



## Module 2: When to Adopt Soft Law

### Learning Objectives:

- Identify when soft law is most appropriate
- Explore the easy cases, when hard law is not available or appropriate
- Identify the complicated cases, when hard and soft law are both available, why choose soft law
- Learn the determinants of success for soft law programs
- Understand the complexity of new technology and agency interactions, using AI as a case study on the pros and cons of soft law

### Readings

- Reicin, Eric. "A Third-and Better-Way: The Case for Industry Self-Regulation," *LinkedIn*, January 16, 2025
- Calo, Ryan. "Artificial intelligence and the carousel of soft law." *IEEE Transactions on Technology and Society* 2.4 (2021): 171-174."
- Gutierrez, Carlos Ignacio, Gary Marchant, and Lucille Tournas. "Lessons for artificial intelligence from historical uses of soft law governance." *Jurimetrics* 61 (2020): 133.
- Gupta, Arpit. Industry AI "Standards" May Be a Good Band-Aid, But We Need Enforceable Standards in the Long Run. *Tech Policy Press*, April 15, 2004. <https://www.techpolicy.press/industry-ai-standards-may-be-a-good-bandaaid-but-we-need-enforceable-standards-in-the-long-run/>
- Hoffman, Adonis. "Why self-regulation is best for artificial intelligence." *The Hill*. November 8, 2023. <https://thehill.com/opinion/4300288-why-self-regulation-is-best-for-artificial-intelligence/>

**Possible law classes that could incorporate this module:** Law and Technology courses, Consumer Protection Law, Administrative Law, and Business Ethics