June 3, 2025

The Honorable Carl Heastie
Speaker of the Assembly
Room 932, Legislative Office Building
Albany, NY 12248

The Honorable Will Barclay
Assembly Minority Leader
Room 933, Legislative Office Building
Albany, NY 12248

Re: AB 6453 – "Relates to the training and use of artificial intelligence frontier models; defines terms; establishes remedies for violations" (Oppose)

Dear Speaker Heastie and Minority Leader Barclay:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose AB 6453 ("RAISE Act") and request that the bill be held this session without a vote. 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.

I would like to reiterate the concerns raised in the multi-association letter submitted on May 12, 2025, which CCIA joined.[2] Those concerns remain and those alone would justify reconsideration of the bill. I write separately to address additional points of concern: first, the imposition of liability for the acts of third parties; and second, the declaration that liability waivers are impermissible. Both provisions threaten AI development in NY, and in particular the development of open source AI.

1. RAISE's imposition of liability for third-party actions would significantly reduce development and use of frontier models in New York.

The RAISE Act places obligations on developers of frontier models. Among those obligations is a requirement that they be held liable for the actions of third parties using their models. While such a provision is untenable in general due to the impossibility of predicting third-party uses, it is particularly problematic in the context of open source frontier models. Because these models have publicly available model weights, they can be run by anyone with suitable equipment. This, like other open source software, can give rise to a wide array of beneficial applications for AI. Open source software underpins the vast majority of the Internet, as just one example, and open source AI will likely underpin similarly important applications in the future. But that future is unlikely to come to pass if model developers are held responsible for unforeseeable uses of their software, particularly when they do not directly interact with users and thus have limited foreseeability and control over those uses.

[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] Available at https://ccianet.org/library/chamber-of-progress-coalition-letter-on-ny-a-6453-s-6953-raise-act/.

If a car mechanic modified the engine of a driver's car in a way that caused it to explode, liability would lie on the mechanic, not on the engine maker. It is unclear why AI systems should be treated differently when third parties modify the model or the way in which it is used.

2. RAISE's voiding of contractual liability clauses would particularly harm open source models.

The third-party liability problem is exacerbated by the provision that states that entities cannot shift liability to users as a condition of use. This creates problems for both closed and open models—in either case, if a user builds an unexpected application or uses the model in unexpected or unintended ways, the model developer would bear liability.

The ordinary way in which such liability would be handled is via contract. Particularly with large, sophisticated users, the contract would spell out who bears responsibility for what outcomes. In the case of closed-source models, a bespoke license per user is possible, even if a generic license is more typical.

However, this provision is particularly problematic for open source models, as they do not have the same direct interaction with their users that closed models have. Because of this, open source licenses—including open source AI licenses—typically contain liability release clauses. As open source developers cannot fully control the uses to which their software might be put, they condition access to the software on the user bearing liability for the uses to which they might put it. Such release clauses have a long history, going back to at least the first instance of the GNU General Public License. Without such a clause, open source developers and contributors cannot function.

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There are benefits and disadvantages to both open and closed models. The Legislature should endeavor not to pass legislation that would unduly tip the scales towards either type of model. Unfortunately, RAISE is an example of such legislation.

We appreciate your 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