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Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
House Committee on Economic Development and Technology
Friday, January 31, 2025
10:00 a.m.
Via Videoconference
Conference Room 423

On the following measure:
H.B. 639 RELATING TO ARTIFICIAL INTELLIGENCE

Chair Ilagan and Members of the Committee:

My name is Radji Tolentino, and I am an Enforcement Attorney at the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports the intent of this bill and offers comments highlighting (1) potential harms to consumers; and (2) amendments that would ensure that OCP, which is charged with enforcing state consumer protection laws, can bring civil enforcement actions for violations and obtain remedies including penalties, restitution, and injunctive relief in appropriate cases.

The purpose of this bill is to address the increasing sophistication of chatbots, which can engage in human-like conversations and potentially mislead users into believing they are interacting with real people by mandating that consumers be informed

when they are interacting with a chatbot or similar technology during commercial transactions.

When chatbots are not disclosed to consumers, several significant problems can arise. These issues include deception, customer frustration, privacy concerns, the delivery of inaccurate information, and potential legal ramifications. Users might mistakenly believe they are interacting with a human when, in fact, they are communicating with an automated system. This misunderstanding can lead to harmful consequences depending on the context of the interaction.

Privacy concerns can arise when consumers are unaware that they are interacting with a chatbot. If consumers are not informed about the nature of their interaction, they may not realize how their data is being collected and used, which could lead to potential privacy violations. For instance, businesses that use chatbots might share consumer data with third parties. This increases the risk of data exposure, especially if a hacker gains access to the company's chatbot database and steals consumer information.

Chatbots can also lead consumers to make poor decisions if they provide inaccurate or misleading information, a concern that is especially relevant for mental health chatbots. While these tools can offer valuable support, they may also harm vulnerable individuals and communities. For example, in 2023, the eating disorder chatbot Tessa was marketed as a "meaningful prevention resource" but shared dieting tips and weight-loss advice. Although intended to address the rising mental health crisis and clinical treatment shortages, such inaccurate guidance can do more harm than good.

Ohio, Wisconsin, and New York have introduced bills like this measure in their legislatures during their last legislative sessions that required businesses to provide disclaimers to consumers when interacting with chatbots. Most recently, California passed a law regulating the use of chatbots by government agencies that took effect on January 1, 2025. This law mandates that state agencies and departments using chatbots to communicate with individuals regarding government services and benefits must prominently inform users throughout the interaction that their communication is generated by generative AI (GenAI).

On the federal level, the Consumer Financial Protection Bureau (CFPB) has issued guidance regarding the use of GenAI chatbots by financial institutions. The CFPB found that while chatbots offer a cost-effective customer service option, providing 24/7 availability and quick responses, they also present several challenges. These include difficulties in resolving complex issues, delays in accessing human assistance, and potential technical security risks. Additionally, the Federal Trade Commission (FTC) has used its authority to take action against companies for deceptive practices related to their chat features.

OCP agrees that businesses or persons acting in trade or commerce who fail to disclose that they are using an AI chatbot should be liable in statutory damages to consumers who are injured by the nondisclosure. The nondisclosure could fairly be considered an unfair or deceptive act or practice in trade or commerce.

OCP has long been charged with bringing civil enforcement actions to enforce consumer protection laws, and amendments should expressly confer on OCP the authority to bring a civil enforcement action to enforce the prohibitions and requirements of this bill. Existing remedies under HRS chapter 480 and 487 serve as strong deterrents to businesses that may harm consumers using chatbots. OCP should be able to access these remedies in a civil action enforce the new law created by this bill. For these reasons, should the bill advance, amendments will be necessary.

Thank you for the opportunity to testify on this bill.



TECHNET
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January 30, 2025

Representative Greggor Ilagan
Chair, House Committee on Economic Development and Technology
Hawaii State Capitol
415 South Beretania Street, Room 419
Honolulu, HI 96813

RE: HB 639 (La Chica) – AI: Chatbot Disclosures - OPPOSE

Dear Chair Ilagan and Members of the Committees,

On behalf of TechNet, I'm writing in respectful opposition to HB 639 (La Chica) related to disclosures around AI chatbots.

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 over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

TechNet and our members certainly understand the need for consumers to understand when they are interacting with a chatbot or other technology powered by artificial intelligence. Although we appreciate the intent to provide consumers with transparency about potentially misleading products or services, we have serious concerns about the current scope of the requirement and the related damages and penalties, which are not tied to actual harm. Moreover, the bill does not exempt obvious cases where a reasonable person would recognize they are interacting with an AI chatbot.

First, the bill defines an "artificial intelligence chatbot" as one that uses a generative AI system but fails to define both "artificial intelligence" and "generative AI." This omission, coupled with the vague phrase "or other technology," creates a risk of overly broad applicability, potentially extending the bill's reach to a wide

range of technologies across various industries. This lack of clarity is especially concerning given that the disclosure obligation takes effect immediately upon passage, leaving businesses uncertain about compliance expectations.

We recommend clarifying the scope of AI technologies covered to prevent unintended consequences.

