



May 16, 2023

The Honorable Richard Blumenthal
Chairman
Subcommittee on Privacy,
Technology, and the Law
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Josh Hawley
Ranking Member
Subcommittee on Privacy,
Technology, and the Law
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Blumenthal, Ranking Member Hawley, and members of the Subcommittee:

We are glad to see you holding hearings on artificial intelligence. It is vital we get this right. AI holds enormous potential to make our lives easier, our world safer, and to expand human knowledge beyond its current limits. It also must be developed responsibly. We should be optimistic about the promise of AI while ensuring that appropriate data and privacy safeguards are in place to make sure that AI doesn't end up denying people opportunity.

AI is Already Here - And Helping

AI is already deployed in a wide range of fields. In finance, AI is used in robo-advisors that make financial advising services cheaper and more accessible to communities that were previously underserved or unable to participate in financial markets.¹ In health care, AI is being used to discover new cures² and to improve diagnostic imaging to better detect and more accurately recognize patient conditions. In banking, fraud detection systems use AI to identify abnormal behavior and suspicious patterns to alert investigators faster.³

AI is also being used to support online tools and services that consumers use every day - like correcting spelling and auto-completing emails. Content moderation tools deployed by major

¹ Greg Iacurci, "Robo-advisors are gaining popularity. Can they replace a human advisor?", CNBC (January 16, 2022), (available at: <https://www.cnbc.com/2022/01/16/robo-advisors-are-gaining-popularity-can-they-replace-a-human-advisor.html>), (accessed May 10, 2023).

² Will Douglas Heaven, "AI Automation in Drug Development," MIT Technology Review (February 15, 2023), (available at: <https://www.technologyreview.com/2023/02/15/1067904/ai-automation-drug-development/>) (accessed May 10, 2023).

³ "Fraud Prediction," IBM Analytics, (available at: <https://www.ibm.com/analytics/fraud-prediction>), (accessed May 10, 2023).

social media platforms depend on AI to uncover and downrank hateful and violence-inciting content.⁴

Most new cars on the market today have integrated AI features, including lane assist technology, automated braking, and cameras and sensors that avoid collisions. Fully autonomous vehicles use AI to identify and react to changing road conditions and have the potential to significantly reduce road fatalities.⁵ We take many of these tools for granted, but they offer hints of how useful AI can be as it continues to develop.

AI Can Benefit Humanity

The possibilities with AI innovation are endless in their potential to improve the human experience and address some of the biggest threats of our time, from pandemics to climate change. For example, researchers are using more than 6 million sequences of the virus that causes COVID-19 to develop a model that predicts which mutations will become the dominant strain and when. According to Scientific American, “if the model had been run in November 2020, it also would have correctly predicted that the Alpha variant would soon become dominant: the World Health Organization did not identify Alpha as a variant of concern until December of that year”.⁶

Efforts are also underway to use AI to model the long-term effects of climate change (like sea-level rise) and extreme events like droughts and hurricanes. These models can be used to put preventive measures in place and minimize the damage from climate hazards.⁷ Researchers at Johns Hopkins University are using AI to learn more about the ocean, one of the least understood parts of the Earth, to see how it reacts to environmental changes like increasing temperatures.⁸ According to UNESCO, “by gathering and analyzing complex datasets on emissions, climate impacts, and more, AI can be leveraged to help all stakeholders—from policymakers and NGOs to corporations and investors—take a more informed and data-driven approach to building a greener and more resilient society”.⁹ These recent developments show how much potential AI has to reshape our world for the better.

⁴ Rem Darbinyan, "The Growing Role Of AI In Content Moderation," Forbes (June 14, 2022), (available at: <https://www.forbes.com/sites/forbestechcouncil/2022/06/14/the-growing-role-of-ai-in-content-moderation/?sh=7ab0a68d4a17>), (accessed May 10, 2023).

