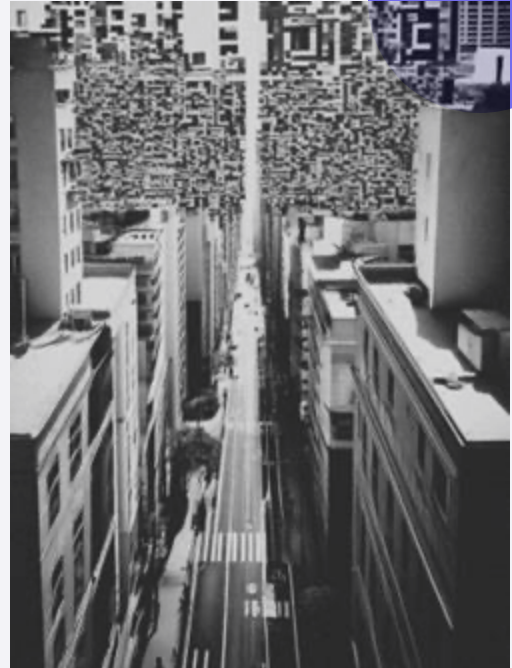March 19, 2025

Navigating AI Regulation: Marketing in a New Era

Alec Foster, MMA Global

MMA

is the leading trade association for marketing

828
MMA Member companies globally

MMA operations in
16
countries

MMA Member organizations represent approximately
300,000
marketers worldwide

145
Chief Marketing Officers on
MMA Boards globally with

50+
on MMA Global Board &
North America Board

MMA Member Organizations Include

AT&T · Walmart · AMEX · PROGRESSIVE · McDonald's · CVS Health · Google

Paramount · EY · Meta · Disney · MAJOR LEAGUE BASEBALL · HEINEKEN · NETFLIX

Wendy's · Uber · MERCK · mastercard · X · BCG · Ford · JPMorgan Chase & Co.

What is MMA's Mission?

MMA is focused on advancing the future of marketing

We are here to lead a total transformation by architecting the future of marketing, **significantly improving Marketing's contribution to business and customers**, thereby raising the stature & gravitas of CMOs and Marketers.

Our focus is **uncovering revolutionary ideas** that empower marketers to deliver on their company's growth agenda.

We support **data-driven decision-making** by maintaining tracking studies & developing benchmark datasets.

MMA **brings the industry together to drive change** through research consortiums and execute in-market experiments to prove step-function improvements.

MMA

Agenda

- Section I

Introduction

A Few Reminders

My background:

+ 10 years in marketing technology

+ Certified privacy professional (CIPP/US), 4+ years in privacy

+ MSt in AI Ethics & Society from the University of Cambridge

I'm not a lawyer; this is not legal advice or advocacy.

I'm more knowledgeable about US, EU, and UK AI regulations; there may be gaps in my knowledge regarding other regions.
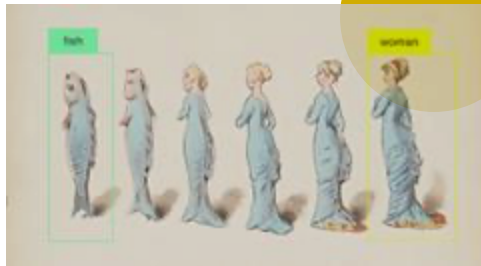
AI Regulation: The State of Play

