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RE: Comments of ACT | The App Association, *Draft Report of the Joint California Policy Working Group on AI Frontier Models*

ACT | The App Association writes to provide input on the March 18, 2025-issued Draft Report of the Joint California Policy Working Group on AI Frontier Models.[1]

The App Association represents small business innovators and startups in the software development and high-tech space located across the globe.[2] As the world embraces mobile technologies, our members create the innovative products and services that drive the global digital economy by improving workplace productivity, accelerating academic achievement, and helping people lead more efficient and healthier lives. Today, that digital economy is worth more than $1.8 trillion annually and provides over 6.1 million American jobs.[3] App Association members create innovative software and hardware technology solutions and are at the forefront of incorporating artificial intelligence (AI) into their products and processes.

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[1] https://www.cafrontieraigov.org/wp-content/uploads/2025/03/Draft_Report_of_the_Joint_California_Policy_Working_Group_on_AI_Frontier_Models.pdf.

[2] ACT | The App Association, *About, available at* http://actonline.org/about.

[3] ACT | The App Association, *State of the U.S. App Economy: 2023*, https://actonline.org/wp-content/uploads/APP-Economy-Report-FINAL-1.pdf

The App Association appreciates the Joint California Policy Working Group on AI Frontier Models' efforts to provide a framework for policymaking on frontier artificial intelligence (AI), taking into account the importance of innovation and establishing appropriate strategies to reduce material risks.

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 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.

Moving forward, 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 governance perspective, AI solutions will derive greater insights from infrastructure and support efficient budgeting decisions.

Today, Americans 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). The App Association notes that this "narrow" AI already provides great societal benefit. For example, AI-driven software products and services revolutionized the ability of countless Americans with disabilities to achieve experiences in their lives far closer to the experiences of those without disabilities.

Nonetheless, AI also has the potential to raise a variety of unique considerations for policymakers. The App Association appreciates the efforts to develop a policy approach to

AI that will bring its benefits to all, balanced with necessary safeguards to protect consumers.

The Joint California Policy Working Group on AI Frontier Models report should generally advance an approach to regulating AI that ensures safety, effectiveness, and innovation. Because AI applications vary significantly in their scope and associated risks, a scaled approach to oversight is integral to the regulation of AI and should allow developers to implement tailored risk mitigations specific to their use cases rather than relying on a one-size-fits-all approach.

The App Association supports the use of a total product lifecycle perspective, which spans from ideation and development to real-world implementation and ongoing monitoring. This approach aligns with international standards, such as ISO 42001, which provides guidelines for managing AI systems within organizations. By adopting lifecycle management strategies, the Joint California Policy Working Group on AI Frontier Models can promote continuous oversight of AI systems to ensure they remain reliable and compliant as technologies evolve.

We note that, while the Joint California Policy Working Group on AI Frontier Models' guidance emphasizes transparency in training and development data, this focus may be excessive. While knowing the data used to train a model is important, it does not guarantee performance in specific real-world applications. Instead, the agency should prioritize testing AI models in their intended settings with relevant populations. Transparency should center on performance results rather than solely on development data. Proprietary information, such as training datasets or their sources, may not always be accessible—especially when medical product sponsors use third-party AI models hosted by cloud service providers. To address this challenge, the Joint California Policy Working Group on AI Frontier Models should recommend the assessment of existing documentation provided by developers regarding AI system capabilities, limitations, intended use guidelines, and performance outcomes.

Building on the above, the App Association urges the Joint California Policy Working Group on AI Frontier Models' report to align with the following recommendations for policymakers seeking to address the development of AI:

1. **Research:** Policy addressing AI should support and facilitate research and development of AI by prioritizing and providing sufficient funding while also ensuring adequate incentives (e.g., streamlined availability of data to developers) are in place to encourage private and non-profit sector research. Transparency research should be a priority and involve collaboration among all affected stakeholders who must responsibly address the ethical, social, economic, and legal implications that may result from AI applications.

