TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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May 25, 2023

Senator John Hickenlooper
Chair
Subcommittee on Consumer
Protection, Product Safety,
and Data Security

Senator Marsha Blackburn
Ranking Member
Subcommittee on Consumer
Protection, Product Safety,
and Data Security

Dear Chair Hickenlooper and Ranking Member Blackburn,

Thank you for your letter on April 19 regarding how our member companies are
utilizing the National Institute for Standards and Technology's Artificial Intelligence
Risk Management Framework (NIST AI RMF). Our members represent many of the
leading artificial intelligence (AI) developers, researchers, and deployers of
automated systems.

TechNet is the national, bipartisan network of technology CEOs and senior
executives that promotes the growth of the innovation economy by advocating a
targeted policy agenda at the federal and 50-state level. TechNet's diverse
membership includes dynamic American businesses ranging from startups to the
most iconic companies on the planet and represents more than five million
employees and countless customers in the fields of information technology, e-
commerce, the sharing and gig economies, advanced energy, cybersecurity,
venture capital, and finance.

AI and machine learning (ML) are transformational technologies that have the
potential to revolutionize how we live and work and help us solve the most
significant challenges of our time. AI and ML can enhance productivity,
democratize and expand access to important services, and improve product
innovation.

North America currently leads the global AI market — in 2021, the global AI
industry was valued at $59.67 billion, and North America accounted for about 43
percent of overall global revenue.[1] However, our international competitors are
working quickly to overtake our lead; spending in China's AI industry is forecast to

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[1] PR Newswire. "$422.37+ Billion Global Artificial Intelligence (AI) Market Size Likely to Grow at 39.4% CAGR
During 2022-2028 | Industry." Bloomberg.Com. June 27, 2022. https://www.bloomberg.com/press-releases/2022-
06-27/-422-37-billion-global-artificial-intelligence-ai-market-size-likely-to-grow-at-39-4-cagr-during-2022-2028-
industry.

hit $14.75 billion in 2023, accounting for about 10% of the world total.[2] China also currently leads in AI adoption, with 58% of companies deploying AI and 30% considering integration. In comparison, the United States has less than half this adoption rate, with 25% of companies utilizing AI and 43% exploring its potential applications. Industry and government must work together to ensure our nation remains the global technology leader.

TechNet believes that AI innovation must be designed, developed, and implemented responsibly and in a way that allows us to maintain our lead on innovation and shows consumers that AI systems are trustworthy. Concerns related to privacy, transparency, data veracity, bias, security, and workforce must be considered. Developers of AI systems are working to ensure appropriate oversight and accountability; assess the need for improvements and ensure safety, fairness, and trustworthiness; protect against malicious activity; and address flawed data sets or assumptions. The NIST AI RMF supports AI developers and other stakeholders in this effort by providing a risk-based, voluntary approach to incorporate trustworthiness and accountability considerations into the entire lifecycle of an AI system. In addition, the NIST AI RMF appropriately recognizes that AI use cases and their levels of risk vary significantly.

The NIST AI RMF was developed in collaboration with key AI researchers, developers, and the broader technology industry — this has been key to its positive reviews and expected wide adoption. This partnership ultimately led to a strong and forward-looking document. We advise that any future AI regulations or standards incorporate the NIST AI RMF as a model for policy development.

Further, TechNet appreciates NIST's launch of the Trustworthy and Responsible AI Resource Center to support AI developers and users in implementing the AI RMF and the development of trustworthy and responsible AI technologies.

NIST's AI resources, and the AI RMF in particular, can support American AI actors and policymakers by providing a central database of regulations regarding AI. While the 'Govern' pillar of the AI RMF mentions the need for "legal and regulatory requirements involving AI [to be] understood, managed, and documented," it does not provide a repository of those regulatory requirements. We understand that the authors wanted to be neutral and provide flexibility for international applications; however, examples of U.S. requirements or best practices to consider would be a helpful resource for smaller and medium-sized AI developers. It would also be useful for NIST, or another appropriate agency, to host a central reference of existing and ongoing federal research into AI best practices. This, again, can help streamline best practice adoption to AI actors of all sizes.

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[2] Carreon, Miguel, and Michael De La Cruz. "According to IDC'S Forecast, China's AI Market to Exceed US$26 Billion by 2026, Hardware to Make Up 56% of Market." International Data Corporation. May 18, 2023. https://www.idc.com/getdoc.jsp?containerId=prAP50688623.

