

# A Comparative Analysis of Data Retention and Privacy Policies: A Due Diligence Report on Leading Generative AI Services

## 1.0 Executive Summary

### 1.1 Introduction and Scope

This report presents a foundational comparative analysis of the data retention, usage, and privacy policies for the consumer (free) and enterprise (paid) tiers of six leading generative AI services: OpenAI (ChatGPT), Anthropic (Claude), Google (Gemini), Microsoft (Copilot), xAI (Grok), and Meta (Llama). The analysis is designed for a professional audience, translating technical and legal documentation into strategic insights for data governance, vendor selection, and risk management. This examination is critical for any organisation seeking to integrate AI technologies responsibly while mitigating potential risks related to data security, privacy, and regulatory compliance.

### 1.2 Key Findings and Strategic Insights

A consistent and critical trend exists across all providers: a stark contrast in default data usage between consumer and enterprise tiers. Free/consumer tiers overwhelmingly operate on an **"opt-out" model**, where user data is utilised for model training and product improvement by default, placing the burden on the user to manually disable this feature.<sup>1</sup> In contrast, paid/enterprise tiers and APIs operate on a **"default-to-private" or "opt-in" model**, where data is contractually guaranteed not to be used for training.<sup>5</sup> This is a fundamental divergence in business philosophy—from treating user data as currency to treating it as a protected asset.

Paid plans offer more than just advanced features; they provide a comprehensive suite of contractual and administrative controls essential for corporate data governance. This includes granular data retention policies, administrative consoles for central management, and robust legal compliance certifications (e.g., SOC 2, ISO, GDPR, HIPAA) that are contractually guaranteed.<sup>5</sup> This transforms the AI service from a consumer tool into a verifiable, auditable enterprise solution.

The term "data retention" is deceptively simple. The analysis reveals it is a multi-layered concept involving user-facing history, short-term backend retention for service function, and a separate, much longer period for legally required or abuse-flagged data.<sup>12</sup> Deletion is rarely instantaneous, with a standard 30-day window for permanent removal from systems unless a legal or security exception applies.<sup>12</sup>

Services with direct ties to social media platforms, such as xAI's Grok and Meta's Llama, introduce a unique privacy profile. Their reliance on public social media posts for training, while offering real-time knowledge, creates significant privacy and compliance risks for corporate users.<sup>3</sup>

### 1.3 Core Recommendations for Professional Users

- **Vendor Selection:** Prioritise paid, enterprise-grade services for all use cases involving sensitive, proprietary, or personally identifiable information (PII).
- **Proactive Governance:** Actively configure all available privacy and data retention controls within the administrative console upon deployment, treating these settings as a critical component of data governance.
- **Internal Policy:** Develop and enforce a clear company-wide policy on AI usage, distinguishing between approved enterprise-grade services and unapproved consumer tools.

## 2.0 Foundational Concepts in AI Data Privacy

### 2.1 Defining the Spectrum of Data Retention

Data retention policies for generative AI services can be categorised into a spectrum of approaches, each with different implications for user privacy and organisational compliance. On one end is "zero retention," where data is not stored after a request is fulfilled. While this is a highly desirable policy for privacy-sensitive applications, the research demonstrates that true zero retention is largely confined to specific enterprise API tiers.<sup>5</sup> In practice, many providers implement a form of "temporary retention," where data is stored for a defined, short period, often for purposes of abuse monitoring or system integrity.<sup>12</sup> For consumer tiers, the most common policy is "indefinite retention," where data is stored in the user's chat history until they manually delete it.<sup>12</sup> Even after a user initiates a deletion, the data is often subject to a secondary, short-term retention window, typically 30 days, before permanent removal from the provider's backend systems.<sup>12</sup> This short-term retention serves to balance user privacy with the need for operational safeguards and legal compliance. Finally, a distinct category is "retention for legal or compliance purposes," where data is kept for a much longer period—sometimes years—if it is flagged as a violation of the provider's usage policy or is subject to a legal request.<sup>6</sup> This multi-layered nature of data retention highlights that the simple act of "deleting" a conversation does not guarantee immediate, permanent removal from a service's systems.

