GERNANDT & DANIELSSON

G&D Monthly Digest

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This news overview has been compiled by Gernandt & Danielsson's specialist team and is updated month by month. Added news for this month are highlighted in beige. For this month, we have included an in-depth analysis at the end.
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Data & Tech

ARTIFICIAL INTELLIGENCE

- On 19 November 2025, the European Commission published its Digital Omnibus package, which includes proposed amendments to Regulation (EU) 2024/1689 (the AI Act) (Sw. *AI-förordningen*). The Commission proposes delaying the timeline for applying rules to high-risk AI systems, with a backstop date of December 2027. The amendments extend certain simplifications granted to small and medium-sized enterprises as well as to small mid-cap companies, including simplified technical documentation requirements. The package also broadens compliance measures to enable more innovators to use regulatory sandboxes and reinforces the AI Office's powers with centralised oversight of AI systems built on general-purpose AI models.

- On 5 November 2025, the European AI Office launched the development of a Code of Practice on transparent AI systems. The code aims to support compliance with transparency obligations for providers and deployers of generative AI systems by addressing risks of deception and manipulation posed by deepfakes and synthetic content. Two working groups will draft the Code of Practice through a seven-month multi-stakeholder process. The first working group will focus on providers' obligations to ensure that outputs are marked in machine-readable formats and detectable as artificially generated, while the second will address deployers' obligations to disclose deepfakes and AI-generated text on matters of public interest. The code will serve as a voluntary compliance tool once the Commission approves it, with transparency obligations becoming applicable in August 2026.

- On 8 October 2025, the European Commission launched the Apply AI Strategy and the AI in Science Strategy with the overall aim to accelerate AI adoption in the EU. The Apply AI Strategy aims to promote AI adoption across strategic and public sectors through concrete measures, including AI-powered advanced screening centres and frontier models tailored to different sectors. Notably, the strategy mobilises approximately EUR 1 billion in funding. The AI in Science Strategy aims to position the EU as a hub for scientific innovation and centres on RAISE (Resource for AI Science in Europe), which is a virtual European institute coordinating AI resources. The Commission also launched the AI Act Service Desk and Single Information Platform to support the implementation the AI Act.

PRIVACY

- On 19 November 2025, the European Commission published its Digital Omnibus package including proposed amendments to Regulation (EU) 2016/679 (the GDPR) (Sw. *dataskyddsförordningen*). Key proposed changes include a revised view on pseudonymised personal data (reflecting the EU Court of Justice's assessment in case C-413/23 P), permitting AI system providers and deployers to process residual special categories of personal data subject to strict safeguards, and explicit recognition that AI development may be pursued under legitimate interests subject to full GDPR safeguards. The concept of "scientific research" is expanded to include innovation and technological development that may further commercial interests provided that ethical standards are met. The proposal modernises cookie rules to address "consent fatigue" by permitting data storage or access without consent in certain limited circumstances and foresees automated and machine-readable consent signals for universal settings-based preference mechanisms. This may enable consistent consent expression across websites and applications.

- On 4 November 2025, the European Data Protection Board (EDPB) adopted an opinion on the European Commission's draft implementing decision on the adequate level of protection of personal data in Brazil. The EDPB assessed whether Brazil's

data protection framework provides safeguards essentially equivalent to EU legislation. The EDPB noted favourably the close alignment with the GDPR and EU case law but invited the Commission to clarify certain areas, including Data Protection Impact Assessments, transparency limitations related to commercial secrecy, rules on onward transfers, and the applicability of national laws on enforcement and national security processing. Once adopted, the adequacy decision will enable personal data to flow more freely from the EU to Brazil.

- On 3 November 2025, the Swedish Authority for Privacy Protection (IMY) (Sw. *Integritetsskyddsmyndigheten*) announced that it had initiated supervisory action following an attack against an IT services provider in late August 2025. The breach resulted in personal data relating to over 1.5 million individuals being leaked online. IMY will investigate the service provider and three of its public-sector clients. The investigation of the service provider will focus on whether the company implemented appropriate technical and organisational measures under the GDPR. The investigation into the public sector entities will focus on their processing of personal data in the IT provider's systems, particularly regarding data relating to individuals with protected identities, former employees, and children.