2. **Quality Assurance and Oversight**: Policy addressing AI should utilize risk-based approaches to ensure that the use of AI aligns with the recognized standards of safety and efficacy. Providers, technology developers and vendors, and other stakeholders all 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 guidelines include:
   - Ensuring AI is safe and efficacious.
   - Supporting that algorithms, datasets, and decisions are appropriately auditable.
   - Encouraging AI developers to consistently utilize rigorous quality assurance procedures and enabling them to document their methods and results.
   - Requiring those developing, offering, or testing AI systems 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.
   - Ensuring that adverse events are timely reported to relevant oversight bodies for appropriate investigation and corrective action.

3. **Thoughtful Design:** Policy addressing AI should require design of AI systems that are informed by real-world workflows, human-centered design and usability principles, and end-user needs. AI systems solutions 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 in order to have all perspectives reflected in AI solutions.

4. **Access and Affordability:** Policy addressing AI should ensure AI systems are accessible and affordable. Significant resources may be required to scale systems. Policymakers should take steps to remedy the uneven distribution of resources and access and put policies in place that incent investment in building infrastructure, preparing personnel and training, as well as developing, validating, and maintaining AI systems with an eye toward ensuring value.

5. **Ethics:** The success of AI depends on ethical use. Policy addressing AI in healthcare policies will need to promote many of the existing and emerging ethical norms for broader adherence by AI technologists, innovators, computer scientists, and those who use such systems. The report of the Joint California Policy Working Group on AI Frontier Models should recommend:

- Ensure that AI solutions align with all relevant ethical obligations, from design to development to use.
- Encourage the development of new ethical guidelines to address emerging issues with the use of AI, as needed.
- Maintain consistency with international conventions on human rights.
- Ensure that AI is inclusive such that AI solutions beneficial to consumers are developed 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 protect such information from being used to discriminate against certain patients or consumers.

6. **Modernized Privacy and Security Frameworks:** While the types of data items analyzed by AI and other technologies are not new, this analysis will provide greater potential utility of those data items to other individuals, entities, and machines. Thus, there are many new uses for, and ways to analyze, the collected data. This raises privacy issues and questions surrounding consent to use data in a particular way (e.g., research, commercial product/service development). It also offers the potential for more powerful and granular access 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 coordinated and scalable while assuring that an individual's data is properly protected, while also allowing the flow of information and responsible evolution of AI. This information is necessary to provide and promote high-quality AI applications. Finally, with proper protections in place, policy frameworks should also promote data access, including open access to appropriate machine-readable public data, development of a culture of securely sharing data with external partners, and explicit communication of allowable use with periodic review of informed consent.

7. **Collaboration and Interoperability:** Policy addressing AI should enable eased data access and use through creating a culture of cooperation, trust, and openness among policymakers, AI technology developers and users, and the public.

8. **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 in particular. Any regulatory action should address data provenance and bias issues present in the development and uses of AI solutions. The report of the Joint California Policy Working Group on AI Frontier Models should recommend:
   - Requiring the identification, disclosure, and mitigation of bias while encouraging access to databases.
   - Ensuring that data bias does not cause harm to users or consumers.

9. **Education:** Policy addressing AI 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 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 IP rights is critical to the evolution of AI. In developing approaches and frameworks for AI governance, policymakers should be mindful of how current legal protections apply in circumstances involving AI and ensure that compliance measures and requirements do not undercut IP or trade secrets.

To support the development of this critical guidance, we urge for alignment with the following, which are also appended to this comment letter:

- The App Association's *AI Policy Principles*, a comprehensive set of recommendations on the areas that should be addressed by policymakers examining AI's use in healthcare, and how they should be addressed (https://actonline.org/wp-content/uploads/2023-11-16-ACT-AI-Policy-Principles-FINAL.pdf);

- The App Association's *AI Roles & Interdependency Framework*, which proposes clear definitions of stakeholders across the healthcare AI value chain, from development to distribution, deployment, and end use; and suggests roles for supporting safety, ethical use, and fairness for each of these important stakeholder groups that are intended to illuminate the interdependencies between these actors, thus advancing the shared responsibility concept (https://actonline.org/wp-content/uploads/ACT-AI-Roles-Interdependencies-Framework-final-text-May-2024-UK-English.pdf).

The App Association appreciates the opportunity to submit its comments to the Joint California Policy Working Group on AI Frontier Models and urges its thoughtful consideration of the above input.

Sincerely,

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Appendices:

Appendix A: The App Association's AI Policy Principles

Appendix B: The App Association's AI Roles & Interdependency Framework