

May 16, 2023

The Honorable Richard Blumenthal, Chair
The Honorable Josh Hawley, Ranking Member
Senate Judiciary Subcommittee on Privacy, Technology & the Law
224 Dirksen Senate Office Building
Washington, DC 20510

Subject: Submission for the Hearing Record - "Artificial Intelligence and Intellectual Property: Part I — Interoperability of AI and Copyright Law"

Dear Chair Blumenthal and Ranking Member Hawley:

Public Knowledge is pleased to see the Senate Judiciary Committee dedicating itself to examining the need for rules for artificial intelligence. Beginning in 2018 and continuing through to today, Public Knowledge has been researching and analyzing this issue through a public interest lens. Certainly there is important work to be done by existing agencies today, using their current authority to enforce existing laws against artificial intelligence products that are fraudulent, discriminatory, or facilitate other illegal activity.¹ However, we believe the best way to comprehensively address the concerns posed by artificial intelligence products is with a new expert authority to coordinate and provide expertise across the federal government. This new authority would be well-placed within the Digital Platform Regulator that we believe is so important to the future of the internet.²

In 2018 we published “The Inevitability of AI Law & Policy: Preparing Government for the Era of Autonomous Machines” from our then General Counsel, Ryan Clough.³ Nearly 5 years ago he argued, “As artificial intelligence begins to transform our daily lives, it is critical to build an accountability structure that enables the marketplace to harness the vast promises of this technology, while also empowering the public, safeguarding our autonomy and fundamental rights, and protecting against discriminatory mistreatment of

¹ For example, we encouraged the FTC to regulate false claims about AI effectiveness, sometimes known as “AI Snake Oil” in our Nov. 21 filing, available here: <https://publicknowledge.org/policy/comments-in-ftc-filing-on-commercial-surveillance-and-poor-data-practices/>.

² Harold Feld, [The Case for the Digital Platform Act](http://www.digitalplatformact.com), available here: www.digitalplatformact.com.

³ Ryan Clough, “The Inevitability of AI Law & Policy: Preparing Government for the Era of Autonomous Machines,” available here: <https://publicknowledge.org/policy/the-inevitability-of-ai-law-policy-preparing-government-for-the-era-of-autonomous-machines/>.

historically-vulnerable groups. By establishing an expert authority that coordinates federal engagement on behalf of citizens, we can begin to build public confidence in this technology and its enormous potential benefits, without opening the door to systematic disempowerment and exploitation.”

Regulation is a key tool for promoting emerging technologies like artificial intelligence, and for protecting Americans from the harms that sometimes accompany them. It will always be difficult for Congress to devote the needed resources to building expertise and moving quickly as technology advances. Congress must create or designate responsible experts within the government, and equip them with the necessary authority to set and enforce rules to protect Americans.

As you and your colleagues investigate the opportunities, harms, and impacts of artificial intelligence, the Public Knowledge team welcomes the opportunity to work with you to develop these ideas into policy and practice. Please do not hesitate to reach out and use us as a resource.

Sincerely,

Charlotte Slaiman
Competition Policy Director
Public Knowledge