

June 22, 2023

Chairman Frank Lucas
Ranking Member Zoe Lofgren
U.S. House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Re: CAIDP Statement for the Record for the Committee Hearing on “Artificial Intelligence: Advancing Innovation Towards the National Interest” June 22, 2023

Dear Chair Lucas and Ranking Member Lofgren,

We write to you, on behalf of the Center for AI and Digital Policy (CAIDP)¹, regarding the June 22 Committee hearing “Artificial Intelligence: Advancing Innovation Towards the National Interest”,² to bring to your attention our recommendations for advancing innovation towards the national interest. In brief, our recommendations are:

1. Congress should center the development of artificial intelligence (AI) on the rule of law, human rights, and democratic values,
2. Congress should promote the use of Privacy Enhancing Technologies (PETs) that minimize or eliminate the collection and use of personal data and encourage AI innovation, and
3. Congress should ensure implementation of the OECD AI Principles, previously endorsed by the United States, which promote human-centric and trustworthy AI

About CAIDP

The CAIDP is an independent research and education non-profit, incorporated in Washington, DC. We advise national governments and international organizations regarding artificial intelligence and digital policy. CAIDP currently serves as an advisor on AI policy to the

¹ Center for AI and Digital Policy, <https://www.caidp.org>

² House Committee on Science, Space and Technology, 118th Congress, Hearing, June, 22, 2023, <https://republicans-science.house.gov/cache/files/f/8/f89a11b6-183c-45d1-99a6-4d2873504261/4CEBD5D89D69186E01D99B7E5F53A361.2023-06-22-ai-hearing-charter.pdf>

OECD, the European Union, the Council of Europe, UNESCO, G7, the Global Partnership on AI, and other international organizations and national governments.³

Our President, Merve Hickok, recently testified before the House Oversight and Accountability Committee where she stated, “We do not have the guardrails in place, the laws that we need, the public education, the expertise in government, or the basis for independent assessment to manage the consequence of the rapid changes that are now taking place.”⁴ Ms. Hickok also highlighted the bipartisan history of AI policy across Administrations, and the risks of delaying the OMB rulemaking for the deployment of AI systems in the federal government.

At CAIDP, we recently published the third edition of our flagship report *Artificial Intelligence and Democratic Values Index*, analyzing AI policies and practices of 75 countries around the world, including the United States.⁵ Specific to the United States, we assess the strengths and weaknesses of US AI policy. We concluded in part:

The U.S. lacks a unified national policy on AI. The United States has endorsed the OECD/G20 AI Principles. The White House has issued two Executive Orders on AI that reflect democratic values, a federal directive encourages agencies to adopt safeguards for AI....The overall U.S. policy-making process remains opaque, and the Federal Trade Commission has failed to act on several pending complaints concerning the deployment of AI techniques in the commercial sector.... The absence of a legal framework to implement AI safeguards and a federal agency to safeguard privacy also raises concerns about the ability of the U.S. to monitor AI practices.⁶

In this statement we now make three critical recommendations regarding artificial intelligence and advancing innovation towards the national interest.

1) Congress should center the development of AI on the rule of law, human rights, and democratic values

³ CAIDP, *Resources*, <https://www.caidp.org/resources/>

⁴ House Committee on Oversight and Accountability Subcommittee on Cybersecurity, Information Technology, and Government Innovation Hearing (March 8, 2023), *Advances in AI: Are We Ready For a Tech Revolution? Testimony from Merve Hickok*, Available at: https://oversight.house.gov/wp-content/uploads/2023/03/Merve-Hickok_testimony_March-8th-2023.pdf

⁵ Center for AI and Digital Policy, *Artificial Intelligence and Democratic Values Index* (2022), <https://www.caidp.org/reports/aidv-2022/>

⁶ *Id.*, at 1085

Congress should establish guardrails for AI to promote algorithmic transparency and accountability, protecting our rights and democratic values.⁷ President Biden has set out a clear direction for responsible AI leadership in the United States. At the April meeting with President’s Council of Advisors on Science and Technology, the President said clearly and directly “tech companies have a responsibility to make sure their products are safe before making them public.”⁸ He also talked about the importance of “ensuring responsible innovation and appropriate guardrails to protect America’s rights and safety, and protecting their privacy, and to address the bias and disinformation that is possible as well.”

