

Breakfast Roundtable

The California and EU AI Acts, AI Disclosure & Content Authentication

Thursday, September 24, 2026

DAVIS +
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Introductory Remarks

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1

Today's Panel

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2

The Regulatory Map: Disclosures in EU, CA & NY

- Same objectives; but different regulated actors and disclosure mechanics

EU AI Act	California	New York
<i>Providers + Deployers</i>	<i>Advertisers + Developers</i>	<i>Advertisers + Frontier Developers</i>
• Article 50(1): Providers and deployers must notify users when interacting with AI systems like chatbots • Article 50(2): Providers must include machine-readable markers on AI-generated or AI-manipulated output • Article 50(3): Deployers notify individuals when using emotional recognition or biometric systems • Article 50(4): Deployers must disclose use of AI-generated or AI-manipulated deepfake content & public-interest text	• California AI Transparency Act (SB 942): Provenance and detection duties for covered GenAI providers • Training Data Transparency Act (AB 2013): Developers of generative AI systems are required to publicly disclose detailed information about the data used to train their models • Synthetic Performers in Advertising (SB 1050): Advertisers must disclose prominent use of synthetic performers in any advertising	• Synthetic Performers in Advertising (GBL §396-b): Advertisers must disclose when using a synthetic performer in any advertising (except audio-only) • RAISE Act (Art. 44-B): Beginning January 1, 2027, large frontier developers must publish safety and transparency frameworks and report critical safety incidents within 72 hours and large frontier developers must register with the state beginning in November 2026

Do not ask only
“Was AI used?”

Ask instead: “Who created the AI system? Who deployed the AI to create content? What does the AI content depict? How prominently does the AI content appear? Where is it distributed?”

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At a Glance Comparison

Issue	AI Act (EU)	AI Transparency Act (CA)	Training Data Transparency Act (CA)	Synthetic Performers in Advertising (CA)	Synthetic Performers in Advertising (NY)	RAISE Act (NY)
<i>Regulated Actor(s)</i>	• Providers + deployers	• Covered GenAI providers	• Developers	• Creator causing ad publication	• Advertisers / those causing publication	• Large frontier developers
<i>Content / Activity Regulated</i>	• AI interaction; synthetic content; deepfakes	• Image, video and audio provenance for AI-generated output	• Training datasets	• Ads prominently including a synthetic performer	• Ads containing a synthetic performer	• Frontier model development above 10 ²⁶ operations
<i>Human-Facing Notice</i>	• Yes, for covered deployer uses	• Not the core duty (but developers encouraged to provide this functionality)	• No	• Yes, clear and conspicuous	• Yes, clear and conspicuous	• No; published safety framework and state registration instead
<i>Prominence Threshold for AI Use</i>	• Use-specific	• N/A	• N/A	• Yes: foreground, narration, or reaction	• No express prominence test	• N/A
<i>Suggested Wording</i>	• No single formula	• N/A	• N/A	• Yes: two statutory examples	• No suggested wording	• N/A
<i>Direct Brand Impact</i>	• High for deployers	• Usually indirect	• Usually vendor diligence	• High for covered advertising	• High for covered advertising	• Vendor diligence; effective Jan 1, 2027

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EU AI Act Article 50

- Two-layer framework: machine-readable marking + human-facing disclosure

Providers

Build Transparency into the System

- **Inform people when they interact directly with AI**
 - E.g., including chatbots, AI companions
- **Ensure AI outputs are automatically marked in a machine-readable format**
 - E.g., synthetic text, image, audio and video outputs
- **Technical solutions must be effective, interoperable, robust and reliable**

Deployers

Disclose Specified Usage

- **Disclose when using AI-generated or AI-manipulated image, audio or video constituting a deepfake**
 - Standard editing / non-substantial alteration is excluded
 - **Deepfake:** AI-generated or AI-manipulated image, audio, or video content that resembles existing persons, objects, places, entities or events and *would falsely appear to a person to be authentic or truthful*
- **Disclose when using AI-generated or AI-manipulated text published to inform the public on matters of public interest**
 - *Unless* text is subject to meaningful human review or editorial control plus editorial responsibility

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California: Three Different Transparency Laws

- Two developer-focused regimes, plus a direct advertising disclosure rule

AI Transparency Act (SB 942)

Output Provenance

Covered Actor:

- Publicly accessible GenAI system providers

Core Duties:

