June 8, 2026

The Honorable Rebecca Bauer-Kahan
Chair, Assembly Privacy and Consumer Protection
1020 N Street, Room
Sacramento, CA 95814

Re: SB 1050 (Ashby) – Synthetic Performers – Oppose Unless Amended

Dear Chair Bauer-Kahan,

On behalf of TechNet and the above entities, we write to respectfully oppose SB 1050 (Ashby) unless amended. We appreciate the author's intent to promote transparency where synthetic digital performers are used in advertising. We share the goal of preventing deceptive advertising, including fake endorsements or uses of synthetic performers that falsely imply a real person's participation. But SB 1050 goes beyond deception by requiring labels even when the synthetic element would not affect a reasonable consumer's purchasing decision. As such, we respectfully write to suggest that several targeted amendments be considered and adopted before the bill can be effectively implemented, and we urge the committee to adopt them.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of American innovation by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes more than 100 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

SB 1050 raises concerns related to overbroad definitions, rigid disclosure requirements, and a litigation-driven enforcement structure that could create uncertainty and unintended consequences without advancing meaningful consumer protection.

<u>Narrow the Definition of "Synthetic Performer" (§17610(a)(4))</u>
The current definition captures any "human-like digital figure, voice, or representation" created "in whole or in part" using artificial intelligence, machine learning, or computational techniques. This definition is overbroad in two respects.

First, the "in part" language, combined with the broad reference to "computational techniques," risks sweeping in widely used production tools — color correction, motion stabilization, image sharpening, and other standard post-production processes — that incorporate algorithmic components but do not produce anything resembling a synthetic human performance. These tools are ubiquitous in modern advertising production and their capture by this bill would require disclosures in circumstances that pose no realistic risk of consumer confusion.

Second, the inclusion of "voice" in the definition, alongside the bill's existing exclusion of audio-only advertisements, creates inconsistency and uncertainty about whether AI-generated or AI-modified voice components in audiovisual advertisements trigger the bill's requirements even when no synthetic visual figure is present.

We respectfully request that the definition be amended as follows:

(4) "Synthetic performer" means a <u>highly-realistic </u>digital figure, [strike voice,] or representation created in whole or in part using artificial intelligence, machine learning, or computational techniques, that creates the impression that the asset is a <u>natural person</u> engaging in an audiovisual or visual performance who is not recognizable as any identifiable natural performer.

Replacing "human-like" with "highly-realistic" raises the threshold to target the specific conduct at issue — AI-generated figures that are convincingly indistinguishable from natural persons — rather than any digital representation that bears some resemblance to a human. Removing "voice" eliminates the inconsistency with the bill's existing audio-only exclusion and focuses the definition on visual and audiovisual content.

We also continue to recommend that the definition be aligned with the 2025 SAG-AFTRA commercials contract definition of "synthetic performer," which is purpose-built to target AI-generated figures used to simulate human performances without capturing incidental uses of production technology. Aligning with this negotiated industry standard would reduce compliance uncertainty and ensure consistent interpretation.

<u>Allow Flexibility in Disclosure Method</u>

SB 1050 requires a 55-character text disclosure to appear on the face of advertisements in close proximity to the synthetic performer. While disclosure is appropriate where there is genuine risk of consumer confusion, a rigid "in-ad" requirement may be technically difficult across formats and may reduce effectiveness by encouraging overuse of labels that consumers may ignore, risking diluting the efficacy of truly meaningful transparency.

A more flexible approach that ensures disclosures are readily accessible and, understandable to customers in a way that is logical and tailored for diverse ad formats, different surfaces, and marketing channels would better serve the bill's transparency goals.

<u>Add a Materiality Standard to the Core Disclosure Obligation (§17610(b))</u>

As currently drafted, §17610(b) requires a disclosure whenever an advertisement includes a synthetic performer, regardless of whether the use would actually mislead a reasonable consumer or materially affect their purchasing decision. This departs from the foundational principles of California advertising law, which has consistently required that disclosure obligations be tied to a risk of material deception.

Without a materiality threshold, the bill risks requiring disclosures of incidental, clearly stylized, or obviously fictional content — diluting the value of disclosures where they are genuinely needed, and burdening advertisers with labeling obligations that do not serve consumer protection interests. Courts have recognized that disclosure mandates untethered to consumer harm risk generating label fatigue, where consumers learn to ignore disclosures because they appear everywhere regardless of relevance.

We respectfully request that subdivision (b) be amended as follows:

(b) It is unlawful for any person to create and cause to be published in an advertising medium an advertisement that includes a synthetic performer <u>in a manner that is likely to deceive a reasonable consumer regarding a material claim or characteristic of the goods or services</u> without a clear and conspicuous disclosure that the performer is synthetic.

