August 2024

The Honorable Gavin Newsom
Governor of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom:

We, the undersigned, write today to urge you to **veto** SB 1047, *the Safe and Secure Innovation for Frontier Artificial Intelligence Models Act*. We come from across the ideological spectrum and are united in our belief that the bill would badly set back artificial intelligence (AI) in California and beyond. It is fundamentally flawed and mistargeted. SB 1047 must not become law.

**SB 1047 is fundamentally flawed**

We acknowledge that the bill's supporters have adopted several amendments in good faith. However, those amendments cannot alter the bill's fundamental problem: it regulates model development instead of misuse.

Instead, SB 1047 would require model developers to provide "reasonable care" that their models won't create harm. We agree with the eight members of California's congressional delegation who recently wrote to you stating that,

> "Not only is it unreasonable to expect developers to completely control what end users do with their products, but it is difficult if not impossible to certify certain outcomes without undermining the rights of end users, including their privacy rights."[1]

Any potential misuse of AI can be addressed with legislation that holds bad actors directly responsible. Indeed, the legislature has advanced a number of bills that would do exactly that.

**Worse, the harms SB 1047 seeks to address are entirely theoretical**

SB 1047 is designed to limit the potential for "critical harm" which includes "the creation or use of a chemical, biological, radiological or nuclear weapon in a manner that results in mass casualties." **<u>These harms are theoretical</u>**. There are no real-world examples of third parties misusing foundation models to cause mass casualty events. Moreover, the

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[1] https://democrats-science.house.gov/imo/media/doc/2024-08-15%20to%20Gov%20Newsom_SB1047.pdf

latest independent academic research concludes, "Large language models like ChatGPT cannot learn independently or acquire new skills, meaning they pose no existential threat to humanity[2]."

In contrast, the **damage to California's innovation economy is all too real**. SB 1047 would introduce burdensome compliance costs and broad regulatory uncertainty as to which models are in scope.

The amended text specifically empowers the Government Operations Agency to revise definitions, including "covered model." This is problematic because SB 1047 offers the Agency such ambiguous guidance. Specifically, thresholds are tied to the "average market prices of cloud compute." This seemingly reasonable standard belies a basic misunderstanding of the actual market for cloud computing, which typically includes bespoke pricing, incentives, and term discounts. Thus, determining the "average market price" will be difficult to impossible — leaving developers subject to regulatory whim.

This is merely one example of how SB 1047 will chill investment and innovation through regulatory ambiguity.

**SB 1047 would harm the unique vibrancy of California tech**

The California tech economy is one of a kind. The combination of engineering talent, world-class universities, and entrepreneurial zeal has 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, which may explain why so many California technologists, including academics from world-leading universities, oppose this bill[3].

**SB 1047 is a needless step backward for the California innovation economy**.

Competition and openness have been key to the success of California tech for decades. SB 1047 would divert us from this innovation-nourishing bipartisan policy consensus and towards policies that would cause stagnation. We also note that EU official Gerard de Graaf explicitly referred to SB 1047 as essential to aligning California's AI policy with Europe's[4]. Europe has consistently failed to foster a vibrant technology sector thanks to a succession of innovation-chilling tech policies. California should not follow Europe's tech-skeptical lead. Worryingly, some of SB 1047's regulatory mandates exceed even those of the EU AI Act.

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[2] https://www.sciencedaily.com/releases/2024/08/240812165443.htm
[3] https://www.context.fund/policy/sb_1047_analysis.html
[4] https://calmatters.org/economy/technology/2024/05/ca-eu-ai-regulation/

Lastly, we note that CalCompute — which stood to improve access to critical cloud computing resources for AI researchers — has been reduced to a mere feasibility study and thus may never see the light of day. Thus, we are left with a bill that will do nothing to advance California's lead in AI and everything to undercut it.

For these reasons, we urge you to **veto SB 1047**.

Sincerely,

Bay Area Council
Chamber of Progress
Context Fund
Engine
NetChoice
R Street Institute
Silicon Valley Leadership Group
TechFreedom