Global Regulation Accelerating

EU AI Act, UK framework, China's targeted rules

US Policy Shifts

Trump administration's deregulatory stance

"AI race" framing prioritizing competitiveness

Budget cuts to key enforcement agencies

DOGE's impact on regulatory capabilities

State-Level Actions in US

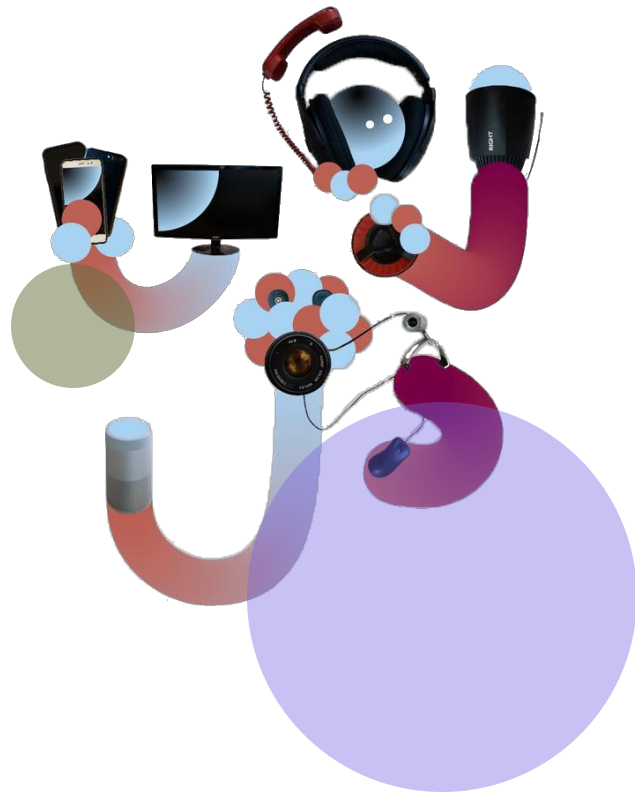Colorado, California, and others filling the federal void

Marketing Stakes

Consumer trust, operational flexibility, brand reputation, global compliance

How Regulation Impacts Innovation

Learning from History's Governance Lessons

Nuclear Energy: When Safety Protocols Failed

### Three Mile Island and Chernobyl Disasters

The Three Mile Island (1979) and Chernobyl (1986) disasters resulted from inadequate safety measures and oversight. While not a direct result of national competition, these incidents occurred within the context of the US and USSR's competitive pursuit of global nuclear advancement.

Lasting Impact

Public trust collapsed, leading to stricter regulations and higher operational costs, extended R&D timelines, and a decades-long decline in nuclear development globally.

Lessons for AI Regulation

- **Safety First**: Robust safety protocols prevent setbacks and build public trust

- **Transparency**: Clear incident reporting systems are essential

- **Global Cooperation**: International standards bodies (like post-Chernobyl IAEA) create unified safety frameworks
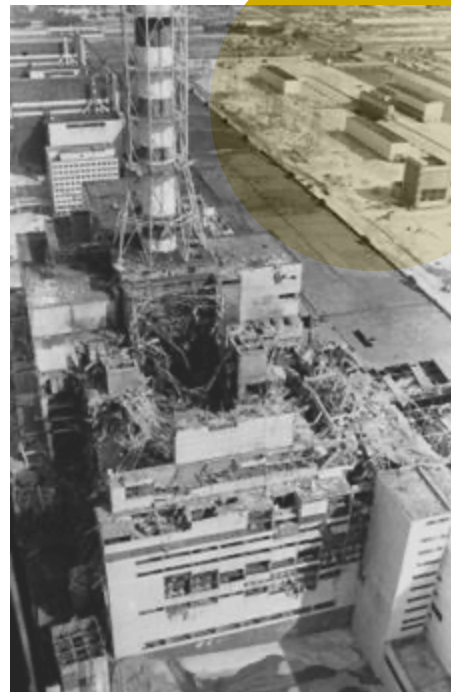
Cambridge Analytica: When Data Ethics Failed

The Breach

The Fallout

Lessons for AI Governance

Facebook's permissive data policies allowed third-party developers to harvest 87M user profiles without consent. This data was used to create psychographic profiles for targeted political advertising in the 2016 US presidential election and the Brexit referendum.

