

What to Know About Biden’s Executive Order on AI

Technology, Privacy, and eCommerce



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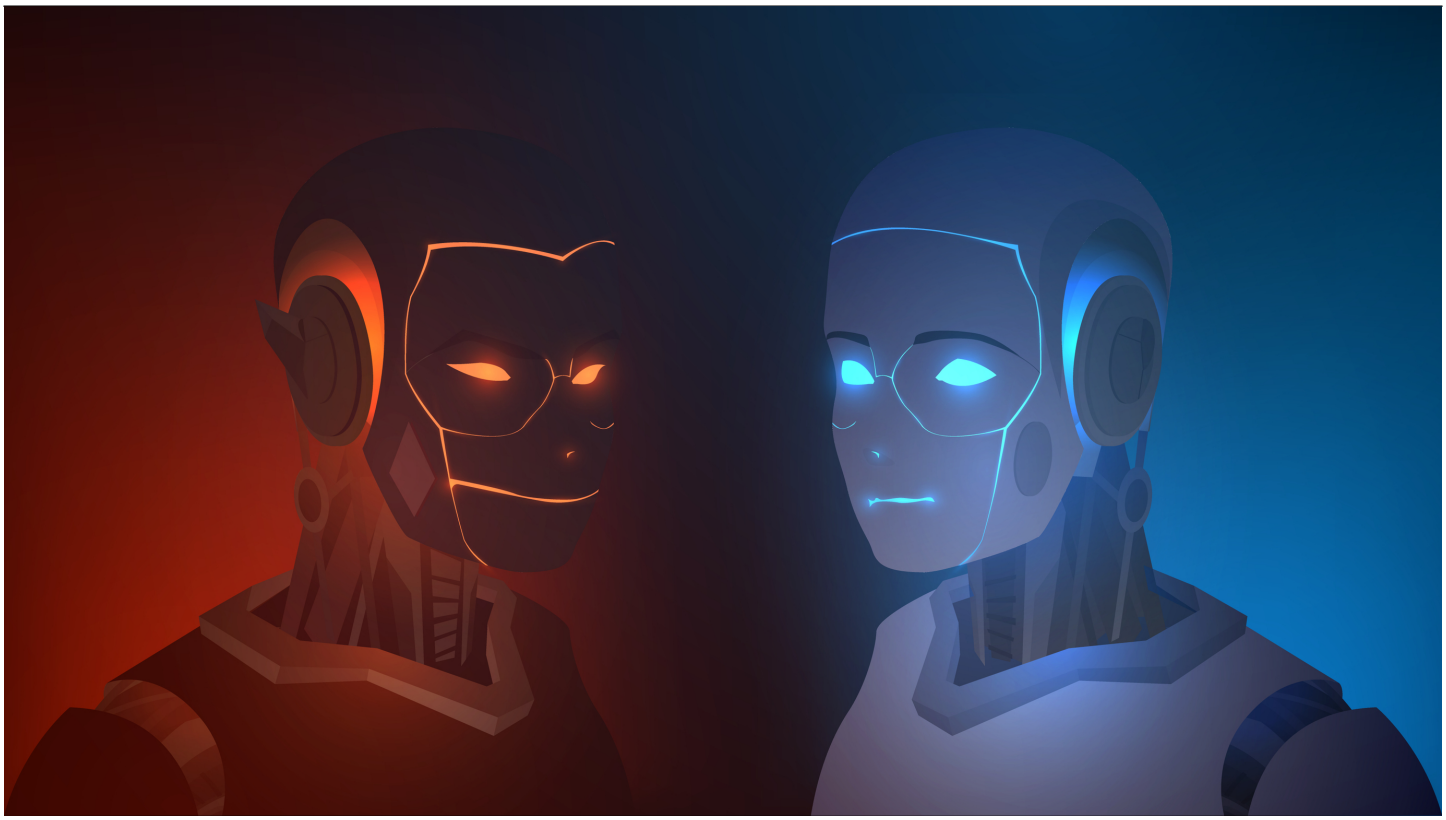
In a recent ACC webcast attended by over 175 participants, Eric J. Felsberg and Joseph J. Lazzarotti , lawyers at Jackson Lewis, an ACC sponsor, took a deep dive into the implications of President Biden's recent Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.

The discussion highlighted the order's commitment to safe, secure, and trustworthy AI development, emphasizing the need for in-house counsel to adeptly navigate the evolving regulatory landscape. Key points included the balance between AI's potential benefits and its risks, guiding principles for responsible AI use, and the critical role of compliance, privacy, and workforce considerations in shaping organizational strategies in the AI era.

Promise and peril — AI's double-edged sword

AI holds the promise of solving urgent challenges and propelling prosperity and innovation. However, irresponsible use raises concerns of societal harm, such as discrimination, bias, and national security risks. The executive order reflects a critical balance between harnessing AI for good and mitigating its substantial risks, demanding a collaborative effort involving government, private sector, academia, and civil society.



In-house counsel should utilize AI responsibly to minimize risks and keep their organization safe. Lidiia / *Shutterstock.com*

8 guiding principles for AI

At the heart of the executive order are eight guiding principles:

1. Safety and security

AI systems must be robust, reliable, and compliant with federal laws. This includes standardized evaluations and policies to mitigate risks, especially in national security domains.

2. Responsible innovation and competition

The order emphasizes investment in AI education, training, and research, promoting a fair, open marketplace for AI technologies.

