

SLAUGHTER AND MAY/

IN-HOUSE PROGRAMME 2023

[DE-]GENERATIVE AI?
LEGAL ISSUES IN THE USE OF AI
SOLUTIONS

Ian Ranson & Alex Bulfin

The poll on this slide is no-longer active

Agenda



Approaches to AI Regulation



AI in practice



Deep-dive: Copyright

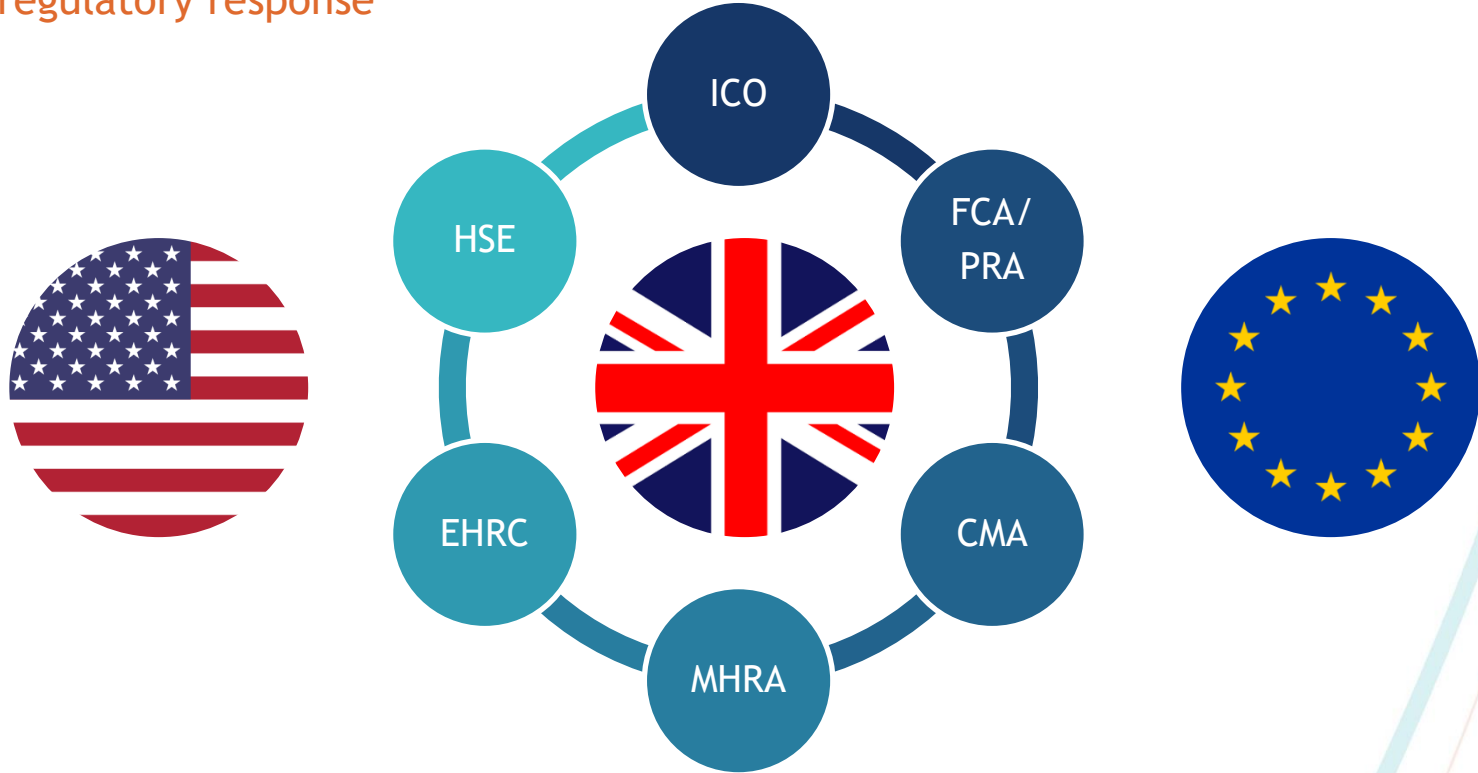


Deep-dive: Competition

APPROACHES TO AI REGULATION

“Somebody do something!”

The regulatory response



AI IN PRACTICE

Scenario 1: EasyWeb Ltd

From: Jones, Kimberley

Sent: Tuesday, November 14, 2023 5:37 PM

To: All Legal<alllegal@Easyweb.com>

Subject: RE: AI Function for Website Builder

Hi

The product design team have had a great idea to embed ChatGPT-type functionality in the website builder module.

