REGULATING GENERATIVE AI UPDATE

By Lillian Yang

Throughout 2023, the discussion over regulating generative AI has grown in intensity. As new chatbots like ChatGPT4 and Claude 2.1 proliferate, concerns over safe and responsible AI development have necessitated a new urgency for government action. These concerns carry into the private sphere. On November 17, an internal OpenAI crisis exploded with the ouster of chief executive Sam Altman, highlighting the growing rift between those alarmed by AI's capabilities and excited by its commercial potential (Mickle, 2023). These concerns highlight the growing need for collective action on ensuring generative AI serve the public interest.

In the current congressional session, four bills may be of interest. A major bill of interest is the AI Disclosure Act of 2023, or HR 3831. Introduced by Rep. Ritchie Torres (D-NY), this bill requires generative AI systems to clearly label outputs as AI-generated, enforced by the Federal Trade Commission. Transparency regarding whether the content is human or machine-made has been a significant concern echoed by AI experts, although it is worth noting there are no specifications on what "clearly label" would mean in the current bill as it is written (AI Disclosure Act of 2023, 2023).

Secondly, there is the REAL Political Advertisements Act or S 1596/HR 3044. Introduced by Sen. Amy Klobuchar (D-MN) in the Senate and Rep. Yvette Clarke (D-NY) in the House, this bill amends the Federal Election Campaign Act of 1971 to require advertisements to disclose if generative AI was used for any image or video footage. The labeling only applies to sites with 50 million+ monthly users, emphasizing policymakers' concerns with the specific use of AI in campaigning and its effect on voter populations (REAL Political Advertisements Act, 2023).

Following this similar pattern, there is the Amendment to the Federal Election Campaign Act of 1971 or HR 4611. Like the REAL Political Advertisements Act, this bill prohibits the distribution of political communication with deceptive audio generated by AI, intended to impersonate and deceive a voter into voting against a candidate (Candidate Voice Fraud Prohibition Act, 2023). Introduced by Rep. Adriano Espaillat (D-NY), the bill amends the Federal Election Campaign Act of 1971 and addresses

growing political concern over "deep fakes" and misinformation, especially regarding foreign actors.

Lastly, Amendment to Section 230 or S 1993 is also of note. Introduced by Sen. Josh Hawley (R-MO), this amendment eliminates immunity granted by Section 230 of the Communications Act of 1934 for providers of interactive generative AI (No Section 230 Immunity for AI Act, 2023). Section 230 is a crucial example of internet exceptionalism, granting intermediary platforms immunity from being liable for the content generated by its users (Morrison, 2023). The bill emphasizes the growing political pushback against Section 230 and its potential transformation in the coming years as new technology emerges.

The European Union also reached a provisional agreement on the Artificial Intelligence Act, marking the first comprehensive AI law to emerge worldwide. The act reflects a growing worry over AI algorithmic transparency and safety, outlining different rules for certain risk levels: unacceptable risk, high risk, general purpose and generative AI, and limited risk (EU AI Act: First Regulation on Artificial Intelligence, 2023). It appears likely to go into effect in 2025.

Ultimately, when considering government regulation over AI, four principles may be helpful in your approach. In one proposal, Yoshua Bengio, during a Senate subcommittee hearing on AI regulation in July 2023, pointed to four key measures:

1. Access: Control who can use powerful AI systems, establishing clear standards for development, deployment, and usage.

2. Alignment: Ensure AI systems align with human values and goals according to their intended purpose.

3. Scope of Actions: Define and manage the extent of AI's influence on privacy, security, and social dynamics.

4. Focus: Coordinate national frameworks and create liability incentives through independent audits, safety research, and countermeasures against rogue AI.

The measures, complemented with responsible AI principles, provide a potential starting point as we balance AI advancement with safety and societal values (Bengio, 2023).

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