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Legal

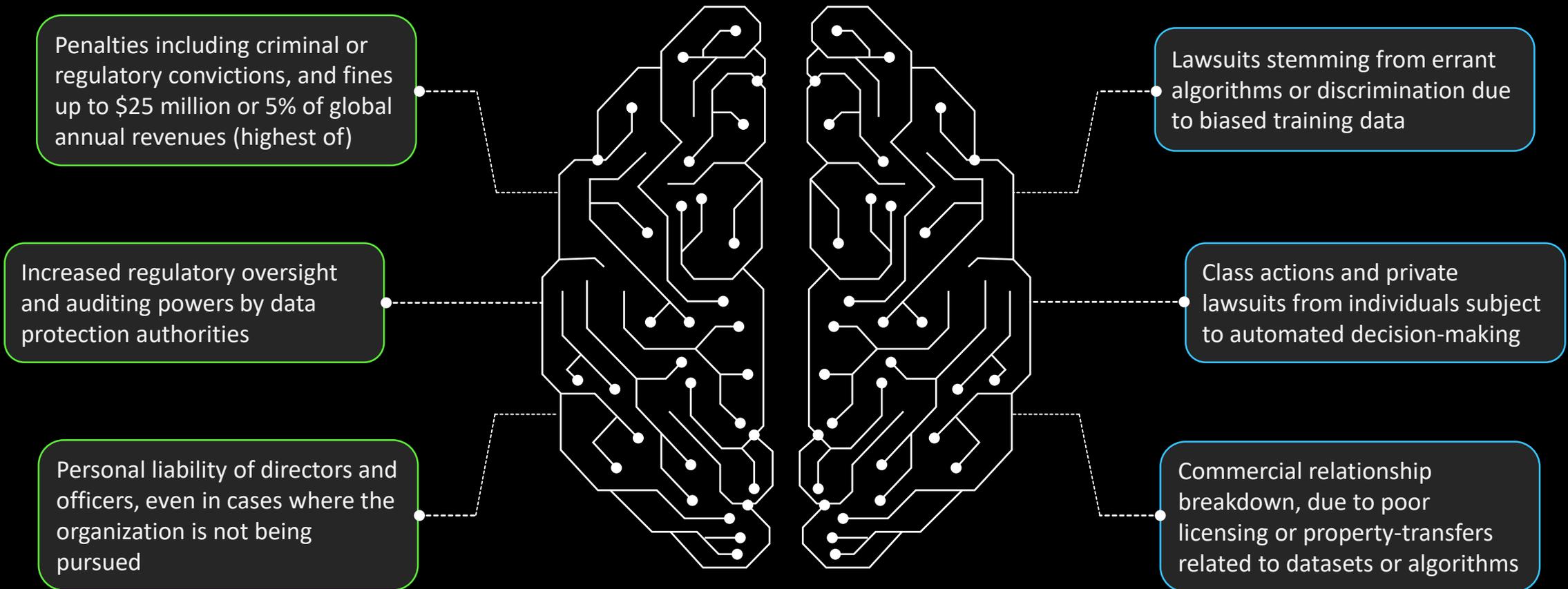# Algorithmic legal risks
Do you have peace of mind?

National Privacy and Cybersecurity Law Group
Deloitte Legal Canada LLP

Algorithmic legal risks are increasing

New laws for privacy, artificial intelligence, and machine learning will soon be in force all over Canada. Legal risks posed by AI & ML solutions will be rising — for businesses and directors / officers. In a world where trust is the cornerstone of good business, compliance with laws targeting algorithm development, use, and operation will be crucial.

Penalties including criminal or regulatory convictions, and fines up to $25 million or 5% of global annual revenues (highest of)

Increased regulatory oversight and auditing powers by data protection authorities

Personal liability of directors and officers, even in cases where the organization is not being pursued

Lawsuits stemming from errant algorithms or discrimination due to biased training data

Class actions and private lawsuits from individuals subject to automated decision-making

Commercial relationship breakdown, due to poor licensing or property-transfers related to datasets or algorithms

Deloitte Legal Canada can help you mitigate algorithmic risk to what is reasonable, transfer residual risk as appropriate, and leave you with peace of mind.

Why engage legal counsel for AI compliance?

Operating algorithms in a high-stakes environment? Algorithms in use by an acquisition target? Consider engaging legal counsel to assist with risk mitigation. Deloitte Legal Canada can assist you at all steps of your algorithm-powered project: from launch, through implementation, and growth!

Liability

- ❑ Has legal risk and compliance cost been weighed against opportunities and goals?
- ❑ Do the algorithms increase liability for directors, officers, and professionals?
- ❑ Is the risk of relying on algorithms for high-stakes decisions adequately addressed?

AI Governance

- ❑ Have focused algorithmic impact assessments been conducted and documented?
- ❑ Have broader privacy impact assessments been conducted and documented?
- ❑ Is there an algorithmic governance framework in place? Is it followed in practice?

Algorithmic Transparency

- ❑ Are algorithmic operations transparent and easily auditable?
- ❑ Is there demonstrable compliance with regulatory accountability requirements?
- ❑ Is there demonstrable compliance with privacy from a human rights perspective?

Datasets

- ❑ Is the training data used consistently with the stated purpose of the model?
- ❑ Do the licenses applicable to third-party datasets align with the stated purpose?
- ❑ Have risks posed by potentially biased datasets been identified and addressed?

Intellectual Property

- ❑ Are the models adequately licensed or has ownership been adequately transferred?
- ❑ Is your competitive advantage secured by an exclusive right over relevant components?
- ❑ Is there a right to expand the original usage of the model?

Contracting

- ❑ Are risks and liabilities allocated within development and maintenance contracts?
- ❑ Has proper due diligence been conducted for commercial deals involving algorithms?
- ❑ Have relevant open-source libraries received adequate contractual treatment?

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