TechNet supports active upskilling to best utilize human and AI resources. Many companies are already seeing the importance of incorporating AI systems into their business, with three out of four C-suite executives believing that if they don't scale AI in the next five years, they risk going out of business entirely.[3] Accordingly, demand for AI-related professional skills is growing across nearly every sector of the economy.[4] We encourage the promotion and growth of training and workforce development programs to prepare employees for roles requiring human-AI collaboration.

We want to take this opportunity also to highlight the need for a federal privacy law. The passage of federal consumer data privacy law should precede AI-focused legislation, as privacy legislation would apply to and mitigate some risks to consumers stemming from using AI systems. A federal privacy law will help consumers understand their rights to the data used to inform automated systems and will assist developers in knowing their liability when managing large datasets.

TechNet has long urged policymakers on Capitol Hill to craft a federal privacy law that protects consumers and provides businesses with certainty about their responsibilities. The current and growing landscape of state privacy laws has created a patchwork of laws, standards, and obligations that confuse consumers and hurt our nation's innovators, especially our small and medium-sized businesses. Costs from 50 state privacy laws could exceed $1 trillion over ten years, with at least $200 billion hitting small businesses.[5] A federal privacy law will help consumers better understand their privacy rights and avoid the confusion resulting from differing policies state-to-state.

Congressional action is the best approach to crafting federal privacy rules because Congress can expressly preempt state laws and ensure that authorities with relevant expertise are responsible for enforcement. This is also an issue of bipartisan interest; a *Morning Consult* survey found that 86 percent of Democrats and 81 percent of Republicans said Congress should make privacy a "top" or "important" priority.[6] TechNet is pleased that Congress has recently demonstrated a willingness to address this challenge and is making real progress in crafting bipartisan federal privacy legislation. We are hopeful this momentum continues and culminates in a uniform, coherent national privacy framework.

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[3] Reilly, Athena, Joe Depa, and Greg Douglass. "AI: Built to Scale." Accenture. November 14, 2019. https://www.accenture.com/us-en/insights/artificial-intelligence/ai-investments.
[4] Nestor Maslej, Loredana Fattorini, Erik Brynjolfsson, John Etchemendy, Katrina Ligett, Terah Lyons, James Manyika, Helen Ngo, Juan Carlos Niebles, Vanessa Parli, Yoav Shoham, Russell Wald, Jack Clark, and Raymond Perrault, "The AI Index 2023 Annual Report," AI Index Steering Committee, Institute for Human-Centered AI, Stanford University, Stanford, CA, April 2023.
[5] Castro, Daniel, Luke Dascoli, and Gillian Diebold. "The Looming Cost of a Patchwork of State Privacy Laws." Information Technology and Innovation Foundation. January 24, 2022. https://itif.org/publications/2022/01/24/looming-cost-patchwork-state-privacy-laws/.
[6] Sabin, Sam. "States Are Moving on Privacy Bills. Over 4 in 5 Voters Want Congress to Prioritize Protection of Online Data." Morning Consult. April 27, 2021. https://morningconsult.com/2021/04/27/state-privacy-congress-priority-poll/?mkt_tok=ODUwLVRBQS01MTEAAAF8tGX5mckivVTqDBnO2P6uk8SwNzpikG6iODLZhMUSXoCz_rBTKebgwsCEXL0Ix0rfXmhJBFrFEj02zoCiQuwy_kXz5hl02m-CJADuAAR7j8c.

Finally, TechNet members want to stress that the federal government should avoid blanket prohibitions and overly prescriptive requirements on AI, ML, or other forms of automated decision-making. With the increased interest in AI due to the popularity of public generative AI systems, there has been a discussion of policies that would inhibit the United States' ability to continue leading in this important technology. These suggestions have included a proposal to place a six-month ban on AI development,[7] which would merely lend additional time to our foreign competitors to gain an advantage over American AI development. Any restrictions on automated decisions should be risk-based and focused on responding effectively to specific actual harms while allowing for advancements in technology and innovation. A risk-based regulation allows for application across industries and will help future-proof policies as this technology continues to develop. We also want to emphasize that many existing anti-discrimination laws apply to AI models in important areas, including housing, employment, and financial services (i.e., the *Fair Housing Act*, Title VII of the *Civil Rights Act of 1964*, and the *Equal Credit Opportunity Act*). Additional oversight in these areas would be unnecessarily duplicative and may create inconsistent or conflicting standards.

We look forward to working with you on AI policy and appreciate the opportunity to discuss this innovative technology. Thank you for your consideration of our perspective on this important issue.

Sincerely,

Linda Moore
President and CEO

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[7] Future of Life Institute. "Pause Giant AI Experiments: An Open Letter." Future of Life Institute. March 22, 2023. https://futureoflife.org/open-letter/pause-giant-ai-experiments/.