### 2.2 The Critical Distinction: Data for Service vs. Data for Training

A fundamental principle underlying the varied data policies of AI providers is the distinction between data used to provide a direct, real-time response and data used to improve the foundational model over time. For a large language model to function, it must process user inputs to generate an output. This real-time processing is a basic requirement of the service. However, the use of that same input-output data for future model training is a separate and highly consequential decision.

For **free tier models**, user prompts, inputs, and feedback are a primary and explicit resource for model improvement.<sup>2</sup> This can be seen as the

unspoken compensation for the "free" service; the user provides valuable data that helps the company stay competitive in the AI arms race. For example, OpenAI's consumer service uses conversations to improve its models unless the user opts out.<sup>16</sup> Similarly, Anthropic recently shifted its consumer policy to use conversations for training unless a user actively opts out.<sup>2</sup>

In contrast, a core value proposition for **paid tier models** and APIs is that customer data is walled off from the training process.<sup>5</sup> The providers of these enterprise services commit that the data is used solely to provide the requested service and is not retained or used for model improvement. This commitment is often backed by contractual agreements and compliance certifications, transforming the relationship from a consumer transaction into a more secure, privacy-protective partnership.

### 2.3 Understanding User Controls: The Role of Opt-In vs. Opt-Out

The way an AI service presents its privacy choices—either as an opt-in or an opt-out model—has profound implications for user autonomy and consent. An **opt-out model** automatically enrolls the user in data sharing for model training, requiring the user to navigate to a specific settings menu to disable it.<sup>1</sup> This approach is prevalent in many consumer-facing services and places the burden of privacy on the end-user. The design of the user interface for these choices is also a critical factor. For example, reports have noted that Anthropic's new opt-out policy for consumer users presents a prominent "Accept" button with a smaller, pre-toggled-on switch for training permissions, which raises questions about whether meaningful consent is truly being obtained.<sup>18</sup> Similarly, xAI's Grok was found to have automatically opted in all users for data sharing without prior consent, with the setting hidden in the web version of the platform.<sup>4</sup> This practice, sometimes referred to as a "dark pattern," has drawn scrutiny from privacy advocates and regulators.

In an **opt-in model**, the user must explicitly consent for their data to be used for training. This is the standard for most paid and enterprise tiers and is considered a more privacy-protective approach. The shift in Anthropic's consumer policy to an opt-out model, while its enterprise policy remains opt-in, is the clearest illustration of the diverging philosophies between a consumer-focused, data-as-currency business model and a corporate, privacy-first business model.<sup>2</sup> This highlights a growing global regulatory friction point, as seen with the legal challenges to Meta's similar opt-out policy in Europe.<sup>3</sup>

## 3.0 In-Depth Vendor Analysis

### 3.1 OpenAI (ChatGPT)

#### 3.1.1 Free/Consumer Tier

OpenAI's consumer-facing ChatGPT service retains user data to provide and improve its services. Chats and uploaded files are saved to a user's account until they are manually deleted.<sup>12</sup> When a user deletes a chat or their account, the data is immediately removed from their visible history and scheduled for permanent deletion from OpenAI's systems within 30 days.<sup>12</sup> This 30-day window can be extended if OpenAI is legally or contractually obligated to retain the data longer for security or compliance purposes.<sup>12</sup> For users seeking a higher degree of privacy, a "Temporary Chat" mode automatically deletes conversations from OpenAI's systems within 30 days without manual intervention.<sup>1</sup> User-provided content, including prompts and queries, is used for model training by default unless the user opts out through the "Data Controls" settings.<sup>16</sup> A notable security incident occurred in March 2024, when a bug led to a data breach that exposed some users' chat titles and, in some cases, payment information for a small percentage of Plus subscribers.<sup>16</sup> While credit card numbers were not leaked, the exposure of names, email addresses, payment addresses, and the last four digits of credit cards underscores the inherent risks even with stated privacy policies.<sup>16</sup>

