

THE COLORADO ANTI-DISCRIMINATION IN ARTIFICIAL INTELLIGENCE ACT

On May 17, 2024, Governor Polis signed Senate Bill 24-205, also known as the Colorado Anti-Discrimination in AI Law, or ADAI. The law protects consumers from algorithmic discrimination in consequential decisions made by high-risk artificial intelligence systems.

Specifically, the ADAI obligates developers and deployers to use reasonable care to avoid algorithmic discrimination in systems that, when deployed, make decisions that have significant effects in the following areas:

- Education enrollment or education opportunities;
- Employment or employment opportunities;
- Financial or lending services;
- Essential government services;
- Housing;
- Insurance; and
- Legal services.

When parties doing business in Colorado deploy or make available an AI system intended to interact with consumers, the ADAI also requires those parties to ensure that the AI system discloses to each consumer that the consumer is interacting with an AI system.



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Key Ways to Impact Your Privacy Program

September 27, 2024

Meet the panelists

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Will Sweeney
Managing Partner
Zaviant



Ashley Fowler
Senior Privacy Program
Manager
Osano



Hugo Teufel
Chief Privacy Officer
Lumen Technologies

Session Agenda

01 Increased Focus on Privacy

02 Building and Enhancing Your Program

03 Leverage Technology

04 Questions

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Consumers Care More Than Ever About Their Privacy

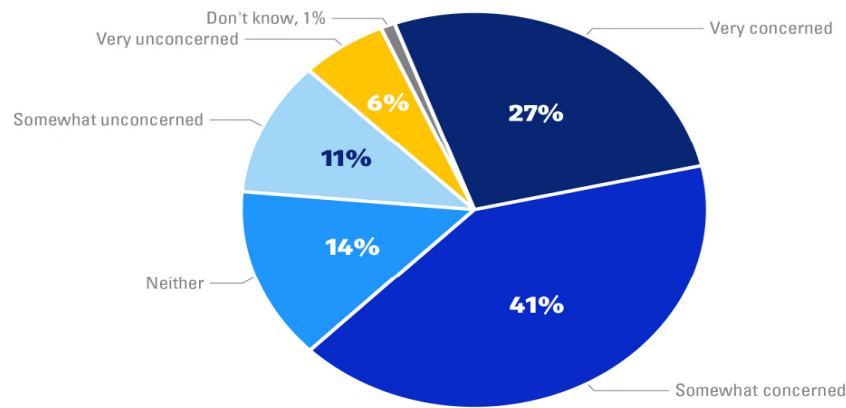
- **Data privacy is a top concern:** A Cisco study found that 86% of consumers care about data privacy and want more control over it.
- **Younger consumers are more active:** A Cisco survey found that 42% of consumers aged 18–24 have inquired about the personal data organizations have about them, which is seven times more than consumers aged 75 or older.
- **Consumers want more regulation:** 77% of consumers want the government to do more to regulate how companies collect and use their data.
- **Consumers want more transparency & control:** Consumers want companies to communicate their data-handling practices more effectively with easier ways to control how their data is used.

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Consumers Care More Than Ever About Their Privacy

Privacy concerns have deep roots. Nearly 68% of consumers throughout the world said they are either somewhat or very concerned about their online privacy. This concern affects how much they trust companies, organizations and governments to collect, hold and use their personal data. they feel their privacy is at risk.



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Courtesy of iapp.org

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Building a Program

Location, Location,
Location



What data protection regulations are you REALLY subject to?

Business Partner &
Board Requirements



- Compliance & Audit -
What does your industry and regulatory bodies enforce?
- Governance & Accountability
- Risk, Response & Resilience

Does it Bring a
Competitive Advantage?



- What do your customers want?
- Notice, Choice & Consent

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Understand Where You Are Today

Start by understanding where you are so you know where you need to go and plan for the appropriate resources and budget to get you there.