Employment & Incentives

- On 12 November 2025, the Swedish Labour Court (Sw. *Arbetsdomstolen*) ruled in case AD 2025 nr 88 concerning the duty to consult in accordance with Section 11 of the Swedish Co-Determination in the Workplace Act (1976:580) (Sw. *lagen om medbestämmande i arbetslivet*). The case concerned whether a subsidiary could be held liable for damages for breach of the duty to consult when its parent company sold shares. A trade union claimed that the subsidiary was obliged to consult with the trade union on three occasions: (i) when the parent company sold shares in the subsidiary, (ii) when the subsidiary sold its shares in another subsidiary, and (iii) when the subsidiary entered into a supplier agreement with another subsidiary. The Labour Court dismissed claims (ii) and (iii) on procedural grounds, as they had not been subject to dispute consultations under the procedure applicable between the parties. Regarding the main issue of the share sale, the court held that even if a change of ownership may significantly affect employees, the decision was made by the parent company rather than the subsidiary, and the subsidiary had not acted to implement the parent company's decision in a way that would constitute a significant change to its own operations. Consequently, no duty to consult on the sale of shares in the subsidiary had arisen.

- On 24 September 2025, the Labour Court ruled in case AD 2025 nr 68. The case was brought by a designer who created a famous glass lantern while employed at a glass works in the 1970s. The business was, through several transfers, ultimately transferred to the defendant. Despite the transfers, the court found that the defendant could not be considered the designer's former employer, as it had not been shown that the employment had been transferred. Before Sweden's EU accession in the mid-1990s, there was no general regulation governing how business transfers affected employment relationships. Instead, general contractual law principles applied which meant that employers could not transfer employment contract obligations without employee-consent and employees did not have the right to be automatically transferred to the acquirer of the business. The court dismissed the case since it had neither been alleged nor shown that the employment contract obligations towards the designer had been transferred to the defendant by agreement. It was accordingly not a labour dispute. The case highlights how labour rights legislation has changed, as an employee under current Swedish legislation has the right to automatically transfer to the company that acquires the business in which the employee is employed.

- On 25 June 2025, the Labour Court ruled in case AD 2025 nr 47 concerning the Swedish Whistleblower Protection Act (2021:890) (Sw. *visselblåsarlagen*). An employee had repeatedly reported safety concerns and argued that the reporting should be categorised as whistleblowing warranting protection under the Whistleblower Protection Act. Whistleblower protection requires reporting of misconduct (Sw. *missförhållanden*) of public interest. The Labour Court held that "reporting due to a conflict between the reporting individual and another employee at the workplace is usually not of public interest". Despite certain evidence of safety concerns, the majority of the court found that the reports stemmed from workplace conflicts rather than misconduct of public interest. The case is the first application of the Whistleblower Protection Act by the Labour Court. However, given that the public interest criterion is difficult to assess, it is unlikely to be the last.

Environmental, Social & Governance

- On 20 November 2025, the European Commission proposed amendments to Regulation (EU) 2019/2088 (the Sustainable Finance Disclosure Regulation, SFDR) (Sw. *disclosureförordningen*) to simplify disclosure requirements and to improve investors' ability to understand and compare sustainability-linked financial products. Key changes include eliminating entity-level disclosures on principal adverse impacts,

significantly reducing product-level disclosure templates, and replacing the Articles 8 and 9 requirements with a simpler three-category system (sustainable, transition, and ESG basic). The proposal also removes the definition of 'sustainable investment', which has caused diverse interpretations and implementation challenges in practice.

- On 6 November 2025, the European Commission published a notice, in the form of frequently asked questions (FAQs), on the interpretation and implementation of Regulation (EU) 2023/2631 (the European Green Bond Regulation). The notice clarifies existing provisions on key areas including the use of the designation 'European Green Bond', the use of proceeds/allocation, the use of proceeds/EU Taxonomy, disclosure requirements, and external review. The FAQs address a range of practical questions, including whether an existing 'green bond' may be converted into a European Green Bond, allocation of proceeds under the 'gradual approach', what can be covered by the 15 % flexibility pocket, and the degree of flexibility permitted when following prescribed templates for factsheets and reports. The Commission emphasises that the notice serves solely to clarify existing provisions within the applicable legislation and does not extend the rights and obligations deriving from such legislation. The notice does not introduce any additional requirements for the operators and competent authorities concerned.

