

MSBA 5507.1 Ethics, Risk Management and Data Security

Introduction and basic concepts

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Deadlinedetroit.com

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Office hours: Wed 1-3 pm

| TOPIC | DESCRIPTION |
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| <u>Case Study</u> | <i>Williams v. City of Detroit</i> , No. 2:21-cv-10827 (E.D. Mich. April 2021) |
| <u>Discussion</u> | <p>Each room should choose one spokesperson</p> <ul style="list-style-type: none">• Room One: Argue why facial recognition is not at fault.• Room Two: What autonomy and transparency issues are highlighted by this case?• Room Three: To what extent should creators of facial recognition algorithms be responsible for downstream use?• Room Four: How do you balance the security and privacy issues in this case? |

| TOPIC | | DESCRIPTION | | | | |
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| <u>Overview</u> | | Cover fundamentals of being an ethical business data professional using case studies (both real and created) | | | | |
| <u>Learning objectives</u> | | <ul style="list-style-type: none"> Understand key general ethical, security, privacy, intellectual property and risk management concepts and principles. Be able analyze and apply the general concepts and principles learned to help formulate solutions. | | | | |
| <u>Class Schedule</u> | | Class One | Class Two | Class Three | Class Four | Class Five |
| | | General concepts | Data Ethics | Cyber Security | Privacy | Privacy & Risk Mgt Midterm |
| | | Class Six | Class Seven | Class Eight | Class Nine | Class Ten |
| | | Midterm Review Guest Speaker | Accuracy, Fairness, Autonomy and Transparency | Intellectual Property & Data Collection | Incident Response General Frameworks Professionalism | In-person Final Presentations |
| <u>Team presentation</u> | Topics | • Zero Trust | • Autoregressive Language Model | • Data Robotic Process Automation | • Transparency | |
| | Output | • Placemat/infographic (Presentation) | • Written supporting memo (≤ 5 pages) | • Key issues, guidance and approaches | • Key resources | |

TOPIC**DESCRIPTION**

**Final
Presentation**

Teams and topics: Schedule ½ hour meeting by team the week of July 10-14th to discuss

| Team 1 | Team 2 | Team 3 | Team 4 |
|-------------------|--------------------------------------|--|-----------------------|
| Zero Trust | Autoregressive Language Model | Data Robotic Process Automation | Transparency |
| Peiqi Li | Rana Demirer | Addrianna Brychczynska | Francesco Coccaro |
| Kellis Johnson | Jacqueline Ocana | Crystal Martinez | Angie Menjivar |
| Jacob Eide | Kohsuke Uchimura | Rene Lucha | Andrea Capella-Castro |
| Matthew Mueller | Rahmat Ullah | Madison Connell | Patrick Kelly |
| Reed Felder | Justine Brown | Jessica Moitt | Nicole Gutierrez |

| TOPIC | DESCRIPTION | |
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| <u>Legal & Regulatory Concepts</u> | Sources of law | |
| Discussion | General Sources of US Law | |
| | • Constitutional | Due Process/Equal Rights |
| | • Statutory | Genetic Information Nondiscrimination Act Title IV of the Civil Rights Act of 1964 |
| | • Case Law | Negligence |
| | Privacy example | |
| | • Constitutional | Zone of privacy (beliefs, person, home) <i>Griswold v. Connecticut</i> , 381 U.S. 479 (1965) |
| | • Statutory | GLBA, HIPAA, COPPA |
| | • Cases | Privacy torts |
| | State (California) | |
| | • Constitution | Privacy: inalienable right |
| | • Statutory | California Consumer Privacy Act |
| | Globally | |
| | Common law compared to civil law | |

| TOPIC | DESCRIPTION |
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| <u>Legal & Regulatory Concepts</u> | General Concepts (typical types of non-criminal actions) |
| Discussion | Statutory Scope (who and what) Elements/Rules/Prohibitions Failure to follow Enforcement (State and/or Private right of action) Consequences |
| | Negligence (a tort) A duty care is owed (reasonably foreseeable) That duty is breached (might be failure to warn) The breach is the cause of injury (act or omission) Plaintiff has actual quantifiable injury Defenses (assumption of risk, comparative fault, etc.) |
| | Contractual Parties Commitments/promises Failure to perform Consequences/standards/limitations Venue/forum Third party beneficiaries |
| | Product liability (often Strict Liability) Manufactured, distributed, or supplied a product The product was defective The defect caused the injury As a result, the plaintiff sustained damage |
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| TOPIC | | DESCRIPTION | |
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| <u>Legal & Regulatory Concepts</u> | | General Concepts (key concepts relevant to algorithms/big data/deep learning . . .)* | |
| Discussion | Concept | General meaning | Example (subject to specific definitions) |
| | Protected classes or characteristics | A legally protected group that shares common trait(s) and cannot be discriminated against based on that/those trait(s) | Race, color, sex, gender, religion, disability, national origin, age, martial status, genetic information |
| | Disparate treatment | Where one treats someone differently based on a protected class/characteristic | A lending decision based on an applicant's gender |
| | Disparate impact | One acts in a facially neutral manner, but it has a disproportionate adverse effect or impact on a protected class/characteristic (unless there is no other way to achieve a legitimate business interest) | A lending decision based on zip codes |
| | Material promises | A declaration of assurance that you will do something which is important/essential | A promise to secure data, or use it only for a particular purpose |

