



**May 28, 2025**

New York State Assembly Committee on Science and Technology  
198 State St.  
Albany, NY 12210

## **Re: A 3411 – "Requiring warnings on generative artificial intelligence systems" (Oppose)**

Dear Chairman Otis and Members of the Assembly Committee on Science and Technology:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose A 3411. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup> Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members.

### **A 3411 lacks narrowly tailored definitions, creating uncertainty and risk for a wide range of covered businesses and their users.**

As currently written, the bill does not provide definitions that are clear enough to enable businesses to ensure they are in compliance. The bill would require the “owner, licensee or operator of a generative artificial intelligence system” to “conspicuously display a warning on the system’s user interface that is reasonably calculated to consistently apprise the user that the outputs of the generative artificial intelligence system may be inaccurate and/or inappropriate.” The bill only defines “artificial intelligence” and “generative artificial intelligence system.” Key terms that are necessary to comply are left vague and undefined, including “conspicuously,” “consistently,” “inaccurate,” and “inappropriate,” inviting enforcement based on subjective judgments. It also invites costly litigation over, for example, what is considered “conspicuous” – even for businesses trying in good faith to comply.

If it fails to provide the requisite warning, a covered entity “shall be assessed a civil penalty” of up to \$1,000 per violation, with each claimed failure to provide a warning constituting a “separate violation for each instance,” and no limit stated in the amended version.

### **Mandatory warning labels raise First Amendment concerns, among other compliance problems.**

Beyond this, the requirement to “display” a warning creates other problems. For example, some generative AI systems provide audio output, not text or visual output. In these circumstances it is unclear how a generative AI provider could comply with the bill. And even if it were amended to more generally require the provision of a warning, the “consistently

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<sup>1</sup> 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>.



apprise” language would require AI providers to force the insertion of an audio warning before each response. Such a system is undesirable for users.

Further, a warning provided too often is ineffective due to a phenomenon called “alert fatigue” or “alarm fatigue.” The constant repetition of a warning leads users to be more likely to completely ignore the warning. This has appeared in contexts ranging from cookie warnings under the General Data Protection Regulation (GDPR)<sup>2</sup> to medical equipment alerts for nurses.<sup>3</sup>

Finally, mandatory warning labels can raise First Amendment concerns. They have been ruled “compelled speech”<sup>4</sup> in some contexts. This is important to note especially as many federal courts have ruled against state-imposed content regulations on digital services.<sup>5</sup> Courts have permitted certain mandated warning labels, but only in cases when the science is absolute and incontrovertible, such as cigarette warnings.<sup>6</sup>

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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.

Respectfully submitted,

Kyle J. Sepe  
State Policy Manager, Northeast Region  
Computer & Communications Industry Association

<sup>2</sup> See, e.g., Utz et al., *(Un)informed Consent: Studying GDPR Consent Notices in the Field*, CCS '19: Proceedings of the 2019 ACM SIGSAC Conference on Computer and Communications Security 973 (2019), <https://dl.acm.org/doi/10.1145/3319535.3354212>.

<sup>3</sup> See, e.g., Chen Shaoru et al., *Determinants of Medical Equipment Alarm Fatigue in Practicing Nurses: A Systematic Review* (2023), <https://journals.sagepub.com/doi/pdf/10.1177/23779608231207227>.

<sup>4</sup> Aaron Mackey & Jason Kelley, *The Surgeon General's Fear-Mongering, Unconstitutional Effort to Label Social Media*, EFF Deeplinks Blog (June 17, 2024), <https://www.eff.org/deeplinks/2024/06/no-online-speech-should-not-have-warning-labels>.

<sup>5</sup> Mike Masnick, *California Politicians Embarrass Themselves By Calling For ‘Warning Labels’ On Social Media*, Techdirt (Sept. 12, 2024), <https://www.techdirt.com/2024/09/12/california-politicians-embarrass-themselves-by-calling-for-warning-labels-on-social-media/>.

<sup>6</sup> Clay Calvert, *A Warning Against Warning Labels on Social Media Platforms*, AEIdeas (Jan. 28, 2025), <https://www.aei.org/technology-and-innovation/a-warning-against-warning-labels-on-social-media-platforms/>.