- On 14 October 2025, the European Securities and Markets Authority (ESMA) published the European common enforcement priorities for the 2025 annual financial reports of listed issuers admitted to trading on European regulated markets. ESMA, in collaboration with national enforcers, will in particular focus on these designated areas. This year's priorities include the sustainability statements, specifically addressing materiality considerations in reporting under the European Sustainability Reporting Standards (ESRS), as well as the scope and structure of sustainability statements.

EU, Competition & FDI

COMPETITION

- On 21 November 2025, the Swedish Competition Authority (Sw. *Konkurrensverket*) concluded its investigation on the merger of the two media monitoring companies Retriever and Infomedia. As the transaction did not meet notification thresholds, the Competition Authority investigated, for the first time, whether it constituted an abuse of dominant position in accordance with the findings by the EU Court of Justice in cases C-449/21 Towercast and 6/72 Continental Can. According to this case-law, abuse may arise when a dominant company strengthens its position to such an extent that the degree of dominance substantially impedes competition, specifically where only companies being dependent on the dominant company remain active in the market. The Competition Authority concluded that the circumstances surrounding the transaction did not provide sufficient grounds for continuing the investigation.

- On 13 November 2025, the European Commission opened a formal antitrust investigation into Red Bull for allegedly abusing its dominant position in the energy drinks market, particularly in the Netherlands. The Commission suspects that Red Bull has restricted competition by incentivising retailers to delist or disadvantage competing energy drinks and by misusing its category management role to exclude rival products. This marks the Commission's first formal investigation into potential abuse through category management practices.

- On 6 November 2025, the European Commission opened a formal investigation into whether Deutsche Börse and Nasdaq breached EU competition rules by coordinating their conduct in the financial derivatives sector. The Commission suspects that the companies may have agreed not to compete for the listing, trading and clearing of certain derivatives, allocated demand, coordinated prices, and exchanged commercially sensitive information. The investigation follows unannounced inspections at the companies' premises in September 2024.

FDI & NATIONAL SECURITY

- On 14 November 2025, the European Commission conditionally approved an Emirati oil company's acquisition of Covestro AG under Regulation (EU) 2022/2560 (the Foreign Subsidies Regulation, FSR). The Commission's investigation found that the Emirati company and Covestro received foreign subsidies from the United Arab Emirates, including an unlimited state guarantee and certain advantageous tax measures. Such subsidies could distort the EU internal market and negatively affect competition in the acquisition process. Approval was granted subject to commitments requiring the Emirati company to amend its articles of association to align with ordinary insolvency law (thereby removing the unlimited state guarantee) and to share Covestro's sustainability-related patents with certain market participants.

- On 7 November 2025, the Swedish Financial Supervisory Authority (FI) (Sw. *Finansinspektionen*) announced that it had launched an investigation into a clearing organisation's compliance with its applicable requirements under the Swedish Security Protection Act (2018:585) (Sw. *säkerhetsskyddslagen*). This investigation

follows a similar one launched earlier on 1 October 2025. Ensuring that financial institutions can fulfil their responsibilities in an uncertain global environment is a supervisory priority for FI in 2025. FI's mandate includes examining whether financial institutions conducting security-sensitive operations comply with the Security Protection Act, which imposes requirements on entities engaged in activities of significance to national security. These requirements include conducting security protection analyses to assess and document security needs, as well as entering into security protection agreements when third parties may gain access to security-sensitive operations.

- On 27 October 2025, the Swedish government announced the establishment of a new civilian foreign intelligence service by 1 January 2027. The authority will provide intelligence to the government and its office on foreign affairs, working closely with the Swedish Armed Forces (Sw. *Försvarsmakten*), the Defence Radio Establishment (Sw. *Försvarets radioanstalt, FRA*), the Security Service (Sw. *Säkerhetspolisen*), and other relevant defence authorities. The decision addresses heightened security threats, a complex threat landscape, rapid technological change, and Sweden's NATO membership as requiring a more specialised, yet coordinated, intelligence capability. However, the Armed Forces has criticised the establishment, citing insufficient time to restructure intelligence operations and warning against reorganising a functioning system during unstable times.

