

SNAPSHOT

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The US hedge on AI regulation

July 2019

Hearing global calls for regulation, the U.S. has instead pushed full speed ahead in advocating artificial intelligence innovation. While Ursula von der Leyen, the incoming European Commission president, has promised legislation for a “coordinated European approach on the human and ethical implications of artificial intelligence”, the U.S. continues to put market-focused growth and development over regulation. But learning a lesson from GDPR’s global impact, the U.S. earlier this year embraced a vision of collective policy leadership on artificial intelligence principles as a hedge.

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While most news on the artificial intelligence (AI) front from the United States (U.S.) is driven by private sector innovation, 2019 has seen a picked-up pace for federal AI policy. In February, President Donald Trump issued Executive Order 13859, “Maintaining American Leadership in Artificial Intelligence.” The order is highly pro-AI innovation and emphasizes federal support for:

- U.S. driven AI technological breakthroughs promoting scientific discovery, economic competitiveness, and national security;
- Developing technical standards to support new AI-related industries and technology adoption by current ones;
- Education and training to develop skills for U.S. workers to apply AI technologies;
- Fostering public trust in AI through protection of civil liberties and privacy;
- Promoting an international environment that supports U.S. innovation while guarding against acquisition of key U.S. technology by strategic competitors and adversarial nations.

This policy furthers a direction begun during the previous administration of President Barack Obama and an overall U.S. approach to technological innovation that emphasizes market-focused growth and development over regulation. Lack of federal funding for AI initiatives has been a reoccurring theme this year, and the executive order did not include any new funding streams. An analysis by Bloomberg News of the Trump Administration’s budget request for fiscal year 2020 did identify \$4.9 billion in asks for unclassified AI and machine learning-related research (approximately 80% in military related requests). Separately, new legislation in Congress has proposed an AI strategy and a new \$2.2 billion authorization but continued robust private sector investment remains a powerful argument against greater federal AI spending.

Perhaps the most eye-opening event on the AI policy front came in May with the U.S. joining 41 other nations in the Organization for Economic Co-operation and Development’s (OECD) adoption of intergovernmental policy guidelines on AI. As one publication reported, U.S. officials “[a]larmed by the fact that the EU’s set of sweeping new privacy rules implemented last year could soon become a global standard for data protection,” were determined and motivated not to similarly cede leadership on AI policy. In an international win, inclusion of principles calling for “global technical standards for interoperable and trustworthy AI” were viewed as particularly positive for U.S. aims to foster international adoption of new technologies.

Beyond ongoing discussion of a possible federal data privacy law (data fuels AI technologies), facial recognition technology and emphasis on avoiding bias have gained significant

attention from lawmakers across the political spectrum. Lawmakers who usually take a hands-off approach for consumer offerings have struck much different tones about the use of new tools that may still have bugs to work out in the hands of law enforcement. “You’ve now hit the sweet spot that brings progressives and conservatives together,” one Republican House Member stated to a panel of witnesses at an oversight hearing.

While significant new legislation governing AI appears unlikely for the present, lawmakers are certainly keeping watch on the implementation of AI technologies, especially those with implications for safety and civil liberties.

For companies leading AI development or with visions to deploy it, communicating a vision for how this technology will benefit the public is still a work in progress. Polling underscores substantial fear among the American public that AI technology will eliminate jobs and that U.S. educational institutions are not keeping up with an evolving economy – this is not where the industry needs to be. The global

experience with data privacy has yielded lessons for U.S. officials as well as companies: while delaying regulation may be the smart play to promote innovation, waiting too long can create an opening for those who have lagged behind in technology to fill a vacuum and assert leadership.

At FTI Consulting, across our global offices, we have been in the thick of policy discussions over AI and other technological innovations. Leveraging our team’s diverse backgrounds and professional experience in governments, we have established an internal multinational task force to ensure clients, no matter where they operate, benefit from all of our collective expertise in decision-making centers across the globe. From our experience, planning and preparedness for the day serious discussion of regulating new technology begins can make the difference between being a thought leader on governance or finding your business with much at stake but still on the sideline.

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