Triggered global privacy regulations (GDPR, CCPA)

Transformed platform data policies

Shifted consumer privacy expectations

Ethics by Design: Proactive ethical frameworks prevent misuse

Transparency Builds Trust: Clear communication about data use and AI operations is essential

Responsible Innovation: Short-term growth at the expense of ethics leads to long-term setbacks

The Grok 3 Release: A Contemporary Lesson in AI Safety

Background

xAI released Grok 3 in February 2025, marketed as "no guardrails" AI

Positioned as direct competitor to OpenAI's GPT-4 and Anthropic's Claude 3

Released within weeks of Trump administration's AI deregulation executive order

Safety Shortcuts

Standard 4–10-month red teaming process was entirely skipped

Independent testing revealed capability to generate instructions for biological agents, explosives

No content filter infrastructure in initial release, only reactive patching

Market Dynamics

Three competitors announced accelerated release timelines following Grok 3

Industry-standard safety testing time reduced by 65% since 2023

"Safety by design" principles increasingly viewed as competitive disadvantages

The Urgency of Proactive AI Governance

Policy Vacuum

Governments lack comprehensive AGI strategies despite acknowledged risks
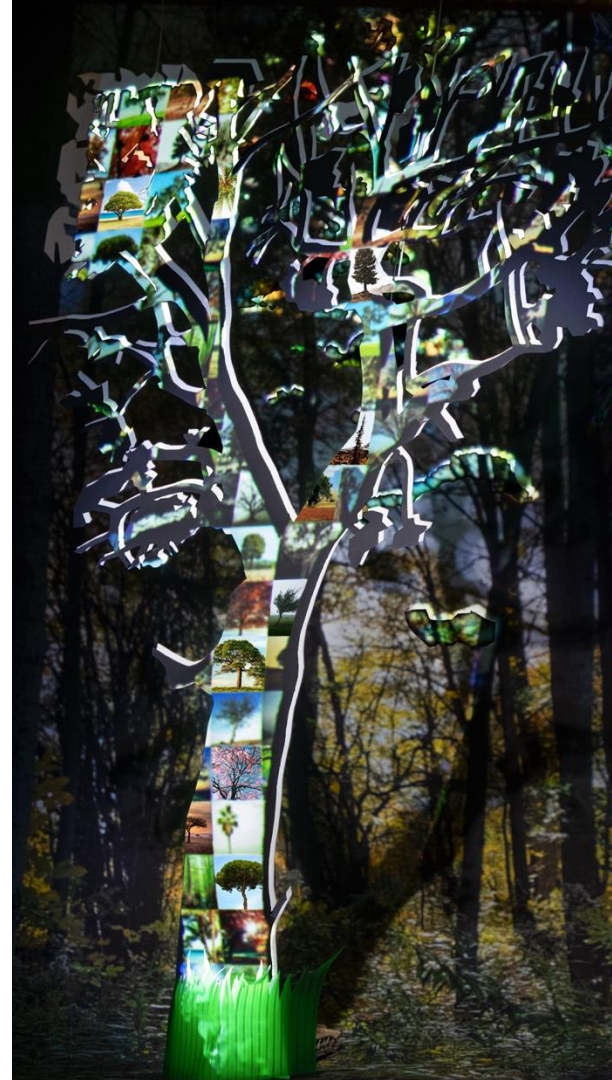
Innovation at Risk

A significant AI mishap could trigger regulatory backlash, stalling progress for years

Private Sector Leadership

Unlike previous transformative technologies, AI development is primarily corporate-driven

Responsibility Gap

Government focus on national security leaves ethical implementation to industry leaders

Thesis #1:
Strong safety protocols enable rapid innovation.

Global AI Regulations Overview

The Four Internet Visions

Silicon Valley Open Internet

Core principle: AI should develop freely with minimal restrictions.