Family Offices & Foundations

- On 19 March 2025, the European Commission unveiled its strategy for the Savings and Investments Union (SIU), aiming to bolster the EU's financial ecosystem by channelling savings more efficiently into productive investments. A significant component of this strategy involves a forthcoming review and enhancement of the European Venture Capital Funds Regulation (Regulation [EU] No 345/2013) (the EuVECA) (Sw. *förordningen om riskkapitalfonder*), scheduled for Q3 2026. The proposed review seeks to broaden the scope of investable assets and strategies permissible under the EuVECA framework. This initiative is designed to foster a more dynamic venture capital market, thereby supporting innovative startups and scale-ups across key sectors such as AI, biotechnology, and clean technology. By expanding the range of eligible investments, the Commission aims to enhance the attractiveness of the EuVECA label for fund managers and investors alike. This move is anticipated to facilitate greater capital flow into high-growth potential enterprises, contributing to the EU's broader objectives of innovation, competitiveness, and economic resilience. The broadening may also offer family offices more alternatives, given that the EuVECA is tailored to semi-professional investors.

- On 10 March 2025, the Swedish Supreme Administrative Court (Sw. *Högsta förvaltningsdomstolen*) delivered a ruling in case no. 463-24 (HFD 2025 ref. 9). The case concerned a foundation that almost 20 years earlier had been granted permission by the Swedish Legal, Financial and Administrative Services Agency (Sw. *Kammarkollegiet*) to amend a provision in its deed. Much later, it was discovered that the amendment had resulted in an expansion of the group of beneficiaries that the foundation did not intend. The foundation then requested that the agency amend its previous decision on the basis of Section 37, first paragraph, of the Swedish Administrative Procedure Act (2017:900) (Sw. *förvaltningslagen*) as being incorrect, a request that was denied. The Supreme Administrative Court upheld the agency's decision and stated that an amendment to a provision in the foundation deed regarding the foundation's purpose can only be made if the conditions in Chapter 6, Section 1, of the Swedish Foundation Act (1994:1220) (Sw. *stiftelselagen*) are met.

- On 1 January 2025, certain amendments to the Foundation Act came into force. An important amendment was the introduction of a new ground for conflict of interests for representatives (Sw. *ställföreträdarjäv*). This means that, as a general rule, a board member or a trustee may not handle a matter concerning an agreement between the foundation and a legal entity that the board member or trustee may represent alone or together with someone else. Exceptions apply, for example, in intra-group relationships. In addition, other new rules were introduced, including an obligation for the auditor to make a police report in the event of suspicion of certain criminality. The news also includes fees for late submissions of annual reports and audit reports and a ban on board members who do not intend to take part in the board's activities.

Financial Services

FINTECH & PAYMENTS

- On 27 November 2025, the European Parliament published a press release informing that the Parliament and Council negotiators have agreed on a new Payment Services Regulation and a third Payment Services Directive. This updated regulatory framework will, among other things, enhance harmonisation of payment services throughout the EU, enhance consumer protection in relation to payment fraud, impose obligations on otherwise unregulated technical service providers (who are not themselves licenced as payment institutions), and require that payment service users be granted access to human customer support (not only chatbots). The agreed text must be formally adopted by Parliament and Council. This is

expected to occur during Q1 2026, after which there will be an 18-month period before the adopted texts begin to apply.

- On 14 October 2025, the European Banking Authority (EBA) published a report on white-labelling, primarily relating to banking services. The report identifies white-labelling as a widespread business model used by 35 % of the banks responding to the EBA's request for advice. The EBA notes that white-labelling can benefit financial institutions, partners and consumers by providing a wider range of financial services at lower cost, while also fostering financial inclusion. White-labelling can also result in risks such as a lack of transparency towards consumers as to precisely with whom they are contracting, as well as challenges for supervisory authorities to effectively monitor the white-label activities.

