

UPSIDE PODCAST — #Episode 109

From 9 December, software stops being sold "as is" in the EU

Anything shipping with an AI model in it falls under product liability, and a lot of people building with AI don't know it's coming.

WHAT CHANGED

The EU dropped its specific AI liability plan and used product law instead

Rather than write a new framework, the decision was to treat software as a product. Anything shipped after 9 December with an AI model in it is covered.



WHY THAT MATTERS

The standard is strict liability

You don't have to prove the maker was careless, only that there was a defect. That's a much lower bar than the end user licence agreements the software industry has hidden behind for decades.



THE LIMITS

Only individuals can claim, not businesses

It covers personal injury, damaged property and lost personal data. So if an agent causes physical harm or leaks someone's data, there's liability.



THE GAP

Financial loss isn't covered at all

An agent that sets your coat on fire creates a claim. An agent that loses your money doesn't. Given how much of the agentic AI wave is pointed squarely at financial workflows, that seems like an odd place to draw the line.



THE OPEN QUESTION

If you build on someone else's model, whose defect is it?

You hold the client contract. They built the model. Working out who carries the liability across that chain will come down to case law, and that takes years.

CLOSER

A new legal landscape, starting in December 👉

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