



October 17, 2024

Civil Rights Department
c/o Rachael Langston, Assistant Chief Counsel
555 12th Street – Suite 2050
Oakland, CA 9460
Council@calcivilrights.ca.gov

Re: First Modifications to Initial Text of Proposed Modifications to Employment Regulations Regarding Automated-Decision Systems ¹

The U.S. Chamber of Commerce (“Chamber”) appreciates the opportunity to provide further feedback on the California Civil Rights Council's (“CCRC” or “Council”) First Modifications to the Initial Text of Proposed Modifications to Employment Regulations Regarding Automated-Decision Systems. We have strong concerns with the Council's rushed process to adopt the proposed rules, as the Council has only provided thirteen days for stakeholders to review the proposed modifications and assess the impact of such changes before the Council's meeting². For this reason, the business community is unable to provide adequate responsive feedback on the modifications. However, the Chamber provides the following general feedback based on our previous correspondence.

The Chamber continues to be concerned with the direction of the proposed regulations, as the recent changes do not address the concerns and questions that the Chamber highlighted in our comments³ to the Council proposal submitted to the Council on July 18, 2024. These concerns include the following deficiencies in the Council's rulemaking approach:

¹ California Civil Rights Department, First Modifications to Proposed Modifications to Employment Regulations Regarding Automated Decision Systems (Oct. 2024), <https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2024/10/Attachment-B-First-Modifications-to-Proposed-Modifications-to-Employment-Regulations-Regarding-Automated-Decision-Systems.pdf>.

² California Civil Rights Department, Notice and Agenda for Oct. 17, 2024, CRC Meeting, <https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2024/10/Notice-and-Agenda-for-2024.10.17-CRC-Meeting.pdf>.

³ U.S. Chamber of Commerce, Comments on California Civil Rights Council AI Proposal, <https://www.uschamber.com/technology/artificial-intelligence/u-s-chamber-comments-on-california-civil-rights-council-ai-proposal>.

- Lacking clarity on its legal authority to expand the scope of regulations without expressed legislative authorization to do so;
- Failing to conduct the necessary fiscal and economic analysis around the proposed modifications before further promulgation activity and
- Ignoring stakeholder concerns regarding the possible exponential increase in litigation towards vendors and developers of automated tools.

For this reason, the Chamber believes that the Council should not take any further action on the proposed regulations until it has addressed the concerns we highlighted in our comments to the Council earlier this year.

Conclusion

The Chamber continues to highlight our concerns with the California Civil Rights Council moving forward with promulgating modifications without addressing the business community's concerns. Without fully undertaking these steps in the process, the proposed regulations could impose significant, disproportionate costs on innovation and not survive legal challenges, leaving the business community without necessary certainty. We believe until these matters are fully addressed, that CCRC should stop any further movement of the proposed rules.

Sincerely,

A handwritten signature in black ink that reads "Michael Richards". The signature is written in a cursive, slightly slanted style.

Michael Richards
Senior Director
Chamber Technology Engagement Center
U.S. Chamber of Commerce