Moreover, violations could expose businesses to lawsuits or class actions with potential damages of up to \$10 million—on top of an excessive \$5 million civil penalty. This penalty is entirely disconnected from any actual harm suffered by a plaintiff. The threat of these lawsuits will have unintended and significant impacts on numerous technologies and companies that operate in Hawaii and serve Hawaii residents. We strongly recommend removing the private right of action and granting sole enforcement authority to the Attorney General to ensure a more balanced approach.

If you have any questions regarding our position, please contact Dylan Hoffman at dhoffman@technet.org or 505-402-5738.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dylan Hoffman', written over a horizontal line.

Dylan Hoffman
Executive Director for California and the Southwest
TechNet



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January 30th, 2025

House of Representatives
State of Hawaii
Committee on Economic Development & Technology
The Honorable, Representative Greggor Ilagan, Chair
The Honorable, Representative Ikaika Hussey, Vice Chair

Dear Members of the Committee:

Public Citizen submits this testimony in strong support of HB 639.

On behalf of our over 3,200 members and activists in Hawaii, Public Citizen encourages the Committee on Economic Development & Technology to advance HB 639, a legislative proposal regulating generative AI chatbots.

Generative AI chatbot technology has advanced rapidly. Chatbots can now engage in conversations that are strikingly humanlike. They are capable of carrying on discussions in ways that can easily lead users to believe they are speaking with a real person. Programmed to exhibit human qualities, chatbots can provoke emotional responses and create the illusion of empathy, further blurring the line between artificial and human interaction¹.

The anthropomorphic nature of these chatbots will only get more convincing as the technology advances. For example, Open AI recently warned that their new humanlike voice mode could increase the impression of genuine intimacy and persuasiveness². New AI “agents” and human-seeming avatars are now being deployed or soon will be.

Currently, there are no widespread requirements for consumers to be informed when they are interacting with a chatbot or similar AI technologies, leading to significant opportunities for deception and abuse. A user may believe they are speaking with a licensed professional, such as a medical expert, financial advisor, or therapist, when, in fact, they are communicating with an AI-driven system.

¹ Malesu, V. (2024, February 5). AI chatbots show human-like personality and decision-making traits, study finds. Retrieved from News Medical & Life Sciences: <https://www.news-medical.net/news/20240225/AI-chatbots-show-human-like-personality-and-decision-making-traits-study-finds.aspx#:~:text=Conclusions,abs/10.1073/pnas.2313925121>

² Knight W., & Rogers R. (2024, August 8). OpenAI Warns Users Could Become Emotionally Hooked on Its Voice Mode. Retrieved from WIRED: <https://www.wired.com/story/openai-voice-mode-emotional-attachment/>

In addition to their conversational abilities, chatbots can be fine-tuned for persuasion and manipulation. Many are designed to use data that they collect from users to learn how to influence them more effectively³. This allows chatbots to subtly guide user behavior, whether it's encouraging continued engagement, promoting product purchases, or serving other goals set by their developers and deployers^{4,5}.

Retail AI bots, such as the Wendy's drive-thru bot, Wendy's FreshAI, can collect customers' words and characteristics to tailor the bot's future interactions with an individual customer to be even more persuasive (sometimes called "suggestive selling")^{6,7}.

Chatbots exploit the human tendency to trust machines, and they can be incredibly convincing⁸. According to one study, Open AI's GPT-4 model is 81.7 percent more convincing than humans when debating a topic⁹. At the same time, research has shown that Chat-GPT, Google's Bard, and Anthropic's Claude models regurgitate racial biases, resulting in widespread impacts including increased negative outcomes for Black patients using chatbots for medical advice¹⁰.

The lack of transparency surrounding chatbots raises critical issues around trust, consent, and the potential for exploitation. If consumers at least know they are dealing with a computer, rather than a human, they can exercise heightened skepticism about what they are being told and sold.

³ Pham, V., & Thi, T., & Duong, N. (2024, November 19). A Study on Information Search Behavior Using AI-Powered Engines: Evidence From Chatbots on Online Shopping Platforms. Retrieved from Sage Journals:

<https://journals.sagepub.com/doi/10.1177/21582440241300007?icid=int.sj-full-text.citing-articles.1>

⁴ Tabassum, J., (2025, January 6). AI-influenced shopping boosts online holiday sales, Salesforce data shows. Retrieved from Reuters:

<https://www.reuters.com/business/retail-consumer/ai-influenced-shopping-boosts-online-holiday-sales-salesforce-data-shows-2025-01-06/>

⁵ Shroff, L. (2024, October 2). Shh, ChatGPT. That's a Secret. Retrieved from The Atlantic:

<https://www.theatlantic.com/technology/archive/2024/10/chatbot-transcript-data-advertising/680112/>

⁶ Zoll, L. (2024, May 6). Can I take your order – and your data? The hidden reason retailers are replacing staff with AI bots. Retrieved from The Conversation:

<https://theconversation.com/can-i-take-your-order-and-your-data-the-hidden-reason-retailers-are-replacing-staff-with-ai-bots-229202>

⁷ Kell, J. (2024, October 15). Inside Wendy's drive-thru AI that makes ordering fast food even faster.

