

AI NIGHTMARES: 5 RISKS THAT KEEP BUSINESS LEADERS UP AT NIGHT AND WHAT YOU CAN DO ABOUT IT

Insights

Oct 6, 2023

A few years ago, your worst nightmares for your organization might have involved old-fashioned data breaches or class action lawsuits. Those seem like child's play compared to AI-fueled deepfakes and phishing scams, crippling copyright claims borne of AI use, data poisoning, and data privacy and trade secret horror stories. So, what can business leaders do to stay ahead of the curve when it comes to adopting new technology and mitigating the associated risks? During the recent [Fisher Phillips AI Strategies @ Work Conference in Washington, D.C.](#), FP's Chair of the Artificial Intelligence Team, David Walton, discussed some of the hidden dangers of new AI tools with thought leaders and industry experts. Here are five top risks they identified, as well the practical solutions that can keep your business safe.

1. Risk of Disruption

"We spend a lot of time thinking about the complex world in which we live," noted [Michael Carney, Senior Vice President of Emerging Issues for the U.S. Chamber of Commerce](#). Carney says he's becoming an increasingly firm believer that AI poses as much or even greater opportunity than does risk – but there are significant questions we have to think about.

Generative AI is making a huge impact on the way we conduct business by creating documents, images, music, and other content, as well as offering summaries and analyses of dense data. Unlike prior technology, GenAI is able to generate original human-like output and

Related People



Lisa Nagele-Piazza

Legal Content Counsel

[404.760.7943](tel:404.760.7943)



**David J. Walton, AIGP,
CIPP/US**

Partner

[610.230.6105](tel:610.230.6105)

expressions in addition to describing or interpreting existing information. These capabilities will fuel competition and may change the way many organizations approach their business models and workforce strategies.

[Cobun Zweifel-Keegan, Managing Director of the International Association of Privacy Professionals \(IAPP\), Washington, D.C.](#), added that CEOs are the first to know that major technological innovations will always be a disruption. These innovations will push old monopolies out, he said, and new ones will rise. “We’re seeing that in real time right now.”

Business leaders need to think about what this means for their company and workforce and identify the risks and rewards, Carney said.

Practical Tip: Ensure your workforce is prepared for the AI revolution. Your existing workforce will need to learn new skills to perform the job functions that will predominate over the five years. [Learn more here](#) about which skills should be prized and how you can carry out your mission while incorporating AI.

2. Privacy and Cybersecurity Issues

“AI doesn’t necessarily produce new types of privacy risks,” Zweifel-Keegan said. “It’s more about differences in the scale and scope of actions that AI can accomplish.” For example, AI fuels inferences based on all types of information, which could include sensitive personal and biometric data.

You’ll need to evaluate how your business collects sensitive data and assess any potential security risks associated with GenAI. Moreover, you should note that consumer and employee privacy is protected by a patchwork of state, federal, and international privacy laws, some of which come with significant consequences for noncompliance. As a result, businesses need to ensure they comply with data privacy laws — such as the California Consumer Privacy Act (CCPA) — when utilizing AI-powered tools that rely on capture of consumer- and employee-provided data.

On the cybersecurity side, Zweifel-Keegan noted, existing laws still apply to new technologies in the AI context —

Service Focus

[AI, Data, and Analytics](#)

[Counseling and Advice](#)

Resource Hubs

[AI Governance Hub](#)

and that's a main theme we're hearing from many regulators, including the Federal Trade Commission and Equal Employment Opportunity Commission.

Practical Tip: Your AI policy should create safeguards to protect the data inputted into any GenAI technology, addressing data collection, storage, and sharing. At a minimum, you should prohibit your employees from entering private or personal information into any GenAI platform. For a full review of how to craft your policies, [read this Insight on the 10 things you should include in any AI workplace policy.](#)

3. Reputational Risks

"Getting people aware of some of the implications of this is really important," Carney said. We're going to potentially see massive disruption for knowledge workers, so you have to know how GenAI works. He suggested that business leaders play with the technology in low risk and low impact ways to understand how it works and also to understand its limitations.

Zweifel-Keegan said his organization is focused on helping people come together to understand what best practices need to be in place to manage the risks associated with AI. Business executives need to know how to ask the right questions.

Notably, any time a business utilizes AI-based technology to assist in its decision-making, leaders need to understand that a human must be the final decision-maker – not the AI-powered tool. While these tools and related analytics are powerful, they cannot replace independent judgment or common sense.

Practical Tip: Consider creating a multi-stakeholder committee that includes representatives from various departments, including HR, IT, Legal, and DEI, to oversee your organization's AI adoption and usage. This committee could also liaise with external experts and regulators, ensuring that your practices are not only compliant but also socially responsible and aligned with your organization's commitment to diversity.

4. Legal Risks

As federal, state, local, and international laws and regulations evolve to match the growth and impact of AI,

their applicability and requirements are likely to vary substantially. This will significantly change the way you do business. You will have to consider the workplace impacts of [EEOC decrees involving the use of AI](#), a developing federal framework for AI, [including the White House Bill of Rights](#), state and local efforts to reduce the risk of algorithmic bias in AI technology — such as [New York City's law](#) requiring “bias audits” before automated employment decision tools (AEDTs) are used — and rapidly developing domestic and international [data privacy laws](#).

Practical Tip: To the extent that you are incorporating AI technology to supplement and support your HR efforts, you need to make sure you retain a healthy dose of human judgment in your workplace decision-making. Additionally, you may want to (or be required to) conduct an AI bias audit (with the help of your legal counsel). This could be an invaluable tool in rooting out unintentional discrimination at your workplace. You'll also want to monitor regulatory updates, stay informed about the AI legislative environment — at the federal, state, local, and international level — and adapt your policies and practices accordingly.

5. Operational Challenges

“You have to lean into AI or you're going to fall behind from an operational standpoint,” Walton said.

Business leaders should be evaluating how AI is already being integrated into operations and how it can be used appropriately to launch, monitor, and sustain critical processes. In the employment arena, for example, how can AI be best utilized to improve human resources processes like recruiting, hiring, retention, performance evaluations, and training?

Practical Tip: Conduct an AI inventory audit. To start, you should assess your current and potential use of AI — particularly GenAI — to help you understand both the risks and opportunities associated with integration into your operations. This includes an assessment to ensure you understand how AI could affect your operations, both positively and negatively.

Final Thoughts

Zweifel-Keegan noted the importance of training your workforce and developing sound policies and procedures on using AI tools.

“Be flexible,” Carney said. “Learn as it grows and it evolves because it’s our human flexibility, it’s our human adaptability, it’s our reasoning ability that differentiates us from the technology.”

Conclusion

If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Artificial Intelligence Practice Group](#). Make sure you subscribe to [Fisher Phillips’ Insight System](#) to gather the most up-to-date information on AI and the workplace.