



May 30, 2024

Hinnaneh Qazi
Deputy Cabinet Secretary
Office of Governor Gavin Newsom
1303 10th Street, Suite 1175
Sacramento, CA 95814

Dear Secretary Qazi,

On behalf of Chamber of Progress, a tech industry association supporting public policies to build a more inclusive country in which all people benefit from technological leaps, I am writing your office in the hopes that you will encourage the California Privacy Protection Agency (CPPA) to **delay** their rulemaking process related to automated decision making technology– and specifically, any actions explicitly related to artificial intelligence. Our primary concern is that the CPPA's present rulemaking could undermine pending legislative efforts, as well as the Governor's clear guidance in his executive order dated last October.

Artificial Intelligence (AI) presents an unprecedented economic opportunity amid a precarious, multi-year budget shortfall. Given this, we'd like the CPPA to revise its approach. CPPA should set aside its well-intentioned but ultimately problematic proposal to so broadly regulate automated decision-making tools; the use of generative AI in virtually every consequential business decision; the training data used in large language models; and discussions of content provenance and watermarking. This rulemaking will duplicate ongoing legislation and clear executive guidance. Instead, the CPPA should defer to the people's elected representatives.

The proposed rules' impact assessment and safeguard requirements are excessive and harm competition

The proposed impact assessment and safeguard requirements threaten to expose business strategy and stifle competition by mandating that businesses disclose the details of their automated decision tools to the public. Any such

disclosure of sensitive business practices must serve a compelling government interest and be narrowly tailored. The draft rules come up short on both.

This is doubly problematic because automated decision tools are essential for online platforms, enhancing user experience through recommendations on products and services and fostering innovation. While redacting trade secrets may offer some protection, the proposal's extensive requirements risk handing proprietary strategies to competitors, giving them valuable insights that would undermine competition and ultimately harm consumers.

The CPPA's approach creates confusion over who is charged with protecting Californians

Many of the proposed provisions are similar to policies under consideration in the state legislature. If the CPPA and the state legislature both act, it will create redundant and overlapping policies, leaving developers unclear who is regulating them and the public unclear on who is protecting them. It is also possible that any rules propagated by the CPPA would be quickly obviated by the legislature. The CPPA should pause at least until the people's elected representatives have had a chance to opine.

The CPPA's approach depart from this Administration's clear direction on AI policy

In September 2023, Governor Newsom published his Executive Order N-12-23¹ which called for a whole-of-government approach to AI policy. Indeed, the executive order took pains to balance innovation and consumer protection. As discussed below, the CPPA's approach sorely lacks that delicate balance. In contrast, its automated decision-making tools proceedings stand to duplicate much of the work of this Administration, once again creating confusion for developers and the public alike.

Policy can protect consumers without squandering California tech leadership


We commend the CPPA for considering the potential harm from automated decision-making. The current proposal adds substantial regulatory and compliance burdens to California startups without obviously advancing consumer privacy. For example, the proposal mandates software developers create a mechanism to offer consumers the ability to opt out of hotel or flight upgrades. Few, if any, consumers would ever want that. Nevertheless, the rules as drafted would obligate every small hotelier to develop that functionality. A better

¹ See https://www.gov.ca.gov/wp-content/uploads/2023/09/AI-EO-No.12-_-GGN-Signed.pdf

approach would be to work with stakeholders to identify areas where drafting can be improved and rules tailored narrowly to advance consumer protections without undermining California's innovation economy.

For these reasons, **we urge you to delay further consideration of the draft ADMT rules, at least until we get clarity from the legislature and executive branch.**

Sincerely,

A handwritten signature in black ink, appearing to read "TOB", is centered on a light blue rectangular background. The signature is fluid and cursive.

Todd O'Boyle
Senior Director, Technology Policy
Chamber of Progress