The idea is that customers would punch in a few keywords and the tool would generate a first draft of the text to populate their website! We're super excited by the possibilities!

We're putting together a pitch to management to set aside budget for this – could you send us a couple of slides on legal stuff we should be thinking about at this stage?

Many thanks

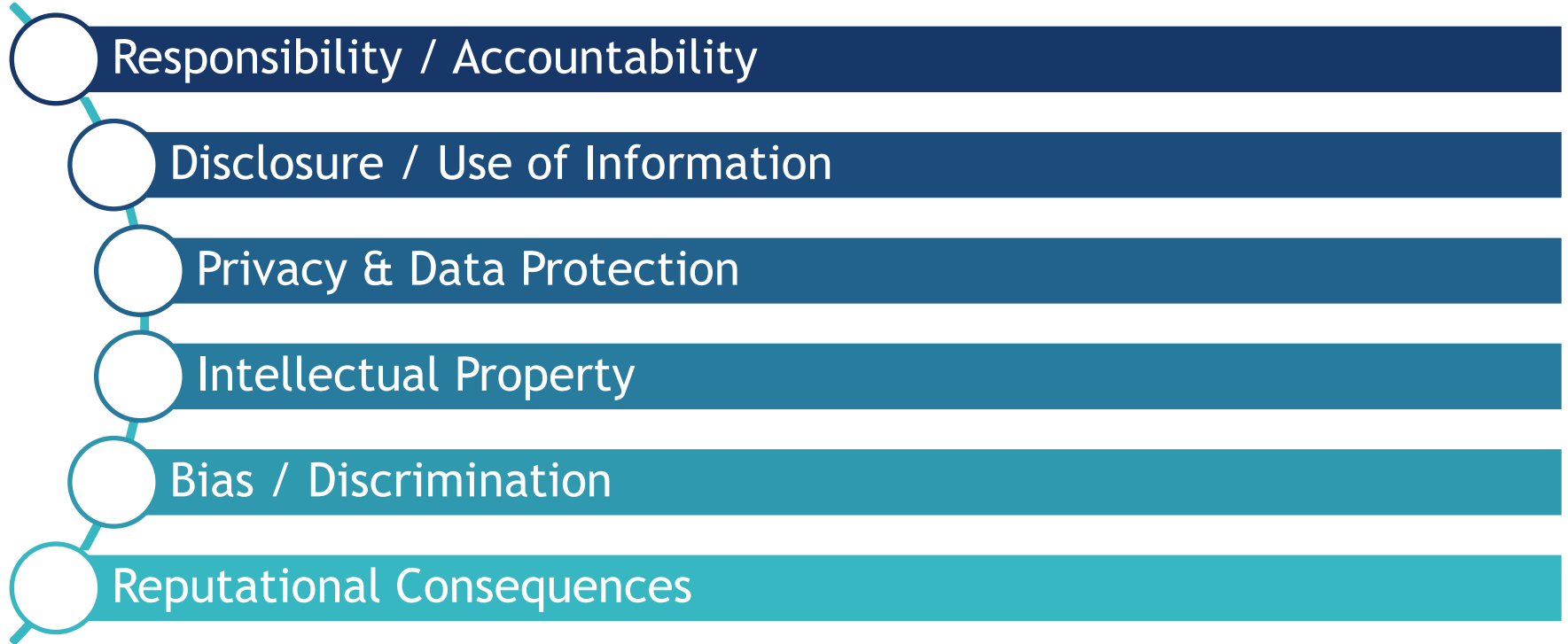
Kim

[Kimberley Jones](#)

[Senior K&I Manager](#)

The poll on this slide is no-longer active

Key topics to consider



DEEP-DIVE: COPYRIGHT

Scenario 2: Travelhappy.com

LR

Hi Amir

Hi

LR

We've been looking at ways to reduce our marketing costs and one idea we've had is to use an AI image generator to create some of the more generic content on our website and in our marketing materials. E.g., pictures of people enjoying a skiing holiday.

LR

Someone in the team said they'd read there are lots of copyright issues with AI image generators. Can we have a chat about what the biggest risks are and what we can do to protect against them? Thanks!

Sure – I can pop up now?

