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PCAST Working Group on Generative AI
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Dear PCAST Members

We are responding to the White House notice posted yesterday “PCAST Working Group on Generative AI Invites Public Input.”¹ We are providing a preliminary response for your public session next week, and we have established a webpage to track the work of the Working Group.² We will later provide a more detailed response to the specific questions raised in the White House notice. We request the opportunity to speak briefly during the public session this week.

The **Center for AI and Digital Policy** (CAIDP) is an independent non-profit organization, based in Washington, DC. We publish annually the *Artificial Intelligence and Democratic Values Index*, a comprehensive review of AI policies and practices around the world. We have also testified before Congress and written extensively about the need for the United States to develop a strong, nonpartisan legislative framework for the governance of Artificial Intelligence.³ In advance of the public session next week, we ask you to:

- **Review our recent complaint to the Federal Trade Commission on OpenAI.** In March, we filed an extensive complaint with the FTC regarding chatGPT. We explained that OpenAI has failed to comply with the recommended business practices, established by the FTC, for commercial AI products.⁴ We noted that OpenAI itself had documented a wide range of risks from the release of chatGPT, including disinformation and cyber attacks. Our complaint describes in detail many of the risks with Generative AI and points to appropriate business practices we would expect businesses to follow and PCAST to endorse.
- **Consider the *Universal Guidelines for AI* as a basis for a policy responses to Generative AI.** In 2018, over 330 leading experts and 60 associations (including the AAAS, the ACM, and the IEEE) endorsed the Universal Guidelines for AI (UGAI).

¹ PCAST Working Group on Generative AI Invites Public Input, May 13, 2023, <https://www.whitehouse.gov/pcast/briefing-room/2023/05/13/pcast-working-group-on-generative-ai-invites-public-input/>

² CAIDP, *Resources, PCAST*, <https://www.caidp.org/resources/pcast/>

³ Testimony of CAIDP President Merve Hickock before the House Oversight Committee, *Advances in AI: Are We Ready for the Tech Revolution?* March 8, 2023, <https://www.caidp.org/events/in-congress-house-oversight/>; Lorraine Kisselburgh and Marc Rotenberg, *Next Steps on the US AI Bill of Rights*, *The Washington Spectator* (Nov. 2, 2021), <https://washingtonspectator.org/ai-bill-of-rights/>

⁴ CAIDP, *In the Matter of Open AI* (FTC 2023), <https://www.caidp.org/cases/openai/>

The Guidelines seek to maximize the benefits and minimize the risks of AI.⁵ Through our subsequent work with the OECD, UNESCO, and the Council of Europe, several of the AI Guidelines – focusing on rights and obligations in AI governance – have been incorporated in AI frameworks. The Universal Guidelines provide a good starting point for your development of rules for Generative AI.

- **Review the *Artificial Intelligence and Democratic Values Index*.** We have compiled and published the most extensive review of AI policies and practices around the world.⁶ We specifically assess the strengths and weaknesses of US AI policy, including US leadership on the OECD AI Principles and the OSTP AI Bill of Rights, as well as concerns about the lack of public participation in the development of national AI strategies. The report also summarizes recent developments at the Council of Europe, the European Union, the G7, the G20, and in China.

Preliminary Recommendation

For your work on Generative AI, **we urge you to follow the direction set out by President Biden.** At the April meeting with PCAST, the President said clearly and directly “tech companies have a responsibility to make sure their products are safe before making them public.”⁷ He also said that the purpose of the AI Bill of Rights is “to ensure the important protections are built into the AI systems from the start, not have to go back to do it.” 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.” The President expressed similar views at the recent White House meeting with tech CEOs.⁸ And the Vice President said, “the private sector has an ethical, moral, and legal responsibility to ensure the safety and security of their products.”⁹

CAIDP strongly supports this approach to the governance of AI, and Generative AI in particular. In our view, the PCAST now has a responsibility to carry forward the direction set out by the President and the Vice President. There is real urgency in this moment. Many of the world leading AI experts, including several Turing Award winners, have called for a pause on AI so that our laws and institutions can catch up. AI experts also recently urged the European

⁵ Public Voice, *Universal Guidelines for AI* (2018), <https://thepublicvoice.org/ai-universal-guidelines/>

⁶ CAIDP, *Artificial Intelligence and Democratic Values* (2023), <https://www.caidp.org/reports/aidv-2022/>