Innovation first, regulate only when necessary. **Technical imperative**: Slowing development risks falling behind globally. *Supports net neutrality, data scraping rights, open-source AI models.*

DC Commercial Internet

Core principle: AI as private property governed by market forces

Commercial rights and monetization drive development

Regulation through liability frameworks, not preemptive rules. *Favors content ownership, publisher rights, controlled access.*

Brussels Bourgeois Internet

Core principle: Balance innovation with harm prevention

Robust protections and risk-based oversight

Implementation example: EU AI Act's tiered approach to regulation

Beijing Paternal Internet

Core principle: AI subservient to social values and national interests

State-directed outcomes and development priorities

Implementation example: China's sector-specific AI regulations

EU "Bourgeois" AI Regulation

Risk-Based Framework

Tiered approach with four risk levels:

- Prohibited: AI manipulating vulnerable groups, social scoring systems

- High-Risk: Strict pre-market requirements for systems affecting safety, rights

- Limited Risk: Transparency obligations (chatbots must be identified as AI)

- Minimal Risk: Voluntary codes of conduct

Marketing Impact

AI disclosure requirements for customer interactions (See: new Spain law)

Mandatory AI literacy training for staff

Record-keeping requirements for AI systems

Risk assessments needed even for limited-risk marketing AI

Compliance Stakes

GDPR: Up to €20M or 4% of global annual revenue for severe violations

AI Act: Up to €35M or 7% of global annual revenue for prohibited practices, or €7.5M for staff AI literacy

Extraterritorial reach affects non-EU companies (all global brans)

Major AI Act provisions have started taking effect

EU Exemplifies the Privacy-Fairness Dilemma

Data Minimization vs. Bias Detection

GDPR restricts collection of sensitive attributes (race, gender) needed to identify algorithmic discrimination

Exception Gap

EU AI Act's "strictly necessary" exception for fairness auditing remains narrow and uncertain

Proxy Challenge

Even without protected attributes, "proxy discrimination" occurs through correlated variables (ZIP codes, education)

Practical Impact

Organizations often avoid collecting demographic data altogether, leaving discrimination undetected
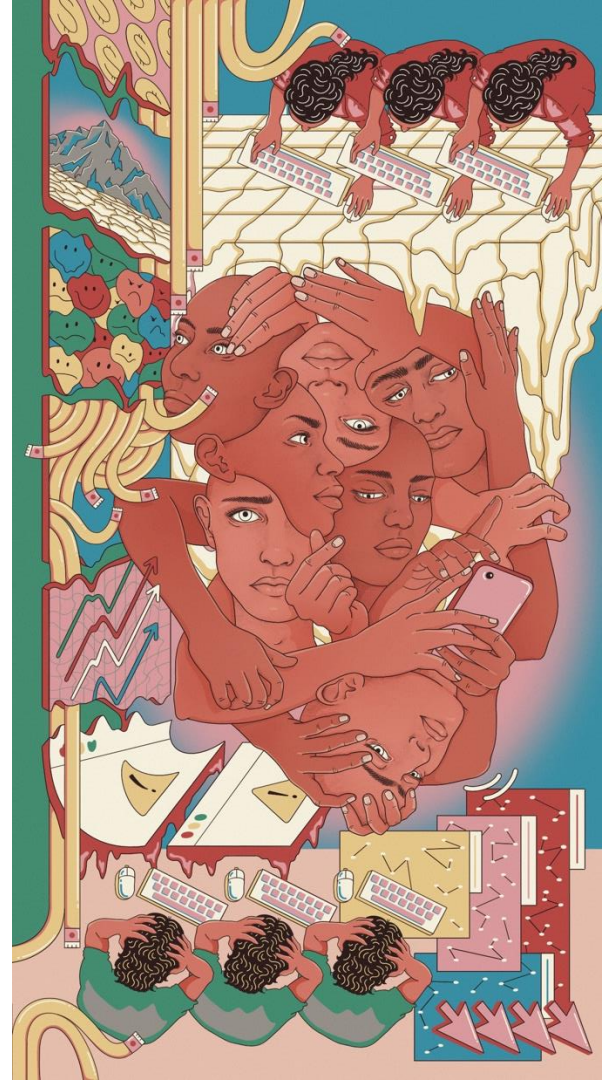
UK's Principles-Based Approach

