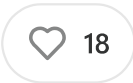# The United States' National AI Policy

Trump's new Executive Order on AI outlines a strategic legal maneuver that will empower federal authorities and block state efforts that are not aligned with the federal wishes | Edition #258

LUIZA JAROVSKY, PHD

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The United States' National AI Policy

Yesterday, President Trump signed a new [Executive Order](#) on AI, focused on implementing America's AI Action Plan and removing what the federal government sees as 'barriers to American leadership in AI.'

This is the White House's second major attempt to block U.S. states from enacting AI laws that go against the federal strategy, following the Senate's rejection of a 10-year moratorium in July.

What many have not noticed is that this Executive Order outlines an **extremely strategic legal maneuver** that will consolidate the federal plan, empower federal authorities, and, with a few exceptions, block any state effort that is not aligned with or endorsed at the federal level.

Advocates, policymakers, lawyers, and the general public alike should pay attention and plan accordingly.

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Before I break down the legal strategy of this Executive Order, we must remember that, in December 2025, any United States federal strategy on AI must be understood in light of the following two pieces of context:

1. **The competitive pressure from China** grows daily, and wrong macroeconomic or legal policies today might lead to the loss of AI supremacy to Beijing in a short period of time. Given how AI development works, the "winner takes all" effect might apply, and if the United States loses the AI lead to China, it might never recover. This is not a risk Trump will want to take.

2. **The threat of an AI bubble still looms**, along with the risk that it could burst and trigger a catastrophic economic crisis. Many have said the numbers do not add up, while others point out that 92% of U.S. GDP growth in the first half of 2025 came from AI spending, signaling a bubble. Investors are anxious, and the federal government is absolutely not interested in another dotcom bubble burst.

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Back to the Executive Order.

Its goal is to ban excessive state regulation on AI. In fact, this has been Trump's goal since day one of his presidency, as it will give him greater control over U.S. strategy and execution to achieve AI supremacy.

The first attempt to ban state laws on AI failed with the rejected 10-year moratorium, so he needed a new strategy.

His legal team worked hard on the matter, and **the legal strategy is actually very smart**. Why?

The Executive Order frames the state law ban as a legal necessity. If America does not ban state laws on AI, it might end up fostering an intolerable, likely illegal situation.

According to the Trump Administration, these are the three reasons why banning state laws on AI **is actually necessary and often legally required**:

1. "AI companies must be free to innovate without cumbersome regulation"

Here, he highlights that excessive state regulation and a patchwork of 50 different regulatory regimes are an obstacle to this, especially for startups.

As I have written before, I agree with the idea that if America wants to "win" the AI race (meaning support internal AI innovation and growth, expand its global influence, and beat China), **it needs to urgently regulate AI at the national level**.

If one U.S. state frames "frontier AI" using a certain threshold and another state establishes a different definition and threshold and applies different standards, AI development in the U.S. will drown in distractions, legal complexities, and bureaucracy.

There are more than 1,000 bills being discussed in state legislatures, but there is no comprehensive AI law at the federal level.

The White House assessment is right: this state-level mess is indeed bad for innovation. My guess is that most people will agree with this assessment.

The conclusion here should be that a comprehensive federal framework on AI is coming soon. However, Trump's strategic statement is:

> "A carefully crafted national framework can ensure that the United States wins the AI race, as we must. Until such a national standard exists, however, it is imperative that my Administration takes action to check the most onerous and excessive laws emerging from the States that threaten to stymie innovation."

The legal trick here? He manages to get everyone's buy-in on the assessment, while the conclusion that many would see as desirable (the national law on AI) might come later on, or might never come.

2. "Blocking ideological biases or social agendas built into AI models"

Aligned with an earlier [Executive Order](#) on "Preventing woke AI in the federal government," Trump states that he wants to block state AI laws that require AI companies to 'embed ideological bias within models.'

In this context, he gives the example of a new Colorado law banning algorithmic discrimination that could force AI models to produce what he calls false results to avoid differential treatment or impact on protected groups.

What is the legal strategy to implement this goal?

He frames the blocking of ideological biases as a necessary implementation of the Federal Trade Commission Act's prohibition on **unfair and deceptive acts or practices** under 15 U.S.C. 45.

So the seventh section of the Executive Order mandates the preemption of state laws that mandate deceptive conduct in AI models.

According to this approach, these laws would be illegal in any case under U.S. federal law, so by banning these state laws, he is merely applying federal law.

Also, another trick here is that the way the White House is framing "woke AI" and "ideological bias" is abstract and could be applied more broadly to prevent AI governance measures and legitimate (and necessary) responsible AI standards.

3. "Blocking laws that regulate beyond state borders, impinging on interstate commerce (...) or are otherwise unlawful in the Attorney General's judgment"

Another smart way to seize control of AI regulation is by broadly framing unconstitutional regulation of interstate commerce and "unlawfulness according to the Attorney General's judgment.

According to Section 3 of the Executive Order:

> "the Attorney General shall establish an AI Litigation Task Force whose sole responsibility shall be to challenge State AI laws inconsistent with the policy set forth in section 2 of this order, including on grounds that such laws **unconstitutionally regulate interstate commerce**, are preempted by existing Federal regulations, or are **otherwise unlawful in the Attorney General's judgment**, including, if appropriate, those laws identified pursuant to section 4 of this order."

Trump's legal team needed the broadest possible blanket to block state AI laws that the federal administration considers harmful to innovation or, for any reason, inadequate.

For that, it added two very broad (and often vague) standards, giving federal authorities significant leeway to decide which state laws to block.

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By creating a broad framework that allows federal entities to claim that state AI laws are unconstitutional and illegal, Trump's legal team did a great job of **ensuring that the federal administration retains as much control as possible** over AI regulation.

This is, of course, what Trump has wanted since day one.

I am looking forward to the upcoming chapters of this AI regulation saga.

I will keep you posted.

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