Congress should move forward enact a law on AI that establishes the necessary guardrails for the use of AI.⁹ AI systems that enable mass surveillance, remote biometric recognition, lethal autonomous weapons, and crime prediction should expressly be prohibited. The United States should pursue a science and technology policy that is both innovative *and* ensures public safety. Indeed, some of the greatest innovations come about precisely in response to identified harms.¹⁰

In shaping the development of AI technology, CAIDP recommends that pseudoscientific “biometric categorization” and “emotion analysis” systems be banned.¹¹ These systems often require the collection and processing of highly personal and sensitive data, such as facial features or emotional state. The UNESCO Recommendations on AI¹² already prohibits social scoring and mass surveillance. The EU AI Act is likely to prohibit several other categories of AI systems.¹³

The *Blueprint for AI Bill of Rights*¹⁴ issued by the Office of Science and Technology Policy (OSTP) emphasizes safety, fairness, privacy, transparency, and accountability “to protect the

⁷ Marc Rotenberg & Merve Hickok, *Artificial Intelligence and Democratic Values: Next Steps for the United States*, Council on Foreign Relations, <https://www.cfr.org/blog/artificial-intelligence-and-democratic-values-next-steps-united-states> (August 22, 2022)

⁸ The White House, *Remarks by President Biden in Meeting with the President’s Council of Advisors on Science and Technology*, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/04/04/remarks-by-president-biden-in-meeting-with-the-presidents-council-of-advisors-on-science-and-technology/> (April 4, 2023)

⁹ CAIDP, *Response to NTIA Request for Comment on AI Accountability Policy*, <https://www.caidp.org/app/download/8462738963/CAIDP-Statement-NTIA-06122023.pdf> (June 12, 2023)

¹⁰ CAIDP, *Statement to President’s Council of Advisors on Science and Technology*, (May 14, 2023), <https://www.caidp.org/app/download/8458230763/CAIDP-Statement-PCAST-AI-05142023.pdf>

¹¹ CAIDP, *Ban Facial Surveillance Technology*, <https://www.caidp.org/statements/ban-facial-surveillance-technology/> (October 2022)

¹² UNESCO, *Recommendations on the Ethics of Artificial Intelligence*, Section 1, <https://unesdoc.unesco.org/ark:/48223/pf0000381137> (November 23, 2021)

¹³ CAIDP, *Resources, EU AI Act*, <https://www.caidp.org/resources/eu-ai-act/>

¹⁴ White House, *Blueprint for an AI Bill of Rights*, <https://www.whitehouse.gov/ostp/ai-bill-of-rights/> (October 4, 2022); *See also*, White House, *Join the Effort to Create a Bill of Rights for an Automated*

American public in the age of artificial intelligence”. The *AI Bill of Rights* asserts that continuous surveillance and monitoring should not be employed in contexts such as education, work, and housing. We urge Congress to implement the OSTP AI Bill of Rights through federal legislation.

We commend the positive steps already taken by both the Trump and Biden Administrations, including Executive Order 14091 which requires federal agencies to determine whether automated surveillance and management systems “contribute to unjustified different treatment or impacts.”¹⁵

We recommend Congress review our recommendations from the AI and Democratic Values report¹⁶ to shape the development of artificial intelligence.

2) Promote the use of Privacy Enhancing Technologies (PETs) that minimize or eliminate the collection and use of personal data and encourage AI innovation

Many machine learning systems rely on the collection of personal data. These systems can violate privacy and be used for mass surveillance. New technologies such as AI pose new challenges for privacy, dignity, autonomy, and equality. Metrics for explainability, interpretability, and transparency should be established to protect fundamental rights, human well-being, and to increase public trust. These metrics alongside Privacy Enhancing Technologies would help protect privacy.¹⁷ **Privacy Enhancing Techniques (PETs) minimize or eliminate the collection and use of personal data.**

We note recent progress with PETs including the announcement that the US launched “an initiative to encourage development of ‘Democracy-Affirming Technologies’ that support democratic values and governance.” The U.S. and UK also announced plans to promote Privacy Enhancing Technologies (PETs), including low-data AI, the deletion of unnecessary data, and techniques for robust anonymity.¹⁸ The recently concluded roundtable of the G7 Data Protection

