



BSA Policy Solutions for Building Responsible AI

Artificial intelligence (AI)-enabled software is helping businesses in every sector of the economy leverage the value of data to drive digital transformation. From manufacturers that use AI to design more innovative products to small businesses that rely on automated translation capabilities to grow their global customer base, AI is creating new opportunities to solve complex challenges. BSA members are at the forefront of the responsible development of AI, providing trusted software solutions that enable enterprises and their customers to harness the power of AI to improve their product offerings and enhance their competitiveness in critical areas such as health care, defense and infrastructure, and education. Rapid advances in AI are transforming expectations about how the technology may reshape the world. However, unlocking the full potential of AI will require a dynamic and flexible policy framework that spurs responsible AI innovation and use through enhanced accountability and transparency.

BSA SUPPORTS:



Global
Harmonization



Reducing Risk Through
AI Governance



Promoting Innovation
and Creativity



Protecting
Privacy



Facilitating
Procurement and
Government
Use of AI



Promoting
Transparency



Enabling
Cybersecurity



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Security



Promoting Multiple
Development
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Supporting Sound
Data Innovation
Policies



Investing in Research
and Development



Investing in Workforce
Development



Global Harmonization

Policymakers around the world are developing regulatory approaches to AI.

The global nature of today's technology ecosystem demands coordinated policy responses to foster innovation.

BSA SUPPORTS

- » **Pursuing interoperability.** Countries should work together to promote multistakeholder dialogue and develop a shared vision for a risk-based policy approach for addressing common AI challenges and advancing norms around responsible AI governance (e.g., risk-based approach to regulation, balanced responsibilities along the AI value chain). Global partners should also agree on common AI terminology and taxonomy, including building on ongoing work in the EU-US Trade and Technology Council.



Reducing Risk Through AI Governance

BSA members are advancing trust and ethics in AI and investing in research and development to address some of society's most pressing challenges. Organizations should ensure that society can realize the benefits of AI by proactively addressing its risks. A range of corporate governance safeguards can promote accountability by helping to identify and mitigate such risks and appropriately delineating roles and responsibilities along the AI value chain.

BSA SUPPORTS

- » **Implementing risk management programs.** BSA supports implementing risk management programs to enable organizations to identify the personnel, policies, and processes necessary to manage AI risks. Elements of a risk management program may include clearly assigning roles and responsibilities, establishing formal policies, using evaluation mechanisms, ensuring executive oversight, performing impact assessments for high-

risk AI, and having internal independent review mechanisms, such as interdepartmental governance or ethics committees, to evaluate and address AI issues that pose high risks. Organizations can incorporate these practices as part of a broader corporate risk management program or as a separate AI program.

- » **Requiring impact assessments for high-risk uses of AI.** An impact assessment is an accountability mechanism that promotes trust by demonstrating a system has been designed and deployed in a manner that accounts for potential risks it may pose to the public. By establishing a process for personnel to document key design and deployment choices and their underlying rationale, impact assessments enable organizations to identify and mitigate risks that can emerge throughout a system's life cycle. BSA supports requirements for organizations that develop or deploy high-risk AI to conduct impact assessments and publicly affirm that they have complied with this practice. An AI system may be high-risk if it makes consequential decisions that determine an individual's eligibility for and result in the provision or denial of housing, employment, credit, education, access to physical places of public accommodation, healthcare, or insurance.
- » **Distinguishing between different actors in the AI ecosystem.** Obligations should be placed on organizations based on their role in the AI ecosystem so that they can appropriately address the risks that fall within their responsibilities. For example, an AI developer, an AI deployer, and other parties within the value chain will have different information about how the AI system was developed or operates, and the law should recognize these distinctions.
- » **Testing high-risk AI systems.** BSA encourages measures that incentivize safety and security. Robust testing and evaluation of high-risk AI systems for safety, security, accuracy, and fairness is critical and is prioritized in the NIST AI Risk Management Framework, which BSA supports. Existing technical standards for AI testing are nascent and should be developed consistent with longstanding voluntary, market-driven, and consensus-based approaches to standards development.