- On 9 October 2025, the EBA published a report on tackling money laundering and terrorist financing risks in crypto-asset services. The report summarises lessons learned from actions taken by competent authorities and the EBA and also describes strategies used by some crypto-asset service providers and issuers to sidestep national Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) supervision. Examples of the latter include forum shopping across Member States and improper use of reverse solicitation exemptions. The report also notes observed weaknesses in AML/CFT frameworks of crypto-asset service providers, including over-reliance on inadequate group-wide outsourcing arrangements, weak sanctions screening, and insufficient resourcing of AML/CFT compliance officer roles.

GENERAL

- On 18 November the European Banking Authority (EBA) published a list of 19 designated critical information and communications technology (ICT) third-party providers (CTPPs) under Regulation (EU) 2022/2554 (the Digital Operational Resilience Act, DORA). CTPPs include providers of a range of ICT services to financial entities. Designation as a CTPP means that these 19 service providers will be subject to supervision by one of the three European supervisory authorities in the capacity as Lead Overseer which includes a range of powers to request information, to perform audits and inspections, to issue recommendations, and to request reports. Failure by CTPPs to comply with orders under these supervisory powers may result in daily periodic penalty payments of up to 1 % of the average daily worldwide turnover of the CTPP in the preceding business year.

- On 17 November 2025, the European Securities and Markets Authority (ESMA) published a peer-reviewed report regarding supervisory and enforcement practices with regard to depositary obligations, based on a review of the Swedish Financial Supervisory Authority (FI) (Sw. *Finansinspektionen*) as well as four other competent authorities. In its review, ESMA observed differing approaches to depositary supervision by the five authorities. While ESMA acknowledged that all reviewed supervisors have processes and procedures in place regarding the supervision of depositary obligations, there are significant differences in how these are applied in practice. Specifically in relation to FI, ESMA recommended that FI strengthen its overall approach to depositary supervision, including through more in-depth desk-based and on-site inspections and through issuing recommendations and follow-up reports that instruct supervised entities and the market in general to address identified shortcomings. ESMA recommends that supervisors apply "good practices" of reviewing compliance and internal audit reports as well as cross checking between the breach reports received by fund managers and depositaries. It remains to be seen whether and how FI will adhere to ESMA's recommendations and whether the Swedish market can expect to see more diligent supervision of depositories and/or more transparent and proactive guidance by FI to the market, as recommended by ESMA.

- On 10 November 2025, the board of FI convened and expressed its support of making greater use than previously of the possibility to delegate decision-making authority in supervisory enforcement procedures as envisioned in the authority's rules of procedure. By delegating decision-making authority, the board hopes to achieve more efficient and proportionate processing of supervisory enforcement cases, which would better align with individuals' and firms' interest in swift and efficient processing. In cases where the board decides to delegate decision-making authority, the general counsel of FI will be instructed to report back regularly on the progression of the case, including aspects such as time and resources saved in relation to the alternative of having the matter be decided by the board, as well as information on whether the matter has been appealed and, if so, how it has fared in court.

REGULATORY CAPITAL

- On 18 November 2025, the European Commission launched a call for evidence regarding its proposed approach to the market risk prudential framework under the Fundamental Review of the Trading Book (FRTB). The call for evidence accompanies a targeted consultation on the implementation of market risk requirements, which have been postponed twice, with current application scheduled for 1 January 2027. The Commission is evaluating the adoption of a delegated act that would introduce targeted amendments and multipliers to the FRTB

framework. These amendments aim to mitigate adverse capital effects for EU-based credit institutions while maintaining a level playing field until other countries adopt the standards. The FRTB is a more conservative framework than the current one, and its full implementation would increase a credit institution's own funds requirements for market risk. The call for evidence closed on 18 December 2025, with the targeted consultation remaining open until 6 January 2026.

