February 05, 2025

Re: Comments of ACT | The App Association on NAIAC Public Meeting

ACT | The App Association (the App Association) appreciates the opportunity to provide comments to the National Artificial Intelligence Advisory Committee (NAIAC) draft report presented for discussion at the January 28, 2025, public meeting. The following comments reflect a broad perspective on the current and potential governance of artificial intelligence (AI), informed by established principles and prior advocacy on this issue.

I. Statement of Interest

The App Association is a policy trade association for the small business technology developer community. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. The small businesses and startups we represent both participate and seek to participate in the international standard-setting process to contribute and build on important technical standards. App Association members are active in new platforms, like Web3, develop using indispensable technologies (i.e., artificial intelligence), and innovate on top of technical standards. The value of the ecosystem the App Association represents—which we call the app economy—is approximately $1.8 trillion and is responsible for 6.1 million American jobs, while serving as a key driver of the $8 trillion internet of things (IoT) revolution.[1] As lead innovators in critical and emerging technologies (CET), small businesses must be a part of this conversation.

II. ACT | The App Association Comments

AI is an evolving constellation of technologies that enable computers to simulate elements of human thinking – learning and reasoning among them. An encompassing term, AI entails a range of approaches and technologies, such as machine learning (ML) and deep learning, where an algorithm is based on the way neurons and synapses in the brain change due to exposure to new inputs, allowing independent or assisted decision making. AI-driven algorithmic decision tools and predictive analytics are having, and will continue to have, substantial direct and indirect effects on Americans. Some forms of AI are already in use to improve American consumers' lives today; for example, AI is used to detect financial and identity theft and to protect the communications networks upon which Americans rely against cybersecurity threats.

Across use cases and sectors, AI has incredible potential to improve American consumers' lives through faster and better-informed decision-making enabled by cutting-edge distributed cloud computing. As an example, healthcare treatments and patient outcomes stand poised to improve disease prevention and conditions, as well as efficiently and effectively treat diseases through automated analysis of X-rays and other medical imaging. AI will also play an essential role in self-driving vehicles and could drastically reduce roadway deaths and injuries. From a

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[1] The App Association, State of the U.S. App Economy 2022, https://actonline.org/wp-content/uploads/APP-Economy-Report-FINAL-1.pdf.

governance perspective, AI solutions will derive greater insights from infrastructure and support efficient budgeting decisions. Americans already encounter AI in their lives incrementally through the improvements they have seen in computer-based services they use, typically in the form of streamlined processes, image analysis, and voice recognition (we urge consideration of these forms of AI as "narrow" AI); meanwhile, generative AI tools are revolutionizing, and will continue to revolutionize, each consumer and enterprise sector/use case.

The App Association encourages the Administration to support a coordinated effort to harmonize the use of AI across both executive and independent agencies. As a result of the Biden-Harris Administration's AI Executive Order, numerous regulatory agencies, some cross-sectoral and others sector-specific, have considered or advanced regulatory proposals that would take starkly different approaches to AI accountability. Some of these proposals have put significant hurdles in place for the development and use of AI through approaches that have little-to-no public benefit. In some cases, such proposals have been developed based on speculative and undemonstrated harms. The Trump-Vance Administration must seize its opportunity to reorient the federal government's approach to one that promotes innovation and celebrates American success.

Many entities, both public and private, are actively engaging in efforts to create and enforce AI accountability frameworks, which may lead to the creation of trusted audits, assessments, and certifications. While this area continues to evolve, we strongly urge the Trump-Vance Administration's approach to AI governance to align with NIST's AI Risk Management Framework, which aims to help designers, developers, users, and evaluators of AI systems evolve in knowledge, awareness, and best practices to better manage risks across the AI lifecycle.[2] NIST's AI RMF is best positioned to guide efforts across the federal government in addressing AI due to NIST's expertise and its collaborative and open approach to developing the AI RMF, similar to NIST's Cybersecurity Framework.[3] It is in the public's best interest that the NIST AI RMF's scaled, risk-based approach serve as a basis for both executive and independent agencies' approach to AI risk management and governance, and that federal agencies take active steps to bring themselves into alignment with this approach. Further, we call on the Trump-Vance Administration to prioritize the impact of their AI regulatory efforts on small businesses that drive innovation and competition across consumer and enterprise markets.