**Big Data: A Tool for Inclusion or Exclusion? FTC Report (January 2016)*

| TOPIC | DESCRIPTION |
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| <u>Legal & Regulatory Concepts</u> | Enforcement |
| <p>Discussion</p> <p>Roles</p> <ul style="list-style-type: none"> • Regulators • Attorney generals • Courts • People | <p>Federal Trade Commission</p> <ul style="list-style-type: none"> • Protect consumers <ul style="list-style-type: none"> • Organization, business, conduct, practices and management that affects commerce (except certain financial entities, most non-profits and common carriers) • Section 5 of the FTC Act <ul style="list-style-type: none"> • Prohibit unfair or deceptive practices (acts or omissions) in the collection, use, processing, protection and disclosure of personal information • What's unfair – likely to cause substantial injury and not reasonably avoidable by a consumer <p>Private right of action – potential for class actions</p> <ul style="list-style-type: none"> • California Consumer Privacy Act § 1789.150 (a) (1): <ul style="list-style-type: none"> • “Any <u>consumer</u> whose nonencrypted or nonredacted personal information . . . is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business’s violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information <u>may institute a civil action</u> . . .” |

Comparative Legal Approaches

[Proposed] Artificial Intelligence Act, European Commission (April 2021)*
Andrew Smith, *Using Artificial Intelligence and Algorithms*, FTC (April 2021)

Using Artificial Intelligence and Algorithms

By: Andrew Smith, Director, FTC Bureau of Consumer Protection | April 8, 2020



Be transparent.

Don't deceive consumers about how you use automated tools. Oftentimes, AI operates in the background, somewhat removed from the consumer experience. But, when using AI tools to interact with customers (think chatbots), be careful not to mislead consumers about the nature of the interaction. The [Ashley Madison complaint](#) alleged that the adultery-oriented dating website deceived consumers by using fake "engager profiles" of attractive mates to induce potential

Explain your decision to the consumer.

If you deny consumers something of value based on algorithmic decision-making, explain why. Some might say that it's too difficult to explain the multitude of factors that might affect algorithmic decision-making. But, in the credit-granting world, companies are required to disclose to the consumer the principal reasons why they were denied credit, and it's not good enough simply to say

Ensure that your decisions are fair.

Don't discriminate based on protected classes. Cavalier use of AI could result in discrimination against a protected class. A number of federal equal opportunity laws, such as [ECOA](#) and Title VII of the Civil Rights Act of 1964, may be relevant to such conduct. The FTC enforces ECOA, which prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status,

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

LAYING DOWN HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (ARTIFICIAL INTELLIGENCE ACT) AND AMENDING CERTAIN UNION LEGISLATIVE ACTS

CHAPTER 2

REQUIREMENTS FOR HIGH-RISK AI SYSTEMS

Article 8

Compliance with the requirements

1. High-risk AI systems shall comply with the requirements established in this Chapter.
2. The intended purpose of the high-risk AI system and the risk management system referred to in Article 9 shall be taken into account when ensuring compliance with those requirements.

Article 9

Risk management system

1. A risk management system shall be established, implemented, documented and maintained in relation to high-risk AI systems.
2. The risk management system shall consist of a continuous iterative process run throughout the entire lifecycle of a high-risk AI system, requiring regular systematic updating. It shall comprise the following steps:

| TOPIC | DESCRIPTION |
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| <u>IRAC</u> | <p>A methodology used to structure and organize arguments or discussions.</p> <p>The acronym stands for Issue, Rule, Application, and Conclusion.</p> <p><u>Issue</u>: This is the question or problem that needs to be resolved.</p> <p><u>Rule</u>: The rule section is where the relevant rules, principles, and doctrines that will be used to solve the issue are stated and explained. This typically involves citing rules, principles, and doctrines that you use.</p> <p><u>Discussion</u></p> <p><u>Application</u>: This is where the rules, principles, and doctrines are applied to the facts of the issue. The purpose is to demonstrate how the rules resolve the issue, considering the specific circumstances and details involved.</p> <p><u>Conclusion</u>: The conclusion is the final resolution of the issue based on the application of the rules. It's the answer to the question that was identified as the issue.</p> |

| TOPIC | DESCRIPTION |
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| <u>Legal & Regulatory Concepts</u> | <i>FTC v. RealPage</i> , No. 3:18-cv-02737, (N.D. Tx. Oct. 2018) |
| <u>Discussion</u> | <p>Use IRAC to discuss the case</p> <p>Room one: In one to two sentence, what is the issue in this case?</p> <p>Room two: What rules applied to the case?</p> <p>Room three: How did the FTC apply the facts to the rules?</p> <p>Room four: What the FTC's conclusion and what were the consequences to RealPage?</p> <p>Each room should choose one spokesperson</p> |

| TOPIC | DESCRIPTION |
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| <u>Practice</u> | Perfect Grocery example mid-term |
| | Each room should choose one spokesperson |
| | All Rooms: Applying the facts, prepare to argue whether you think Perfect Grocery was unfair or deceptive |
| <u>Discussion</u> | (i.e., did Perfect Grocery use unfair or deceptive practices (acts or omissions) in the collection, use, processing, protection and/or disclosure of personal information?) |