- On 11 November 2025, the European Central Bank (ECB) published its opinion on proposed amendments to the EU securitisation framework, including reforms to the Securitisation Regulation (Regulation [EU] 2017/2402), the Capital Requirements Regulation (Regulation [EU] No 575/2013) (CRR), and the Liquidity Coverage Ratio (LCR) Delegated Regulation (Commission Delegated Regulation [EU] 2015/61). The ECB welcomed the proposed regulations as steps towards improving the functioning of the EU securitisation framework and supporting the savings and investments union agenda. However, the ECB expressed concerns about certain aspects of the proposals, including the potential financial stability risks associated with large-scale synthetic securitisations and the complexity of proposed recalibrations to existing requirements. The ECB recommended maintaining preferential treatment for simple, transparent and standardised (STS) securitisations while limiting reduced risk weight floors to resilient transactions and originating banks only. The opinion also addressed amendments to significant risk transfer criteria, noting support for the principle-based approach while emphasising the need for supervisory flexibility in assessing complex transactions.

- On 24 October 2025, the European Banking Authority (EBA) published Consultation Paper EBA/CP/2025/21 on revised Guidelines for the Supervisory Review and Evaluation Process (SREP). The proposed guidelines seek to reflect regulatory developments, in particular the new banking package consisting of CRR3 and the Capital Requirements Directive VI (Directive [EU] 2024/1619), and other legislation such as the Digital Operational Resilience Act (Regulation [EU] 2022/2554) (DORA). The guidelines propose to consolidate all relevant SREP provisions into a single framework, including integrating new aspects such as ESG factors, operational resilience, third-country branches and clarifications on the interaction between the revised Pillar 1 and 2 requirements. The consultation runs until 26 January 2026, and the final guidelines are expected to apply from 1 January 2027.

Intellectual Property & Marketing

INTELLECTUAL PROPERTY RIGHTS

- On 12 November 2025, the General Court of the EU ruled in case T-252/24 *LG Electronics, Inc. v EUIPO* concerning a declaration of invalidity of a registered EU figurative trademark. Invalidity was sought by the applicant due to lack of distinctiveness of the trademark, particularly due to the descriptive word element "washtower" dominating the mark. On appeal, the General Court found the whole trademark to be descriptive and lacking distinctiveness. The court found that the figurative element of the contested trademark was "not capable of distracting the relevant public from the descriptive message conveyed by the word element". The outcome – contrary to the assessments by EUIPO's Cancellation Division and Board of Appeal – is of interest for the already extensive case-law concerning descriptive trademarks. The judgment is particularly helpful for assessing how it is possible to stylise a descriptive word element in order to ensure distinctiveness of a trademark.

- On 2 October 2025, the Swedish Patent and Market Court of Appeal (Sw. *Patent- och marknadsöverdomstolen*) delivered its decision in cases nos. PMÄ 4987-25 and PMÄ 4988-25. Through its decision, the court partially overturned a decision by the Swedish Intellectual Property Office (Sw. *Patent- och registreringsverket, PRV*) to reject two trademark applications due to lack of distinctiveness, which was upheld by the lower court. The decision concerns two trademark applications filed by a widely-renowned Swedish gambling provider. The trademarks were ultimately found to possess inherent distinctiveness for three classes and to have acquired distinctiveness for betting activities. Notably, the Patent and Market Court of Appeal referred to its conclusions on the reputation of the marks based on evidence in an earlier infringement case brought by the applicant. Such references to earlier assessments of evidence presented in separate cases are rare in Swedish trademark case-law.

- On 1 October 2025, the EU Intellectual Property Office (EUIPO) presented statistics on IP enforcement in the EU during 2024. The year brought the second-highest number of seizures of infringing items on record, representing a 30 % increase compared to 2022. The estimated total value of seized items, amounting to EUR 3.8 billion, is the highest ever recorded. It is clear that the market for counterfeit products remains strong in Europe. The majority of enforcement cases was concentrated to a small number of Member States with Italy, Spain, France, Netherlands, Portugal, Romania and Poland accounting for 90 % of the total volume of items seized.