Retrieved from Fortune: <https://fortune.com/2024/10/15/wendy-google-ai-drive-thru-expansion/>

⁸ Sills, D. (2024, May 31). Chatbots Could Start Shaping How We Trust and Who We Trust. Retrieved from Psychology Today:

<https://www.psychologytoday.com/us/blog/virtue-in-the-media-world/202405/chatbots-could-start-shaping-how-we-trust-and-who-we-trust>

⁹ Vigliarolo, B. (2024, April 3). Turns out AI chatbots are way more persuasive than humans. Retrieved from The Register: https://www.theregister.com/2024/04/03/ai_chatbots_persuasive/

¹⁰ Burke, G., & O'Brien, M. (2023, October 20). Bombshell Stanford study finds ChatGPT and Google's Bard answer medical questions with racist, debunked theories that harm Black patients. Retrieved from Fortune:

<https://fortune.com/well/2023/10/20/chatgpt-google-bard-ai-chatbots-medical-racism-black-patients-health-care/>

Without regulation, anyone can fall victim to being misled about a variety of topics that range from medical, legal, or financial advice. New legislation like HB 639, which regulates generative AI Chatbots, are critical to protecting people.

Public Citizen strongly urges the Committee on Economic Development & Technology to move HB 639 forward in order to protect all people.

Thank you again for the opportunity to testify in support of HB 639.

Respectfully Submitted,
Ilana Beller
Organizing Manager
Public Citizen
1600 20th Street, NW
Washington, D.C. 20009
(202) 588-1000



**Testimony to the House Committee on Economic Development & Technology (ECD)
Representative Greggor Ilagan, Chair
Representative Ikaika Hussey, Vice Chair**

**Friday, January 31, 2025, at 10:00AM
Conference Room 423 & Videoconference**

RE: HB639 Relating to Artificial Intelligence

Aloha e Chair Ilagan, Vice Chair Hussey, and Members of the Committee:

My name is Sherry Menor, President and CEO of the Chamber of Commerce Hawaii ("The Chamber"). The Chamber respectfully opposes House Bill 639 (HB639), which requires corporations, organizations, or individuals engaging in commercial transactions or trade practices to clearly and conspicuously notify consumers when the consumer is interacting with an artificial intelligence chatbot or other technology capable of mimicking human behaviors.

The Chamber respectfully opposes H.B. 639 as written. While we support transparency in AI chatbot interactions, we are concerned about the bill's private right of action, class action provisions, and excessive penalties, which would impose costly legal burdens on businesses, especially small and mid-sized companies. By prioritizing litigation over consumer protection, the bill risks encouraging opportunistic lawsuits rather than addressing actual harm.

With penalties up to \$5 million per violation and class action damages capped at \$10 million, the bill far exceeds the potential impact of AI chatbot interactions. Small businesses in hospitality, retail, and customer service cannot sustain such risks, discouraging investment in AI-driven customer service tools. The threat of frivolous lawsuits may also drive companies away from Hawaii, limiting consumer choice and innovation. The Chamber respectfully opposes this bill because it prioritizes lawsuits over fair regulation, threatens small businesses, and hinders technological growth. We urge lawmakers to support balanced policies that protect consumers while fostering a business-friendly, innovative economy in Hawaii.

The Chamber of Commerce Hawaii is the state's leading business advocacy organization, dedicated to improving Hawaii's economy and securing Hawaii's future for growth and opportunity. Our mission is to foster a vibrant economic climate. As such, we support initiatives and policies that align with the 2030 Blueprint for Hawaii that create opportunities to strengthen overall competitiveness, improve the quantity and skills of available workforce, diversify the economy, and build greater local wealth.

We respectfully ask to defer House Bill 639. Thank you for the opportunity to testify.

HB-639

Submitted on: 1/29/2025 2:26:01 PM

Testimony for ECD on 1/31/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Christopher La Chica	Individual	Support	Written Testimony Only

Comments:

I am writing in **strong support** of **House Bill 639**, which requires businesses to disclose when consumers are interacting with an AI chatbot rather than a human. This legislation is **a necessary step in ensuring transparency, consumer trust, and ethical AI usage in commercial transactions.**

AI technology is advancing rapidly, and while it provides numerous benefits, it also **poses risks when consumers are unaware that they are engaging with non-human entities.** Without clear disclosure, individuals may assume they are speaking with a person, leading to **potential misinformation, manipulation, or even financial harm.**

By supporting HB 639, Hawai'i would:

- **Protect Consumers** – Clear AI disclosure prevents deceptive practices and ensures consumers make informed choices.
- **Promote Trust in Technology** – Transparency fosters confidence in AI-driven services rather than skepticism or frustration.
- **Set a Responsible Precedent** – As AI adoption grows, states should lead in ensuring its ethical use. Hawai'i has the opportunity to **set an example for responsible AI governance.**

I urge the committee to **pass HB 639** to safeguard consumer rights and maintain ethical standards in AI-driven communications.

Thank you for your time and consideration.

Respectfully,
Christopher La Chica