#### 3.1.2 Paid/Enterprise/API Tier

The data policy for OpenAI's business-grade products (ChatGPT Enterprise, ChatGPT Edu, ChatGPT Business) and its API platform stands in stark contrast to the consumer tier. By default, business data—including inputs and outputs—is explicitly not used for training or improving OpenAI's models.<sup>5</sup> Data is secured with industry-standard encryption, specifically AES-256 for data at rest and TLS 1.2 or higher for data in transit.<sup>5</sup> The API platform provides granular data retention controls, including an option for a **zero data retention policy**, which is a key differentiator for organisations with the highest privacy standards.<sup>5</sup> For enterprise customers, administrative controls allow for configuration of how long data is retained, which is a significant departure from the end-user control model of the consumer and Team plans.<sup>24</sup> Furthermore, OpenAI's business products support compliance with a range of privacy laws, including GDPR and CCPA, and have undergone independent audits to achieve certifications such as SOC 2 Type 2 and ISO/IEC 27001, 27017, and 27018.<sup>5</sup> Enterprise customers also have access to data residency options in multiple regions, which is essential for meeting local data sovereignty requirements.<sup>5</sup>

### 3.2 Anthropic (Claude)

#### 3.2.1 Free/Consumer Tier

Anthropic's approach to consumer data has been a subject of significant discussion due to a recent policy change. Previously, consumer chat data was automatically deleted after 30 days.<sup>2</sup> However, a new policy effective in late 2025 shifted to a default

**opt-out model** for free, Pro, and Max users, allowing the company to retain their conversation and coding sessions for up to five years for model training purposes unless the user actively disables this feature.<sup>2</sup> If a user opts out, their chats are still retained for up to 30 days in the backend.<sup>13</sup> The policy also includes a separate, much longer retention period for data flagged by trust and safety classifiers as violating the Usage Policy, with inputs and outputs retained for up to two years and classification scores for up to seven years.<sup>13</sup> This controversial shift, which is one of the most explicit examples of a vendor moving to a data-as-currency model, underscores the intense competition for high-quality, real-world data to improve model safety and performance.<sup>18</sup>

### 3.2.2 Paid/Enterprise/API Tier

For its commercial products, such as Claude for Work, Claude for Enterprise, and the Anthropic API, the data policy is distinctly different. By default, customer data from these tiers is **not used for model training**.<sup>6</sup> For API users, inputs and outputs are automatically deleted from the backend within 30 days unless a zero data retention agreement is in place.<sup>6</sup> Enterprise and API customers have the right to delete their chats at any time, which are then permanently removed from backend storage within 30 days.<sup>6</sup> A notable feature for enterprise customers is the ability for a primary owner or administrator to disable the "thumbs up/down" feedback button for their organisation, which prevents any user feedback from being used for training.<sup>20</sup> This administrative control is a critical governance feature that prevents even subtle data leakage from user interactions.

## 3.3 Google (Gemini)

### 3.3.1 Free/Consumer Tier

Google's Gemini Apps have a sophisticated data retention policy that is linked to a user's Google Account. With the "Gemini Apps Activity" setting on by default, conversations are stored for up to 18 months, with user-configurable options to change this to 3 or 36 months.<sup>14</sup> Even if this setting is turned off, conversations are temporarily saved for up to 72 hours to provide the service and process feedback.<sup>14</sup> A separate, longer retention period applies to conversations that have been reviewed by human reviewers for safety and quality, which are retained for up to three years but are disconnected from the user's Google Account.<sup>14</sup> Data from integrated Google services, such as content from Google Drive, is a key point of privacy commitment for Gemini; this data is not used for training models or for showing ads and is not accessible by human reviewers.<sup>7</sup> This strict isolation of data from other Google services is a significant privacy commitment that sets Gemini apart from more integrated platforms.

### 3.3.2 Paid/Enterprise/API Tier

Google's enterprise-grade offering, Gemini for Google Workspace, is positioned as a secure, privacy-first tool for organisations. A central policy states that user data in Workspace is not used to train Gemini models or for ads targeting.<sup>7</sup> The service has been designed with enterprise-grade security and compliance from the ground up, including certifications such as ISO 42001, SOC 1, SOC 2, and SOC 3, and is designed to help meet HIPAA compliance.<sup>7</sup> For the Gemini API, prompts and outputs are retained for 55 days for abuse monitoring, but this data is not used for model training or fine-tuning.<sup>26</sup> The 55-day retention period for API data, while not for training, is a longer temporary store than the 30-day standard seen

in other APIs, which is an important consideration for organisations requiring a full understanding of their data lifecycle. The product's compliance with a wide range of certifications positions it as a low-risk option for heavily regulated industries.