Society, <https://www.whitehouse.gov/ostp/news-updates/2021/11/10/join-the-effort-to-create-a-bill-of-rights-for-an-automated-society/> (November 10, 2022)

¹⁵ The White House, *Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (February 16, 2023)

¹⁶ Center for AI and Digital Policy, *Artificial Intelligence and Democratic Values Index* (2022), <https://www.caidp.org/reports/aidv-2022/>

¹⁷ *Comments of CAIDP to OSTP on National Artificial Intelligence Research and Development Strategic Plan* at 4, <https://www.caidp.org/statements/> (March 4, 2022)

¹⁸ CAIDP, *Artificial Intelligence and Democratic Values Index 1070* (2022), <https://www.caidp.org/reports/aidv-2022/>; See also, The White House, *US and UK to Partner on Prize Challenges to Advance Privacy-Enhancing Technologies* (December 8, 2021)

and Privacy Authorities underscored “the importance and benefits of Privacy Enhancing Technologies (PETs).”

Congress must also address other risks of AI systems. Generative AI systems are built on unlicensed data, do not account for copyrights and are already harming and marginalizing creators. In incentivizing investment in AI R&D, Congress must be mindful of frameworks that result in concentration of technology in the hands of a few corporations. This would severely restrict diffusion of innovation and be at cross-purposes with the U.S. National AI Research Agenda.¹⁹

Where it is necessary to transfer personal data, the most robust methods should be adopted. **The adoption of PETs has the potential to promote innovation AI technology.** We urge Congress to establish necessary protections for personal data prior to deployment of these systems.

3) Implement the OECD AI Principles, previously endorsed by the United States, to promote trustworthy and human-centric AI systems

Congress should implement the OECD AI Principles,²⁰ previously endorsed by the United States.²¹ The OECD AI Principles are the result of extensive intersectional work cutting across privacy protection and cross-border data flows, digital security risk management, consumer protection in e-commerce, and inclusive labor markets. The key principles for responsible and trustworthy AI are *human centered values and fairness*,²² *transparency and Explainability*,²³ *robustness, security and safety*,²⁴ and *accountability*.²⁵

The OECD AI Principles also address national policies for investing in AI R&D²⁶ and building human capacity and preparing for labour market transformation.²⁷ With regard to investing in AI R&D, the OECD recommends that:

<https://www.whitehouse.gov/ostp/news-updates/2021/12/08/us-and-uk-to-partner-on-a-prize-challenges-to-advance-privacy-enhancing-technologies/>

¹⁹ CAIDP, *Statement to OSTP on US National AI Strategic Plan*, (March 4, 2022), <https://www.caidp.org/app/download/8378181763/CAIDP-Statement-OSTP-03042022.pdf?t=1660245988>

²⁰ OECD, *Recommendation of the Council on Artificial Intelligence*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449>

²¹ National Telecommunications and Information Administration (United States Department of Commerce), *U.S. Joins with OECD in Adopting Global AI Principles*, <https://ntia.gov/blog/us-joins-oecd-adopting-global-ai-principles>

²² Principle 1.2

²³ Principle 1.3

²⁴ Principle 1.4

²⁵ Principle 1.5

²⁶ Principle 2.1

²⁷ Principle 2.4

This type of investment is essential to driving and shaping trustworthy AI innovation and ensuring beneficial outcomes for all, particularly areas under-served by market-driven investments. Publicly funded research can help address challenging technological issues that affect a broad range of AI actors and stakeholders. AI research includes research in: AI applications, such as natural language processing; techniques to teach AI systems, such as neural networks; optimisation notably to reduce the amount of data required for AI development, such as one-shot-learning; and research addressing societal considerations, such as transparency and explainability, as well as technologies to protect data integrity.

Note also that the OECD finds, “because AI has broad reach and pervasive implications on multiple facets of life, this recommendation calls for investment in inter-disciplinary research, on social, legal and ethical implications of AI that are relevant to public policy.”²⁸

With regard to building human capacity and preparing for labour market transition, the OECD recommends that:

In managing these transitions and ensuring they are fair, policy makers – together with stakeholders such as social partners, employer organisations and trade unions – will need to consider questions around social protection, education programmes, skills development, labour market regulation, public employment services, industrial policy, and taxation – as well as the financing of transitions.

