



March 21, 2024

Representative Jennifer "Jen" Gong-Gershowitz
Room 248-W
Stratton Office Building
401 South Spring Street
Springfield, IL 62706

RE: HB 4763, the “Digital Forgeries Act” (Oppose Unless Amended)

Dear Chair Gong-Gershowitz and Members of the House Committee on Judiciary - Civil:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 4763 unless further amended. 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 understands Illinois lawmakers’ and residents’ rightful concerns about how digital replicas might be used for nefarious purposes, such as when bad actors use such media including an individual’s likeness to harass, extort, threaten, or cause physical, emotional, reputational or economic harm to a falsely depicted individual. However, we respectfully request amendments to clarify that liability for creation, solicitation of creation, or disclosure should be limited to the entity that is responsible for causing the creation of the content, rather than intermediary services. The developers or operators of general-purpose AI tools misused by bad actors, and/or entities which may host the content but not be aware of the premises and purposes under which it was created, should not be held liable for the malicious behavior of a bad actor.

Due to the many applications in which automated tools like 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 it is critical to ensure that liability lies in the most appropriate place—the actor responsible for causing the harm to occur.

Otherwise, it is possible that AI firms will choose not to serve the Illinois market rather than face the unclear risk of liability under this provision.

To that end, CCIA suggests including the following language under Section 10:

This section does not apply to a claim involving an applicable digital forgery if the claim is against a service provider (as defined in 17 U.S.C. § 512(k)(1)) and would be subject to the safe

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>.



harbor provisions of the Digital Millennium Copyright Act, 17 U.S.C. § 512 et al., if it were a copyright infringement claim; and/or the claim is against the provider of a general purpose tool, such as a generative artificial intelligence service or application, used to produce the digital replica, but the provider did not direct the production of the digital replica.

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We appreciate your consideration of these comments and stand ready to provide additional information.

Sincerely,

Jordan Rodell
State Policy Manager
Computer & Communications Industry Association

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