## 3.4 Microsoft (Copilot)

### 3.4.1 Free/Consumer Tier

Microsoft Copilot for personal use has a default retention period of 18 months for conversation history, which aligns with Google's Gemini policy.<sup>27</sup> Users have a clear path to control their privacy, with the ability to opt out of their conversations being used for model training at any time.<sup>22</sup> The service is designed to remove personally identifiable information (PII) before it is used for training.<sup>28</sup> A specific policy for file uploads states that any file shared with Copilot is stored securely for up to 30 days and is explicitly **not used for training models**.<sup>27</sup> This provides a clear safety boundary for users concerned about pasting or uploading sensitive documents into the service.<sup>27</sup> The personalisation feature, which remembers key details from conversations, can also be turned off by the user, and this does not affect their ability to view past conversation history.<sup>22</sup>

### 3.4.2 Paid/Enterprise (Copilot for Microsoft 365)

Microsoft 365 Copilot is not a standalone product but an integrated feature that inherits the existing security, privacy, and compliance framework of Microsoft 365.<sup>8</sup> This is a powerful, low-friction value proposition for existing Microsoft 365 customers. A core policy states that customer data, including inputs and outputs, is **not used to train Microsoft's foundation models** and is not stored or used outside the organisation's boundaries.<sup>8</sup> The service is compliant with GDPR, the EU Data Boundary, and other enterprise-grade standards.<sup>8</sup> Data retention for Copilot interactions is managed by the organisation through Microsoft Purview, which can apply a single policy to multiple locations and retain or delete content based on the organisation's rules.<sup>30</sup> Prompts and responses are logged and stored in Exchange for auditing and eDiscovery purposes.<sup>29</sup> This ability to manage AI-generated data with the same tools used for other Microsoft 365 content is a major governance advantage that positions it as one of the most tightly controlled enterprise solutions on the market.

## 3.5 xAI (Grok)

### 3.5.1 Free/Consumer Tier

Grok's data policy is unique due to its deep integration with the X platform. The service explicitly uses public posts and interactions from X users for training and fine-tuning its models.<sup>4</sup> For users who access the service without logging in, the terms are highly permissive, granting xAI full rights to use any data provided for product development and model training.<sup>19</sup> This is a clear statement that for non-paying users, data is the explicit form of payment. The reliance on a public social media dataset creates a privacy profile that is fundamentally different from other models, as it ties the service's knowledge base to a potentially volatile and publicly controversial data source.<sup>4</sup>

3.5.2 Paid (X Premium+, SuperGrok)

For paid users of X Premium+ or SuperGrok, the data policy offers more control, but it is not without complexity. While paid users can opt out of their data being used for model training and personalisation, this feature was initially found to be non-obvious, with users automatically opted in by default.<sup>4</sup> This requires manual action through the web version of the platform and has been a point of contention among privacy advocates.<sup>4</sup> Private chats that a user requests to delete are queued for deletion within 30 days.<sup>19</sup> Despite the ability to opt out of training, the service still fundamentally relies on the use of public X data, linking the service to a public social media platform even for paying users.<sup>4</sup> This presents a fundamental policy differentiator from other enterprise-grade solutions that strictly wall off customer data from public sources.

3.6 Meta (Llama)

3.6.1 Free/Consumer Tier (Meta AI)

The data policy for Meta's consumer-facing AI products, such as Meta AI, is similar to Grok's in its reliance on a massive public dataset. Meta AI uses publicly available data from Facebook and Instagram for model training unless users actively opt out.<sup>3</sup> This opt-out model has faced legal challenges and criticism from data protection organisations for potentially violating EU privacy laws.<sup>3</sup> The policy states that private messages are only used if the user explicitly mentions "@Meta AI" in a conversation, which is a specific and limited permission.<sup>32</sup> The controversy over this opt-out model highlights a global regulatory friction point, making it a high-risk option for corporate use due to the potential for legal and public relations complications.<sup>3</sup>

