CHAMBER OF PROGRESS

March 11, 2024

The Honorable Thomas Umberg
Chair, Senate Judiciary Committee
1021 O Street, Suite 6530
Sacramento, CA

Dear Chair Umberg, Vice Chair Wilk, and members of the committee

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 write to share our opposition to SB 1047 *the Safe and Secure Innovation for Frontier Artificial Intelligence Systems Act.* This bill will limit competition and slow innovation.

The California tech economy is one of a kind. The combination of engineering talent, world-class universities, and entrepreneurial zeal truly have no peer in the world. The fruits of the innovation economy benefit Californians of all classes and creeds, and have made incalculable contributions to California's public services. Public policy should promote California tech; instead, **SB 1047 is a needless step backwards for the California innovation economy**.

The authors and sponsors of SB 1047 are clearly concerned about the possibility that AI tools could be used for harm. However, SB 1047 misdirects this anxiety: instead of addressing problematic *users*, or even problematic *applications,* it regulates frontier model developers. This does not address potential misbehavior by end users.

SB 1047's certification requirements are unaccountably broad and hopelessly unworkable

Chamber of Progress supports thoughtful regulation that addresses specific harms. Unfortunately, SB 1047 forces model developers to engage in speculative fiction about imagined threats of machines run amok, computer models spun out of control, and other nightmare scenarios for which there is no basis in reality.

Instead, SB 1047 forces developers operating in the real world to proactively mitigate against every conceivable harm - and many inconceivable ones - not just by the model itself, but subsequent third parties who make use of the model:

> *"Hazardous capability" includes a capability described in paragraph (1) even if the hazardous capability would not manifest but for fine tuning and posttraining modifications performed by third-party experts intending to demonstrate those abilities*

All of this is meant to occur prior to model training - before development begins in earnest, before the capabilities of a model are even truly knowable. As written, achieving a 'positive safety determination' for covered models appears effectively impossible.

This imposition of third-party, after-the-fact liability forces would-be model developers to engage in ever-more-fantastical games of "what if" under threat of subsequent legal action. This provision alone, apart from every other problematic title in SB 1047 stands to bring covered model development to a halt. In truth, that seems to be its transparent aim.

SB 1047 unfairly and needlessly preferences existing models at the expense of startups

Generative AI may benefit the state government by translating government materials and increase access to and utilization of government programs.[1] California Governor Newsom's 34-page report further shows how Generative AI provides benefits such as the improvement of research, customizing work products to California's diversity of people with the potential to improve access to services, and optimizing workloads for environment sustainability.[2] With California being home to 35 of the world's top 50 AI companies and a leader in tech innovation, it is essential that its own leaders do not introduce legislation that hinders public policy and its own economy.[3]

It is critical that public policy foster an abundance of frontier models - open and closed alike, existing and new entrants. A plurality of models will catalyze AI application development and ultimately benefit consumers. However, SB 1047 gives the largest incumbent AI models and models built upon them ("derivative models") special treatment that will inevitably lead to fewer upstart ("non-derivative") models. This will entrench the largest incumbent players in AI frontier model development - *making them even more consequential* - and undercut innovation when we should be encouraging a proliferation of approaches.

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[1] https://www.latimes.com/california/story/2023-11-24/california-examines-benefits-risks-of-using-artificial-intelligence-in-state-government
[2] https://www.govops.ca.gov/wp-content/uploads/sites/11/2023/11/GenAI-EO-1-Report_FINAL.pdf
[3] https://www.axios.com/2023/07/24/ai-goldrush-concentrated-4-states

The disparate treatment is unaccountable and is not rationalized in the legislative text. Indeed it cannot be rationalized. Any regulation should apply fairly across approaches. SB 1047 would have the effect of freezing model innovation in its place.

Developers build applications on top of models; competition at the model level will mean increased innovation at a lower cost. This in turn will promote the equitable diffusion of AI's benefits across California.
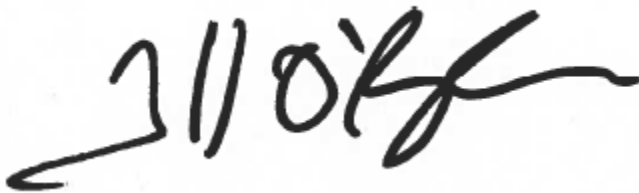
CalCompute is commendable

We commend your inclusion of the CalCompute cluster which would advance innovation and accelerate application development. However, we believe that the problematic aspects of this bill outweigh the benefits of CalCompute.

Generative Artificial Intelligence stands to revolutionize education by allowing students to converse with historical figures - including in languages other than English to better serve California's richly diverse communities. It stands to catalyze medical advancements in previously - and tragically - treatment resistant conditions like Alzheimers. It offers California's critical creative industries new advances in scale by removing barriers to creating the next great American classic of cinema.

Unfortunately, this bill threatens those advances. For these reasons we **oppose SB 1047**.

Sincerely,

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