- **Assess Current State:** Work with Internal Audit or external experts to gain an independent perspective on where the gaps are within your program. Leverage industry accepted frameworks such as the NIST Privacy Management Framework (PMF) and document the areas of strength and weakness.
- **Develop a Roadmap:** Once you've identified the gaps in your program, build a roadmap which takes into account the critical areas requiring immediate attention. Start making progress on the areas where enforcement is most likely to occur.
- **Meet Regularly and Reprioritize:** Compliance never ends. Meet with key stakeholders and executive leadership to agree on priorities, update on progress, and identify any new requirements which require immediate attention.

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Train Your Teams and Gain Alignment

Don't skip this step!

- Begin by training your teams about what you're doing and why it's important
- Explain the requirements and how it will impact the different functional units of the business - Marketing, Sales, Human Resources, Information Technology
- Make sure these teams understand that everyone has a role in Privacy

- Business Units will eventually need to be able to answer: Who are the data subjects the department has personal data for? What personal data is being collected? What is the method of collection, do you get it directly from the data subject or from a 3rd party?
 - Know where the data is stored. All storage methods... paper and e-storage
 - Know the other internal depts that "process" this PII.
 - Know if the PII is shared with a 3rd party?
 - Data Protection – How do you access the systems? Do you use Multi Factor Authentication? What access controls are in place? Is your data encrypted?
 - Is there a destruction policy for old data? Are you following the policy?

- **Remember** – these groups will be directly impacted. Their workload will change, they may be responsible for implementing specific requirements, and their domain knowledge is key to your success.

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Understand what fits with YOUR culture – Don't boil the ocean

It's About People First



Company culture can be heavily influential on our customer's culture. The goal is to lead by example but also be empathetic to the challenges that stakeholders and customers face.

Data Subject



The individual to whom personal data relates, typically the person whose personal information is collected, stored, or processed. **Who are your "subjects"?**

Processing Activity



Any action performed on personal data, such as collecting, storing, analyzing, transferring, or deleting it, whether automated or manual.

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Leverage Technology

Know where your Data is stored



- Know where sensitive data resides in case of a data breach
- Use as a guide to respond to subject access requests

Keep your records up to date



- Cure Periods are becoming increasingly short – Pulling the data together quickly without technology is difficult
- **Automation** and **integration** will make this easier

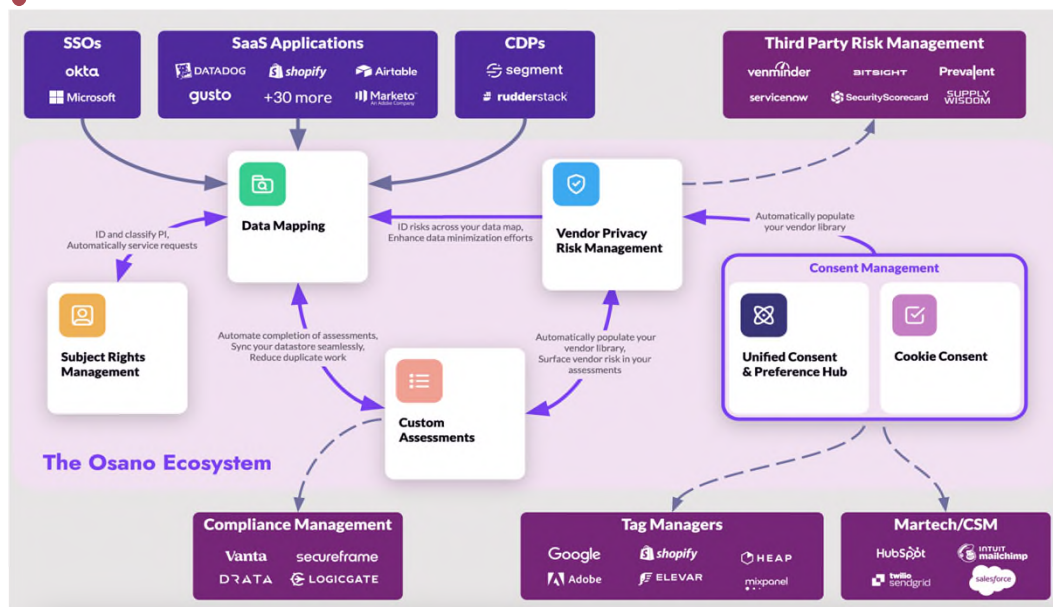
Understand how data flows through the organization



