

July 4, 2018

Mr. Michael Kratsios, Deputy U.S. Chief Technology Officer
Office of Science and Technology Policy
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue
Washington, DC 20504

Re: Petition to OSTP for Request for Information on Artificial Intelligence Policy

Dear Mr. Kratsios:

The undersigned technical experts, legal scholars, and affiliated organizations formally request that the Office of Science and Technology Policy (“OSTP”) undertake a Request for Information (“RFI”) and solicit public comments so as to encourage meaningful public participation in the development of the nation’s policy for Artificial Intelligence.¹ This request follows from the recent establishment of a Select Committee on Artificial Intelligence and a similar OSTP RFI that occurred in 2016.²

On May 10, 2018 the White House held a summit on “Artificial Intelligence for American Industry.”³ According to the OSTP summary report, the participants discussed “the promise of [artificial intelligence] and the policies we will need to realize that promise for the American people and maintain U.S leadership in the age of artificial intelligence.”⁴ However, the meeting was not open to the public and many critical issues in the AI-field were not discussed.

¹ The people have the right to “to petition the government for a redress of grievances.” 1st Amd., U.S. Const.; 42 USC § 6617 (a)(2) (2014) (describing the obligation of the Director of OSTP to “consult with State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable.”)

² Office of Science and Technology Policy, *Summary of the White House Summit on Artificial Intelligence for American Industry*, Appendix A (May 10, 2018) [hereinafter *AI Select Committee Charter*], <https://www.whitehouse.gov/wp-content/uploads/2018/05/Summary-Report-of-White-House-AI-Summit.pdf>; OSTP, *Public Input and Next Steps on the Future of Artificial Intelligence* (Sept. 6, 2016), <https://obamawhitehouse.archives.gov/blog/2016/09/06/public-input-and-next-steps-future-artificial-intelligence> (2016 Request for Information on Future of AI)

³ Office of Science and Technology Policy, *Summary of the White House Summit on Artificial Intelligence for American Industry*, (May 10, 2018) [hereinafter *White House AI Summit Summary*], <https://www.whitehouse.gov/wp-content/uploads/2018/05/Summary-Report-of-White-House-AI-Summit.pdf>.

⁴ *Id.* at 2.

For example, the words “accountability,” “transparency,” “ethics,” and “fairness” do not appear in the report of the White House AI summit.⁵ The only reference to “privacy” is an assurance that personal data can be opened to research without compromising privacy. There is a similar assurance about public safety.⁶

At the summit, the White House also announced the creation of the Select Committee on Artificial Intelligence.⁷ According to the charter, the Select Committee will:

address significant national and international policy matters that cut across agency boundaries and shall provide a formal mechanism for interagency policy coordination and the development of Federal artificial intelligence activities, including those related to autonomous systems, biometric identification, computer vision, human-computer interactions, machine learning, natural language processing, and robotics.⁸

Despite the broad social implications of these topics, the Charter identifies only the “private sector” as a source of advice. The first meeting of the Select Committee took place on June 27, 2018. That meeting was also closed to the public. And like the White House Summit there is no indication that issues such as like accountability, transparency, ethics, or fairness were discussed.⁹ Two points from the readout also raised new concerns, such policies to “better leverage federal data” – will that include personal data subject to Privacy Act protections? -- and a proposal to “standup the Joint Artificial Intelligence Center’ (JAIC) in order to enable teams across DOD to swiftly deliver new AI-enabled capabilities” – does that mean the development of autonomous weapons systems? Unless the channels of public input are formally broadened and deepened substantially, the Select Committee will fail to understand and mitigate the risks of AI deployment.

Several professional organizations have developed significant policy frameworks to help policymakers understand and assess AI technology. For example, the U.S. Public Policy Council of the Association for Computing Machinery’s (“USACM”) Statement on Algorithmic Transparency and Accountability states that, “the ubiquity of algorithms in our everyday lives is an important reason to focus on addressing challenges associated with the design and technical

⁵ *Id.*

⁶ *Id.* at 10.

⁷ Office of Science and Technology Policy, *Summary of the White House Summit on Artificial Intelligence for American Industry*, Appendix A (May 10, 2018) [hereinafter *AI Select Committee Charter*], <https://www.whitehouse.gov/wp-content/uploads/2018/05/Summary-Report-of-White-House-AI-Summit.pdf>.

⁸ *Id.* at 1.