Stable Diffusion checkpoint

sd_xl_base_1.0.safetensors [31e35c80fc]



txt2img img2img Extras PNG Info Checkpoint Merger Train Settings Extensions

people skiing, snow, mountain, happy, photo, photography, HDR, RAW, ad copy

19/75

Generate

Blurry, drawing, painting, sketch, art, watermark, logo

14/75



Generation Textual Inversion Hypernetworks Checkpoints Lora

Sampling method

DPM++ 2M SDE Heun Karras

Sampling steps

35

Hires. fix

Refiner

Width

600

Batch count

1

Height

600

Batch size

1

CFG Scale

5.5

Seed

-1



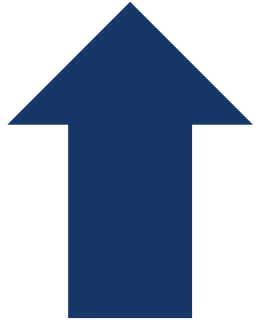
Extra

Script

None



Copyright issues



Training

- Text / Image ‘scraped’ from the web
- Fair use? (Not UK/EU)
- UK text and data mining exception



Output

- Similarity
- Substantial part of the original expression?

Copyright - Prevention

Due Diligence

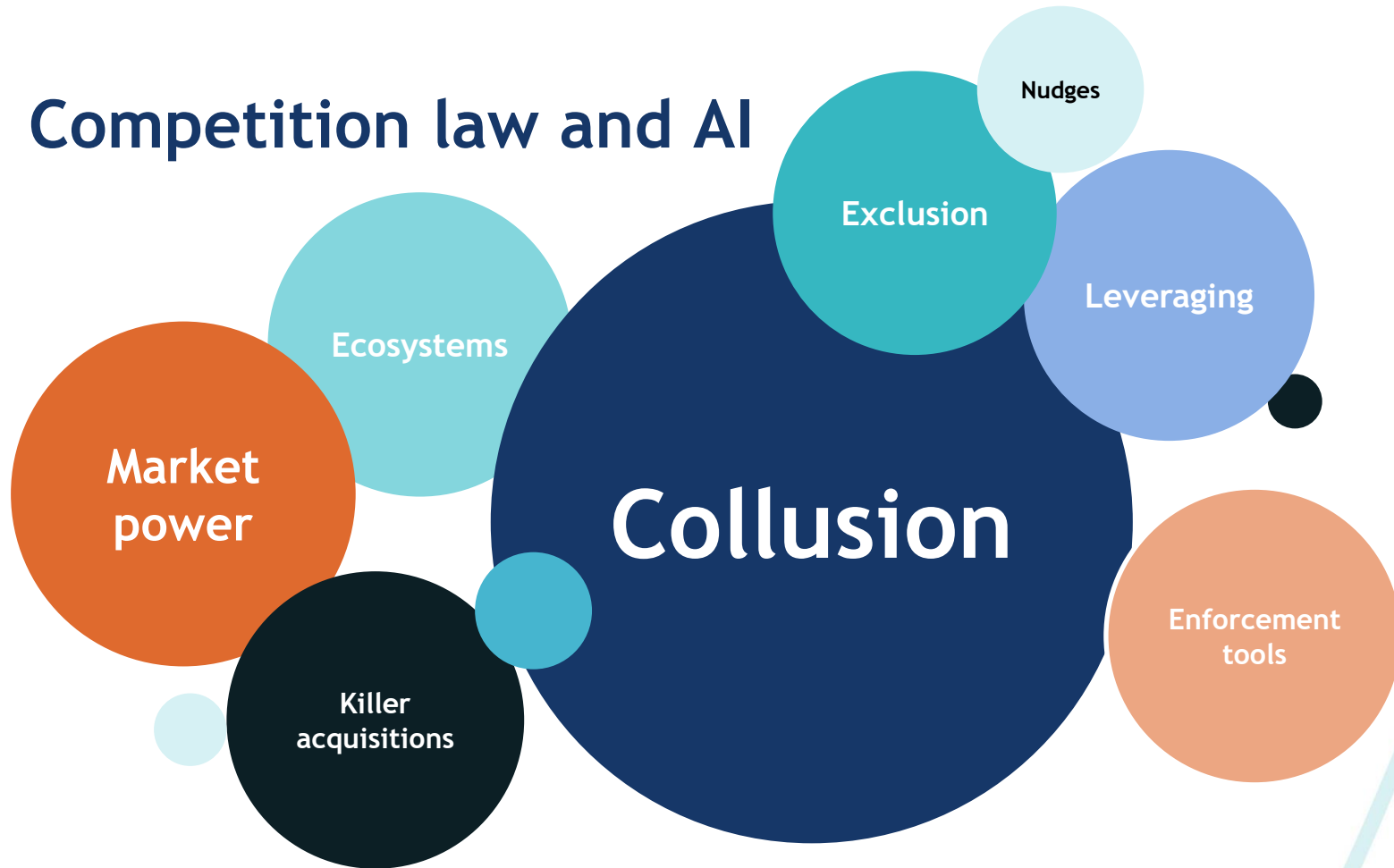
Prompt Selection

Human Review

Supplier Protections?