We strongly encourage the Trump-Vance Administration's AI-related efforts to align with the following principles:

1. **Harmonizing and Coordinating Approaches to AI**

A wide range of federal, local, and state laws prohibit harmful conduct regardless of whether the use of AI is involved. For example, the Federal Trade Commission (FTC) Act prohibits a wide range of unfair or deceptive acts or practices, and states also have versions of these prohibitions in their statute books. The use of AI does not shield companies from these prohibitions. However, federal and state agencies alike must approach the applicability of these laws in AI contexts thoughtfully and with great sensitivity to the novel or evolving risks AI systems present. The Administration must first understand how existing frameworks apply to

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[2] https://www.nist.gov/itl/ai-risk-management-framework.
[3] https://www.nist.gov/cyberframework.

activities involving AI to avoid creating sweeping new authorities or agencies that awkwardly or inconsistently overlap with current policy frameworks.

2. **Quality Assurance and Oversight**

Policy frameworks should utilize risk-based approaches to ensure that the use of AI aligns with any relevant recognized standards of safety and efficacy. Small software and device companies benefit from understanding the distribution of risk and liability in building, testing, and using AI tools. Policy frameworks addressing liability should ensure the appropriate distribution and mitigation of risk and liability. Specifically, those in the value chain with the ability to minimize risks based on their knowledge and ability to mitigate should have appropriate incentives to do so. Some recommended areas of focus include:

- Ensuring AI is safe and efficacious.
- Encouraging AI developers to consistently utilize rigorous procedures and enabling them to document their methods and results.
- Encouraging those developing, offering, or testing AI systems intended for consumer use to provide truthful and easy-to-understand representations regarding intended use and risks that would be reasonably understood by those intended, as well as expected, to use the AI solution.

3. **Thoughtful Design**

Policy frameworks should encourage design of AI systems that are informed by real-world workflows, human-centered design and usability principles, and end user needs. AI systems should facilitate a transition to changes in the delivery of goods and services that benefit consumers and businesses. The design, development, and success of AI should leverage collaboration and dialogue among users, AI technology developers, and other stakeholders to have all perspectives reflected in AI solutions.

4. **Access and Affordability**

Policy frameworks should enable products and services that involve AI systems to be accessible and affordable. Significant resources may be required to scale systems. Policymakers should also ensure that developers can build accessibility features into their AI-driven offerings and avoid policies that limit their accessibility options.

5. **Bias**

The bias inherent in all data, as well as errors, will remain one of the more pressing issues with AI systems that utilize machine learning techniques. Regulatory agencies should examine data provenance and bias issues present in the development and uses of AI solutions to ensure that bias in datasets does not result in harm to users or consumers of products or services involving AI, including through unlawful discrimination.

6. **Research and Transparency**

Policy frameworks should support and facilitate research and development of AI by prioritizing and providing sufficient funding while also maximizing innovators and researchers' ability to collect and process data from a wide range of sources. Research on the costs and benefits of transparency in AI should also be a priority and involve collaboration among all affected stakeholders to develop a better understanding of how and under which circumstances transparency mandates would help address risks arising from the use of AI systems.

7. **Privacy and Security**

The many new AI-driven uses for data, including sensitive personal information, raise privacy questions. They also offer the potential for more powerful and granular privacy controls for consumers. Accordingly, any policy framework should address the topics of privacy, consent, and modern technological capabilities as a part of the policy development process. Policy frameworks must be scalable and assure that an individual's data is properly protected, while also allowing the flow of information and responsible evolution of AI. A balanced framework should avoid undue barriers to data processing and collection while imposing reasonable data minimization, consent, and consumer rights frameworks.

8. **Ethics**

The success of AI depends on ethical use. A policy framework must promote many of the existing and emerging ethical norms for broader adherence by AI technologists, innovators, computer scientists, and those who use such systems. Relevant ethical considerations include:

- Applying ethics to each phase of an AI system's life, from design to development to use.
- Maintaining consistency with international conventions on human rights.
- Prioritizing inclusivity such that AI solutions benefit consumers and are developed using data from across socioeconomic, age, gender, geographic origin, and other groupings.
- Reflect that AI tools may reveal extremely sensitive and private information about a user and ensure that laws require the protection of such information.

9. **Education**

Policy frameworks should support education for the advancement of AI, promote examples that demonstrate the success of AI, and encourage stakeholder engagements to keep frameworks responsive to emerging opportunities and challenges.

- Consumers should be educated as to the use of AI in the service(s) they are using.
- Academic education should include curriculum that will advance the understanding of and ability to use AI solutions.

10. **Intellectual Property**

The protection of intellectual property (IP) rights is critical to the evolution of AI. In developing approaches and frameworks for AI governance, the Administration should ensure that compliance measures and requirements do not undercut IP or trade secrets.

III.   Conclusion

Thank you for considering these comments as part of your deliberations. The App Association looks forward to further engagement with NAIAC as it finalizes its recommendations.

Sincerely,

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