- » **Ensuring appropriate policies and information sharing for foundation models.** Any public policies regulating foundation models should be commensurate with the models' risks and capabilities. Foundation model developers should provide information about model capabilities, limitations, testing, and security along the AI value chain based on the level of risk involved.



Promoting Innovation and Creativity

AI is advancing innovation and creativity in every sector of the economy. As this technology continues to evolve, it is important to consider the role of copyright law in both encouraging innovation and protecting the rights of creators. Copyright law is sufficiently flexible to adapt to this transformational technology, but BSA encourages policymakers to consider whether additional protections are warranted to prevent the spread of unauthorized, AI-generated replicas of an artist's name, image, likeness, or voice.

BSA SUPPORTS

- » **Recognizing the copyrightability of works created with the assistance of AI.** AI can bolster creativity, just as other software applications have long been an important tool of artists and storytellers (e.g., photo enhancements for visual artists, visual effects in media and entertainment, and arranging music for sound recordings). Copyright plays a key role in businesses' ability to protect creative material, including software code. The use of AI should not prevent a work developed in conjunction with human creativity from being eligible for copyright protection. If copyright protection is not available simply because AI was used in the creative process,

it will limit the responsible use of AI and the purpose of copyright laws. As a result, the portions of the work that are influenced by human creativity should be protected by copyright laws. Lack of copyright protection may also cause innovators to seek out jurisdictions with laws and policies that are more protective of intellectual property.

- » **Adopting voluntary methods for rights holders to opt out of AI training.** Access to sufficient data for training is critical to develop AI offerings that are as accurate and insightful as possible and optimize the benefits they can provide for organizations and society. In general, AI training involves computational analysis of data to identify probabilities, correlations, and trends, a process that does not typically use any of the data for its expressive content and, therefore, does not infringe any copyright in the underlying data. However, to support artists and rightsholders, BSA encourages industry to lead the development of automated tools to indicate that a rights-owner does not want a website used for training purposes, similar to the current "do not crawl" tools that apply to search engines.
- » **Recognizing the sufficiency of existing copyright law to remedy infringement.** It is important to recognize that existing copyright law is sufficient to address when a work created with the assistance of AI infringes copyrighted material.
- » **Enacting legislation to help protect content creators.** BSA supports developing legislation to afford public figures, musicians, singers, actors, and other creators with a right to prevent the unauthorized dissemination or use of their name, image, likeness, or voice and the unauthorized impersonation of creators in a manner consistent with First Amendment protections.

BSA supports requirements for organizations that develop or deploy high-risk AI to conduct impact assessments and publicly affirm that they have complied with this practice.



Protecting Privacy

The data-intensive nature of AI underscores the importance of meaningful consumer privacy protections. Consumers deserve to know how their personal data is used and protected, and consumer expectations should be backstopped by strong legal obligations on companies that collect or process personal information.

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- » **Adopting comprehensive consumer privacy laws.** BSA supports comprehensive consumer privacy laws that establish strong consumer rights in their personal data, impose clear requirements on companies that handle that consumer data, provide robust security, promote the use of data for legitimate business purposes, and are backed by robust government enforcement.
- » **Providing targeted opt-outs for profiling.** Consumers should have the right to opt out of consequential, automated decisions that are made solely by AI without human interaction and that have a legal or similarly significant effect on individuals.
- » **Developing privacy-enhancing technologies.** BSA encourages the development of privacy-enhancing technologies to strengthen AI safeguards. BSA recognizes that automation also plays a vital role in enabling cybersecurity tools that support data privacy. For example, AI is leveraged to help protect businesses against data breaches; protect data, devices, and networks; prevent unauthorized access to data; and improve an organization's recovery time, even after a data breach.



Facilitating Procurement and Government Use of AI

Governments leverage AI to fulfill important functions. In doing so, governments should ensure that they have access to the most advanced IT solutions and that they have processes to govern the responsible development and use of AI.

