



June 7, 2024

Joint Committee on Advanced Information Technology, the Internet and Cybersecurity
Attn: Claire Ronan, Mark Zglobicki
State House
24 Beacon St
Boston, MA 02133

Re: S. 2730 - An Act relative to deceptive and fraudulent deepfakes in election communications.

Dear Co-Chair Farley-Bouvier, Co-Chair Moore, and Members of the Joint Committee on Advanced Information Technology, the Internet and Cybersecurity:

On behalf of the Computer & Communications Industry Association (CCIA), I write to share some suggested amendments to S. 2730 - An Act relative to deceptive and fraudulent deepfakes in election communications.

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 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 data². Currently, S. 2730 risks creating confusion surrounding liability and could stifle further innovation in this emerging space.

CCIA shares the Committee's concerns around the risks associated with the use of synthetic media, specifically as it pertains to its potential use by nefarious actors seeking to influence elections, but it is important to ensure that the enforcement mechanisms would target the appropriate actors. As currently written, S. 2730 would allow a candidate whose "appearance, actions, or speech is depicted through the use of a deceptive or fraudulent deepfake in violation of this section," to bring a civil action against a person who "distributes a synthetic media message". This language seemingly captures the developers of the artificial intelligence system, creating an impossible responsibility for these entities to predict how each and every individual user may use their product and risks chilling innovation. CCIA recommends that liability associated with enforcement of the proposed law be tied to the person or entity who committed the act as opposed to the product that was used to generate or distribute the media. This would mirror legislation being considered in neighboring states, such as Rhode

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>.

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



Island³. Therefore, we offer the following amended bill language, for the legislature's consideration:

Adding the definition of "Creator" to differentiate between an individual who utilizes or deploys AI to generate synthetic media and the provider or developer of the AI.

"Creator" means any person that utilizes or deploys artificial intelligence or other digital technology to generate synthetic media. "Creator" does not include the provider or developer of any technology used in the creation of synthetic media."

(b) (1) a creator ~~person~~, shall not distribute a synthetic media message that the person knows or reasonably should have known is a deceptive or fraudulent deepfake depicting a candidate or political party within 90 days of an election in which said candidate or political party will appear on the state or local ballot; provided, however, that this section shall not apply if the following statement is made in the form provided herein by the distributing person: "This _____ (image, video, or audio) has been manipulated or generated by artificial intelligence."

(ii) If the media consists of audio only, and no visual disclosure is feasible the disclosure shall be read in a clearly spoken manner, and in a speed and pitch that can be easily heard by the average listener, at the beginning of the audio, at the end of the audio, and, if the audio is greater than two (2) minutes in length, interspersed within the audio at intervals of not greater than two (2) minutes.

Amending S. 2730 to focus liability on the creators of the synthetic media.

(c) A candidate whose appearance, action or speech is depicted through the use of a deceptive or fraudulent deepfake in violation of this section may institute a civil action against the creator of such synthetic media for: (i) special or general damages not to exceed \$10,000 per incident; (ii) injunctive or declaratory relief; or (iii) any other relief the court deems proper; provided, however, that such civil action shall not limit or preclude a plaintiff from securing or recovering any other available remedy; and provided further, that the court may award reasonable attorney's fees and costs to the prevailing party.

Amending S. 2730 to exempt interactive service providers as defined in 47 USC 230.

(d) The provisions contained within this chapter shall not apply to the following:

(i) a radio or television broadcasting station, including a cable or satellite television operator, programmer or producer that broadcasts a deceptive or fraudulent deepfake in violation of this section as part of a bona fide newscast, news interview, news documentary or live coverage of bona fide news events, provided that the broadcast clearly acknowledges through verbal or text disclosure which is reasonably understandable to the average viewer or listener that the authenticity of the synthetic media is in question;

³ Rhode Island Legislature, *RI HB 7387*,
<https://webserver.rilegislature.gov/BillText/BillText24/HouseText24/H7387Aaa.pdf>.



(ii) a radio or television broadcasting station, including a cable or satellite television operator, programmer or producer that has been paid to broadcast such deceptive or fraudulent deepfake, provided that such radio or television broadcasting station has made a good faith effort to establish that the depiction is not a deceptive or fraudulent deepfake;

(iii) an internet website, or a regularly published newspaper, magazine or other periodical of general circulation, including an internet or electronic publication, which routinely carries news and commentary of general interest and that publishes a deceptive or fraudulent deepfake in violation of this section, provided that the publication clearly states, in a manner at least as prominent as the synthetic media itself, that said synthetic media does not accurately represent the speech or conduct of the candidate; or

(iv) synthetic media that constitutes satire or parody, *or*

(v) *An interactive service provider as defined in 47 USC 230.*

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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