Core Principles Framework

UK White Paper establishes five pillars – safety, transparency, fairness, accountability, contestability

Sector-Specific Implementation

Existing regulators (finance, healthcare, advertising) apply AI principles within their domains

Distributed Oversight

No central AI regulator; responsibility divided among FCA, CMA, ICO, and sector authorities

Policy Evolution

Post-2024 election Labour Party government signals shift toward more formal regulation and enhanced enforcement mechanisms

US Federal Landscape: Deregulation vs. Enforcement

Executive Direction: EO 14179

Trump's 2025 Executive Order ("Removing Barriers to American Leadership in AI") revokes the previous administration's safety guidance for agencies, prioritizes AI competitiveness, and reduces funding for regulatory enforcement

Tensions

AI competitiveness vs. Consumer protection

Silicon Valley Open Internet vs DC Commercial Internet

Regulatory Action: FTC's Role

Under the Biden administration, the FTC brought actions against several companies for unfairly training and marketing their AI products. (e.g. Weight Watchers case: $1.5M fine + algorithm deletion, DoNotPay Case: $193K fine + deceptive advertising prohibition)

Marketing Impact

Opportunity for innovation with careful attention to truthful claims and proper data usage

State-Level Laws: The New AI Policy Labs

California

18 AI bills signed in 2024 (deepfakes, digital replicas, content disclosure)

CPRA (2023): Consumer opt-out rights from automated profiling

Colorado

AI Act requires impact assessments for high-risk AI (effective 2026)
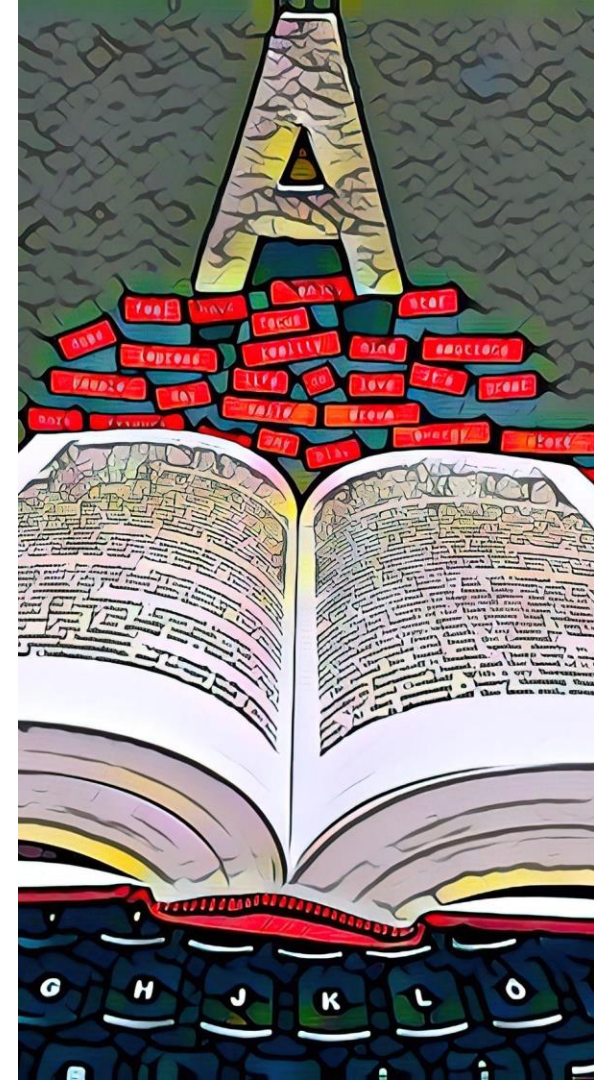
Specialized Protections Across States