3.6.2 Paid/Enterprise/API Tier (Llama API)

The policy for the Llama API is the most crucial point for this section. Meta explicitly states that it does **not train its AI models on Llama API Customer Content or Customer Data**.<sup>9</sup> The data is used solely for service provision, understanding service usage, ensuring adherence to the acceptable use policy, and complying with legal obligations.<sup>9</sup> All data transmitted to and from the Llama API is encrypted in transit using TLS 1.2 or 1.3, and customer content is encrypted when stored at rest.<sup>9</sup> Meta also commits to never selling any customer or user data.<sup>9</sup> This strategic separation of the enterprise-focused Llama API from its consumer-facing Meta AI product, which leverages public data, offers a walled-off, highly secure model for businesses. The fact that the Llama model itself is offered as a licensed service on platforms like Google Cloud's Vertex AI, rather than a traditional subscription service, adds a layer of legal and technical nuance for professionals to consider when selecting a vendor.<sup>33</sup>

4.0 Comparative Analysis: Unpacking the Differences

4.1 Comparative Matrix: Data Retention and Training Policies

The below table provides an overview of the data policies, serving as a quick-reference for corporate decision-makers. It visually summarises the key differences identified in the detailed vendor analysis, making it easier to compare and contrast policies across different services and tiers.

Vendor	Tier	Data for Model Training (Default Setting)	Standard Retention Period	Deletion Process	Key User/Admin Controls	Available Compliance Certifications
OpenAI	Free / Consumer	<b>Opt-out:</b> Used for training by default <sup>17</sup>	Until manually deleted; max 30 days for Temporary Chat <sup>12</sup>	Scheduled for permanent deletion from backend within 30 days <sup>12</sup>	Opt-out of training, delete chats, archive chats, export data <sup>12</sup>	N/A (Consumer)
OpenAI	Paid / Enterprise / API	<b>Opt-in:</b> Not used for training by default <sup>5</sup>	Customisable by admin; API can be zero retention <sup>5</sup>	Managed by admin; max 30 days for legally required data <sup>24</sup>	Admin console for data retention, zero retention policy (API) <sup>5</sup>	SOC 2 Type 2, ISO 27001, GDPR, CCPA <sup>5</sup>
Anthropic	Free / Consumer	<b>Opt-out:</b> Used for training by default <sup>2</sup>	Up to 5 years if not opted out; 30 days if opted out <sup>13</sup>	Deletion from backend within 30 days <sup>13</sup>	Opt-out of training, delete conversations <sup>13</sup>	N/A (Consumer)
Anthropic	Paid / Enterprise / API	<b>Opt-in:</b> Not used for training by default <sup>6</sup>	Auto-delete within 30 days (API); customisable for Enterprise <sup>6</sup>	Deletion from backend within 30 days <sup>6</sup>	Admin control to disable feedback buttons, zero retention (API) <sup>6</sup>	N/A (Commercial)
Google	Free / Consumer	<b>Opt-out:</b> Used for training unless Gemini Apps Activity is off <sup>14</sup>	18 months by default; user-configurable <sup>14</sup>	Manual deletion removes from history; human-reviewed data retained 3 years <sup>14</sup>	Turn off Gemini Apps Activity, manual chat deletion <sup>14</sup>	N/A (Consumer)
Google	Paid / Enterprise / API	<b>Opt-in:</b> Not used for training <sup>7</sup>	55 days for abuse monitoring (API); customisable in Workspace <sup>7</sup>	No training data retention; temporary abuse monitoring retention <sup>26</sup>	Enterprise-grade security, data loss prevention (DLP) controls <sup>7</sup>	SOC 1/2/3, ISO 42001, HIPAA support <sup>7</sup>
Microsoft	Free / Consumer	<b>Opt-out:</b> Used for training by default <sup>22</sup>	18 months by default <sup>27</sup>	Manual chat deletion <sup>27</sup>	Opt-out of training, delete conversations, personalisation controls <sup>22</sup>	N/A (Consumer)