- Provide visibility into Personal Information data flows between systems and departments
- Identify **third-parties** involved

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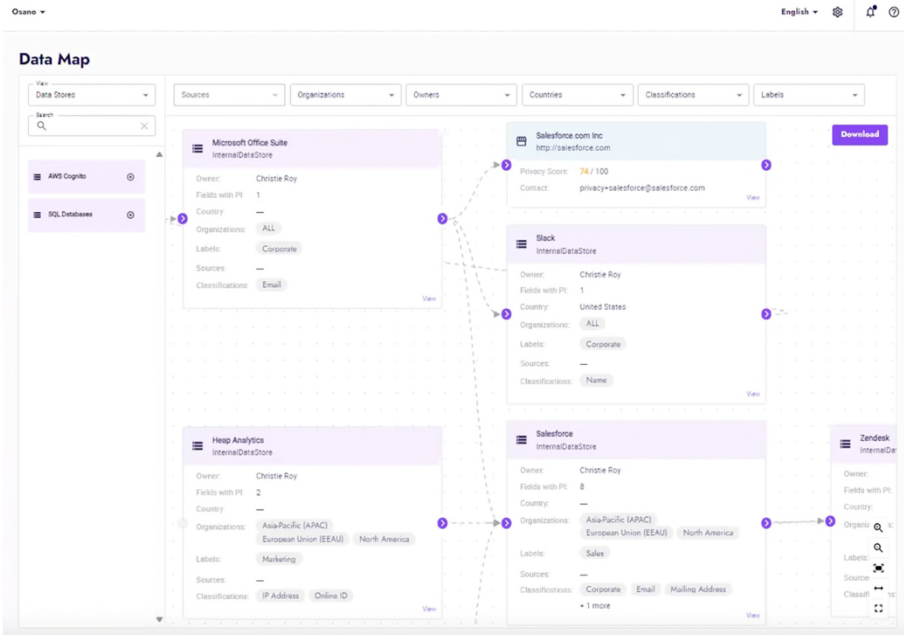
Privacy Technology



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Processing Records

- Each Data Mapping is a snapshot of that Department's processing activities.
- From this mapping we can visualize whose data is collected, what the data is, where it is stored, and who it is transferred to.



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Data Flows: Information Life Cycle



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Real World Example: Financial Services

A large financial services company needed to enhance its data privacy measures to protect sensitive customer information and comply with evolving regulations.

Challenges: The company faced challenges ensuring compliance with regulations like GDPR and CCPA for vast amounts of personal and financial data.

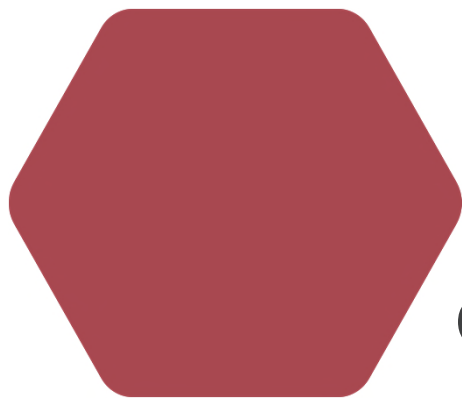
Solution: The company implemented a comprehensive privacy program that included:

- **Data Encryption:** Encrypting sensitive data both at rest and in transit to prevent unauthorized access.
- **Access Controls:** Implementing strict access controls to ensure that only authorized personnel could access sensitive information.
- **Regular Audits:** Conducting regular privacy audits to identify and address potential vulnerabilities.
- **Employee Training:** Providing ongoing training to employees on data privacy best practices and regulatory requirements.

Impact: The company achieved enhanced data security, improved compliance with privacy regulations, and increased customer trust. Additionally, the company was able to respond more effectively to potential data breaches, minimizing their impact.

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Questions?



