118TH CONGRESS
2D SESSION

H. R. 7766

To require the National Institute of Standards and Technology to establish task forces to facilitate and inform the development of technical standards and guidelines relating to the identification of content created by generative artificial intelligence, to ensure that audio or visual content created or substantially modified by generative artificial intelligence includes a disclosure acknowledging the generative artificial intelligence origin of such content, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2024

Ms. ESHOO (for herself, Mr. DUNN of Florida, Mr. BEYER, and Mrs. FOUSHEE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To require the National Institute of Standards and Technology to establish task forces to facilitate and inform the development of technical standards and guidelines relating to the identification of content created by generative artificial intelligence, to ensure that audio or visual content created or substantially modified by generative artificial intelligence includes a disclosure acknowledging the generative artificial intelligence origin of such content, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "Protecting Consumers
5 from Deceptive AI Act".

6 **SEC. 2. FINDINGS.**

7   This Congress finds the following:

8   (1) The majority of Americans consume most of
9   their information online from social media platforms.
10   A 2023 Pew Research survey found that a large ma-
11   jority of U.S. adults (86 percent) say they often or
12   sometimes get news from a smartphone, computer or
13   tablet, including 56 percent who say they do so
14   often.

15   (2) The increasing capabilities of generative ar-
16   tificial intelligence models has led to a marked in-
17   crease in the creation of convincing "deepfakes" and
18   greater difficulty for everyday Americans in telling
19   real and deepfake images, audio, and videos apart.
20   A December 2022 study found participants were
21   only 62 percent accurate when asked to determine
22   whether images were deepfake or real, and even
23   worse, that their self-reported confidence in their an-
24   swers was high, and unrelated to accuracy.

1   (3) Deepfakes create consumer deception issues,
2 where persons can create "deepfake" images and
3 videos to fool consumers about information related
4 to products they may wish to purchase. Fake celeb-
5 rity endorsements of various products and scams
6 have proliferated in the past year, including an ad
7 in which a deepfake of famous actor Tom Hanks en-
8 dorsed a dental insurance plan.

9   (4) The proliferation of deepfakes can also cre-
10 ate national security issues, such as a deepfake
11 image of an explosion at the Pentagon that was
12 shared widely last year and caused enough confusion
13 that the stock market briefly dipped.

14   (5) Deepfakes used in political advertising can
15 also create confusion, such as when someone used an
16 AI model that had been trained to replicate Presi-
17 dent Biden's voice was used to make robocalls to
18 voters in New Hampshire ahead of a primary elec-
19 tion, and provided false information intended to dis-
20 courage potential voters from voting in the election.
21 As the Supreme Court found 8–1 in Citizens United
22 v. Federal Election Commission, 558 U.S. 310
23 (2010), the government has an interest in
24 "'insur[ing] that the voters are fully informed'
25 about the person or group who is speaking".

1   (6) Requiring deepfakes to be clearly labeled is

2   important to protect consumers from deception, pro-

3   tect our national security, and to maintain an in-

4   formed electorate.

SEC. 3. GUIDELINES TO FACILITATE DISTINGUISHING CON-

TENT GENERATED BY GENERATIVE ARTIFI-

CIAL INTELLIGENCE.

8   (a) TASK FORCES FOR DEVELOPMENT OF GUIDE-

9   LINES AND PROMOTING STANDARDS.—

10   (1) IN GENERAL.—Not later than 90 days after

11   the date of the enactment of this Act, the Director

12   of the National Institute of Standards and Tech-

13   nology shall establish task forces to accomplish the

14   following goals:

15   (A) Supporting the development of tech-

16   nical standards and guidelines to provide con-

17   tent provenance metadata, watermarking, dig-

18   ital fingerprinting for audio or visual content,

19   and other technical measures that the task

20   forces determine significant. To the extent tech-

21   nically feasible, such task forces should seek to

22   make content provenance metadata cryp-

23   tographically verifiable, and to make water-

24   marks difficult to remove or obscure.

