instance, in the EU).

- **Consider AI broadly:** Much attention has been focused over the past year on generative AI, which has captured public attention and highlighted the developing capabilities of AI. Indeed, generative AI surely was part of the impetus for the EO. However, generative AI is only one category of artificial intelligence. The EO addresses AI broadly (*see* EO § 3(b) (incorporating definition of artificial intelligence from National Artificial Intelligence Initiative, 15 U.S.C. § 9401(3)); *compare with* EO § 3(p) (defining generative AI). Accordingly, although corporate legal teams will often be called on to address issues relating to generative AI, they should also consider and be prepared to address the broader scope of AI tools, some of which have been in use for many years, in advising their businesses.

***Strategic considerations for CLOs and legal teams as they advise their businesses regarding AI and the EO:***

- Stay informed: monitor federal regulatory developments regarding AI
- Consider all AI: generative AI currently draws the most attention, but the EO covers all AI
- Be practical and reasonable: regulations will evolve; protect the business with practical, reasonable approaches that can be explained and defended both in the legal/regulatory setting and in the court of public opinion
- Assess AI practices: understand how the enterprise uses AI, and regularly update that understanding
- Collaborate: AI is a multi-disciplinary opportunity and challenge; work with other subject matter experts to solve issues together
- Evaluate obligations and risks in company contracts: the impending regulations that will arise out of the EO may have contractual implications, depending on the company's agreements; assess and mitigate that risk
- Be mindful of AI's ethical and social impacts: a major focus of the EO and impending regulation is mitigating social harms, such as bias, resulting from AI; mitigate those risks within your organization

- **Be flexible, practical, and reasonable**: The emerging patchwork of AI laws and regulations will yield inconsistencies, which will require legal teams to develop practical solutions for their businesses that can apply across multiple jurisdictions. But lawyers have seen this movie before, and have precedents for creating and applying practical, global approaches for multinational businesses that seek to harmonize the requirements of multiple jurisdictions pursuing inconsistent approaches (*e.g.*, the development of privacy policies, taking into account, among other things, the preponderant influence of the GDPR, even outside Europe; the development of anti-bribery policies and compliance programs that account not only for the FCPA and UK Bribery Act, but also local laws).

- **Assess current AI practices**: Conduct a thorough review of the company's, as well as the legal department's, current AI usage and data handling practices. This will help to identify any areas that may be affected by the EO and any new regulations on the horizon. Engage with stakeholders, such as the IT team, lawyers across the department, business clients, and others to understand how AI is being used in the enterprise and to ensure that legal implications are appropriately considered. Be forward looking in your assessment and consider the impact of the EO on your AI roadmap, for instance with regard to the application of forthcoming NIST guidance and best practices as to the AI Risk Management Framework (*see* EO § 4.1(a)(i)(A)).

- **Collaborate with the CTO and IT organization:** The CTO and IT team will be essential partners to legal in developing the enterprise response to the EO, and its long-term strategy regarding AI. Neither the CLO and legal team, nor the CTO and IT team, can succeed in this endeavor without the other. Each team has expertise and skills that are necessary, but not (alone) sufficient, to address the challenges presented by AI. This is a multi-disciplinary issue that requires a multi-disciplinary response. Bring in other experts and stakeholders as well, beyond legal and IT, including from the business and R&D, as well as outside advisors, to help address issues as they emerge.
- **Review and update company contracts and agreements**: Undertake a review of all company agreements, including current, executed contracts; active drafts; and any forms/templates in current use. In addition to customer and vendor agreements, relevant contracts could include R&D, licensing, marketing and IP agreements. One objective of this review would be to ascertain whether company agreements are in line with prevailing laws and regulations, and whether provisions referring to use and/or development of AI technology are appropriate in light of the EO and the regulations soon to be promulgated. Note also that where the enterprise agrees (or has previously agreed) to a transaction that contains an ongoing compliance with law covenant, the emergence of the panoply of AI-related laws and regulations may require increasing vigilance and monitoring to avoid breaching that covenant.
- **Understand the ethical and social impacts**: Work with other leaders in the business to ensure the company is using and/or developing AI algorithms in a fair and ethical manner. This may include creating checks and safeguards that help enhance the accuracy of AI predictions and avoid bias in AI algorithms. Such steps can be crucial in preventing discrimination and bias, which are core concerns of the EO. Bias in AI systems (*e.g.*, in inputs or outputs) could lead to legal disputes, possible exposure, and harm to the reputation of the company. Legal teams may be called upon to advise in the development of processes and strategies to mitigate these risks.

