

# Washington Hones in on AI Regulation

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## Body

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A flurry of recent Capitol Hill activity provides corporate leaders with much-needed direction on the course of looming federal regulation of artificial intelligence.

This activity includes an announcement of proposed AI legislation; two closed-door [AI hearings](#) with leading technology, labor and civil society groups; the latest steps in Sen. Chuck Schumer's (D., N.Y.) AI "Listening Tour"; and a second round of voluntary corporate commitments to the Biden administration's goals for the trustworthy development of AI technology.

This activity should add clarity to what has been to date a slow, cautious and reactive federal approach to AI. Corporate boards and their executive leadership teams are essentially starved for information on how the long-discussed federal response may impact their significant and planned investments in AI.

The most valuable information may arise from the legislative framework just proposed by Sens. Richard Blumenthal (D., Conn.), and Josh Hawley (R., Mo.). As described by [Blumenthal](#), the goal of the framework is "to provide regulation in the best sense of the word. Regulation that permits and encourages innovation and new business, technology and entrepreneurship. And, at the same time, provides those guardrails, enforceable safeguards that can encourage trust and confidence in this growing technology."

The essence of the Blumenthal/Hawley proposal is the establishment of a federal licensing process overseen by an independent oversight body. The specifics of the policy touch upon most of the previously articulated concerns with AI, including but not limited to the following:

\* Subjecting companies developing sophisticated general-purpose AI models (such as OpenAI's GPT-4) or models used in high-risk situations (such as, facial recognition) to the proposed licensing/registration process.

- \* Providing the independent oversight body with the authority to conduct audits of companies seeking licenses, and to monitor and report on technological developments and economic impacts of AI (including its impact on employment).
- \* Licensing requirements would include the registration of information about AI models and would be conditioned on developers maintaining risk management, pre-deployment testing, data governance and adverse incident reporting programs.
- \* The oversight body would be authorized to cooperate with other enforcers, including vesting concurrent enforcement authority in state attorneys general.
- \* The oversight body would be expected to develop conflict-of-interest rules designed to mitigate "capture" and "revolving door" concerns.
- \* The legislation would include legal accountability, through the oversight body enforcement and private right of action, when AI company models cause cognizable harm (for instance, when systems breach privacy, or are involved in a civil rights violation).
- \* The licensing process would be designed to promote responsibility, due diligence, and consumer redress by requiring transparency from the companies developing and deploying AI systems. This would include specific disclosure requirements of AI models.
- \* Specific requirements would be established to provide users with an affirmative notice that they are interacting with an AI model.

- \* The new oversight body would establish a public database and reporting so that consumers and researchers have easy access to AI model and system information, including when significant adverse incidents occur or failures in AI cause harm.

- \* Companies deploying AI in high-risk or consequential situations would be required to implement specific "safety brakes."

- \* Consumers should have control over how their personal data is used in AI systems and strict limits should be imposed on generative AI involving kids.

Tuesday's Senate Judiciary Subcommittee on AI oversight, and Wednesday's "AI Insight Forum" convened by Schumer appear to reflect what he described as an indicator of the broad, bipartisan interest in developing carefully crafted AI regulation.

Whether the Blumenthal/Hawley framework is indeed the "blueprint for a path forward to achieve legislation," as Blumenthal put it, is uncertain. Nevertheless, the results of Washington's AI week suggest not only a consensus in Congress for legislation, but also for the basic parameters of such legislation.

Corporate leaders may feel more comfortable designing their internal policies and procedures to reflect AI Week's focus on a system of federal monitoring that will require licenses for and audits of artificial intelligence, create a new, independent oversight body to exercise oversight of AI licensing and safety standards (including auditing authority), and establish some form of executive liability for their technology.

These leaders should not think that the federal response will begin and end with legislation, whether or not based on the Blumenthal/Hawley framework. The [Biden administration](#) has said it is developing an executive order to promote "responsible innovation," and to ensure companies acknowledge that they have some form of civic responsibility that extends beyond innovation. In particular, chief information, legal and compliance officers may be better positioned to advise leadership on the infrastructure necessary to comply with the coming regulation.

But for now, AI Week has served to provide business leaders with more clarity on how lawmakers intend to address the risks, complexities and benefits of artificial intelligence.

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