MARKETING & CONSUMER PROTECTION

- On 14 November 2025, the Swedish Consumer Ombudsman (Sw. *Konsumentombudsmannen*) filed a lawsuit against an insurance company relating to the company's home insurance policies. The Consumer Ombudsman seeks a prohibition against two specific contract terms that exclude insurance cover for vacation home damage due to neglected maintenance and additional costs arising from lack of maintenance. The Consumer Ombudsman finds the terms to be unfair. The case originates from a thematic supervisory action carried out by the Swedish Consumer Agency (Sw. *Konsumentverket*) in the spring of 2024 concerning contract terms for holiday home insurance. The case is another example of the authority's clear focus on unfair contract terms (Sw. *oskäliga avtalsvillkor*) throughout 2025.

- On 27 October 2025, the Swedish Consumer Agency (Sw. *Konsumentverket*) concluded an industry sweep concerning terms relating to unauthorised debit and credit card transactions. The authority assessed eight companies and found several terms that infringe consumer protection law. It found that multiple companies impose requirements that are far-reaching in light of applicable law in a manner that is disproportionate and unreasonable. The authority also found that some companies' terms could require consumers to pay multiple excess amounts for unauthorised transactions, along with terms allowing companies to unilaterally debit consumers' accounts after issuing refunds if they subsequently determine a transaction was authorised. Due to its findings, the Consumer Agency announced targeted supervisory actions against the companies where possible violations have been identified. Notably, this supervisory action is one of several throughout the year concerning unfair contract terms (Sw. *oskäliga avtalsvillkor*) pertaining to the financial sector.

- On 14 October 2025, the Swedish Patent and Market Court of Appeal (Sw. *Patent- och marknadsöverdomstolen*) decided in case no. PMÖ 9362-24 to uphold the decision by the lower court to dismiss claims on unfair commercial practices. The claims were brought by a company claiming that another company's marketing was non-compliant with the restrictions on tobacco advertising. In Sweden, competitors may bring claims against that both parties were subject to the same tobacco advertising restrictions could not itself establish that they were competitors. This case is a landmark case since the court laid out criteria to further assess if a claimant has the right to bring legal action based on unfair commercial practices. The Patent and Market Court of Appeal has allowed the decision to be appealed further.

Real Estate & Environment

- On 23 October 2025, the legislative proposal arising from inquiry SOU 2022:39 (Sw. *"Ett register för alla bostadsrätter"*) was submitted to the Swedish Council on Legislation (Sw. *Lagrådet*). The proposal aims to establish a national register for all tenant owner apartments (Sw. *bostadsrätter*). The Swedish mapping, cadastral and land registration authority (Sw. *Lantmäteriet*) will serve as the responsible authority. Registration will replace notification to housing associations as the decisive property law moment (Sw. *sakrättsligt moment*) for both pledges and transfers. The provisions enabling the creation of the register are proposed to enter into force on 1 January 2027. According to the proposal, housing associations will be required to register grants and transfers within two weeks. Pledges are to be registered by the pledgee, and the timing of registration determines priority. Pre-existing pledges notified to the authority will be recorded as "noted pledge" (Sw. *noterad pant*) and retain their priority, but will lose third-party protection if not submitted to the authority within three months from the substantive provisions entering into force.

- On 7 October 2025, the Swedish government published memorandum KN2025/01878 proposing that a new Environmental Assessment Authority (Sw. *Miljöprövningsmyndigheten*) will be established to take over the tasks currently handled by the Swedish county administrative boards (Sw. *länsstyrelserna*), with proposed entry into force on 1 July 2027. The government may prescribe that applications for permits for certain types of environmentally hazardous activities shall be examined by the new Environmental Assessment Authority. As a consequence of the proposal, the Swedish Regulation on Environmental Assessment Delegations (2011:1237) (Sw. *förordningen om miljöprövningsdelegationer*) may be repealed.

- On 3 October 2025, the Government submitted a legislative referral to the Council on Legislation (Sw. *Lagrådet*) proposing amendments to the Swedish Land Acquisition Act (1979:230) (Sw. *jordförvärvslagen*). The proposal extends the requirement for acquisition permits to cover legal entities' acquisitions of agricultural property through testamentary dispositions and from the Swedish General Inheritance Fund (Sw. *Allmänna arvsfonden*). Applications for acquisition permits must be made within three months from when the will has gained legal force and the inheritance has been distributed or, if the estate inventory had not been registered at that time, from when the registration occurred. If an application is not made within the prescribed time or manner, or if an acquisition permit is refused, the acquisition is invalid. The amendments are proposed to enter into force on 1 January 2027.