## B. Legal operations steps to prepare for AI issues and challenges

- **Invest in awareness and training for the legal team**: Promote education and training in AI for the legal department and the broader organization. In-house counsel and legal professionals will need to understand not only the legal issues but also the technical and ethical aspects of AI. A well-rounded approach to training and continuous learning would be helpful as legal team members interpret related laws and regulations and advise their clients on the legal risks and considerations of development and use of AI.

***Legal operations considerations relating to AI and the EO:***

- Upskill the legal team: every lawyer should have a foundational understanding of AI and the related legal and regulatory issues
- Deploy generative AI in the law department: generative AI has tremendous potential to augment lawyers' effectiveness; develop a plan to take advantage and help your team
- Assess legal department data environment: effective use of generative AI depends on access to quality data inputs; begin now to understand and get control over the legal department data environment
- Consider the law department resourcing approach: AI will change the mix of services and skills legal teams need; plan accordingly
- Be ready: AI will accelerate the pace of change, and require legal teams to respond quickly and at times with limited knowledge to novel issues; it will put a premium on agility, creativity, practicality, and ultimately judgment: prepare your team now to operate in the much more fluid and dynamic environment they will soon face

- **Develop a legal department strategy to deploy generative AI:** There is significant potential for legal teams to utilize generative AI to augment their own work. Evaluate how large language models (LLMs) can support specific legal workflows within the legal department; identify which generative AI tool is best suited to the enterprise; and build a business case to invest and begin piloting its use. Develop guardrails to focus generative AI use on appropriate applications and tasks within legal workflows, while mitigating the risks of damaging output (for instance, by avoiding issues and areas in which the tool is likely to mislead or "hallucinate,"[7] tuning the tool appropriately, engineering prompts in a nuanced manner, and the like). Over time, generative AI may become as ubiquitous in the practice of law as email and search

[7] "Hallucination" is another term that anthropomorphizes generative AI in ways that are perhaps colorful, but also may be misleading.

are today. Legal teams that move quickly will gain advantages and help define the ways in which this technology develops and is applied in the field of law.

- **Assess legal department data sources to feed generative AI capabilities:** To use generative AI effectively, legal departments need to identify and capture key data sources that can be utilized to create usable outputs. This can be a time-consuming process, but it is essential to get it right. Start now.
- **Re-evaluate the long-term resourcing strategy for legal services:** AI, and the accelerating pace of technology it portends, is already changing the issues lawyers are being asked to address. Analyze how these trends will change the legal and advisory needs of the business in the next three, five, and perhaps seven years. It is likely, for instance, that new skillsets will become especially important within the legal department, such as data science, data governance, prompt engineering, and proficiency with technology. Legal teams may need to augment their staffs by adding IP, privacy, labor/employment, and consumer protection specialists, either in-house or to their external teams. Generative AI has enormous potential to disrupt the legal profession. At this point, no legal department, and no lawyer, can afford to remain ignorant of its capabilities and risks, or the legal and ethical issues it raises.
- **Be ready to respond**: Develop a response plan for any potential legal issues that could arise from the use and/or development of AI technology in the organization. This could include plans for handling data breaches, responding to regulatory inquiries, and managing any legal risks associated with AI deployment. In short, don’t get caught flat-footed. Be proactive, cautious, and practical in crafting responses to the myriad legal, regulatory, and ethics issues that will come before the legal department as the role of AI continues to expand and advance in the world of business.

