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PRESENTATION TO

AI in Advertising: Managing Legal Risk While Moving Fast

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Managing Legal Risk While Moving Fast

This session will focus on what advertisers and agencies need to consider when using AI, including transparency and disclosure obligations, substantiation of AI claims, and best practices that allow innovation while managing risk.

Legal Considerations from Across the Pond

- Intellectual Property considerations:
 - Ownership of AI-created work
 - Licensing of AI models
 - Copyright pitfalls and avoiding IP infringement.
 - Personality rights and deepfakes

Legal Considerations from Across the Pond (cont'd)

Data privacy & protection:

- Key considerations when AI tools process consumer data for targeting and personalisation.
- EU/UK regulatory landscape
 - EU AI Act
 - The Broader EU Regulatory Ecosystem — the AI Act does not operate in isolation:
 - Digital Services Act
 - Unfair Commercial Practices Directive



Legal Considerations from Across the Pond (cont'd)



DIGITAL SERVICES ACT

- UK has no equivalent of the EU AI Act and presently relies on the power of regulators:
 - Advertising Standards Authority (ASA) - requires ads to be honest, and truthful; misleading AI-generated claims are prohibited.
- Competition and Markets Authority (CMA):
 - enforcement against misleading claims

A General Counsel's Perspective

- How LLMs actually work
- The industry perspective
- What companies (and their GCs) need to know
 - What do you own and can you commercialize it?
 - Fair Use defenses with respect to AI prompts and outputs (Meta)



Risk Management and Liability Protection

- **Internal governance:**
 - AI policies, human oversight, audit trails.
 - The need for functioning systems for perpetuating compliance



Risk Management and Liability Protection (cont'd)



- Substantiation & documentation:
 - Maintain evidence of AI-generated claims and sources.
 - Stricter consumer protection rules in certain sectors
 - Internal content should not be pasted into public AI tools

Risk Management and Liability Protection (cont'd)

- Bias, fairness, and ethics:
 - AI outputs must not discriminate
 - Cross-border campaigns must consider local sensitivities.
 - Hallucinations



Risk Management and Liability Protection (cont'd)



CURRENT LIABILITIES

LONG-TERM LIABILITIES

- Upstream liability is largely untested.
 - Can you pass on liability to AI vendors or platforms?
 - The need for an AI aware vendor management framework

Risk Management and Liability Protection (cont'd)

- Supplier management:
 - Contracts with AI vendors covering IP, liability, and transparency.
 - Contracts used as a risk control tool.



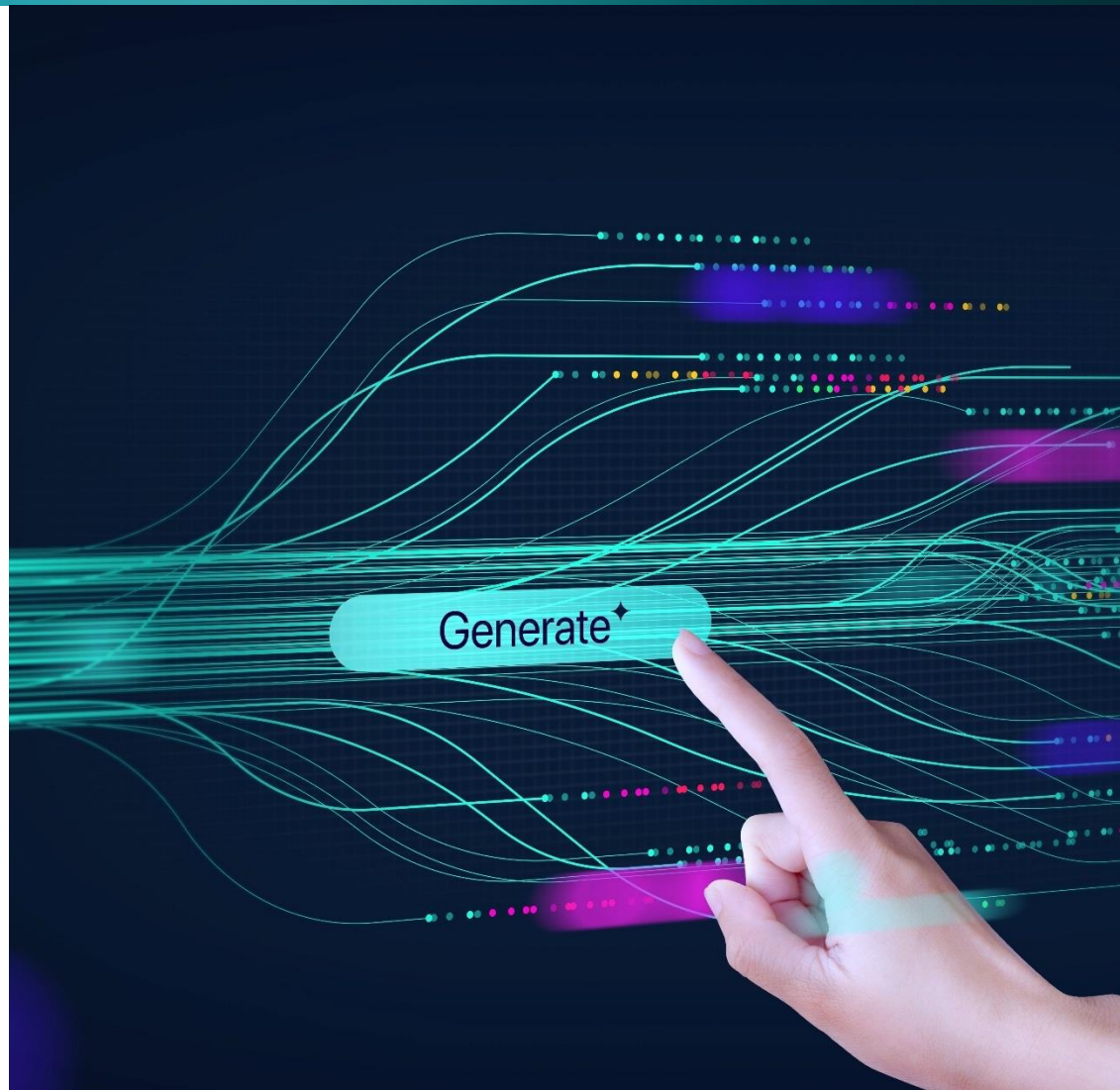
Risk Management and Liability Protection (cont'd)

- Do insurance policies help? Will they cover AI generated misconduct etc?
- Scenario planning: Mitigating reputational risk if AI outputs go wrong internationally.
- AI is dynamic.



Some Tips

- Develop an AI Acceptable Use Policy:
- Human in the loop:
- Train your teams
- Substantiate independently
- Label and disclose:
- Conduct IP clearance on AI outputs.



Some Tips (cont'd)

- Negotiate your AI vendor contracts:
- Build a crisis response plan:
- Stay up to date.



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Questions

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