



The Honorable Rebecca Bauer-Kahan
Chair, Assembly Privacy and Consumer Protection Committee
1020 N Street, Room 162
Sacramento, CA 95814

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

June 20, 2024

Dear Senator Wiener,

We, the undersigned Y Combinator¹ founders, represent companies that are incorporating large language models (LLMs) into our products and services. The overwhelming majority of us not only have operations in California but are based here. We are all witnessing firsthand how transformative this exciting but nascent technology has been in producing innovative solutions that improve efficiency, enhance user experiences, and unlock new opportunities across various industries. The potential for LLMs to drive economic growth, foster creativity, and address complex challenges is immense, yet we are still in the early days of understanding and harnessing this technology. We acknowledge the recent amendments to SB 1047 and appreciate the efforts to incorporate feedback from various stakeholders. While these changes show a willingness to engage in dialogue, our core concerns about the bill's potential impact on innovation and California's tech economy remain.

We have carefully followed the progression of SB 1047, the Safe and Secure Innovation for Frontier Artificial Intelligence Models Act. We acknowledge and appreciate the well-meaning efforts to ensure AI's safe and ethical development, in particular potential for the establishment of CalCompute and language within the bill designed to curb noncompetitive activity. Nevertheless, the bill could inadvertently threaten the vibrancy of California's technology economy and undermine competition.

¹ Y Combinator (YC) is a startup accelerator based in San Francisco that nurtures California's next generation of innovators. Since 2005, YC has helped over 5,000 early-stage startups take their first steps, with many growing into job-creating engines for our state. Unlike big tech, YC focuses on supporting small teams with big ideas, often just two or three founders working to solve important problems. The program attracts diverse, entrepreneurial talent to California, as accepted founders relocate here to participate. YC's community of 11,000+ founders represents a vibrant ecosystem of small, agile companies driving innovation across various sectors crucial to California's future, from climate tech to healthcare. Many household names like Dropbox and Stripe were once tiny YC startups, showcasing the potential for homegrown California businesses to make a global impact.

Governor Newsom recently said California should not "over-regulate" AI to avoid a "perilous position." That could happen here over several significant issues in the bill. Specifically, we remain most concerned about these aspects of the bill:

1. Liability and regulation that is unusual in its burdens:

The responsibility for the misuse of LLMs should rest with those who abuse these tools, not with the developers who create them. Developers often cannot predict all possible applications of their models, and holding them liable for unintended misuse could stifle innovation and discourage investment in AI research. Furthermore, creating a penalty of perjury would mean that AI software developers could go to jail simply for failing to anticipate misuse of their software—a standard of product liability no other product in the world suffers from.

2. Arbitrary Threshold for Regulation:

Establishing 10^{26} FLOPs as a regulatory threshold is problematic. The technology is still evolving, and such specific metrics may not adequately capture the capabilities or risks associated with future models. It is crucial to avoid over-regulating AI development's mathematics and computational aspects. Another arbitrary threshold: who is responsible? Non-Californian companies will be free from this burden as written, thus creating a massive incentive to move this innovation out of California.

Notably, such an arbitrary threshold is only required by the prior restraint licensure regulatory scheme proposed here. A much simpler route would eliminate the need for such arbitrary (and possibly irrelevant) thresholds in the future.

3. The requirement of a Kill Switch is possibly a backdoor open source AI ban:

While intended to ensure safety, the mandated kill switch could function as a de facto ban on open-source AI development. Open source AI has been praised by FTC Chair Lina Khan and highlighted by the Biden DOJ for its role in fostering competition and innovation. Requiring such stringent measures could inhibit the collaborative and transparent nature of open source development, which is vital for the technology's growth and accessibility.

4. Vague language could be expanded or reinterpreted later to kill Californian tech:

The language is extremely vague. Most importantly, as written, a "frontier model" could plausibly apply to existing software, like Google's search algorithm or any social media recommendation algorithm. Courts could easily interpret SB 1047 to apply to even pedestrian software. Due to the vague wording, any company of sufficient size could have its code base interpreted as covered under this bill. There are many more examples throughout this bill, such as: what does it mean for a model to have the "capability" to do something or for it to be "significantly more difficult" without a model? These unclear terms will be fodder for judges to interpret however they like, leaving the tech industry one wild court ruling away from a reinterpreted law far more restrictive than its authors intended.



The bottom line:

We believe a more balanced approach is necessary—one that protects society from potential harm while fostering an environment conducive to technological advancement that is not more burdensome than other technologies have previously enjoyed. Open-source AI, in particular, plays a critical role in democratizing access to cutting-edge technology and enabling a diverse range of contributors to drive progress.

California is at the center of this revolution. AI is powering our post-COVID recovery. This bill, as it stands, could gravely harm California's ability to retain its AI talent and remain the location of choice for AI companies.

In conclusion, we urge you to consider the potential unintended consequences of SB 1047. As an alternative, we encourage the introduction of legislation instead that encourages LLM development to be more open. This could include requiring open source licenses to remain open in perpetuity and encouraging open publishing of AI research. Such legislation would not only protect the collaborative and transparent nature of open source development but also promote innovation and fair competition by preventing proprietary capture of open source technologies. This approach aligns with the principles of fair use and intellectual property, ensuring that the transformative potential of LLMs can be fully realized without stifling innovation or imposing undue burdens on developers.

Let us work together to ensure that California remains a leader in AI innovation, where responsible development and the vibrant spirit of technological entrepreneurship can thrive. Thank you for your attention to this critical matter.

Sincerely,

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Vijay Lavhale (Co-Founder), **8vdx**

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