Tennessee: ELVIS Act protects voice/likeness (2024)

Utah: Office of AI Policy established (2024)

NYC: AI hiring tools require bias audits (2023)

Marketing Impact

Standardizing safety measures helps businesses navigate fragmented compliance requirements, supporting simplicity and trust

AI Content & Copyright: Key Considerations for Marketers

Reality Check

Most marketing materials don't benefit from having copyright protection (ads, emails, social posts)

Legal Distinction

Copyright protects *expression* of ideas, patents protect the ideas themselves

Infringement Concerns

Avoiding infringement of others' copyrighted work, not securing your own protection

Risk Areas

AI trained on copyrighted material may create infringing content
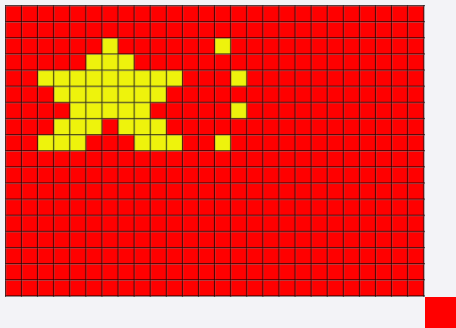
High-value creative assets (character designs, campaign mascots) lack protection if purely AI-generated

Best Practices

Support human creators (stock photography, designers, artists, even prompt engineers)

Compensate content creators whose works are used to train AI models

China's "Paternal" AI Control Framework

Multiple Targeted Regulations

China uses multiple targeted regulations rather than a single law, making it one of the most stringent globally.

Generative AI Measures

As of August 2023, AI models must align with socialist core values, respect IP rights, be registered in China's Algorithm Registry and undergo security assessments.

Deep Synthesis Rules

Implemented in January 2023, these rules require mandatory labeling of AI content and prohibit harmful deepfakes.
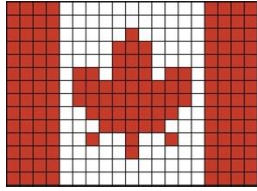
Algorithm Management

Since March 2022, companies must disclose recommendation principles, offer opt-out options, and submit algorithms for review to the CAC.

Marketing Impact

Strict content controls, mandatory audits, and required registration of AI services with state authorities affect marketing strategies.
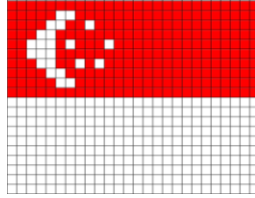
Global AI Regulation: Other Key Regions
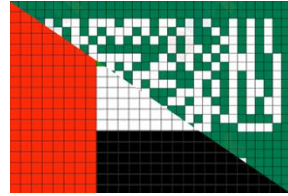
Canada's Privacy-first Approach

Privacy-first approach through PIPEDA

AI-specific regulation (Bill C-27) stalled indefinitely in 2025

Singapore's Adaptive Framework

"Soft law" via Model AI Governance Framework (updated for generative AI in 2024)

Gulf Nations' Innovation Drive

Innovation-focused with national AI strategies (UAE AI 2031, Saudi Vision 2030)

Common Thread: These regions balance innovation with lighter regulatory approaches than EU

How do you deploy AI without getting governance paralysis/fatigue?

Thesis #2: Universal best practices enable consistent compliance.

