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Good morning Chair Rozic, Chair Otis and members of the Committees on Consumer Affairs and Protection and the Committee on Science and Technology:

Thank you for the opportunity to testify regarding the best approach to consumer protection and artificial intelligence (AI). On behalf of the Chamber of Progress, a tech industry association supporting public policies to build a more inclusive society where all people benefit from technological advances, I encourage you to embrace sector-by-sector regulation targeting specific consumer harms.

Our organization works to ensure that everyone benefits from technological progress. Our corporate partners include companies like Apple and Midjourney, but our partners do not have a vote on or veto over our positions.

### **Regulate harms, not technology**

The Committees have asked for suggestions on how to protect consumers across a broad range of topics, including marketing, consumer privacy, and lending. We applaud your ambition and thank you for engaging industry for our perspective. Given the breadth

of topics we encourage you to craft sector-specific policies at the application layer that address specific policy goals individually instead of writing an omnibus AI bill.

1. Existing statutes can be updated or tweaked to address AI concerns;
2. AI's impact is different across sectors, and the optimal regulatory approach for one may not hold for another;
3. In areas where the impact of AI is still coming into focus, more study may be called for, but in areas such as the use of AI in advertising, pro-consumer measures are already emerging.

### **Updating existing statutes is more straightforward**

2024 has been a year of unprecedented legislative interest in AI. And with reason: AI may transform public education, reshape the labor market, and catalyze the development of new medical treatments.

With more than 800 bills introduced in legislatures so far this year, several themes have emerged. One is that rigorously defining “artificial intelligence” proves much trickier than imagined. As a practical matter, many of the proposed definitions suffer from one of two flaws: either they define AI by reference to an arbitrary level of computing power - which is subject to immediate obsolescence thanks to continued technological advance. Or they define AI based as software that “mimics tasks typically performed by human cognition.” In this case, they unintentionally cast such a wide net that most consumer software - like spell check and spreadsheets - ends up in scope.

A better approach is to identify a specific harm—such as housing discrimination—and update existing New York statutes to close any AI loopholes. This approach avoids arbitrary technological thresholds and obviates the challenges of strictly defining AI. In essence, it is more seamless and futureproof. This approach also allows you to better utilize AI to tackle challenges on the minds of everyday New Yorkers, like affordable housing, access to well-paying jobs, and safeguarding New York’s environmental health and green spaces.

### **The right approach varies greatly**

AI in advertising presents unique challenges. Above all, in an election year when generative AI can be used to create deceptive imagery, audio, or video that can misinform the electorate.

Thankfully, private sector innovation is helping lead the way for transparency. Earlier this year, shady actors sent robocalls in New Hampshire with an audio deepfake of President Biden discouraging participation in the primary. Almost immediately, Pindrop used its audio deepfake detection engine to determine how it was created - critical forensic clues.

As useful as that is, more transparency may be necessary, particularly in political communications. To that end, we encourage you to take a medium-neutral approach. In other words, any disclosure of the use of AI in advertising should be required across media - whether digital, print, or otherwise. We further note that penalties for non-compliance should rest with the advertiser alone. In short, sound policy targets the bad actor, not the tool being manipulated.

## **More study is necessary in many areas**

Lastly, we value consumer privacy and support strong national privacy protections.

However, the interplay between consumer privacy and artificial intelligence is still coming into focus. Legislators in several states have considered mechanisms to allow consumers to opt out of their data being used to train AI. The technical feasibility of doing this consistently and at scale is unproven, and even if those challenges can be overcome, you risk creating a scenario in which developers have to maintain separate codebases - one for New York and one for the rest of the country. That would chill New York's vibrant startup ecosystem and may slow the pace at which new products are brought to market here. Accordingly, we urge you to study this issue, as the industry, civil society and end users work towards best practices on privacy and AI.

Thank you, and I look forward to your questions.