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March 26, 2024

House Committee on Consumer Protection, Technology and Utilities
Capitol Building
501 North Third Street
Harrisburg, PA 17120

RE: HB 1598, "An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, further providing for definitions and for unlawful acts or practices and exclusions." (Oppose)

Dear Chair Matzie and Members of the House Committee on Consumer Protection, Technology and Utilities:

On behalf of the Computer & Communications Industry Association (CCIA), I write to raise several concerns regarding HB 1598. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.[1] Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members.

CCIA's members have engaged in responsible artificial intelligence (AI) development, through the development and application of their own responsible AI principles, conducting academic research that promotes privacy-by-design, and the hardening of AI against motivated attackers seeking to extract training data. CCIA understands lawmakers' concerns regarding the potential risks posed by AI systems, and has published a white paper, *Understanding AI: A Guide to Sensible AI Governance* as a resource to understand how approaches to regulation can balance mitigating risks without creating barriers to innovation[2].

Under HB 1598, the bill would designate "creating, distributing, or publishing any content degenerated by artificial intelligence without clear and conspicuous disclosure" as an "unfair method of competition" or "unfair or deceptive act or practice". As written, HB 1598 risks creating confusion surrounding compliance and could unnecessarily prevent the use of generative AI systems for beneficial and otherwise creative purposes.

We appreciate the opportunity to expand on these concerns as further detailed below.

HB 1598 includes an incredibly broad definition of "artificial intelligence" and therefore could encompass an unwieldy number and type of systems.

For example, businesses in every industry sector employ AI to increase competitiveness and enhance their products and services, ranging from routine and low-risk applications such as filtering and spell-check to credit-scoring algorithms to generative AI models. The use of AI systems has enabled

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[1] For more than 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.

[2] *Understanding AI: A Guide to Sensible Governance*, CCIA (June 2023), https://ccianet.org/library/understanding-ai-guide-to-sensible-governance/.

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small businesses to effectively market their products to the right consumers at affordable prices and allows for better customer experience and cheaper prices. CCIA suggests including a tailored definition to reduce vagueness and clarify the instances in which an entity would be liable.

Due to the bill's overly-broad scope, HB 1598 is likely to impact a variety of different scenarios, creating a heavy compliance burden with little benefit to consumers. For example, HB 1598 would likely require disclosures if AI-generated images, including backgrounds, greenscreens, and noise reduction tools are used in the production of a film. It is unclear where and when these disclosures would be required, and could potentially be disruptive to the viewer's experience. Similarly, HB 1598 would also require disclosure if "auto-tune" or noise reduction is used to produce the final version of a recorded song. These are technologies that have long been in-use and have posed low risk to both artists and consumers. And, in most cases, smartphones use AI technology to create the final version of digital images – under HB 1598, if an individual sells a photograph that has been digitally altered, disclosure would be required at the risk of being held liable.

Liability under HB 1598 should be limited to those who intentionally deceive or commit otherwise illegal acts.

Due to the many applications in which AI can be used, it is important to limit liability to instances that cause harm. It is also important to consider the different entities involved in a given AI-driven model, including the developer that builds an AI system, the deployer who applies the model to a given task and the user who ultimately utilizes the system. Each of these entities could bear responsibility for outcomes arising from the use of the AI system, depending on the circumstances, but those circumstances are important to consider.

Under HB 1598, it is unclear if the deployers of AI systems could be held liable if a user chooses to use such a system to create, distribute, or publish any content that does not include the outlined disclosures. CCIA certainly understands the importance of ensuring that content generated from AI systems is not used to further nefarious purposes, however it is impossible for the developers or deployers of such systems to predict how each and every individual may use generated audio or visual media. This places deployers of such technologies in the untenable scenario of having to predict each and every use of their product and risks chilling innovation. CCIA recommends that liability be targeted to a person or entity who committed the act, rather than tying liability to the product that allowed the media to be generated. This division of responsibility will ensure that liability lies in the most appropriate place – with the actor most

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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,

Khara Boender
State Policy Director
Computer & Communications Industry Association