⁷ The White House, *Remarks by President Biden in Meeting with the President’s Council of Advisors on Science and Technology*, April 4, 2023, <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/>

⁸ The White House, *Readout of White House Meeting with CEOs on Advancing Responsible Artificial Intelligence Innovation*, May 4, 2023 (“President Biden dropped by the meeting to underscore that companies have a fundamental responsibility to make sure their products are safe and secure before they are deployed or made public.”) <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/04/readout-of-white-house-meeting-with-ceos-on-advancing-responsible-artificial-intelligence-innovation/>

⁹ The White House, *Statement from Vice President Harris After Meeting with CEOs on Advancing Responsible Artificial Intelligence Innovation*, May 4, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/04/statement-from-vice-president-harris-after-meeting-with-ceos-on-advancing-responsible-artificial-intelligence-innovation/>

Parliament to update the EU AI Act to address the challenges of Generative AI.¹⁰ The European Parliament, with AI legislation already in development, was able to create new legal standards. The United States has no similar framework to amend.¹¹

You must seize this moment.

Promoting Public Participation

A call for public comment should not be treated lightly. In the *Artificial Intelligence and Democratic Values Index*, we rate and rank national AI policies and practices based, in part, on whether there is a meaningful public comment process and whether AI policy materials are readily available to the public.¹² We have observed that the comment process in the US on AI policy is not typically meaningful. For example, the National Security Commission on AI gave the public one day to comment on its final report. The National AI Advisory Committee, a federal advisory committee, routinely ignored its public comment obligations.

Given our experience with public comments and the development of AI policy, both in the United States and around the world, we urge you to:

- **Make the Public Comment Process Meaningful.** PCAST received exactly one public comment for the event next week and it was nonsensical.¹³ If you have a comment process, you need to actively promote the opportunity. CAIDP has a mailing list of over 40,000 as well as a page devoted to public comment opportunities on AI policies offered by governments around the world.¹⁴ If you would like us to help promote PCAST public comment opportunities, let us know.
- **Provide meaningful responses to the proposals you receive.** You do not need to agree with the comments you receive, but you should provide a “reasoned response” to the comments. That is the essence of the public comment process.¹⁵ There is little point in requesting public comments and then ignoring the responses.

¹⁰ AI Now Institute, *General Purpose AI Poses Serious Risks, Should Not Be Excluded From the EU’s AI Act | Policy Brief*, April 13, 2023, <https://ainowinstitute.org/publication/gpai-is-high-risk-should-not-be-excluded-from-eu-ai-act>

¹¹ CAIDP, Resources, *EU AI Act*, <https://www.caidp.org/resources/eu-ai-act/>

¹² CAIDP, *AI and Democratic Values Index* (2023) (“Question 5: *Has the country established a process for meaningful public participation in the development of a national AI Policy?* Question 6: *Are materials about the country’s AI policies and practices readily available to the public?*”). See, also, Marc Rotenberg, *Time to Assess National AI Policies*, *Communications of the ACM*, Nov. 24, 2020, <https://cacm.acm.org/blogs/blog-cacm/248921-time-to-assess-national-ai-policies/fulltext>

¹³ *Written Public Comments Submitted to PCAST*, March 22, 2023 to May 10, 2023,

<https://www.whitehouse.gov/wp-content/uploads/2023/05/PCAST-Written-Public-Comments-May-2023.pdf>

¹⁴ CAIDP, Public Voice.

¹⁵ “An agency has not engaged in reasoned decision making if it entirely failed to consider an important aspect of the problem, or if it did not engage the arguments raised before it.” *Am. Pub. Gas Ass’n v. United States DOE*, 455 U.S. App. D.C. 268, 275, 22 F.4th 1018, 1025 (2022) (internal citations omitted).

- **Avoid the “balancing” framing.** In the notice, you state, “As with many advances in science and technology, a balance should be found between encouraging innovation and pursuing beneficial applications of the technology, and identifying and mitigating potential harms.” This framing is counterproductive. 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. To place the two in competition is to head off in the wrong direction.

Thank you for your consideration of our views.

We look forward to the opportunity to briefly summarize these comments in the public session this week.

Sincerely,



Merve Hickok
CAIDP President



Lorraine Kisselburgh
CAIDP Chair



Marc Rotenberg
CAIDP Executive Director

Attachments

Hickok, Kisselburgh, and Rotenberg, *On Artificial Intelligence Policy*, **The Economist**, May 11, 2023

Universal Guidelines for AI (2018)