3. Support for American workers

AI development should consider the impact on the workforce, including job quality and rights, with a

focus on adapting job training and education for the AI era.

4. Advancing equity and civil rights

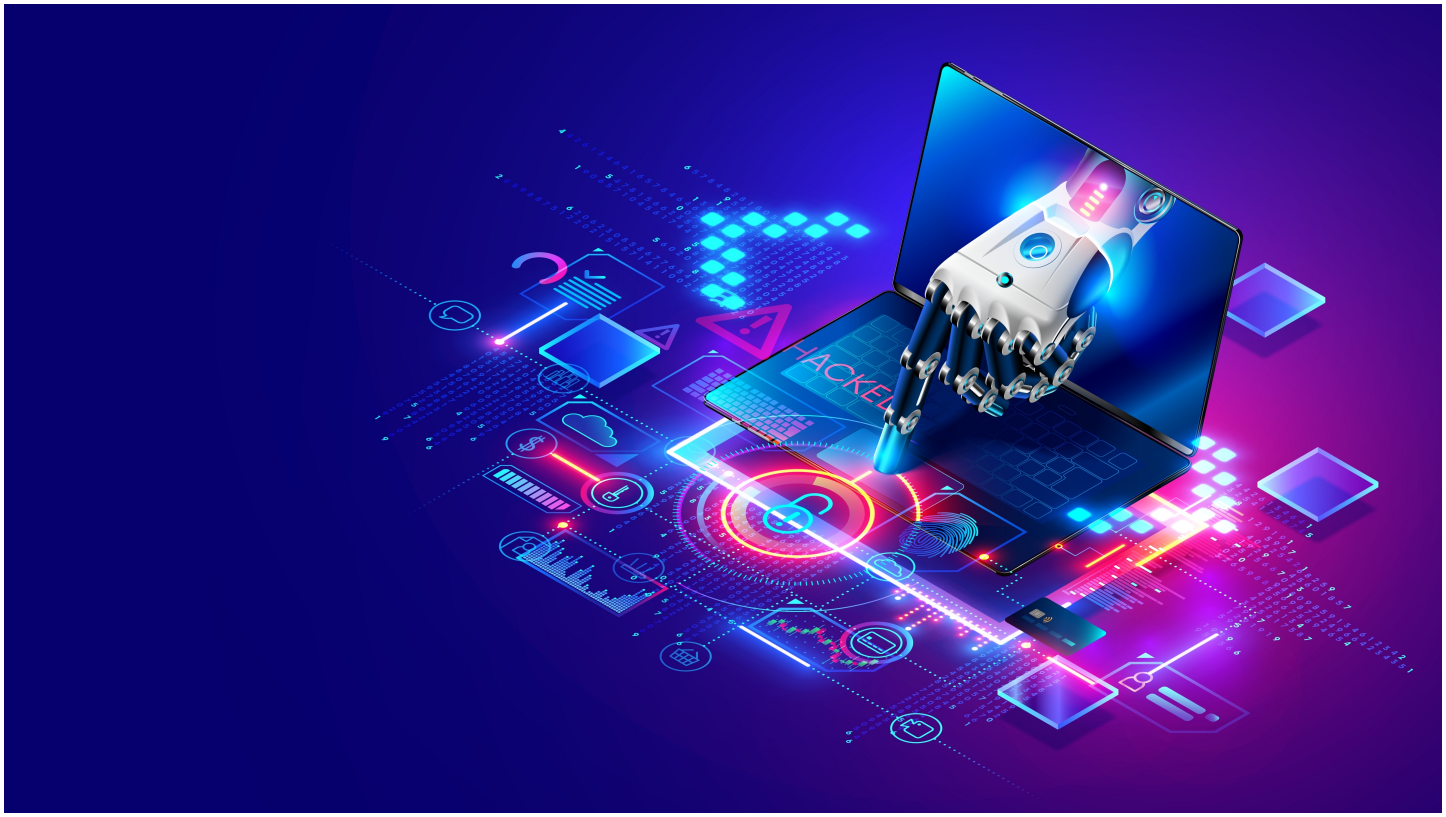
AI must not be used to deepen discrimination or bias, and compliance with federal laws is mandatory to protect civil rights.

5. Consumer protection

Enforcement of consumer protection laws against AI-related harms is a priority, especially in critical sectors.

6. Privacy and civil liberties

The executive order stresses the importance of protecting personal data as AI capabilities advance.



As AI progresses, assure your organization's personal data is secured and protected. Andrey Suslov / *Shutterstock.com*

7. Government use of AI

The order outlines strategies for the government's responsible use of AI, focusing on workforce training and IT infrastructure modernization.

8. Global leadership and cooperation

The US aims at global leadership of AI development and collaboration with international partners to manage AI risks.

Implications for in-house counsel

In-house counsel must stay abreast of these principles to ensure their organizations navigate AI's legal, ethical, and regulatory terrains effectively. Key areas of focus include:

- **Compliance and risk management:** ensuring AI systems are in line with safety, security, and equity standards set by the executive order.
- **Intellectual property and competition law:** navigating novel IP challenges and competition law in the AI-driven market.
- **Privacy and data protection:** implementing stringent data protection measures in line with the executive order's emphasis on privacy and civil liberties.
- **Labor and employment policies:** adapting policies to reflect AI's impact on the workforce and maintaining a commitment to worker rights and training.
- **Consumer rights and protection:** strengthening consumer protection mechanisms against AI-related fraud and bias, particularly in critical industries.

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