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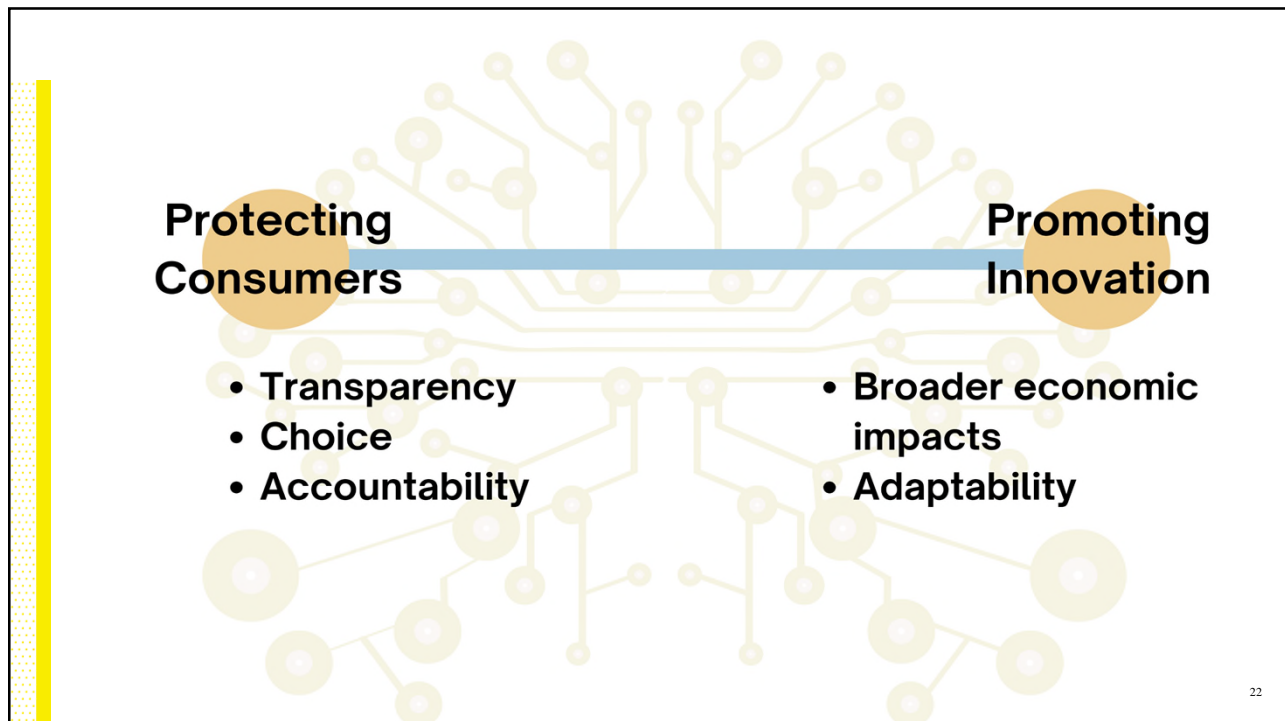
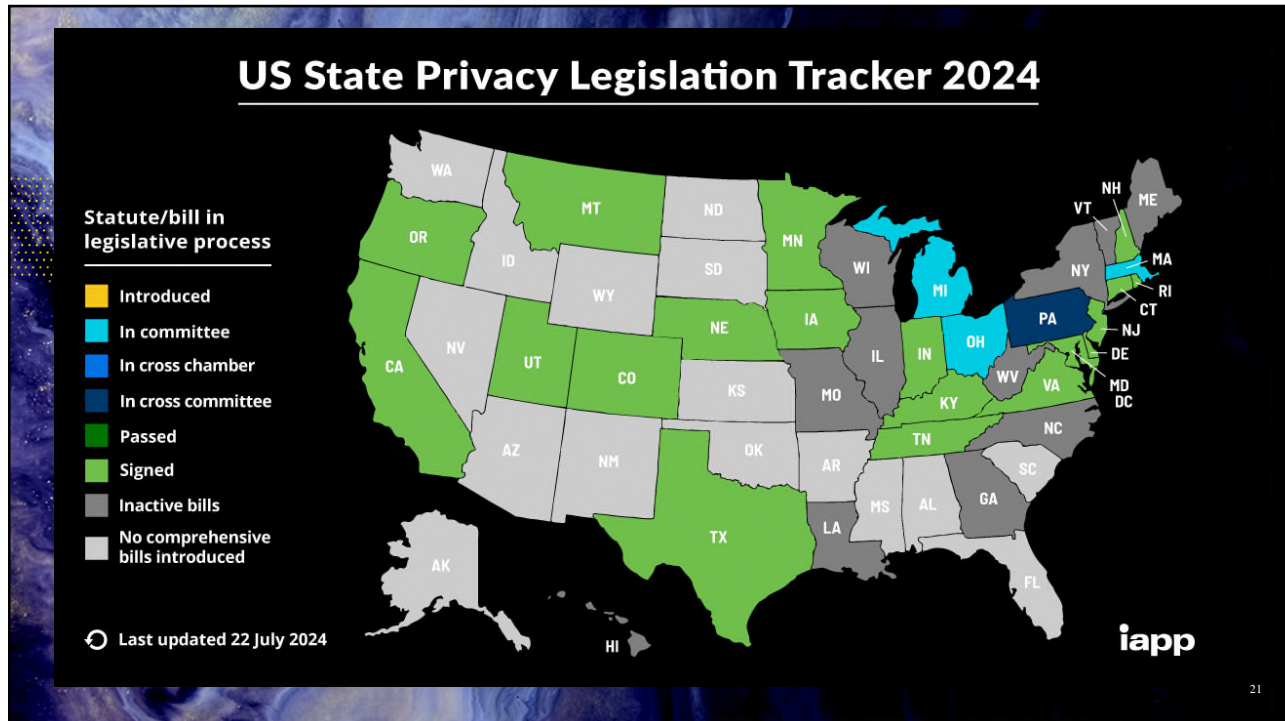
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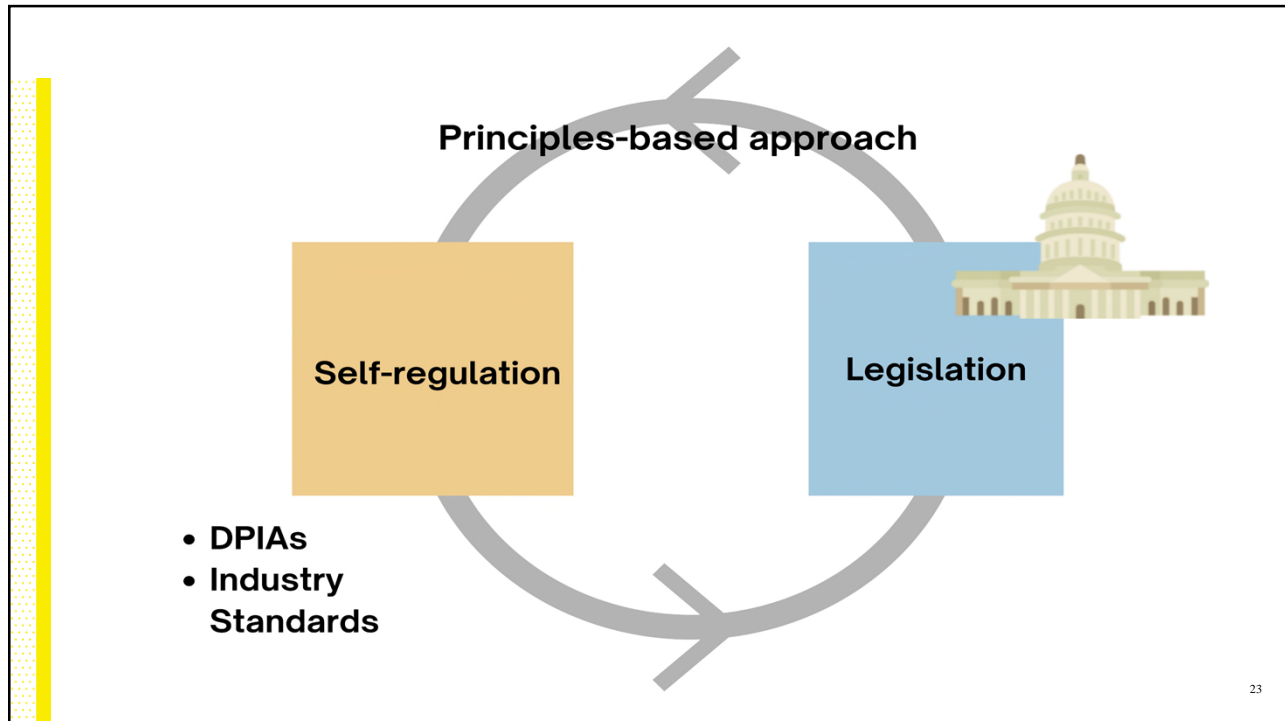
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STRIKING THE BALANCE:
POLICY CONSIDERATIONS FOR
CONSUMER PROTECTION &
TECHNOLOGICAL INNOVATION IN
PRIVACY, AI, AND TECH
LEGISLATION

