



August 5, 2024

Sharon Reilly, Executive Director  
California Law Revision Commission  
925 L Street, Suite 275  
Sacramento, CA 95814

Dear Executive Director Reilly and Members of the California Law Revision Commission:

On behalf of Chamber of Progress—a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advances—I write today regarding your upcoming report on competition and artificial intelligence (AI)<sup>1</sup>.

As the Commission considers policy recommendations on AI, it should prioritize preserving California as the epicenter of global AI innovation. Stringent regulations stifle innovation by creating high barriers for startups and smaller firms, limiting their ability to compete and innovate. The Commission should support open access, encourage innovation, and avoid excessive constraints, thereby supporting a vibrant, competitive AI ecosystem.

### **Competition in AI is vibrant**

California is home to the most renowned AI companies in the world. Entrepreneurs have broad access to venture capital and rich pools of talent on which to build world-changing AI companies. A broad array of California companies are innovating in AI, from the largest, household name tech companies like Google and Meta to startups like Anthropic and Midjourney. This competition has been great for consumers and innovation more broadly. It has also bid up the wages of workers in the sector. All of this reflects a thriving AI sector in California.

Vibrant competition from the foundation model layer to the Application Programming Interface (API) and application levels shows that the current policy mix is working

We do note, however, that AI development is highly capital intensive. AI model training can cost billions of dollars, necessitating significant capital investments from larger entities. Recently, some commentators have critiqued large tech companies investing in

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<sup>1</sup> See MEMORANDUM 2024-32 Antitrust Law: Status Report  
<http://www.clrc.ca.gov/pub/2024/MM24-32.pdf>

AI startups; however, without this financial support much of this innovation would simply not happen. Accordingly, we urge you not to recommend limits on established tech firms investing into AI startups.

### **Vertical integration benefits consumers**

Highly competitive supply chains often give rise to vertical integration, which happens when producers and consumers of inputs combine. Economists have long noted that this eliminates so-called double marginalization, which in turn lowers costs and advances consumer welfare. However, vertical combinations may be problematic in some situations, such as denying competitors access to critical inputs like training data.

Accordingly, policymakers should not view vertical combinations skeptically by default, and only intervene when there is evidence of a significant consumer impact. One key determinant would be whether consumers would still have latitude to change suppliers post-merger. At present, consumers can easily switch between competitive alternatives - for instance, moving between cloud providers or from one AI API provider to another. Absent clear evidence that a combination would significantly increase consumer costs, they should assume the vertical efficiencies are consumer welfare enhancing.

### **An abundance of foundation models promotes competition**

An abundance of foundation models, both open and closed, is vital for maintaining competition in the technology sector. Policy should encourage the proliferation of models - since models have different use cases depending on their size, design, etc. The recent National Telecommunication and Administration (NTIA) report on open source models underscores that open source models provide a base for researchers and developers to build upon.<sup>2</sup>

Burdening foundation model development with excessive licensing requirements, rigorous mandatory compliance audits, or high financial penalties would create significant barriers for smaller firms and startups, limiting their ability to innovate and compete. **We strongly oppose legislative proposals that discriminate against open source models and urge you not to propose policies that favor either approach<sup>3</sup>.**  
**Industry is leading the way to promote competition and innovation**

Foundation models are just that - they provide the tools on which developers build innovative applications. Anthropic already offers an application programming interface

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<sup>2</sup> See Dual-Use Foundation Models with Widely Available Model Weights Report  
<https://www.ntia.gov/issues/artificial-intelligence/open-model-weights-report>

<sup>3</sup> See Chamber of Progress letter on SB 1047  
<https://progresschamber.org/wp-content/uploads/2024/06/CA-SB-1047-AI-Safety-Bill-OPPOSE-2.pdf>

(API) access to advanced AI models designed for researchers to integrate into their projects and explore new applications.<sup>4</sup>

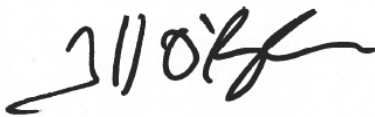
Formal policy making may not be the optimal intervention to promote sustained innovation and competition. Instead, voluntary action by social media platforms and fact-checking by the media are likely preferable. Rather than implementing blanket regulations that stifle innovation, regulators should focus on targeted measures such as transparency and promoting best practices for content verification where appropriate. This approach would address specific risks while allowing companies to continue developing and deploying advanced AI technologies, thus maintaining a competitive edge and fostering innovation.

**Improving access to key inputs - chips and compute - will improve the AI supply chain**

A healthy AI supply chain has significant competitive impacts. Fortunately, there is competition throughout the software levels of this chain. Developers currently have many choices among cloud providers - including Amazon Web Services, Microsoft Azure, Google Cloud, and Oracle Cloud Infrastructure. However, despite vibrant competition, those services can still be costly for startup developers and academic researchers. For these reasons, Chamber of Progress supports SB 893 which would establish public cloud computing resources.

At the hardware layer, a notable bottleneck in the AI supply chain is the access to semiconductors. Semiconductors are a critical input and currently supply-constrained. Congress took a critical first step by passing the Chips and Science Act, but there may be additional steps legislators in California can take to improve access to cutting edge semiconductors.

Sincerely,



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

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<sup>4</sup> *Introducing the Next Generation of Claude*, Anthropic (Mar. 2024). <https://www.anthropic.com/news/claude-3-family>