DEEP-DIVE: COMPETITION

Competition law and AI



Pricing algorithms and collusion

GB Eye / Trod (CMA 2015)



“Offline”
agreement
between
competitors

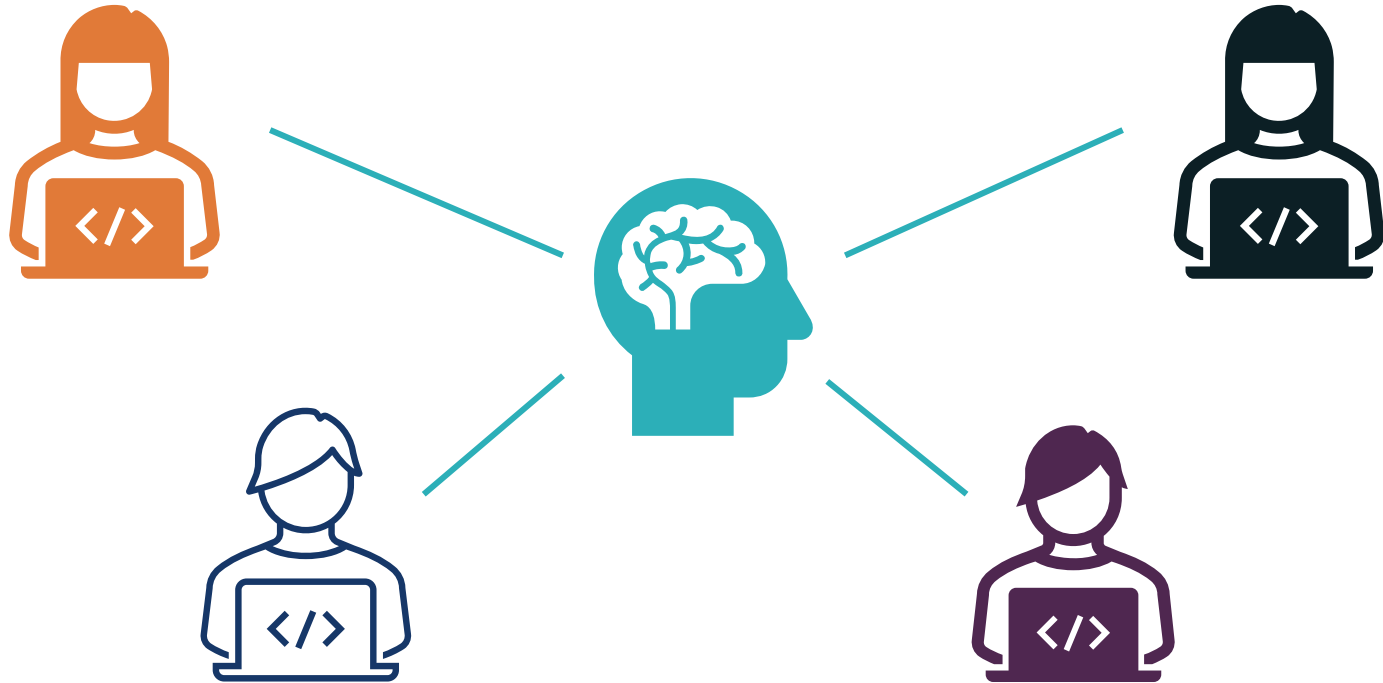


Implementation
via pricing
algorithms



Detection
challenge?

No “offline” agreement?





Enforcers are reacting

“...firms involved in illegal pricing practices cannot avoid liability on the ground that their prices were determined by algorithms. Just like an employee or an outside consultant working under a firm’s “direction or control”, an algorithm remains under the firm's control, and therefore **the firm is liable even if its actions were informed by algorithms.”**

European Commission Horizontal Cooperation Guidelines (2023)

What can you do?



Thank you for listening. **Any questions?**



Alex Bulfin
Corporate



Ian Ranson
IP / IT

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