⁹ Office of Science and Technology Policy, *Readout From the Inaugural Meeting of the Select Committee on Artificial Intelligence* (June 27, 2018), available at <https://epic.org/privacy/ai/WH-AI-Select-Committee-First-Meeting.pdf>.

aspects of algorithms and preventing bias from the onset.”¹⁰ The IEEE-USA stated in 2017 that, “Effective AI public policies and government regulations are needed to promote safety, privacy, intellectual property rights, and cybersecurity, as well as to enable the public to understand the potential impact of AI on society.”¹¹ We note also that the European Commission recently appointed 52 experts to a new High Level Group on Artificial Intelligence, with broad representation from academia, business, and civil society.¹² The group will examine “issues such as fairness, safety, transparency, the future of work, and more broadly the impact on upholding fundamental rights, including privacy and personal data protection, dignity, consumer protection and non-discrimination.”¹³

OSTP’s primary function is to advise on “scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.”¹⁴ OSTP is also required to advise the President of “scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, homeland security, health, foreign relations, the environment, and the technological recovery and use of resources” and “evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions.”¹⁵ In carrying out these functions, the Director of OSTP shall “to the extent practicable, consult with . . . such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable[.]”¹⁶

The OSTP has a well established process for soliciting public comments: the Request for Information. The Administration recently undertook an RFI to seek “input from the public on ways to improve government coordination and on long-term guidance for Federal programs and activities in support of United States manufacturing competitiveness, including advanced manufacturing research and development that will create jobs, grow the economy across multiple industrial sectors, strengthen national security, and improve healthcare.”¹⁷

The reach of AI is so vast, so important, and encompasses so many issues, it is imperative that the Administration provide the American public the opportunity to comment on proposed policy initiatives impacting the American public. AI has the potential to improve our society, but only if proper policies are in place to provide the guidance needed to address the potential risks

¹⁰ See, U.S. Public Policy Council of the Association for Computing Machinery, *Statement on Algorithmic Transparency and Accountability* (Jan. 2017), https://www.acm.org/binaries/content/assets/.../2017_usacm_statement_algorithms.pdf.

¹¹ IEEE-USA, *Artificial Intelligence Research, Development and Regulation* (Feb. 10, 2017), <http://globalpolicy.ieee.org/wp-content/uploads/2017/10/IEEE17003.pdf>.

¹² European Commission, *Commission appoints expert group on AI and launches the European AI Alliance* (June 14, 2018), <https://ec.europa.eu/digital-single-market/en/news/commission-appoints-expert-group-ai-and-launches-european-ai-alliance>.

¹³ *Id.*

¹⁴ Functions of the Director, 42 USC § 6613 (a) (2014).

¹⁵ *Id.* § 6613 (b)(1)-(2).

¹⁶ Coordination with Other Organizations, 42 USC § 6617 (a)(2) (2014).

¹⁷ *National Strategic Plan for Advanced Manufacturing*, 83 Fed. Reg. 5147 (Feb. 5, 2018).

that accompany the potential benefits. The Select Committee needs to provide answers to specific challenges concerning privacy, public safety, transparency, and accountability.

We therefore urge the OSTP to issue a Request for Information to seek comments from the public and to incorporate the concerns and opinions of those whose lives will inevitably be impacted by the growing use of AI technologies.

The OSTP should consider a broad range of AI issues, including but not limited to:

- (1) What potential harms arise from the use of AI and how are these risks currently addressed?
- (2) What are the legal frameworks currently governing AI, and are they adequate?
- (3) How could companies and government agencies be more transparent in the use of AI?
- (4) What technical measures could promote the benefits of AI while minimizing the risks?
- (5) What experience have other countries had trying to address the challenges of AI?
- (6) What future trends concerning AI could inform the current discussion?

The public should be given the opportunity to contribute to the Select Committee's efforts related to AI policy. We urge you to begin the public comment process as soon as possible.

Sincerely,

Organizations:

Electronic Privacy Information Center (EPIC)

American Association for the Advancement of Science (AAAS)

U.S. Technology Policy Committee of the Association for Computing Machinery (USACM)

Data & Society Research Institute

Federation of American Scientists (FAS)

IEEE-USA

Individuals:

Dr. Sidney C. Bailin, President, Knowledge Evolution, Inc.