Managing fair transitions requires policies for life-long learning, skills development and training that would allow people, and workers (in different contractual contexts) in particular, to interact with AI systems, adapt to AI-generated changes and access new opportunities in the labour market. This includes the skills required of AI practitioners (which are currently in shortage) and those needed for other workers (such as doctors or lawyers) to be able to leverage AI in their areas of expertise, so that AI augments human capabilities. In parallel, skills development policies will need to focus on the distinctly human aspects necessary to complement AI systems, such as judgment, creative and critical thinking and interpersonal communication.²⁹

In the context of AI impacts on workforce, a particular area of concern is the increasing deployment of AI technologies for workplace surveillance and worker monitoring. These systems exacerbate exploitative and discriminatory business practices and can undermine the American

²⁸ OECD, *Investing in AI Research and Development (Principle 2.1)*, <https://oecd.ai/en/dashboards/ai-principles/P10>

²⁹ OECD, *Building human capacity and preparing for labour market transformation (Principle 2.4)*, <https://oecd.ai/en/dashboards/ai-principles/P13>

economy and workforce. AI-based monitoring may also negatively flag workers with disabilities or inadvertently disclose these disabilities to employers.³⁰

Invasive monitoring spur counterproductive behavior and damage workplace culture.³¹ The OSTP's AI Bill of Rights **categorically asserts that continuous surveillance and monitoring should not be employed in contexts such as education, work, and housing** where its use could potentially limit rights, opportunities, or access.³² We urge Congress to prohibit worker monitoring technologies to protect the American workforce.

Thank you for your consideration of our views. We welcome the opportunity to discuss this further and answer any inquiries you may have.

Sincerely,



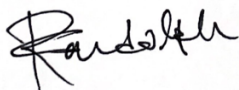
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³⁰ Scherer, M., Brown, L.X.Z.: *Warning: Bossware may be hazardous to your health*, Center for Democracy and Technology. <https://cdt.org/wp-content/uploads/2021/07/2021-07-29-Warning-Bossware-May-Be-Hazardous-To-Your-Health-Final.Pdf> (2021)

³¹ Harvard Business Review, *Monitoring Employees Makes Them More Likely to Break Rules*, <https://hbr.org/2022/06/monitoring-employees-makes-them-more-likely-to-break-rules> (July 27, 2022)

³² OSTP, *Blueprint for an AI Bill of Rights*



UNIVERSAL GUIDELINES FOR AI

RIGHT TO TRANSPARENCY

All individuals have the right to know the basis of an AI decision that concerns them. This includes access to the factors, the logic, and techniques that produced the outcome.

RIGHT TO HUMAN DETERMINATION

All individuals have the right to a final determination made by a person.

IDENTIFICATION OBLIGATION

The institution responsible for an AI system must be made known to the public.

FAIRNESS OBLIGATION

Institutions must ensure that AI systems do not reflect unfair bias or make impermissible discriminatory decisions.

ASSESSMENT AND ACCOUNTABILITY

An AI system should be deployed only after an adequate evaluation of its purpose and objectives, its benefits, as well as its risks. Institutions must be responsible for decisions made by an AI system.

ACCURACY, RELIABILITY, AND VALIDITY

Institutions must ensure the accuracy, reliability, and validity of decisions.

DATA QUALITY

Institutions must establish data provenance, and assure quality and relevance for the data input into algorithms.

PUBLIC SAFETY

Institutions must assess the public safety risks that arise from the deployment of AI systems that direct or control physical devices, and implement safety controls.

CYBERSECURITY

Institutions must secure AI systems against cybersecurity threats.

PROHIBITION ON SECRET PROFILING

No institution shall establish or maintain a secret profiling system.

PROHIBITION ON UNITARY SCORING

No national government shall establish or maintain a general-purpose score on its citizens or residents.

TERMINATION OBLIGATION

An institution that has established an AI system has an affirmative obligation to terminate the system if human control of the system is no longer possible.



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ARTIFICIAL INTELLIGENCE AND DEMOCRATIC VALUES INDEX

APRIL, 2023



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