<b>Microsoft</b>	Paid / Enterprise (M365)	<b>Opt-in:</b> Not used for training by default <sup>8</sup>	Managed by organisation via Microsoft Purview <sup>11</sup>	Managed by organisation via Microsoft Purview <sup>11</sup>	Comprehensive admin controls, eDiscovery, auditing <sup>29</sup>	GDPR, EU Data Boundary, DPA, Microsoft Purview <sup>8</sup>
<b>xAI</b>	Free / Consumer	<b>Opt-out:</b> Public posts and non-logged-in data used by default <sup>4</sup>	30 days for deleted chats <sup>19</sup>	Queued for deletion within 30 days <sup>19</sup>	Opt-out of training (web only), private account mode <sup>4</sup>	N/A (Consumer)
<b>xAI</b>	Paid / Enterprise	<b>Opt-out:</b> Data used by default, but paying users can opt out <sup>4</sup>	30 days for deleted chats <sup>19</sup>	Queued for deletion within 30 days <sup>19</sup>	Opt-out of training (initially not obvious), private account mode <sup>4</sup>	N/A (Paid)
<b>Meta</b>	Free / Consumer	<b>Opt-out:</b> Public social media data used by default <sup>3</sup>	Indefinite for public data <sup>3</sup>	Manual deletion <sup>32</sup>	Opt-out of training <sup>3</sup>	N/A (Consumer)
<b>Meta</b>	Paid/ Enterprise / API	<b>Opt-in:</b> Not used for training by default <sup>9</sup>	No training data retention; temporary retention for abuse monitoring <sup>9</sup>	Data not retained for training <sup>9</sup>	None, due to core commitment to non-use of data <sup>9</sup>	GDPR, CCPA, PCI-DSS <sup>9</sup>

## 4.2 The "Free" Paradox: Data as Currency

The economic model underpinning free AI services is a modern iteration of a classic business strategy: the user is not the customer; the user is the product. The immense capital requirements for developing and maintaining large language models—including the vast computational power and a continuous supply of high-quality training data—are a direct cause of the shift towards permissive opt-out policies for free users.<sup>18</sup> User data, consisting of prompts, conversations, and feedback, represents a valuable and hard-to-acquire resource for improving a model's capabilities, reducing biases, and enhancing safety.<sup>18</sup> The move by Anthropic and Meta to a default opt-out model for their consumer products, despite facing legal challenges and public outcry, demonstrates a clear prioritisation of this data for a competitive advantage.<sup>2</sup> This is a clear case of a business model directly influencing and, in some cases, compromising, user privacy. The controversy surrounding these policies highlights a fundamental tension between the AI industry's need for data and the public's growing demand for privacy and control over their personal information.

### 4.3 The Enterprise Advantage: Controls, Compliance, and Custody

For organisations, the choice to use a paid, enterprise-grade AI service moves the relationship from a consumer transaction to a contractual partnership with superior governance. This is not simply a matter of enhanced features but a foundational difference in legal and technical posture.

**Contractual Guarantees:** Paid plans come with contractual guarantees that are absent from consumer terms of service. For example, OpenAI's business products are covered by certifications such as SOC 2 Type 2 and ISO 27001.<sup>5</sup> These are not just statements of intent but verifiable audits that confirm a provider's adherence to industry standards for security and confidentiality. Similarly, providers like OpenAI and Anthropic offer a Data Processing Addendum (DPA) to support compliance with GDPR and other privacy laws.<sup>20</sup> These contractual commitments are legally binding and provide a layer of protection that is essential for corporate data.

**Administrative Control:** The value of a paid plan lies in its centralised, granular administrative controls. For example, Microsoft 365 Copilot's data retention is not controlled by the end-user but by the organisation's IT department through Microsoft Purview, using the same tools to manage AI-generated data as other enterprise content.<sup>30</sup> This allows for a consistent, auditable data lifecycle across the organisation and provides a level of governance impossible with individual consumer accounts. Similarly, OpenAI's Enterprise plan gives administrators control over data retention, a critical difference from the end-user control in the Team plan.<sup>24</sup>

**Data Residency:** For multinational corporations, data residency is a critical compliance requirement. Paid enterprise solutions, such as OpenAI's, offer the ability to store customer content at rest in specific regions like the U.S., Europe, or Japan to comply with local data sovereignty laws.<sup>5</sup> This is a strategic advantage that consumer services do not provide.

