



October 6, 2022

The Honorable Robert White, Jr.
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 107
Washington, DC 20004

Re: B24-0558 - Stop Discrimination by Algorithms Act of 2021

Dear Chairman White:

My name is Michael Richards, and I am a Policy Director at the U.S Chamber of Commerce's Technology Engagement Center (C_TEC). C_TEC is the tech hub within the U.S. Chamber, where we work with the business community to review and analyze the impact of legislative proposals, advocate for policies that provide certainty to businesses, and help craft solutions to many of the most pressing issues facing businesses and communities across the country.

In my testimony today, I will give more context to the current federal and international landscape on A.I. (Artificial Intelligence) Policy, how the Chamber and the business community at large are leading in this space, and why it is in the interest of the D.C. council *not* to move forward with this legislation. Due to the legislation's impact on businesses of sizes and sectors, including small businesses, it is essential to understand the complexities being discussed abroad and here at the federal level.

A.I. has become an essential tool for small businesses. C_TEC just last month put out a report which found that technology platforms, many of which rely on AI, played a critical role in helping small business owners in the U.S. survive recent economic turbulence. Small businesses that fully embrace technology are both outcompeting their peers and are more optimistic about the future, despite continued headwinds. A few of the major highlights of that report are the following:

- 93% of small businesses are using at least one technology platform.¹
- When small businesses use technology, they contribute \$17.7 trillion to the U.S. economy.²

¹ <https://americaninnovators.com/wp-content/uploads/2022/08/Empowering-Small-Business-The-Impact-of-Technology-on-U.S.-Small-Business.pdf>

² <https://americaninnovators.com/wp-content/uploads/2022/08/Empowering-Small-Business-The-Impact-of-Technology-on-U.S.-Small-Business.pdf>

- 86% of small businesses say technology helped their business survive during COVID.³
- 63% of small businesses plan to use the most advanced tech, from A.I. to V.R.⁴

The U.S. Small Business Administration has determined that the District of Columbia has 79,814 small businesses,⁵ which makes up 98.2% of D.C. businesses.⁶ Sadly, the legislation we are here to discuss would disproportionately impact these small businesses, as they would be left to cover the increase in compliance costs and legal fees associated with this legislation. At a time when our small business community is continuing to weather turbulent economic conditions, from unprecedented increases in inflation to worker shortages, any legislation that would significantly impact the small business community should be thoroughly thought through and developed in partnership with all stakeholders. Therefore, we recommend waiting for other work streams to be finalized on the domestic and international stages before moving forward.

So, what are these other workstreams?

Within the federal government, the National Institutes of Science and Technology is diligently working to develop an A.I. Risk Management Framework. This framework's first iteration will be finalized in January of 2023.⁷ The framework “is intended for voluntary use to improve the ability to incorporate trustworthiness considerations into the design, development, use, and evaluation of A.I. products, services, and systems.”⁸ Furthermore, I believe the Council would be interested to know that NIST (National Institute of Standards and Technology) is also developing a set of best practices to help “adopt a comprehensive socio-technical approach to testing, evaluation, verification, and validation (TEVV) of A.I. systems.”⁹ Specifically, this approach would look to connect the technology to societal values to develop guidance for recommended practices in deploying automated decision-making supported by AI/ML systems in a sector of the industry. NIST's first review looks at “credit underwriting” and subsequently looks to develop other sector-specific best practices.

Also underway are efforts at the FTC (Federal Trade Commission) and the Department of Commerce to implement the American COMPETE ACT, led by

³ <https://americaninnovators.com/wp-content/uploads/2022/08/Empowering-Small-Business-The-Impact-of-Technology-on-U.S.-Small-Business.pdf>

⁴ <https://americaninnovators.com/wp-content/uploads/2022/08/Empowering-Small-Business-The-Impact-of-Technology-on-U.S.-Small-Business.pdf>

⁵ <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30141324/Small-Business-Economic-Profile-DC.pdf>

⁶ <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30141324/Small-Business-Economic-Profile-DC.pdf>

⁷ <https://www.nist.gov/itl/ai-risk-management-framework>

⁸ <https://www.nist.gov/itl/ai-risk-management-framework>

⁹ <https://www.nccoe.nist.gov/sites/default/files/2022-08/ai-bias-mitigation-project-description-draft.pdf>

Congressman Bobby Rush and Representative Cathy McMorris Rodgers which was signed into law this year. “The law looks at many different emerging technologies. It requires the FTC and the Department of Commerce to thoroughly analyze current standards, guidelines, and policies regarding A.I. implemented by each government agency and industry-based bodies. This critical assessment will provide lawmakers with a comprehensive and baseline understanding of relevant regulations that are already in place.”¹⁰

On the international stage, we see efforts to develop rules and regulations on A.I. Specifically, Europe is diligently working to establish its EU AI (Artificial Intelligence) ACT. This legislation has taken European lawmakers over two years to draft, and this initial draft currently has over 4,000 amendments. This illustrates how complex of an issue this is and the importance of any governing body taking the necessary time to receive input and analysis and to have a constructive dialogue about the pros and cons of any such regulation.

Finally, I want to highlight that we at the U.S. Chamber and within the broader business community understand the concerns regarding the potential negative externalities that A.I. and other Automated Decision Systems could have. Therefore, the Chamber has been proactively working to address these issues by launching the U.S. Chamber A.I. Commission on global competitiveness, inclusion, and innovation.¹¹ This Commission is compiled with representatives from the business community, academia, and think tanks to address three core issues. First, how do we regulate A.I., how do we prepare the workforce of tomorrow, and finally, how do we ensure that the U.S. stays at the leading edge of the advancement of technology. The Commission has spent countless hours listening to expert testimony from representatives from the ACLU¹² to the Teamsters,¹³ small businesses, community colleges,¹⁴ and many others on how we can address these issues.¹⁵ The report will be coming out at the beginning of next year, and the recommendations from that report will be a consensus-driven set of policy recommendations to Congress, government agencies, and state and local leaders such as yourselves on how to preserve our innovation economy while implementing guardrails to mitigate potential risks. These recommendations, being bipartisan and consensus-driven by all stakeholders, will allow lawmakers to move the ball forward in a thoughtful and balanced manner. Those who understand that the only way to provide a lasting impact is through working together will understand the importance of this work, and we look forward to sharing these recommendations with all stakeholders next year.

¹⁰ <https://www.dataguidance.com/opinion/usa-ai-development-and-regulatory-initiatives>

¹¹ <https://www.uschamber.com/major-initiative/artificial-intelligence-commission>

¹² <https://americaninnovators.com/wp-content/uploads/2022/06/PaloAltoTranscriptDL.pdf>

¹³ <https://americaninnovators.com/wp-content/uploads/2022/06/PaloAltoTranscriptDL.pdf>

¹⁴ <https://americaninnovators.com/wp-content/uploads/2022/05/CLEVELANDHEARINGTRANSCRIPT.pdf>

¹⁵ <https://americaninnovators.com/aicommission/>

In conclusion, international and domestic workstreams, as well as the business community's efforts, are all diligently working to develop thoughtful solutions to help mitigate many of these issues. We strongly advise the Council *not* to move forward with this legislative proposal until these workstreams are finalized and provide the necessary answers around how we can strike the right balance between mitigating issues and concerns with AI technology, while providing a powerful and essential tool to allow our small businesses community to thrive.

Sincerely,

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

Director
Chamber Technology Engagement Center
U.S. Chamber of Commerce