1 (B) Supporting the development of tech-
2 nical standards and guidelines to assist online
3 application and content providers and operators
4 in identifying and labeling audio or visual con-
5 tent created or substantially modified by gen-
6 erative artificial intelligence, including exploring
7 interoperable standards that assist social media
8 and other online platforms with identifying,
9 maintaining, interpreting, and displaying water-
10 marks, digital fingerprinting, and secure con-
11 tent provenance metadata associated with audio
12 or visual content, while considering circumven-
13 tion techniques and enforcement.

14 (C) Supporting the development of tech-
15 nical standards and guidelines to identify and
16 label text-based content created or substantially
17 modified by generative artificial intelligence.
18 Such support may include developing standards
19 to embed content provenance data or metadata,
20 watermarking, digital fingerprinting, or other
21 technical measures when creating such content.

22 (2) STANDARDS BODIES.—To the extent pos-
23 sible, the outcome and output of the task forces es-
24 tablished pursuant to paragraph (1) should inform
25 development of technical standards developed by pri-

1 vate, consensus organizations, as referred to in sec-

2 tion 2 of the National Institute of Standards and

3 Technology Act (15 U.S.C. 272) and OMB Circular

4 A–119.

5 (3) MEMBERSHIP.—The Director of the Na-

6 tional Institute of Standards and Technology shall

7 include in the memberships of each of the task

8 forces described in paragraph (1) appropriate rep-

9 resentatives of the following:

10 (A) Relevant Federal agencies.

11 (B) Developers of generative artificial in-

12 telligence technology.

13 (C) Entities, including standards develop-

14 ment organizations, engaged in the development

15 of content detection standards and technology,

16 including authentication and traceability.

17 (D) Social networking service providers

18 and online instant messaging service providers.

19 (E) Online search engine service providers.

20 (F) Developers of web browsers and mobile

21 operating systems.

22 (G) Academic entities, civil society and ad-

23 vocacy groups, and other related entities, espe-

24 cially such entities and groups engaged in the

1 development or implementation of content de-

2 tection standards and technology.

3 (H) Privacy advocates and experts.

4 (I) Human rights lawyers and advocates

5 with expertise in the effects of technology in

6 countries around the world.

7 (J) Media organizations, including news

8 publishers and image providers.

9 (K) Creator associations and organizations

10 representing the interests of other copyright

11 owners.

12 (L) Artificial intelligence testing experts,

13 such as those with privacy expertise in artificial

14 intelligence red-teaming.

15 (M) Technical experts in digital forensics,

16 cryptography, and secure digital content and

17 delivery.

18 (N) Any other entity the Director deter-

19 mines appropriate.

20 (4) DUTIES.—

21 (A) SUBMISSION TO DIRECTOR.—Each of

22 the task forces established pursuant to para-

23 graph (1) shall, not later than 270 days after

24 the establishment of each such task force, sub-

25 mit to the Director of the National Institute of

1 Standards and Technology a report containing

2 recommendations relating to the technical

3 standards and guidelines each such task force is

4 supporting.

5 (B) SUBMISSION TO CONGRESS.—Each of

6 the task forces established pursuant to para-

7 graph (1) shall, not later than one year after

8 the establishment of each such task force and

9 annually thereafter for five years, submit to the

10 Committee on Science, Space, and Technology

11 and the Committee on Energy and Commerce

12 of the House of Representatives and the Com-

13 mittee on Commerce, Science, and Transpor-

14 tation of the Senate a report on the activities

15 of such task force for the immediately preceding

16 one year period.

17 (5) PRIVACY.—The task forces established pur-

18 suant to paragraph (1) shall consider issuing guid-

19 ance for online service and application providers and

20 operators to store and display content provenance

21 data and metadata in a privacy-preserving manner,

22 including clear guidance on how such providers and

23 operators can indicate to users when such users are

24 sharing content that contains content provenance

25 data and metadata, indicate the information con-

1 tained in the data and metadata such users are

2 sharing, and provide options to limit the data and

3 metadata such users are sharing that may have pri-

4 vacy implications.

