

AI AND COMMERCIAL LAW: REIMAGINING TRUST, GOVERNANCE AND PRIVATE LAW RULES

Singapore Management University
Centre for AI and Data Governance, School of Law
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On December 5 and 6, the SMU Centre for AI and Data Governance (CAIDG) organised the conference “AI and Commercial Law: Reimagining Trust, Governance and Private Law Rules”. The convenors of the event were Professor Gary Chan and Associate Professor Yip Man from the SMU School of Law. Academics from Asia and Europe attended the event, along with leading practitioners and members from the industry.

The emcee for the Conference, Nicholas Liu, Lecturer at SMU School of Law, invited Goh Yihan, Professor of Law and Dean of SMU School of Law, and Director of the CAIDG, to open the event with an overview of CAIDG research. Mr Yeong Zee Kin, Deputy Commissioner of the Personal Data Protection Commission (PDPC) delivered the keynote speech which covered the progress of PDPC’s Model AI Governance Model framework and related initiatives in Singapore.

Malavika Jayaram, Assistant Professor at SMU, then moderated the opening panel discussion about real-world issues in AI and commercial law in Asia, with insights from a legal tech entrepreneur (Alexis Chun, Co-Founder of Legalese), a computer scientist and academic (Akshat Kumar, Assistant Professor at SMU School of Information Systems) and a law academic (Urs Gasser, Executive Director of the Berkman Klein Center for Internet and Society at Harvard University). The panel discussed various technical, legal and policy issues on the potential deployment of AI.

The thought-provoking opening speeches and panel discussion were followed by five sessions which comprised presentations on the most relevant and current topics related to AI and Commercial Law, and the reactions of various commentators on these topics. The **first session**, chaired by Joey Pang, Vice-President (Legal & Compliance), Technology Operations and IP at DBS, addressed the topic of ***AI in Asia and the Global Context***. During this session, Urs Gasser presented about “AI, Trust, and Law” providing a bird’s eye view of the developments in AI and data governance in Asia and the global context. Subsequently, Simin Gao, Associate Professor and Associate Dean of Tsinghua University Law School presented her paper about the Legal Status and Liability Theory of Robot Advisors, focusing especially in China’s regulatory approach to robo-advisors. After the presentations, Sophie Mathur, Partner at Linklaters, commented that the context is crucial in the AI policy discussions and that worldwide convergence is going to be inevitable, particularly in financial services such as robo-advisors. Marcus Bartley Johns, Asia Regional Director, Government Affairs and Public Policy at Microsoft, felt that AI governance will definitely achieve a degree of convergence at a high level, and with respect to the region, the next step is putting into practice the common expectations.

Next, David Llewelyn, Professor of Law and Deputy Dean at SMU School of Law, chaired the **second session, AI and Data Protection: New Regulatory Approaches**. Warren Chik, Associate Professor at SMU, provided an overview of Singapore’s regulatory approach to Artificial Intelligence and Data Protection. Ian Walden, Professor at Queen Mary University of London, spoke about AI Governance, Data Sovereignty and the benefits of transborder data flows for AI-led development. Alvin See, Associate Professor and Associate Dean at SMU (Student, Staff & Alumni Affairs) presented on behalf of Yip Man, Associate Professor at SMU her topic on information fiduciaries in the context of personal data. Thereafter, Lanx Goh, Senior Legal Counsel (Privacy & Cybersecurity) & Global Data Protection Officer at Klook Travel Technology Pte Ltd, highlighted the importance of the concept of consent in the context of data protection and the importance of educating the public about concepts such as transparency. KK Lim, Head, Cybersecurity, Privacy and Data Protection at Eversheds Harry Elias commented on the seriousness of the data localisation problem and how it impacts on business.

The first day closed with the **third session on *AI and Data Protection: Conceptions of Property and Trust***, chaired by Wang Yanjun, Group Chief Corporate Officer, General Counsel and Company Secretary at SEA Group. Lee Pey Woan, Professor of Law and Associate Dean (UG Curriculum & Teaching) at SMU, presented her research about the concept of property applied to personal data. Next, Chris Reed, Professor of E-Commerce Law at Queen Mary University, explored the challenges of Data Trusts and their importance for lawful AI. Associate Professor Alvin See presented his paper about the effectiveness of blockchain technology in land administration. This third session concluded with the commentaries of Koh Chia-Ling, Managing Director at Osborne Clark (Queen Street), and Benjamin Wong, Sheridan Fellow at the National University of Singapore who addressed the importance of protecting the interests of individuals and, at the same time, helping society to innovate.

The second day of the Conference opened with **session four, *Evolution, Innovation and Adaptation in the Age of AI and Data***, chaired by Melissa Koh, Managing Director - Legal (ASEAN and China) at Accenture. During this part of the event, Haksoo Ko, Professor at Seoul National University, in his paper “How to De-identify Personal Data in Korea: Evolution of Data Utilization Schemes”, provided a comparative analysis of the related initiatives and encouraged lawyers, policymakers and technicians to speak the same language in order to build better policies. Next, Dean Professor Goh Yihan analysed the concept of contractual consent in the age of AI and Data and explained why the traditional perspectives of offer and acceptance in contract law may be challenged by AI. Mr Yeong Zee Kin spoke about the importance of adopting a risk-based approach in AI, and Lim How Khang, Assistant Professor at SMU explained the technical definition of deterministic and non/deterministic algorithms in relation to consent.

The last session of the event – **session five** – encompassed topics related to ***AI and Tort Law***. Rajesh Sreenivasan, Head of Technology, Media & Telecommunications at Rajah & Tann Singapore LLP, chaired the session. First, Anne SY Cheung, Professor at the University of Hong Kong, provided an innovative perspective about which legal test should apply to defamation arising from automated speech generated by search engines. This was followed by Professor Gary Chan who addressed the issue related to the applicability of tort law (such as negligence and non-delegable duties) in respect of AI use in patient care. Chen Siyuan, Associate Professor at SMU, spoke about regulating autonomous vehicles and argued that using negligence and product liability principles might not be enough to deal with the challenges arising from AI use. To conclude this session, Josh Lee Kok Thong, Legal Policy Manager (AI Governance) at IMDA referred to aspect of the Model AI Governance framework such as customer review management and concepts of repeatability and explainability of AI. Rakesh Kirpalani, Director (Dispute Resolution and Information Technology) and Chief Technology Officer at Drew & Napier LLC commented on the importance of re-examining the traditional tortious liability regime by reference to which AI uses are regarded as “must-haves” and those AI technologies that are merely “good to have”.

Finally, Professor Gary Chan closed the event by thanking Dean Goh, Mr Yeong and NRF and IMDA for the financial support for CAIDG, all the speakers, moderators, chairpersons and commentators in the various panel discussions and sessions, the participants from the floor, co-convenor Associate Professor Yip Man and all SMU faculty (including Associate Professor Alvin See and Nicholas Liu), researchers (Nydia Remolina Leon and Josephine Seah) and Siow Junhao, manager at CAIDG, all of whom have made contributed significantly to the success of the Conference.