AI and Liability Under Contracts, When “Things Don’t Go As Planned”?

Caroline Sundberg | 12 November 2020
Why care about contract liability?
The AI Process

Input (data) → Process (calculations) → Output (yes/no)
AI and contractual liability

Would the flamingo be a faulty product if it is feed with frogs and that would make it change color? (flamingos get their color form a pigment in their food which consists of e.g. crustaceans)
Contracts and liability in general

- Limitation of liability
- “As is”
- Scope of control?

- Extensive warranties
- Indemnities
- Fit for purpose
- Do not understand how the software works
Four example scenarios
**Example 1:** IPR infringements

Customer A will produce texts

To be more efficient - they want to use an AI tool from Supplier B

Who are responsible for the output?
Example 2: Bias output

Company A implements a new AI recruitment tool from Supplier B.

Company A gets sued.

Bias output.
Example 3: Product liability

Customer A owns a bread factory

Implements an automated AI baking system

AI system from Supplier B

Miscalculations
Example 4: Personal data breach

Company A owns an AI tool

Data from Supplier B

Buys anonymized data to train the AI tool

What if the data contains personal data? Who is responsible?
Final thoughts
Thank you!

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