The Director's Cut

Five activities for commercial EdTech Professionals on Generative AI

Academic Year 2024/25

Introduction

Following the acceleration of Generative AI in the final quarter of 2022, a reoccurring theme in conversations in UCISA's Transforming IT Procurement Working Group has been adapting to a changing landscape, which impacts existing contracts as well as strategies of going to market and roadmap planning.

The pace of change has increased further this year, with OpenAI's release of GPT4o-mini in July 2024 further democratising the market for developers, where the public sector, as highlighted in the recently published report from the Tony Blair Institute, 'Governing in the Age of AI: A New Model to Transform The State' (May 2024), can build specific tools on-top of off-the-shelf Large Language Model (LLM) products to meet specific sector needs.

This context led the Working Group to summarise in a Director's Cut five significant activities for EdTech commercial professionals to apply in the academic year 2024/25, to enable flexibility and dynamism in an evolving market, while mitigating risk.

1. Manage the commercial risk on renewing existing services

A very visible impact many institutions have already experienced, is a change in commercial model from suppliers who have since invested heavily in research and development of generative AI, so have made changes to their pricing on existing services, leading to sharp rises at the point of renewal.

While sector bodies, including UCISA, have helpfully led representation to mitigate these changes in pricing models with global suppliers, there will be an increase in costs for many universities that are planning to renew like-for-like services, in contrast to an income stream that is less worth than it was before.

Teams should always be continuously looking at roadmaps with a commercial perspective – considering other market options, creating competitive tension and the time to carry out an effective competition and potential change. But that also mean highlighting the potential resource and investment needed, alongside the opportunity to refresh both products and suppliers.

2. Being agile in an emerging market

The nature of the assessment and maintaining academic integrity means higher education institutions can't step back from immediate involvement in the market for products related to generative AI.

However, while the generative AI market is evolving, the existing market for detection tools is relatively narrow, with dominant players taking over smaller disrupters, leading to a lack of choice and risks that come from a lack of competition, including a lack of leverage on getting the strongest possible contract terms; effective service levels; the quality of the product; and the competence of account and service management teams.

With this in mind, in the context of a rapidly developing market in all areas of Generative AI, IT commercial professionals in Higher Education are advised not to commit to long-term contracts or an infrastructure that does not let them change service and/or provider rapidly, while ensuring exit schedules in contracts have clear commitments from both parties detailed, for transparency, to prepare ahead of change.

3. Identify the Value Proposition for new AI products with deliverables to match

There are several drivers for Generative AI products in Higher Education, including improving customer experience, enhancing productivity and introducing tools to maintain academic integrity.

Whereas the last example is a necessity, outcomes from other products need clear definition in business cases and metrics to measure their return on investment beyond.

The very nature of generative AI means this commercial due diligence needs to go beyond assessing tender responses, with technology players openly admitting they use AI tools themselves in answering questions contained in RFIs and RFPs.

One developing piece of best practice, highlighted by Working Group member Anna Ellis, of Loughborough University, following the Public Procurement Notice (PPN) from the Cabinet Office in March 2024, is institutions adjusting their questions in tenders to specifically ask if bidders have used AI, including LLM, in their responses.

Following initial written responses and declarations of transparency on the use of AI tools, time and resource invested into dialogue processes before developing and awarding a final agreement, so it has deliverables which are reportable so they can be measured against the business case, is worthwhile for commercial teams.

4. Developing contracts that mitigate risk

For any contract where customer data is processed or held, specific drafting on clauses would further mitigate the risk of that data being used, without consent, for Generative AI.

Many AI tools themselves, by their very nature, will scrape data uploaded by customers for wider use, which is why customers are advised not to upload any personal or confidential data in Generative AI tools, however attractive saving a bit of time by using a LLM may appear.

But for wider IT services, not specifically contracted for AI as the purpose but where data is uploaded, commercial professionals may want to look at drafting clauses, in the manner of confidentiality and indemnity clauses, which are often not constrained by normal liability caps, to detail wording on data use in generative AI outside of the buying organisation.

To be in the strongest position for this negotiation ahead of an award, the institution would have the principle of these clauses as non-negotiable in contract out for tender. Institutions over reliant on frameworks may struggle with this flexibility, but it creates the best environment for the strongest contract possible and can mitigate the financial and reputational risk of student, research or even personal data unwittingly being used in a generative AI tool, without any knowledge of the contracting party.

5. Deploy AI tools to supplement IT commercial operating model

When looking into use cases for AI, including via generative tools, many of the use cases the Working Group found centred on speeding up administrative process and producing better metrics to enhance the work EdTech commercial professionals do.

In a sector where stakeholders and the market are often frustrated by red-tape, duplication of work and over long procurement processes to award, these benefits can add real value,

however there is no substitute for commercial talent, experience and personal relationships which successful IT commercial success are built on.

Having tools at hand, to reduce the administrative burden and aid reporting should strengthen the commercial talent within institutions, but that talent needs to have the autonomy to continually engage the market, understand developments and influence prospective partners as an attractive customer, for universities to truly benefit from Generative AI supporting specific personal skills and experience which machines can't replicate.

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Further Links

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