This amendment aligns the bill with established advertising law principles and ensures that disclosure obligations are calibrated to actual consumer protection risk. It does not weaken the bill's core purpose — it focuses that purpose where it matters most.

<u>Expand Existing Carve-Outs (§17610(d))</u>
We request two additions to the existing carve-outs in §17610(d) to address scenarios that fall outside the bill's consumer protection rationale.

First, we request that the existing carve-out for language translation in §17610(d)(5) be expanded to include other accessibility features:

(5) Apply to an advertisement in which the use of the artificial intelligence solely involves the language translation of a human performer <u>or other accessibility features</u>.

AI is increasingly used to make advertisements accessible to consumers with disabilities — for example, generating audio descriptions, sign language overlays, or captioning enhancements. These uses serve the public interest and pose no risk of material consumer deception. They should not trigger disclosure obligations.

Second, we request the addition of a new carve-out for synthetic performers used for illustrative or thematic purposes:

(6) <u>Apply to an advertisement in which the synthetic performer is used for illustrative or thematic purposes and does not endorse or make a material representation regarding the goods or services</u>.

Many advertisements use clearly stylized, fantastical, or abstract digital figures to establish a mood, illustrate a concept, or provide visual interest — without making any claim about the advertised product. For example, an advertisement featuring blurry AI-generated figures in the background to provide lifestyle context, or a synthetic depiction of a human hand faithfully modeling the advertised product, poses no realistic risk of consumer deception. Requiring disclosures in these circumstances serves no consumer protection purpose and would require labeling that provides no meaningful information to consumers.

Enforcement Structure Requires a Right to Cure,Safe Harbor and Proportionate Penalties (§17610(f))

Even with the definitional amendments above, the bill's enforcement structure creates unreasonable risk for good-faith actors. As currently drafted, a violation of §17610 constitutes a violation of Section 17500 and is enforceable under California's Unfair Competition Law, including through its private enforcement mechanism and uncapped per-impression penalties that can quickly accumulate for scaled digital campaigns. This means that compliance will be determined after the fact through litigation — often brought by private plaintiffs — rather than through clear, predictable pre-event standards.

This is particularly concerning because the bill's key thresholds — whether content is "highly realistic," whether a use is "likely to deceive" a reasonable consumer, and whether a disclosure was "clear and conspicuous" in a given format and context — all require judgment calls that reasonable businesses may make differently. Without any opportunity to correct an inadvertent error before litigation is filed, the bill will inevitably penalize good-faith actors alongside bad ones.

We urge the committee to address this by:

- Adding a right to cure. Businesses should have a reasonable opportunity — such as 30 days following written notice — to correct inadvertent disclosure errors before a civil action may be initiated. This is standard in comparable disclosure frameworks and focuses enforcement on willful noncompliance.
- Establishing a compliance safe harbor. A business that makes a reasonable, documented good-faith determination that its content does not trigger the bill's requirements should not face liability for that determination. A safe harbor tied to reasonable compliance efforts would reduce litigation risk without weakening enforcement against bad actors.
- Private Right of Action should be eliminated. At minimum, enforcement should be primarily channeled through the Attorney General. The UCL's broad private enforcement mechanism is ill-suited to a disclosure framework requiring subjective judgment calls and is likely to generate opportunistic litigation against compliant businesses.
- Capping civil penalties. The bill's current penalty structure can escalate quickly and disproportionately given the realities of modern advertising, where brands launch multiple campaigns daily across numerous placements, surfaces, and channels. Programmatic digital ads generate impressions at scale, making it impossible to halt distribution instantly when a labeling issue is detected. A civil penalties cap of $25,000 maintains meaningful deterrence while avoiding punitive outcomes that punish good-faith actors actively working to comply.

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We share the author's goal of promoting transparency and preventing consumers from being misled by synthetic digital performers in advertising. The targeted amendments we have proposed are designed to focus the bill's obligations on the circumstances where consumer protection is genuinely at stake, consistent with established advertising law principles, while ensuring that good-faith actors have clear guidance and fair enforcement. We believe these amendments would make SB 1050 a stronger and more durable piece of consumer protection legislation.

For these reasons, TechNet and the undersigned entities respectfully oppose SB 1050 unless amended and look forward to working with the author and Committee to address these concerns.

If you have any questions regarding our position, please contact Robert Boykin at rboykin@technet.org or 408.898.7145.

Sincerely,

Robert Boykin
Executive Director for California and the Southwest
TechNet

Ronak Daylami, California Chamber of Commerce
Aodhan Downey, Computer and Communications Industry Association