Assistant Professor Solon Barocas, co-founder of Fairness, Accountability, and Transparency in Machine Learning

Professor Ann Bartow, University of New Hampshire School of Law

Dr. danah boyd, Microsoft Research and Data & Society

Professor Dan L. Burk, University of California, Irvine

Dr. Vinay K. Chaudhri, Visiting Researcher, Stanford University

Assistant Professor Alexandra Chouldechova, Carnegie Mellon University

Professor Ralph D. Clifford, University of Massachusetts School of Law

Dennis W. Cooper, Member of ACM

Simon Davies, Founder, Privacy International

Professor Marie desJardins, Dean of the College of Organizational, Computational, and Information Sciences, Simmons College

Fernando Diaz, Principal Research Manager at Microsoft Research

Stanley Dodds, University of Hawaii

Professor Laura K. Donohue, Georgetown Law

Professor David Farber, Carnegie Mellon University

Assistant Professor Mark A. Finlayson, Florida International University

Addison Fischer

Jessica Fjeld, Acting Assistant Director, Harvard Law School's Cyberlaw Clinic

Professor Kenneth D. Forbus, Northwestern University

Eric E. Fortunato, Member of ACM Special Interest Group on AI

Professor Susan Fox, Macalester College

Professor A. Michael Froomkin, U. Miami School of Law

Professor Maria Gini, University of Minnesota

Professor Ellen P. Goodman, Rutgers University Law School

Joseph Lorenzo Hall, Chief Technologist, Center for Democracy & Technology

Mina Hanna, Chair, IEEE-USA AI & AS Policy Committee

Professor Woodrow Hartzog, Northeastern University

Barbara Helfer, Senior Software Systems Manager, Immersion Corporation

Professor James Hendler, Rensselaer Polytechnic Institute

Dr. Steve O. Hernandez, Chief Technology Officer, PetMio, Inc.

Professor Harry Hochheiser, University of Pittsburgh

Dr. Rush Holt, CEO, AAAS

Professor Michael N. Huhns, University of South Carolina

Jeff Jonas, founder and CEO Senzing

Professor Douglas W. Jones, University of Iowa

Professor Emeritus Ethan Katsh, Director, National Center for Technology and Dispute Resolution

Dr. Lorraine G. Kisselburgh, Purdue University

Chris Larsen

Ho John Lee

David S. Levine, Elon Law and Stanford Center for Internet and Society

Professor Harry Lewis, Harvard University

Dr. Naicong Li, Member of ACM Special Interest Group on AI

Kristian Lum, Lead Statistician, Human Rights Data Analysis Group

Professor Anna Lysyanskaya, Brown University

Dr. Michael Manthey

Dr. Thomas W. Mastaglio, Chairman, MYMIC

Dr. Larry Medsker, Research Professor, George Washington University

Assistant Professor Anne Toomey McKenna, Pennsylvania State University

Professor Jennifer L. Mnookin, Dean, UCLA School of Law

Dr. Pablo Molina, Georgetown University

Dr. John Murray, General Partner, Calidris Partners

Professor Ira Steven Nathenson, St. Thomas University School of Law

Dr. Peter G. Neumann

Professor Helen Nissenbaum, Cornell Tech

Dr. Ali Nouri

Professor Frank Pasquale, University of Maryland Carey School of Law

Professor Mark R. Patterson, Fordham University School of Law

Garry M. Paxinos, member of USACM

Dr. Deborah C. Peel, Founder & President, Patient Privacy Rights

Dr. Stephanie Perrin, President, Digital Discretion

Dr. Kester Quist-Aphetsi, IETF Fellow

James F. Rosencrans, Member of IEEE

Professor Paul S. Rosenbloom, University of Southern California

Dan Rubins, Co-founder & CEO of Legal Robot

Associate Professor Michael R. Scheessele, Indiana University South Bend

Bruce Schneier, Harvard Kennedy School

Professor Lenhart Schubert, University of Rochester

Professor Evan Selinger, Rochester Institute of Technology

Jonathan Shapiro, School of Computer Science, University of Manchester

Dr. Stuart Shapiro, Chair, USACM Technology Policy Committee

Dr. Barbara Simons, IBM Research (retired)

Professor Ben Shneiderman, University of Maryland

Oliver Smoot, Executive Vice President, Information Technology Industry Association (retired)

Dr. David G. Stork, Officer ACM Special Interest Group in Artificial Intelligence

Professor Nadine Strossen, New York Law School

Professor Emeritus Frank Tuerkheimer, University of Wisconsin Law School

Professor Sherry Turkle, MIT

Professor Suresh Venkatasubramanian, University of Utah

Edward G. Vitz

Professor Jim Waldo, Chief Technology Officer, Harvard University

Professor Jonathan Weinberg, Wayne State University

Assistant Professor Christo Wilson, Northeastern University

Professor Don Winiecki, Boise State University

Christopher Wolf, Founder, Future of Privacy Forum

Professor Emerita Shoshana Zuboff, Harvard Business School

(affiliations for identification only)