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This slide features a white central area with a colorful, abstract background of purple, pink, and blue. In the top right corner of the white area, it says "© 2024 Ballard Spahr LLP". On the left, the logos for "Ballard Spahr LLP" and "Zaviant" are displayed. In the center, the text "THANK YOU TO OUR SPONSORS" is written in large, bold, black letters, followed by "Annual Colorado Privacy Summit" and "September 26, 2024" in smaller text. On the right side, the logos for "Consilio", "exterro", "osano", and "pngcyber" (with the tagline "powered by ProNet Group, Inc.") are arranged vertically. A vertical yellow bar is on the left edge of the slide.

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A FIRESIDE CHAT WITH COLORADO ATTORNEY GENERAL PHIL WEISER




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THE COLORADO ANTI-DISCRIMINATION IN ARTIFICIAL INTELLIGENCE ACT

Anti-Discrimination in Artificial Intelligence

Scan below to submit comments or for more information.



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DEVELOPING A TRUE NORTH FOR REGULATING AI

Driving Principles:

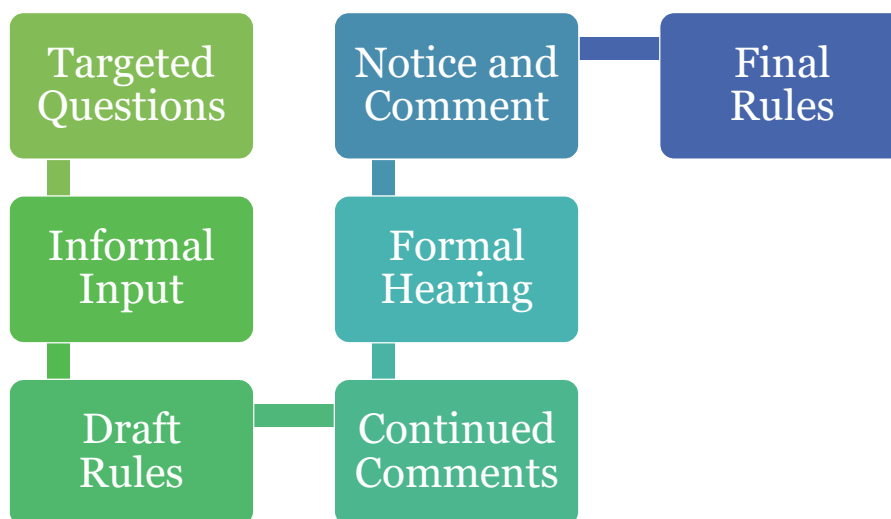
- Protecting consumers
- Welcoming entrepreneurs
- Encouraging innovation



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ADAI PRINCIPLE-GUIDED RULEMAKING



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ADAI PRE-RULEMAKING CONSIDERATIONS

Targeted Questions for Information Input

- Regulations v. re-drafting the legislation?
- Regulations to protection consumers while welcoming innovation from early stage companies?
- How often and in what circumstances do companies deploy third-party AI systems without modification or customization?
- What does the ADAI do differently from laws in other jurisdictions?