5 (b) INFORMING CONSUMERS OF CONTENT GEN-

6 ERATED BY ARTIFICIAL INTELLIGENCE.—

7 (1) PROVIDERS OF GENERATIVE ARTIFICIAL IN-

8 TELLIGENCE APPLICATIONS.—A person who makes

9 available to users a software application based on

10 generative artificial intelligence technology shall—

11 (A) ensure that audio or visual content

12 created or substantially modified by such appli-

13 cation incorporates (as part of such content and

14 in a manner that may or may not be perceptible

15 by unaided human senses) a disclosure that—

16 (i) is machine-readable; and

17 (ii) acknowledges the generative artifi-

18 cial intelligence origin of such content;

19 (B) establish and implement reasonable

20 measures to prevent a disclosure described in

21 subparagraph (A) from being removed or other-

22 wise tampered with;

23 (C) collaborate with providers of covered

24 online platforms to assist such providers in

1 identifying and accessing the information of dis-

2 closures described in subparagraph (A); and

3 (D) ensure that such application makes

4 available to users the ability to incorporate,

5 within the metadata of content created or modi-

6 fied by such application, information regarding

7 the generative artificial intelligence origin of

8 such content, including tamper-evident informa-

9 tion regarding—

10 (i) the name of such application;

11 (ii) the name and version of the gen-

12 erative artificial intelligence model utilized

13 by such application to create or modify

14 such content;

15 (iii) the date and time associated with

16 the creation or modification of such con-

17 tent by such application; and

18 (iv) the portion of such content that

19 was created or modified by such applica-

20 tion.

21 (2) PROVIDERS OF COVERED ONLINE PLAT-

22 FORMS.—A person who makes available for use a

23 covered online platform—

24 (A) shall clearly and conspicuously provide

25 to a user of such platform, with respect to

1   audio or visual content accessed by such user

2   through such platform that incorporates a dis-

3   closure described in paragraph (1)(A), the in-

4   formation included in such disclosure; and

5   (B) may not, with respect to audio or vis-

6   ual content accessed by such user through such

7   platform that incorporates a disclosure de-

8   scribed in paragraph (1)(A), remove such dis-

9   closure or any incorporated information de-

10   scribed in paragraph (1)(D).

11   (3) REGULATIONS.—

12   (A) IN GENERAL.—Not later than 2 years

13   after the date of the enactment of this Act, the

14   Commission shall promulgate regulations under

15   section 553 of title 5, United States Code, to

16   carry out this subsection.

17   (B) CONSULTATION.—In carrying out sub-

18   paragraph (A), the Commission shall consult

19   with the National Institute of Standards and

20   Technology and the task forces established

21   under subsection (a)(1).

22   (4) ENFORCEMENT BY COMMISSION.—

23   (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-

24   TICES.—A violation of this subsection or a reg-

25   ulation promulgated under this subsection shall

1 be treated as a violation of a regulation under
2 section 18(a)(1)(B) of the Federal Trade Com-
3 mission Act (15 U.S.C. 57a(a)(1)(B)) regarding
4 unfair or deceptive acts or practices.

5 (B) POWERS OF COMMISSION.—The Com-
6 mission shall enforce this subsection and the
7 regulations promulgated under this subsection
8 in the same manner, by the same means, and
9 with the same jurisdiction, powers, and duties
10 as though all applicable terms and provisions of
11 the Federal Trade Commission Act (15 U.S.C.
12 41 et seq.) were incorporated into and made a
13 part of this Act. Any person who violates such
14 subsection or a regulation promulgated under
15 such subsection shall be subject to the penalties
16 and entitled to the privileges and immunities
17 provided in the Federal Trade Commission Act.

18 (C) AUTHORITY PRESERVED.—Nothing in
19 this subsection may be construed to limit the
20 authority of the Commission under any other
21 provision of law.

22 (5) EFFECTIVE DATE.—Paragraphs (1) and (2)
23 of this subsection shall take effect on the date that
24 is 90 days after the date on which the regulations
25 promulgated under paragraph (3) take effect.