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- » **Implementing the NIST AI Risk Management Framework (RMF).** The NIST AI RMF is a flexible framework that can help organizations govern, map, measure, and manage AI risks. Government agencies should follow the practices set forth by the NIST AI RMF, including for procurement purposes.
- » **Pursuing multi-cloud procurement.** Government agencies should work with multiple cloud providers to leverage the breadth of innovation occurring across the cloud industry. Agencies should not put all their data in one cloud infrastructure, but rather leverage multiple cloud service providers' compute, AI, and other technologies. BSA supports agencies using multi-cloud in cloud purchasing.
- » **Deploying AI to meet today's challenges with today's solutions.** Governments must invest in AI-driven cybersecurity solutions to bolster their defenses and keep pace with malicious actors who are already using AI to improve their exploits.
- » **Enabling use of commercial sector AI applications.** AI applications are and will continue to be built into commercial software, including that procured by governments. Governments should continue to prioritize adopting commercial software and embrace trustworthy AI solutions contained within it to enhance citizen services and improve operations. This requires governments to ensure AI policies do not inadvertently prevent the government from adopting low-risk commercial AI applications.



Promoting Transparency

There has been tremendous innovation in AI, but it can also exacerbate risks of misinformation. Transparency about AI-generated content is key to ensuring responsible AI.

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- » **Encouraging the use of watermarks or other disclosure methods for AI-generated content.** These disclosures can help consumers tell whether content is human- or AI-generated. This can be helpful in preventing misinformation. Encouraging the use of watermarks or other disclosure methods for AI-generated content can help address this concern.
- » **Promoting the Coalition for Content Provenance and Authenticity standard.** BSA supports the Content Authenticity Initiative's (CAI) efforts to promote the open Coalition for Content Provenance and Authenticity standard for content authenticity and provenance. This standard will help consumers decide what content is trustworthy and promote transparency around the use of AI. In conjunction with watermarking, the CAI approach provides secure, indelible provenance.
- » **Disclosing when consumers are interacting with AI.** Consumers should know when they are interacting with AI depending on the circumstances and context of use. For example, chatbots should disclose that consumers are interacting with AI instead of a human. AI vendors should be prepared to provide some measure of explainability around models and outcomes.



Enabling Cybersecurity

Strong cybersecurity risk management is critical to combatting security threats. Although malicious actors can exploit AI to create security risks, AI can also be used to dramatically enhance cybersecurity.

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- » **Using AI to improve secure software development.** Software producers should leverage AI to improve the secure software development process, including by identifying and remediating vulnerabilities.
- » **Harnessing AI to improve cybersecurity risk management.** Policymakers should ensure that cyber defenders can flexibly use AI to provide an accurate understanding of organizations' attack surfaces and improve threat detection and security outcomes.



Ensuring National Security

AI could have implications for national security. BSA recognizes the need for targeted actions to protect against AI-related national security threats. Failure to proactively develop robust AI policies at the national level could create substantial gaps in national security.

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- » **Using narrowly tailored measures to address national security risks.** BSA supports narrowly tailored efforts to protect national security that do not unnecessarily interfere with companies' ability to conduct routine business transactions.
- » **Leveraging AI to improve critical infrastructure.** BSA recognizes that AI can contribute significantly to developing and improving critical infrastructure, such as transportation. BSA supports policies that facilitate the use of AI to enhance critical infrastructure. Efforts to mitigate risks to critical infrastructure should focus on instances where there is a risk that an AI system could override human control and endanger the health and safety of individuals.

Rules that unnecessarily limit cross-border data transfers or require data localization invariably limit the insights and other benefits that AI systems can provide.



Promoting Multiple Development Models

Open source is a critical component of the AI ecosystem. It expands the AI marketplace, enhances the diversity of product offerings, promotes transparency, and enables vulnerabilities to be identified and remediated.

BSA SUPPORTS

» **Continuing the development of open source AI.**

AI policies should recognize the key role that open source plays in AI development. BSA encourages rules that support both open source and proprietary systems.

limit cross-border data transfers or require data localization invariably limit the insights and other benefits that AI systems can provide. In addition, countries should not require algorithmic disclosure as a condition for doing business.