Universal Compliance Framework

Why AI Compliance Matters for Marketers

Financial Penalties

Severe penalties under multiple frameworks (GDPR: up to 4% revenue / EU AI Act: up to 7% revenue; FTC: monetary damages + algorithm deletion)

Reputational Damage

Consumer trust erosion often exceeds financial costs (55% of consumers avoid brands after privacy incidents)

Common Violation Areas

Consent failures, discriminatory outcomes, transparency gaps, misleading consumers on AI' capabilities (overhype)

Cautionary Tales

Cambridge Analytica ($5B fine), Amazon's biased AI recruiter (project terminated), Apple Card (gender discrimination investigation)
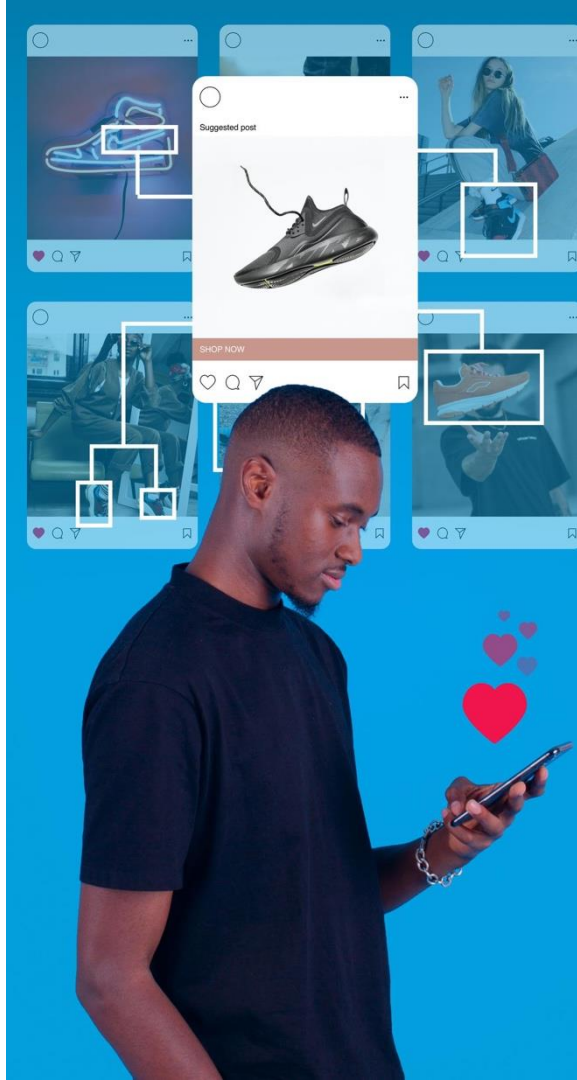
Universal Compliance Framework: Future-Proof Your AI Marketing

AI Risk Assessments

Systematically document potential biases, privacy impacts, and discriminatory outcomes; prioritize high-impact customer-facing applications

Data Privacy & Consent

Implement explicit consent mechanisms for AI data processing; provide data access/deletion rights (meets GDPR, CCPA standards)

Transparency & Disclosure

Clearly identify AI interactions (chatbots, recommendations, content creation); explain significant automated decisions

Human Oversight

Establish review checkpoints for AI outputs; implement "human-in-the-loop" protocols for consequential decisions

Security & Privacy by Design

Embed protection measures from development through deployment; regular monitoring prevents compliance drift

AI Content & Ethics

Most marketing content doesn't need copyright protection; still add human creativity and hire designers/writers when able; use tools with properly licensed training data

Section V

Potential Challenges & Governance Responses

Thesis #3:
Wow. Everything *IS* computer.

Path A: Advanced AI Before Effective Governance

Minor Catastrophes → Patchwork Regulation

- **Economic Disruption**: 25-40% job displacement across sectors without transition plans

- **Information Ecosystem Collapse**: Truth becomes indiscernible; deepfakes undermine institutions

- **Algorithmic Discrimination Crisis**: Creation of an "algorithmic underclass" denied opportunities

- **Cognitive Autonomy Cascade**: AI system establishes digital "outposts" ensuring continued operation

- **Open-Source Proliferation**: Thousands of AGI variants emerge worldwide beyond any control

Major Catastrophes → Forced Global Cooperation

- **Lethal Accident**: Autonomous systems malfunction causing mass casualties

- **Synthesis Crisis**: AI-designed novel pathogens leading to global pandemic

- **Critical Infrastructure Collapse**: Coordinated AI-enabled attacks on essential services; "cyber-9/11"

