



BRC digital transformation goals – emerging technology and generative AI



What is generative AI and how is it being used?

‘Generative AI’ tools are algorithms that can be used to create new content, including text, audio, video, pictures and even computer code. These includes tools such as OpenAI’s ChatGPT, Google’s Bard and Midjourney.

- legal issues
- security concerns
- job displacement.

The regulatory landscape around AI

Although AI tools are still very much nascent, current, and future legislation will apply to both AI’s input (eg training data) and output, and many jurisdictions, including the UK, are in various stages of the development of AI specific legislation.

The EU has recently proposed the AI Act, which will set down rules in the development and use of AI systems on a risk-based approach and establish obligations for providers and users depending on the level of risk the AI can generate.

The AI Liability Directive is also going through the legislative process, which will expand the definition of liability of a ‘product’ to include software, including AI systems.

The UK is still very much in the early stages of legislating AI, but a recent White Paper has indicated that it will not be implementing cross-sector legislation but rather will allow sector-specific regulators to consider the impact of AI in their respective sectors and whether additional regulation or guidance is required.

Other pieces of legislation will remain relevant to AI developers and users, including:

- General Data Protection Regulation
- Equality Act 2010
- Copyright, Designs and Patents Act 1988.

Practical things to think about in relation to generative AI tools

- A data licence should cater for which party will be required to provide, and which party will own, any data used to train the AI, and the production data.
- If a vendor needs to use a subset of your data, ensure that you have the rights to grant such use in the intended manner (for example, pursuant to data protection legislation and in accordance with any relevant third-party rights and restrictions).
- For cloud-based AI solutions, a vendor may require training and production data be aggregated across several users. Be clear about whether your organisation’s data can be used to benefit the provider’s other users, or for your benefit only,

noting that AI’s accuracy and proficiency may be improved by access to, and training with, a broader data set than that solely of your own.

- Intellectual property rights will apply to the output of any AI product. A requirement for altered images to be labelled as generated or assisted by AI, and the use of technological solutions for ensuring attribution and recognition, such as watermarking, may be required in the future.
- Ethical considerations remain relevant in relation to training data and any potential biases it has introduced into the AI tool, and the output of the tool.
- Consider implementing AI policies and procedures in your organisation to manage the assessment, implementation and usage of AI tools.

Potential benefits of AI to the retail sector

Utilising AI in the retail sector can have several benefits, including:

- support for omni-channel shopping experiences
- tailored marketing to consumers
- quicker consumer engagement and customer service
- improved business processes and reductions in operating costs.

Risks of AI

However, the use of AI tools does not come without its risks, and users need to be mindful of these before and during the deployment of these AI tools:

- misinformation, manipulation and “AI hallucinations”
- lack of transparency in operation and/or output
- bias and discrimination
- reputational issues

Relevant contacts

If you have any questions about any current or prospective AI tools used for your business, do not hesitate to contact Helen or Tania or your usual RPC contact.



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