

November 30, 2018

Senator Jeff Flake, Chairman
Senator Christopher Coons, Ranking Member
Senate Committee on the Judiciary
Subcommittee on Privacy, Technology, and the Law
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Flake and Ranking Member Coons:

We are writing to you regarding the development of US policy concerning artificial intelligence. We are pleased to learn of the Subcommittee's interest in this topic but disappointed by the lack of public notice of the roundtable earlier this week. As we explained to the White House Office of Science and Technology Policy earlier this year, it is vital to "encourage meaningful public participation in the development of the nation's policy for Artificial Intelligence."¹

The Electronic Privacy Information Center (EPIC) is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.² EPIC is one of the leading privacy organizations in the world, now focused on the challenges of algorithmic decisionmaking.³ We have litigated several open government cases concerning AI,⁴ provided advice to Congressional committees,⁵ and led an international campaign for "algorithmic transparency."

EPIC has also made an open and inclusive process for US policy on AI a priority. Earlier this year, EPIC, joined by many of the nation's leading scientific and computing societies, including the AAAS, the ACM, the FAS, and the IEEE, petitioned the White House to ensure a public and transparent process for the development of national AI policy.⁶ Senate committees must also ensure a public and transparent process for AI policy.⁷

¹ Petition to OSTP for Request for Information on Artificial Intelligence Policy (July 4, 2018), <https://epic.org/privacy/ai/OSTP-AI-Petition.pdf>; see also *EPIC, Scientific Societies Call for Public Input on U.S. Artificial Intelligence Policy* (July 3, 2018), <https://epic.org/2018/07/epic-scientific-societies-call.html>

² EPIC, *About EPIC*, <https://epic.org/epic/about.html>.

³ EPIC, *Algorithmic Transparency*, <https://epic.org/algorithmic-transparency/>.

⁴ *EPIC v. CBP (Analytical Framework for Intelligence)*, <https://epic.org/foia/dhs/cbp/afi/>; *EPIC v. DHS-FAST Program*, <https://epic.org/foia/dhs/fast/>; *EPIC v. DOJ (Criminal Justice Algorithms)*, <https://epic.org/foia/doj/criminal-justice-algorithms/>.

⁵ See, e.g., Statement of EPIC, *Filtering Practices of Social Media Platforms*, 115th Cong. (2018), H. Comm. on the Judiciary (Apr. 25, 2018), <https://epic.org/testimony/congress/EPIC-HJC-SocialMediaFiltering-Apr2018.pdf>; Statement of EPIC, *Game Changers: Game Changers: Artificial Intelligence Part III, Artificial Intelligence and Public Policy*, 115th Cong. (2018), H. Comm. on Oversight & Gov. Reform, Subcomm. on Information Technology (April 19, 2018), <https://epic.org/testimony/congress/EPIC-HOGR-AI-Feb2018.pdf>.

⁶ Petition to OSTP *supra*.

⁷ Rules of the Senate, Committee Procedure, (5)(b), ("Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public . . .")

We write now to call your attention to the Universal Guidelines for Artificial Intelligence (UGAI). More than 200 experts (including former world chess champion Garry Kasparov) and 50 NGOs (including the American Association for the Advancement of Science, the world's leading scientific association) have endorsed the UGAI.⁸ The framework is particularly well suited to legislative implementation. And EPIC is working now with many governments to implement national policies based on the UGAI.

Also, regarding the press release for the July privacy roundtable,⁹ we should point out that it is a critical mistake to assume a tradeoff between data protection and innovation. As we wrote earlier this year:

With more and more devices connected to the Internet, privacy and security have become paramount concerns. Properly understood, new privacy laws should spur the development of privacy enhancing techniques that minimize the collection of personal data.¹⁰

We look forward to working with your committee on these vital issues.

Sincerely,

/s/ Marc Rotenberg
Marc Rotenberg
EPIC President

/s/ Caitriona Fitzgerald
Caitriona Fitzgerald
EPIC Policy Director

Enclosure:

Universal Guidelines for Artificial Intelligence

⁸ A full list of endorsers is available at The Public Voice, *Universal Guidelines for Artificial Intelligence: Endorsement*, <https://thepublicvoice.org/AI-universal-guidelines/endorsement>.

⁹ Senator Coons, "Flake, Coons host roundtable discussion on privacy, consumer data protection," July 25, 2018, <https://www.coons.senate.gov/newsroom/press-releases/flake-coons-host-roundtable-discussion-on-privacy-consumer-data-protection>

¹⁰ Rotenberg, *Congress can Follow the EU's Lead and Update US Privacy Law*, Financial Times (June 1, 2018), <https://www.ft.com/content/39044ec6-64dc-11e8-a39d-4df188287fff>