- » **Continuing efforts to make public government data sets open and available in machine-readable digital formats.** Government-generated data is an important asset that can serve as a powerful engine for creating new jobs, promoting economic growth, and enabling innovation in AI-related technologies. Governments collect and generate vast quantities of data that offer unique insights into virtually every facet of the modern world. To enhance AI innovation, governments should continue to prioritize the release of high-value, non-sensitive government data.



Supporting Sound Data Innovation Policies

The exponential increase in data, combined with increases in remote computing power and development of more sophisticated algorithms, has fueled progress in machine learning and AI.

Capitalizing on these developments to facilitate continued advances in AI requires sound data innovation policies.

BSA SUPPORTS

- » **Facilitating global data flows.** Data transfers are integral to every stage of the AI life cycle, from developing predictive models to integrating and deploying AI systems. The data used in AI systems often originates from many geographically dispersed sources, making it imperative that data can move freely across borders. Rules that unnecessarily



Investing in Research and Development

Government research and development (R&D) spurs technological innovation that can drive long-term economic growth. Strategic investment in education, research, and technological development will be integral to developing AI technologies.

BSA SUPPORTS

- » **Increasing investment in R&D.** Increased funding for R&D is essential to sparking innovation, growing high-paying jobs, and ensuring economic competitiveness.
- » **Encouraging R&D cooperation.** Countries should work together to identify and support R&D challenges across borders.



Investing in Workforce Development

AI is helping to generate new jobs across industry sectors and augmenting the current workforce. AI may also impact existing jobs, and BSA supports job training and retraining programs to minimize negative impact on workforces. Countries must not only ensure that they have the STEM talent needed to develop AI innovations, but also prepare the broader workforce for a future in which virtually every job will involve an increased interaction with AI and other technologies and the need for digital skills.

BSA SUPPORTS

- » **Improving access and support for STEM education.** Broadening educational opportunities, improving training programs, and ensuring the development of a diverse workforce is needed to help meet the demand for skilled STEM workers.
- » **Expanding workforce training and alternative pathways.** Industry and government should invest in programs to support creating alternative pathways to the full range of AI careers; this includes those that enable workers to develop high-demand technology skills without the need for a bachelor's or graduate degree. Programs like apprenticeships, partnerships with community colleges, digital skills training and certifications, boot camps, and public service opportunities are all important gateways to helping new and mid-career workers develop in-demand skills.

ADDITIONAL RESOURCES

Artificial Intelligence & Copyright Policy

The cover features the BSA logo and the title "Artificial Intelligence & Copyright Policy: Advancing Technology and Creativity in the 21st Century Economy". It includes a small circular icon with a brain and a gear. Below the title, it says "COPRIGHT LAW AND AI INNOVATION". There are three circular icons with text: "Responsible AI Training and Protecting Artists and Copyright Holders", "Remedies if AI-Generated Works Infringe", and "Copyright Protection for Creators Using AI". The background shows a faint map of the United States.

Artificial Intelligence (AI) is advancing innovation and creativity in every sector of our economy. For example, AI provides creators with new ways to enhance their craft—such as visual effects in film, in science-fiction writing, and in art—and it is revolutionizing their delivery. As this technology continues to evolve, it is important to consider the role of copyright law in encouraging innovation and protecting the rights of creators. US copyright law is sufficiently flexible to adapt to this transformational technology, but we encourage further work on additional protections for artists to prevent the spread of unauthorized, AI-generated replicas of their name, image, likeness, or voice.

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Impact Assessments: A Key Part of AI Accountability

The cover features the BSA logo and the title "Impact Assessments: A Key Part of AI Accountability". It includes a small circular icon with a brain and a gear. Below the title, it says "Why Conduct an Impact Assessment?". It lists three purposes: "Identifying potential risks that an AI system may pose.", "Quantifying the degree of potential harms the system could generate.", and "Documenting steps taken to mitigate those risks.". The background shows a faint map of the United States.

As companies develop and deploy AI systems, they should take steps to ensure the technology is used responsibly. Organizations should implement robust processes for performing impact assessments on high-risk AI systems to effectively manage risks. Impact assessments are a key accountability tool used in a range of other fields, from environmental protection to data protection.

BSA supports legislative requirements for companies that develop and deploy high-risk AI systems to conduct impact assessments.

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