AI DEEPFAKES IN POLITICAL MESSAGING

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STATE OF COLORADO
DEPARTMENT OF LAW

POLITICAL ADVERTISING "DEEPFAKES"

- Issued September 9, 2024 -

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CPA ENFORCEMENT



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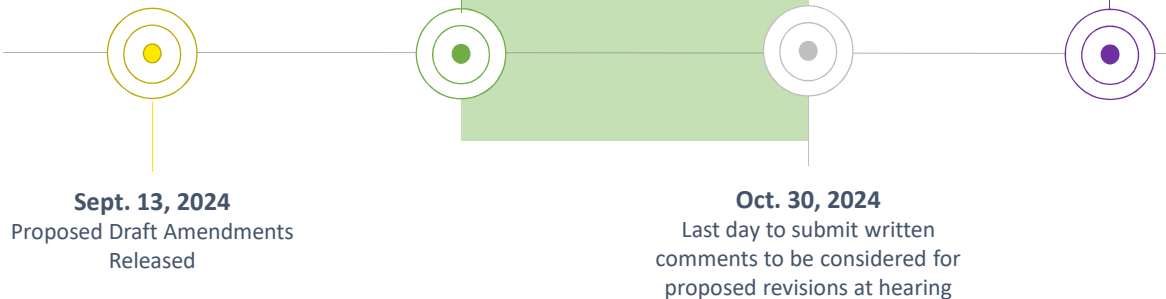
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COLORADO PRIVACY ACT RULEMAKING

- Opinion Letters/Interpretative Guidance
- Biometric Privacy
- Children's Privacy

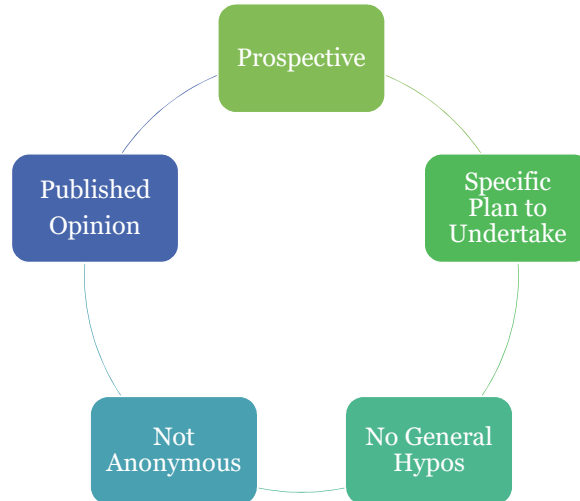
Sept. 25, 2024
Beginning of formal written comment period

Nov. 7, 2024
Rulemaking Hearing



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CPA OPINION LETTERS



BIOMETRIC PRIVACY

- HB 1130 passed in May 2024
- Notice, consent and, and retention schedule
- Proposed CPA regulation amendments :
 - Specify notice requirements
 - Clarify employee consent requirements
 - No overly prescriptive security requirements***

SOCIAL MEDIA

Bipartisan coalition of attorneys general call for Congress to require surgeon general warning on social media platforms

Sept. 10, 2024 (DENVER) – [In a letter to Congress](#), Attorney General Phil Weiser and 41 other attorneys general today called on lawmakers to pass legislation requiring a U.S. surgeon general warning on all algorithm-driven social media platforms. The letter comes amidst growing scrutiny of social media companies for their role in generational harm to young people’s mental health.

The attorneys general cited growing bodies of research that link these platforms to psychological harm, including depression, anxiety, and even suicidal thoughts in kids and teens. They also note how platforms feature irresistible algorithmic recommendations, infinite scrolling, and a constant stream of notifications that are designed to keep kids continually engaged on the platforms, even at the expense of taking breaks, engaging in other activities, or even sleeping.

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