- Detection tool
- Latent disclosure in AI-generated image, video or audio
- Licensee protections

Key Distinction:

- System capabilities and provenance

Training Data Transparency Act (AB 2013)

Training-Data Documentation

Covered Actor:

- Developer of a GenAI system or service made available to Californians

Core Duty:

- Website documentation summarizing training datasets

Key Distinction:

- Model transparency, not content labeling

Synthetic Performers in Advertising (SB 1050)

Disclosure of AI performers

Covered Actor:

- Person creating and causing publication of an ad (agency, advertiser, media)

Trigger:

- Advertisement “prominently includes” a synthetic performer

Core Duty:

- Clear and conspicuous disclosure
- Statutory wording examples provided

Key Distinction:

- Direct brand advertising duty



Brand Impact

SB 942 and AB 2013 are indirect for brands / SB 1050 directly affects brand and advertising work

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Synthetic Performers in Advertising: CA vs. NY

California		New York
Synthetic Performer Disclosure Law (SB 1050)	Issue	Synthetic Performers Disclosure Law (GBL §396-b)
Advertisement prominently includes a synthetic performer	Trigger	Advertisement contains a covered synthetic performer – where advertiser has actual knowledge (no duty to investigate)
Foreground demonstration; narration or commercial message; illustration of or reaction to the message	Prominence Threshold for disclosure	No prominence requirements required by statute
Non-prominent figures fall outside the defined trigger	Background Figures	No comparable express limitation
- No media exceptions; disclosure requirement applies to all media in which a synthetic performer appears (and media provider may be liable for non-compliance as well) - Exemption if AI is used solely for language translation	Exceptions	- Audio-only advertisements are exempt - Exemption if AI is used solely for language translation
"This performance features a synthetic performer" or "No human performer is depicted"	Disclosure Wording	No statutory suggested wording; statute requires clear and conspicuous disclosure (but does not define "conspicuous")
Violations may be enforced under California's Unfair Competition Law (including private right of action)	Consequences	NY Attorney General may impose civil penalties: \$1,000 for a first violation, and \$5,000 thereafter; No private right of action
Review the performer's role and prominence and establish disclosure practices; Law is effective as of Jan. 1, 2027	Operational point	Review whether the ad uses a covered synthetic performer and establish disclosure practices; Consider responsibility for agents; Law became effective on June 9, 2026

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New York RAISE Act: Frontier Model Safety and Transparency

Effective: January 1, 2027

- A developer-facing regime, not an advertising disclosure rule

Who Is Covered	What It Requires	Timing and Enforcement
Frontier Models: - Those trained using more than 10²⁶ computational operations - Covered knowledge-distillation models Large Frontier Developers: - Small set of well-resourced firms that train frontier models and operate in or serve NY Key Distinction: - Scale-based developer trigger, not a content or advertising trigger Note: Modeled on California's Transparency in Frontier Artificial Intelligence Act (TFAIA)	Covered Entities Must: - Write, implement and conspicuously publish a safety and security framework, reviewed at least annually - Report critical safety incidents to the DFS oversight office (DIGIT) within 72 hours of determination - File periodic risk assessments, register, and submit a disclosure statement beginning January 1, 2027 - Registration with New York state is available beginning November 2026	Timing: - Signed December 19, 2025; amendment signed March 27, 2026 (timing aligns with California's TFAIA) - Registration and preparation steps begin in November 2026 - Substantive duties start January 1, 2027 Enforcement: - New York Attorney General, with oversight by DIGIT (newly established agency inside the Department of Financial Services) Key Distinction: - Transparency about how models are built and governed, not about labeling individual content

Most brands are not covered developers, but RAISE Act sets vendor-diligence baseline

Ask suppliers for their published framework and incident-reporting posture



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A Practical Decision Framework for Brands

→ Five questions to consider before publishing AI-influenced content:

Who?	Are we the frontier model developer, provider, deployer, advertiser, or more than one?
What?	Text, image, audio, video, chatbot interaction, or synthetic performer?
How Prominent?	Foreground, narration, reaction, background figure, or incidental use?
Where?	EU audience, California distribution, New York advertising placement or frontier development, or multiple markets?
Proof?	What human review, published safety framework, provenance metadata, approvals and vendor records can we show?

→ **Operational Takeaway:** Route creative to jurisdiction-specific rules based on actor, content, prominence and distribution