⁵ Automated Vehicles Safety," National Highway Traffic Safety Administration, (available at: <https://www.nhtsa.gov/technology-innovation/automated-vehicles-safety>), (accessed May 10, 2023).

⁶ Sara Reardon, “This AI Tool Could Predict the Next Coronavirus Variant,” Scientific American (June 8, 2022), (available at: scientificamerican.com/article/this-ai-tool-could-predict-the-next-coronavirus-variant/) (accessed May 10, 2023).

⁷ Hamid Maher, Hubertus Meinecke, Damien Gromier, et al., “How AI Can Be a Powerful Tool in the Fight Against Climate Change,” Boston Consulting Group (BCG) and BCG GAMMA (July 2022), (available at: <https://web-assets.bcg.com/ff/d7/90b70d9f405fa2b67c8498ed39f3/ai-for-the-planet-bcg-report-july-2022.pdf>), (accessed May 10, 2023).

⁸ Megan Mastrola, “How AI Can Help Combat Climate Change,” Johns Hopkins University Hub, (March 7, 2023), (available at: <https://hub.jhu.edu/2023/03/07/artificial-intelligence-combat-climate-change/>), (accessed May 10, 2023).

⁹ “Fighting Climate Change with the AI for the Planet Alliance,” United Nations Educational, Scientific and Cultural Organization (May 20, 2022), (available at: <https://www.unesco.org/en/articles/fighting-climate-change-ai-planet-alliance>), (accessed May 10, 2023).

Recommendations for AI Policy Action

To realize this technology's potential, Congress should implement rules that promote responsible development and testing while protecting against abusive applications. **Baseline comprehensive privacy legislation is needed to ensure that appropriate guardrails are implemented for this nascent technology.** The development and testing of new AI tools depends on vast amounts of data. Without federal privacy rules in place governing the collection, sale, and use of Americans' data, developers are left to navigate a complex patchwork of state regulations, and residents of states without rules in place are left unprotected from unscrupulous data collectors. We applaud the previous Congress's efforts to pass comprehensive privacy legislation, and urge this Congress to pick up where they left off.

Any rules Congress implements should also ensure that no one is left behind or harmed by the development of new technologies. We are concerned by biased AI tools being used to predict recidivism, which judges used to determine whether to grant bail, resulting in Black defendants getting bail less often than similarly situated White defendants.¹⁰ Similarly concerning are candidate evaluation systems that were scrapped once it was discovered that the training models excluded employees of certain races or genders, resulting in biased evaluations of female candidates.¹¹

Last year, we urged the FTC to require companies to conduct risk assessments, address reasonably foreseeable risks, and mitigate identified biases to prevent discriminatory uses of algorithms and AI.¹² Congress should consider similar rules, as well as rights to cure and safe harbors to incentivize developers to test for and root out biases in their systems.

AI can be an important tool to address the challenges of the 21st century. We are excited to see it develop in the future. However, we urge Congress to adopt comprehensive privacy regulations and rules to prevent harmful applications of this technology to ensure everyone benefits from its development.

Sincerely,



Koustubh "K.J." Bagchi
Senior Director, Technology Policy

¹⁰Jeff Larson, Surya Mattu, Lauren Kirchner, et al., "How We Analyzed the COMPAS Recidivism Algorithm," ProPublica (May 23, 2016), (available at: <https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm>), (accessed: May 10, 2023).

¹¹ Federal Trade Commission, "Big Data: A Tool for Inclusion or Exclusion? Understanding the Issues" (Washington, DC: Federal Trade Commission, 2016), (available at: <https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf>), (accessed May 10, 2023).

¹² Koustubh "K.J." Bagchi, "Response to Request for Comments on the Proposed Trade Regulation Rule on 'Commercial Surveillance and Data Security,'" (November 1, 2022), (available at: <https://progresschamber.org/wp-content/uploads/2022/11/Chamber-of-Progress-Comments-Privacy-ANPR.pdf>), (accessed May 10, 2023).