February 15, 2024

House Committee on Innovation, Internet, and Technology
Attn: Dawn Huntley, Committee Clerk
State House
82 Smith St
Providence, RI 02903

Re: H.B. 7521- An Act Relating to State Affairs and Government - Automated Decision Tools - Artificial Intelligence

Dear Chair Baginski, and Members of the Committee on Innovation, Internet, and Technology:

On behalf of the Computer & Communications Industry Association (CCIA), I write to raise some concerns with H.B. 7521, An Act Relating to State Affairs and Government - Automated Decision Tools - Artificial Intelligence.

CCIA is a 50-year-old not-for-profit international tech trade association that advocates for policy and market conditions that benefit innovation, the tech sector, and consumers.[1] While CCIA recognizes that policymakers are appropriately interested in the digital services that make a growing contribution to the U.S. economy, more work can and must be done to study the potential implications of automated-decision tools and artificial intelligence prior to considering H.B. 7521. As the Legislature explores policy pertaining to this new and emerging space, CCIA would like to raise the following concerns with H.B. 7521 as it is currently drafted.

1. Algorithmically-informed decision-making is complex. The use of automated decision tools can generate both benefits and drawbacks. Since AI systems are quite nuanced, there could be a variety of unintended consequences if one were to regulate these technologies in haste.

The span of automated decision tools is elaborate and often misunderstood. At its core, algorithmically-informed decision-making is simply a set of techniques that can be used for doing tasks that would otherwise be accomplished manually or using traditional, non-AI technology. These technologies are data-driven and can efficiently process massive amounts of data to create gains in productivity and accuracy and support technological and scientific breakthroughs. Algorithmically-informed decision models touch almost every aspect of our day-to-day activities. This includes filtering spam emails, using ride-share apps,

[1] For 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than $100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at https://www.ccianet.org/members.

online shopping, plagiarism scans, using smartwatches to track a workout, monitoring online test taking, and pre-authorizing medical insurance before a visit.

Ambiguous and inconsistent regulation at the state or local levels would undermine business certainty, creating significant confusion surrounding compliance. This type of regulatory patchwork may deter new entrants, harming competition and consumers. While we understand the concerns of potential bias in these tools, we must also strike the correct balance to avoid stifling the use of technology when organizations are looking to use AI technology as an essential tool to help their businesses.

2. Overly broad definitions would force businesses to collect extensive information and conduct impact assessments for an unwieldy number of systems.

As currently drafted, the term "consequential decision" defined in H.B 7521 is overly broad. The current definition would potentially include a wide range of low-risk technology, capturing everything from spreadsheets to automated cameras. The term would also apply to a large number of AI systems, and to comply with H.B. 7521, covered entities would be required to collect significantly more information from consumers than they otherwise would. This proposed requirement conflicts sharply with data minimization principles that companies are also under pressure to abide by.

These overly broad definitions would also require covered entities to conduct "an impact assessment for any automated decision tool the deployer uses" for an incredibly large number of AI systems. Such assessments should be reserved solely for automated systems that make decisions that result in a legal or similarly significant effect on an individual. Disclosures for low-risk automated decisions would provide no benefit to consumers while impeding business activity and unnecessarily diminishing the personalization of consumer services. This balanced approach would allow businesses to retain flexibility and scale existing processes.

Lawmakers could consider an approach similar to the one outlined in the EU's Article 29 Data Protection Working Group report on the Guidelines for data protection impact assessments (DPIAs). The report describes that a "DPIA is not mandatory for every processing operation", but rather only when the process is "likely to result in a high risk to the rights and freedoms of natural persons."[2]

[2] Article 29 Data Protection Working Party, *Guidelines on Data Protection Impact Assessment (DPIA)*, (Oct. 13, 2017), https://ec.europa.eu/newsroom/article29/items/611236.

These impact assessment requirements would also require companies to divulge a vast amount of proprietary information. Disclosure requirements should not risk exposing trade secrets or business-sensitive information as this would have a chilling effect on customer service and innovation. Such expansive reporting requirements may also have the unintended adverse consequence of giving nefarious foreign agents, purveyors of harmful content, and other bad actors a playbook for circumventing and hacking algorithmic tools rather than protecting consumers. Lengthy data storage requirements coupled with sharing such data also potentially expose consumer data and pose a threat to user privacy online.

3. Investing enforcement authority with the state attorney general would be beneficial to consumers and businesses alike. .

H.B. 7521, Section 42-166-7 would establish a private right of action, by allowing a "person" to bring an action against a deployer for violations. By creating a new private right of action, this legislation would open the doors of Rhode Island's courthouses to speculative claims from plaintiffs. As speculative lawsuits prove extremely costly and time-intensive to litigants and the judiciary, it is foreseeable that these costs would be passed on not only to taxpayers, but also online services and local brick-and-mortar businesses in the State. Section 42-166-8 of the bill already empowers the Attorney General as well as town and city solicitors to enforce the law. By vesting sole enforcement powers with those entities, Rhode Island can leverage the technical expertise of those offices, placing public interest at the forefront.

CCIA appreciates the inclusion of a 45-day cure period. This would allow for actors operating in good faith to correct an unknowing or technical violation, reserving formal lawsuits and violation penalties for the bad actors that the bill intends to address. This would also focus the government's limited resources on enforcing the law's provisions for those that persist in violations despite being made aware of such alleged violations. Such notice allows consumers to receive injunctive relief, but without the time and expense of bringing a formal suit.

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We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Alex Spyropoulos
Regional Policy Manager, Northeast
Computer and Communications Industry Association