In-Depth

AI and Copyright: What You Need to Know as 2025 Comes to An End

AI and copyright law have become hot topics in recent years. Questions regarding possible infringements through AI systems have been debated in academic circles for nearly a decade. Despite this decade of debate, which intensified significantly following the widespread launch of generative AI services, the discourse remains largely unchanged.

WHY IS THERE A DEBATE?

The copyright issue stems from the fact that AI systems require vast amounts of training data. This training data often includes content protected by copyright. The discourse is characterised by AI providers claiming that model training is lawful, while rights holders claim that using copyright-protected training data without a licence constitutes infringement. In the US, this largely comes down to 'fair use' assessments. In Europe, the applicability of the text and data mining (TDM) exception in copyright law is the subject of debate.

The main questions are: Does training AI on copyrighted material violate copyright law? And if so, does using these AI systems also lead to copyright infringements?

NOVEMBER'S LANDMARK RULINGS

These questions are no longer just theory as courts are now making real decisions. Two recent court rulings from November have been claimed by commentators to settle these debates. The first case is Getty Images v Stable Diffusion in England, decided on 4 November. The second is GEMA ./. OpenAI in Germany, decided on 11 November.

In the English case, Getty Images dropped its initial copyright claims about AI training because it could not be proven that training took place in the UK. The result might have been dramatically different if the training had occurred in the UK. The English ruling was, in effect, narrowly framed. The German case was brought by the collective rights management organisation GEMA. The case arose because ChatGPT generated verbatim copies of substantial parts of song lyrics. The court ruled in favour of GEMA and found that OpenAI, not the users, was responsible for these copyright-infringing outputs. The court notably held that the TDM exception could not apply in relation to the reproduction of lyrics in outputs.

LIMITED IMPACT ON SWEDISH LAW

I strongly disagree with anyone claiming that these two cases settle the discourse. These two cases have limited relevance to Swedish law. More importantly, in November, Koda (GEMA's Danish partner organisation) sued the AI music service Suno. Since the Swedish and Danish legal traditions are similar, the Danish case may be more indicative of how a Swedish court would approach such matters. Since both the German and Danish cases are in Europe, they might lead to a ruling from the EU Court of Justice. This is the most feasible way we might obtain AI-related case law binding on Swedish copyright law in the near future.

CONTINUED AMERICAN LITIGATION AND MATURED LICENCING

Most AI-related litigation takes place in American federal courts. Over 40 lawsuits (and counting) have been filed against AI companies in American courts, with most being class actions. The costs are staggering. In Bartz v. Anthropic, the parties proposed a $1.5 billion settlement in August 2025. If approved (as is required for this form of class action), rightsholders can receive compensation of about $3.100 for each infringed work, after deducting a total of $375 million in legal fees plus additional costs. This is just one example, with many more to come.

The costs of ongoing litigation for large AI companies are serious, but they are expected to diminish over time. AI-related markets are maturing and several elaborate licensing schemes for AI training datasets already exist. New business opportunities exist for those holding substantial amounts of potential training data. In September, the Swedish rights organisation STIM launched the first licence of its kind to enable AI companies to train models on music legally. In November, a dispute between Warner Music and Suno reportedly ended with the parties reaching a licencing agreement. It is, in other words, indeed possible today to develop a generative AI system legally.

CONCLUSION: ONGOING UNCERTAINTY WITH SIGNS OF MARKET MATURATION

For now, the issues surrounding AI-related copyright infringements will continue to be a contentious topic. American litigation will, in practice, establish the baseline standards, though European legal interpretation will also be required. For Sweden, the legal landscape remains unsettled.

Since most of us use – rather than provide – AI systems, the good news is that current legal precedent does not indicate that users of copyright-infringing AI systems are liable for copyright infringement. As to the providers, while the “move fast and break things” approach seems to have paved the way for the current wave of litigation, legal pathways now exist for compliant AI training as the market continues to mature.

Martin Zeitlin