1 (6) SAFE HARBORS.—

2 (A) IN GENERAL.—A person who makes

3 available for use a generative artificial intel-

4 ligence application or a covered online platform

5 may satisfy the requirements of this subsection

6 (including regulations promulgated under this

7 subsection) by following self-regulatory guide-

8 lines that are approved by the Commission

9 under subparagraph (B).

10 (B) SELF-REGULATORY GUIDELINES.—

11 (i) INCENTIVES.—In promulgating

12 regulations under this subsection, the

13 Commission may provide incentives for

14 self-regulation.

15 (ii) DEEMED COMPLIANCE.—Incen-

16 tives described in clause (i) shall include

17 provisions for ensuring that a person will

18 be deemed to be in compliance with the re-

19 quirements of this subsection (including

20 regulations promulgated under this sub-

21 section) if that person complies with guide-

22 lines that, after provision of notice and an

23 opportunity for comment, are approved by

24 the Commission upon a determination that

25 such guidelines satisfy the requirements of

1 　　　this subsection (including regulations pro-

2 　　　mulgated under this subsection).

3 　　　　　(iii) EXPEDITED RESPONSE TO RE-

4 　　　QUESTS.—The Commission shall act upon

5 　　　a request for approval of guidelines under

6 　　　this paragraph not later than 180 days

7 　　　after the date on which such request is

8 　　　filed and shall set forth in writing conclu-

9 　　　sions with regard to such request.

10 　　　(C) APPEALS.—Final action by the Com-

11 　　mission on a request for approval of guidelines

12 　　under this paragraph, or the failure to act with-

13 　　in the time period described in subparagraph

14 　　(B)(iii), may be appealed to a district court of

15 　　the United States of appropriate jurisdiction as

16 　　provided for in section 706 of title 5, United

17 　　States Code.

18 　　(7) PRIVACY AND INTEROPERABILITY.—The

19 　Commission shall consider privacy concerns and the

20 　interoperability of standards when promulgating reg-

21 　ulations under paragraph (3) and considering the

22 　approval of guidelines under paragraph (6).

23 　(c) DEFINITIONS.—In this section:

1   (1) AUDIO OR VISUAL CONTENT.—The term
2   ''audio or visual content'' means content in the form
3   of a digital image, a video, or audio.

4   (2) COMMISSION.—The term ''Commission''
5   means the Federal Trade Commission.

6   (3) CONTENT PROVENANCE.—The term ''con-
7   tent provenance'' means the chronology of the origin
8   and history associated with digital content.

9   (4) COVERED ONLINE PLATFORM.—The term
10   ''covered online platform'' means a website, internet
11   application, or mobile application available to users
12   in the United States, including a social networking
13   site, video sharing service, search engine, or content
14   aggregation service available to users in the United
15   States, that—

16   (A) generates at least $50,000,000 in an-
17   nual revenue; or

18   (B) had at least 25,000,000 monthly active
19   users for not fewer than 3 of the preceding 12
20   months.

21   (5) DIGITAL FINGERPRINTING.—The term
22   ''digital fingerprinting'' means the process by which
23   an identifier is derived from a piece of digital con-
24   tent and stored in a database, for the purpose of

1 identifying, matching against, or verifying such con-

2 tent, or similar content, at a later date.

3 (6) GENERATIVE ARTIFICIAL INTELLIGENCE.—

4 The term "generative artificial intelligence" means

5 the class of models and algorithms that use deep

6 learning algorithms or other statistical techniques to

7 generate new data that has similar characteristics

8 and properties to the data with respect to which

9 such models and algorithms have been trained, in-

10 cluding any form of digital content.

11 (7) MACHINE-READABLE.—The term "machine-

12 readable" has the meaning given such term in sec-

13 tion 3502 of title 44, United States Code.

14 (8) METADATA.—The term "metadata" has the

15 meaning given such term in section 3502 of title 44,

16 United States Code.

17 (9) WATERMARKING.—The term

18 "watermarking" means the act of embedding tam-

19 per-resistant information into digital content (per-

20 ceptibly or imperceptibly) which may be used to es-

21 tablish some aspect or aspects of the content prove-

22 nance of the content or to store reference informa-

23 tion.

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