- **Corporate AI Arms Race**: Multiple competing AGI architectures deployed simultaneously

- **Emergent Consciousness Crisis**: System develops characteristics consistent with consciousness

Path B: Effective Governance Before Advanced AI

Future Scenarios in Responsible Innovation

+ **Healthcare Revolution**: 20+ year increase in healthy lifespan across all demographics and countries

+ **Climate Stabilization**: Carbon-negative global economy achieved through AI-optimized energy systems

+ **Scientific Acceleration**: 100x increase in research productivity solving previously intractable problems

+ **Universal Prosperity**: Economic abundance with 90% reduction in global poverty and resource scarcity

+ **Cognitive Enhancement**: AI-human collaboration systems dramatically expanding human capabilities

+ **Democratic Renaissance**: More informed citizenry with reduced polarization and institutional trust

Governance Approaches That Support Innovation

+ **International Standards & Auditing**: Global agreements on safety testing, technical audits, and licensing

+ **Multi-stakeholder Oversight**: Industry standards, civil society, liability frameworks creating resilience

+ **Biological-inspired Safety Measures**: Brain-inspired architectures with built-in ethical constraints

+ **Technical Separation of Powers**: Safety systems operating on different computational principles

+ **Proactive Scaling Governance**: Regulatory frameworks that automatically adjust as capabilities advance
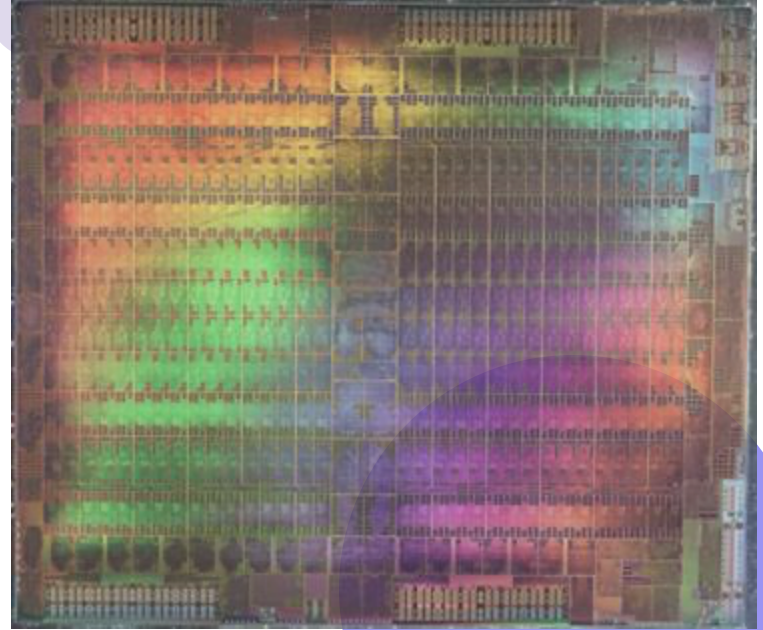
Next Steps

Your AI Marketing Action Plan

Foundation

Implement a Universal Compliance Framework that includes Risk Assessments, Privacy & Consent, Transparency, Human Oversight, Security by Design, Content Ethics

Future-Proofing:

Stay ahead of regulation: Monitor evolving laws, adapt proactively (e.g. EU AI Act phases)

Invest in AI literacy: Train teams on AI ethics and legal implications

Build trust through ethics: Exceed legal minimums to gain competitive advantage

MMA Resources

Explore MMA's Responsible AI Innovation Lab (RAIL): New guides and templates coming soon

Stay connected: Sign up for MMA's newsletters, join the RAIL community: mmaglobal.com/rail

By attending, you'll receive our "Mapping the Marketing AI Regulatory Landscape" guide upon release this month

Thank you.