

January 24, 2024

The Honorable Antony Blinken
Secretary
U.S. Department of State
2201 C St., NW
Washington, DC 20520

Dear Secretary Blinken,

We write to strongly recommend against the inclusion of binding standards for private industry in the AI treaty currently being drafted by the Council of Europe. As US lawmakers debate the rules of the road for AI development domestically, and as the EU begins implementation of discriminatory tech legislation targeting US companies, relinquishing the US's regulatory authority to an unelected European body would jeopardize the United States' political and economic leadership in the burgeoning field of AI.

Just a year after the launch of popular generative AI tools online, US lawmakers are presently debating the legal framework and standards that will guide AI development domestically. During the current session of Congress, lawmakers have held dozens of hearings and introduced hundreds of bills proposing a range of regulatory models and legal safeguards to govern the use of artificial intelligence in the United States.¹

State lawmakers, too, have put their stamp on the debate over AI regulation. Over 170 bills on artificial intelligence are currently under consideration in state legislatures,² and governors have put forward their own ideas on how to regulate the growing industry.³

As elected officials here in the United States debate the legislative approach our country should take to regulating AI development in the private sector, handing the regulatory reins to a European body in this unsettled area of law would be both reckless and restrictive for US lawmakers interested in seeing our country lead on AI.

As the White House and executive agencies work to implement President Biden's historic AI Executive Order, and as America's private sector works to comply with the White House's voluntary commitments, a new European treaty with binding requirements for America's private sector also risks significant misalignment. Because of White House efforts, leading AI companies have already pledged to put new AI systems through outside testing before they are publicly released and to clearly label AI-generated content.⁴ Stacking potentially conflicting and

¹<https://medium.com/chamber-of-progress/we-used-ai-to-analyze-congressional-hearings-on-ai-heres-what-we-learned-b8da29100aca>

²<https://pluribusnews.com/news-and-events/hundreds-of-ai-bills-queued-for-2024/>

³<https://news.bloomberglaw.com/artificial-intelligence/california-tech-dominance-challenged-by-ai-initiative-s-in-ny-nj>

⁴<https://www.cnn.com/2023/07/21/politics/white-house-artificial-intelligence/index.html>

obligatory commitments on top of those efforts could derail the progress that President Biden has already made to erect safeguards for this fast-moving industry.

In addition to tying the hands of US lawmakers, ceding regulatory authority over private-sector AI development to the Council of Europe risks additional discriminatory treatment from European states towards America's tech sector. Over the past year, the EU's implementation of legislation including the Digital Markets Act (DMA) has highlighted the readiness of European lawmakers to single out American firms for regulation in order to create room for the growth of European competitors.

Last year, the European Commission published a list of the six "gatekeeper" companies that meet the criteria for regulation under the DMA. Of the six listed companies singled out for regulation by the EU, five are American tech firms and zero are European.⁵ Together, the five US companies targeted under the DMA are investing over \$60 billion annually in R&D, including in quantum computing and other emerging technologies that are central to US leadership. By imposing rules on their services but not those of foreign competitors, the DMA effectively mandates that top US firms offer products to consumers that are less secure, less useful, and less innovative than rival products from foreign tech companies.

At the risk of encouraging yet another round of discriminatory regulations targeting America's private sector, we urge you not to endorse the inclusion of binding private sector requirements in the Council of Europe's forthcoming convention on artificial intelligence. With US lawmakers still hotly debating the regulatory approach that will best protect consumers and encourage innovation, decisions on a new legal framework for the development and use of AI in the private sector are best left to elected leaders here at home.

Sincerely,

Chamber of Progress
Developers Alliance
SIIA

⁵https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4328