

12 questions to ask counsel about AI disclosure laws

If your compliance picture begins and ends with the EU, the map has moved past you: China has enforced AI-content labeling since September 2025, Texas and California obligations took effect in January 2026, Korea's framework arrived the same month — and on 2 August 2026, the EU's Article 50 and California's watermarking mandate land on the same day, deliberately aligned. Certian keeps the record and never makes the call: this is educational information, not legal advice; qualified counsel answers these.

The disclosure map, briefly

EU — AI Act Article 50: interaction disclosure, machine-readable marking, biometric notice, deepfake/text labelling. 2 AUG 2026 (marking deferred to 2 DEC 2026 for pre-existing systems).

US • California — SB 942: detection tools + manifest/latent watermarking for large GenAI providers. 2 AUG 2026. AB 2013 training-data transparency in force since JAN 2026.

US • Texas — TRAIGA (HB 149): governance framework with disclosure components; AG enforcement. IN FORCE · JAN 2026.

US • Utah — AI Policy Act: GenAI disclosure in consumer interactions, regulated occupations. IN FORCE · 2024.

US • Colorado — AI Act being repealed/replaced with a disclosure-based framework. IN MOTION — verify current text.

China — CAC Labeling Measures + GB 45438-2025: explicit and implicit labels on AI-generated content; platform enforcement active. IN FORCE · SEP 2025.

South Korea — AI Basic Act: comprehensive framework incl. GenAI transparency. IN FORCE · JAN 2026.

Q.01

"Which disclosure regimes actually reach us — mapped system by system, not company-wide?"

Why it matters: These laws follow the market and the user, not your headquarters. A US company can be inside Article 50 through EU users, inside SB 942 through California users, and inside China's rules through content on Chinese platforms — simultaneously, through different systems. The mapping exercise is the engagement's foundation.

Q.02

"In each jurisdiction's terms, are we the developer/provider or the deployer — for each system?"

Why it matters: Every regime splits duties by role, under slightly different names — the EU says provider and deployer; Texas and the US state frameworks say developer and deployer. The split has teeth everywhere: providers/developers carry marking-side duties, deployers carry labelling and notice. Many companies are both, per system. Counsel's role call determines which obligations are yours — in every jurisdiction at once.

Q.03

"Which of our deadlines are real: 2 August 2026, 2 December 2026 — or a date that has already passed?"

Why it matters: The calendar is layered. Texas and California training-data duties have applied since January 2026; China has enforced labeling since September 2025; the EU's marking duty defers to 2 December 2026 only for systems already on the EU market before 2 August. Get the actual per-system, per-jurisdiction list.

Q.04

"Which exemptions can we actually claim — and will you put the basis in writing?"

Why it matters: The workable exemptions (contextual obviousness for chatbots; human editorial responsibility for published text) are judgment calls, not checkboxes. A written basis for each claimed exemption turns a judgment call into a defensible position when a regulator asks two years later.

Q.05

"What does machine-readable marking require from our engineering team — and which standard satisfies which law?"

Why it matters: The EU requires machine-readable marking, California manifest and latent disclosures, China explicit and implicit labels — and C2PA, IPTC metadata, and watermarking each satisfy different slices. Expect a deflection: counsel defers the tech to engineers, engineers defer legal sufficiency to counsel. Counter-move: same meeting, one written marking spec.

Q.06

"Can one disclosure implementation satisfy several regimes at once?"

Why it matters: The build-once question. California's operative date was deliberately aligned with the EU's, and the technical approaches overlap heavily. Expect 'it depends' — counter-move: ask counsel to define the union of the strictest applicable requirements as your baseline spec, so engineering builds once against it.

Q.07

"If the EU entry reaches us: should we sign the Code of Practice — and what does it buy?"

Why it matters: Skip this one if Q.01 ruled the EU out — it's the one purely European question on this list. If Article 50 does reach you: the Code (final, 10 June 2026) is voluntary, offers a recognized pathway for demonstrating compliance, and its signatures are conditional on the Commission's adequacy assessment. A deliberate decision, not a default.

Q.08

"What enforcement exposure are we realistically carrying — and who enforces where?"

Why it matters: State attorneys general in the US (Texas: up to \$200,000 per violation), EU member-state market-surveillance authorities (Article 50 violations: up to €15M or 3% of worldwide turnover), platform-level enforcement in China. Ask where enforcement attention is actually landing, not just the statutory maxima.

Q.09

"What should our internal record look like if a regulator asks?"

Why it matters: The defensible position is being able to show your work: the system-by-system screening record, the written basis for each exemption, the marking implementation and standard chosen, and the dates each decision was made. Ask what that file should contain before anyone asks to see it.

Q.10

"How should our contracts allocate disclosure duties with vendors and customers?"

Why it matters: Developer/provider and deployer duties flow through commercial relationships — your AI vendor's marking obligations affect what you can rely on; your customers' deployer duties affect what they demand from you. Contract language deciding who marks, who discloses, and who indemnifies makes the role split enforceable.

Q.11

"Can we scope this as a fixed-fee applicability review — and what should we bring to the first meeting?"

Why it matters: An open-ended engagement on a mapping exercise is how legal bills grow unsupervised. A fixed-scope review — these systems, these jurisdictions, this deliverable — is a reasonable ask. Bring your AI-systems inventory

and your applicability screening output; the better your intake, the cheaper the mapping.

Q.12

"What's coming next on this map that we should build for now?"

Why it matters: The map is still being drawn: Commission guidelines on Article 50 expected, a watermark-detection interoperability milestone on 2 February 2027, Colorado's replacement framework in motion, further regimes advancing on several continents. Counsel watching this for you is much of what the ongoing relationship is for.

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