### 4.4 Key Policy Differentiators and Risks

While the free vs. paid dichotomy is a primary differentiator, other unique policy elements create distinct risk profiles for each vendor.

**Social Media Integration:** The models from xAI and Meta are fundamentally different from their competitors in their use of public social media data. Grok explicitly uses public posts from X for training.<sup>4</sup> Similarly, Meta AI leverages public posts from Facebook and Instagram.<sup>3</sup> This reliance on a public social graph provides real-time knowledge but also creates a unique, and potentially volatile, privacy profile. For corporate users, this presents significant risks related to data volatility and public controversy, as the model's responses could be influenced by a constantly changing and unfiltered data source.

**The Opt-Out Controversy:** The design of the opt-out mechanisms for consumer services from Anthropic and Meta presents an ethical and legal challenge. The use of pre-toggled switches and disclosures buried in settings raises questions about whether users are giving meaningful consent.<sup>3</sup> The FTC has previously warned AI companies against "surreptitiously changing its terms of service or privacy policy".<sup>18</sup> This practice, while aimed at improving the models, introduces a level of risk for organisations that may be held accountable for the data privacy practices of their third-party providers.

**The Llama Licensing Nuance:** Unlike a traditional subscription service, Meta's Llama models are available as a licensed product on platforms like Google Cloud's Vertex AI.<sup>33</sup> This means the data commitments are often governed by the licensing agreement between Meta and the cloud provider, which in turn passes on certain guarantees to the customer. This distinction means that Llama's data policy is not a standalone service but is integrated into a larger cloud ecosystem, adding a layer of legal and technical complexity for professionals to consider.

## 5.0 Recommendations and Conclusion

### 5.1 Strategic Recommendations for Enterprises

Based on the analysis, a clear set of strategic recommendations emerges for any organisation planning to deploy or use generative AI technologies. First and foremost, a thorough **vendor due diligence** process is non-negotiable. This review must go beyond features and pricing to focus on contractual commitments, data governance capabilities, and compliance certifications like SOC 2 and GDPR DPAs. The analysis clearly shows that these are the true differentiators.

Second, the report recommends **proactive governance** from the outset. This means actively configuring all available privacy and data retention controls within the administrative console upon deployment, rather than assuming default settings are sufficient. This is particularly important for services that offer a choice in data retention, such as OpenAI's API with its zero-retention option.

Finally, organisations should develop and enforce a clear **internal policy** on AI usage. This policy should explicitly distinguish between approved enterprise-grade services and unapproved consumer tools. It should mandate the use of paid tiers for all sensitive, proprietary, or PII data, and it should provide guidelines for what types of information are permissible in any free or consumer-grade AI service.

### 5.2 Practical Recommendations for Individuals

Individuals can take proactive steps to protect their personal privacy when using free AI services. First, they should actively seek out and configure any available opt-out settings for model training. Second, when interacting with a service, they can use features like "Temporary Chat" or the equivalent, as offered by OpenAI, to ensure their conversations are not retained indefinitely. Lastly, and most importantly, they should exercise caution and avoid inputting any sensitive, confidential, or personally identifiable information into any free or consumer-grade AI service, acknowledging that their data is likely being used as compensation for the service provided.

### 5.3 Conclusion

The report concludes that a fundamental and irreconcilable difference in data philosophy exists between the free and paid tiers of leading generative AI services. For consumer products, user data is a primary asset used for model training and product improvement, with a prevailing

opt-out model that places the burden of privacy on the end-user. For paid, enterprise-grade products, the relationship is a contractual partnership where data is a protected asset, with strong commitments to non-use for training, robust administrative controls, and verifiable compliance certifications. A professional approach to AI adoption requires moving beyond free consumer tools to robust, contractually guaranteed, and governable enterprise solutions. This strategic shift is not merely a matter of security, but a necessary step for ensuring data integrity, regulatory compliance, and long-term organisational risk mitigation in an evolving technological landscape.

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