* * *

The promise and peril of AI, and generative AI in particular, is likely to lead to significant new roles and pressures for CLOs and legal teams in the coming years. The topics on which they advise their businesses, the statutes and regulations that govern, the policies at issue, and the technologies themselves are all evolving — rapidly. Even the manner in which legal departments operate and lawyers provide their advice is likely to change substantially as a result of these technologies.

To advise businesses effectively in this environment will require agility, adaptability, sharp analysis, advocacy, flexible thinking grounded in established legal principles, curiosity, a desire to learn, an openness to technological change, creativity, consensus-building, and ultimately, the legal team’s trusted, reasoned judgment. In short, AI will test legal teams at every level and require them to draw on every professional, intellectual, and ethical resource they have. There are, and will be, no easy answers. But this is exactly where excellent legal teams shine, and where good lawyers become great. The considerations and steps recommended above should provide a solid foundation for Chief Legal Officers and their teams as they embark on what will surely be a fascinating and important journey.

## Appendix

**Executive branch agencies and officials directed to act, and independent agencies encouraged to act, under the Executive Order:**

- Department of Agriculture; Secretary of Agriculture
- Department of Commerce; Secretary of Commerce
  - Under Secretary of Commerce for Intellectual Property
  - National Institute of Standards and Technology (NIST); Director of NIST
  - National Telecommunications and Information Administration
  - United States Copyright Office; Director of USCO
  - United States Patent and Trademark Office (USPTO); Director of USPTO
- Department of Defense; Secretary of Defense
- Department of Education; Secretary of Education
- Department of Energy; Secretary of Energy
- Department of Health and Human Services; Secretary of HHS
  - National Institutes of Health
- Department of Homeland Security; Secretary of Homeland Security
  - Cybersecurity and Infrastructure Security Agency
  - United States Customs and Border Protection
  - National Intellectual Property Rights Coordination Center
- Department of Housing and Urban Development; Secretary of HUD
- Department of Justice; Attorney General
  - Assistant Attorney General in charge of the Civil Rights Division
  - Federal Bureau of Investigation
- Department of Labor; Secretary of Labor
- Department of State; Secretary of State
- Department of Transportation; Secretary of Transportation
  - Advanced Research Projects Agency – Infrastructure
  - Advanced Aviation Advisory Committee
  - Intelligent Transportation Systems Program Advisory Committee
  - Transforming Transportation Advisory Committee
  - Nontraditional and Emerging Transportation Technology Council
- Department of the Treasury; Secretary of the Treasury
- Department of Veterans Affairs; Secretary of Veterans Affairs
- Director of National Intelligence
- Chairman of the Joint Chiefs of Staff
- Assistant to the President and Chief of Staff to the Vice President
- Assistant to the President and Deputy Chief of Staff for Policy
- Assistant to the President for Domestic Policy
- Assistant to the President for Economic Policy
- Assistant to the President and Director of the Gender Policy Council
- Assistant to the President for National Security Affairs
- White House Office of Environmental Quality
- White House Office of Management and Budget (OMB); Director of OMB
- White House Office of the National Cyber Director; Director of ONCD
- White House Office of Pandemic Preparedness and Response; Director of OPPR
- White House Office of Science and Technology Policy; Director of OSTP
- U.S. Office of Personnel Management (OPM); Director of OPM
- Chief Data Officer Council
- Council of Advisors on Science and Technology
- Council of Economic Advisors
- Federal Privacy Council
- Interagency Council on Statistical Policy
- Consumer Financial Protection Bureau (independent agency)
- Federal Communications Commission (independent agency)
- Federal Energy Regulatory Commission (independent agency)
- Federal Housing Finance Agency (independent agency)
- Federal Trade Commission (independent agency)
- General Services Administration (independent agency)
- National Science Foundation (independent agency)
- Small Business Administration (independent agency)
- United States Agency for International Development (independent agency)

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