



Katten Privacy, Data and Cybersecurity Newsletter

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Is Your AI Intelligent Enough? The CFPB Says It Will Actively Police the Use of Chatbots and Warns of Risks

By Christina Grigorian, Eric Hail, Trisha Sircar and Alexa Warner

The Consumer Financial Protection Bureau (CFPB) issued a June 6 report summarizing its research into the use of artificial intelligence (AI) in consumer finance. The report focuses on the shift away from "human support" to "algorithmic support" in the banking and consumer finance industry, and provides an analysis of the use of chatbots and its associated risks. The CFPB also confirmed that it will take an active role in monitoring compliance in the context of AI. [Read more on the use of chatbots and related complaints.](#)

Enhancing Data Privacy: A Glance at Texas's New Consumer Privacy Law

By Eric Hail, Lisa Prather and Trisha Sircar

On June 18, Texas Governor Greg Abbott signed into law the Texas Data Privacy and Securities Act (TDPSA). Substantive portions of the TDPSA, otherwise known as H.B. 4, are set to take effect on July 1, 2024, making Texas the 10th state to implement comprehensive privacy legislation. The TDPSA applies to entities that conduct business in Texas or those that process or engage in the "sale" of personal data, as well as businesses in Texas that do not identify as a small business under the U.S. Small Business Administration. [Read more on the scope and key aspects of the TDPSA.](#)

FTC Seeks Public Comment on Collaboration with States Regarding Consumer Protection

By Trisha Sircar

The Federal Trade Commission (FTC) announced on June 7 that it is seeking public comments and suggestions on ways it can work more effectively with state attorneys general nationwide to help educate consumers about, and protect them from, potential fraud. This request for public information comes at the direction of the FTC Collaboration Act of 2021 (Collaboration Act), which President Biden signed into law last October. The Collaboration Act requires the FTC to consult directly with interested stakeholders, as well as provide the opportunity for public comment and advice relevant to the production of the study. [Read more about the issues the FTC is asking consumers and interested stakeholders to weigh in on.](#)

Financial Industry Must Beware Rising BIPA Litigation Tide

Noting that the Illinois Biometric Information Privacy Act (BIPA) has become one of the fastest growing class action litigation trends in the United States, Katten's Biometric Litigation team explored how BIPA's exemption for financial firms and their affiliates has been challenged in multiple cases, with some courts beginning to limit its application. Financial institutions have largely found cover from BIPA litigation through the Gramm-Leach-Bliley Act of 1999, but are now expected to prove applicability when charged with a BIPA action. BIPA litigation is also inspiring similar actions in California related to the California Consumer Privacy Act and California's Invasion of Privacy Act. [Read more about the rise of biometric litigation under California law.](#)

Trisha Sircar Reviews Meta's Record-Breaking Data Transfer Fine for NYU School of Law Blog

New York partner and Co-Privacy Officer Trisha Sircar reviewed the May 22 data transfer fine against Meta Platforms, Inc. (Meta) for the New York University School of Law's Compliance and Enforcement blog. The EU fined Meta \$1.3 billion (€1.2 billion) for alleged violations of Europe's General Data Protection Regulation over transfers of personal data from the EU to the US, Trisha noted, adding that organizations of all shapes and sizes must now pay attention to how they process EU personal data. [Read more about the historic fine and how it impacts data exporters.](#)

Cheryl Camin Murray Discusses the Use of AI in the Legal Profession With *The Texas Lawbook*

In a *Texas Lawbook* article, Dallas partner Cheryl Camin Murray discussed the standing order issued May 30 by US District Judge Brantley Starr that requires every attorney appearing before him to file a document attesting that no portion of any filing has been generated by artificial intelligence (AI), or that anything drafted by AI has been checked for accuracy "by a human being." His order followed the recent filing of a ChatGPT-generated briefing in a New York lawsuit that contained fabricated citations and judicial decisions, and is being praised as a "necessary reminder of a lawyer's professional obligations." [Read more about how the use of AI technology is being monitored industry-wide.](#)

Michael Callahan Explains How MSPs Can Protect 'Peer Review' Materials in *Medical Staff Briefing*

Health Care senior counsel Michael Callahan addressed the diligence required to be sure "peer-review" protected documents are not inadvertently disclosed in an interview with *Medical Staff Briefing*. Michael suggested medical service professionals, who are involved with the credentialing and privileging of physicians and other licensed providers, should establish a system of checks and balances before handing any documents over in response to a request for information in a medical malpractice case. [Read more about the differences between files containing privileged information.](#)

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