



April 2, 2021

TO: Members, Assembly Privacy and Consumer Protection Committee

**SUBJECT: AB 13 (CHAU) PERSONAL RIGHTS: AUTOMATED DECISION SYSTEMS  
OPPOSE – AS AMENDED MARCH 25, 2021  
SCHEDULED FOR HEARING – APRIL 8, 2021**

The California Chamber of Commerce and the listed organizations must respectfully **OPPOSE AB 13 (Chau)**, as amended March 25, 2021. While we appreciate that the amendments narrow the application of this bill, we still have concerns and therefore remain opposed.

**AB 13 remains overbroad and ambiguous.** AB 13 is overbroad because, although it has been narrowed in scope to deal with procurement contracts, it would still be difficult, if not impossible, for any California contractor to comply with the requirements as drafted. The definitions are ambiguous and remain overbroad in their attempt to be all-encompassing; and the process requirements are onerous and provide agencies with no framework to determine what their obligations are.

The definition of “automated decision system” (ADS) remains overbroad. ADS is defined as any computational process that issues a score, classification, recommendation, or other simplified output that is used to support or replace human decision making and materially impacts natural persons. This definition literally encompasses all of computing, including calculators, which is demonstrative of how broadly this bill is drafted.

Similarly, the definition of “high-risk application” is in no way confined to high risk applications. Confusingly, it includes any use of an ADS that has the potential to result in inaccurate, unfair, biased, or discriminatory decisions impacting natural persons. Literally every computational system in the world has the potential to result in inaccuracy. This is not a reasonable standard. It bears no relationship to true unlawful discrimination, and it is not narrowly tailored to avoid sweeping in totally harmless inaccuracies

or human error. Moreover, almost anything has the potential to result in unfairness, bias or discriminatory decisions that impact natural persons. For example, a system that favors first-time applicants or customers over second-time applicants or customers would be “biased” but could be reasonable in application because it produces positive effects.

The definition of “high risk application” also includes an ADS that involves the personal information of a *significant number* of individuals with regard to race, color, national origin, political opinions, religion, trade union membership, genetic data, biometric data, health, gender, gender identity, sexuality, sexual orientation, criminal record, or any other characteristic identified in the Unruh Civil Rights Act (Section 51 of the Civil Code) or meets any *other criteria* established by the Department of Technology. Again, with regard to drafting, the bill fails to define what a “significant number” of individuals is, making that numerical threshold ambiguous on its face. Further, the bill fails to indicate what “other criteria” will be and instead rests that responsibility on the Department of Technology with no framework or guidelines on how DOT is to establish this “other criteria.” This passing-along of the obligation to account for the definitional shortcomings of this bill does not provide reasonable certainty to businesses as they design products and services.

Additionally, the definition of “simplified output” means output composed of fewer dimensions than the respective inputs used to generate it. This is the same issue with the definition of ADS. A simple calculator takes several inputs and generates an output with a smaller dimension (e.g. 1+2 is the input, and the output is 3; two dimensions of input vs one dimension of output). Almost any computational function will provide a simplified output, thus leaving this definition overbroad.

**AB 13 does not provide protections for proprietary and trade secret information.** AB 13’s impact assessments are so broad and arbitrary that many businesses could be required to reveal proprietary information about internal processes and trade secrets in order to apply for contracts with local agencies. Indeed, many local agencies have come under scrutiny from businesses and the public for unreasonable demands that businesses divulge valuable intellectual property and even the personal information of consumers. **AB 13** should provide safeguards against unreasonable demands from local agencies for such information.

**AB 13 will drive the cost of government contracts up.** The additional bureaucratic processes that **AB 13** requires will slow down state procurements from both the vendor and agency side. These additional procurement procedures will also increase agency workloads and drive up the costs of bids for contracts. Additionally, for smaller businesses that cannot afford to, or otherwise do not have the resources to jump through the bureaucratic hurdles imposed by **AB 13** will be left unable to compete.

Because **AB 13** is still unclear, does not provide protections for intellectual property, does not protect information and businesses from overreaching agencies, provides no guidelines to the DOT, and fails to account for the consequences of its additional bureaucratic hurdles, we must respectfully oppose **AB 13 (Chau)**.

Sincerely,



Shoeb Mohammed  
Policy Advocate  
California Chamber of Commerce

Advanced Medical Technology Association  
American Council of Life Insurers  
American Property Casualty Insurance  
Association  
Alliance for Automotive Innovation  
Association of California Life & Health Insurance  
Companies  
Association of National Advertisers

California Bankers Association  
California Business Properties Association  
California Credit Union League  
California Financial Services Association  
California Grocers Association  
California Land Title Association  
California Manufacturers & Technology  
Association

California Mortgage Bankers Association  
California Retailers Association  
California Trucking Association  
Civil Justice Association of California  
Consumer Data Industry Association  
Electronics Transactions Association  
Insights Association  
Internet Association  
Internet Coalition  
MPA – The Association of Magazine Media

National Association of Mutual Insurance  
Companies  
Pacific Association of Domestic Insurance  
Companies  
Securities Industry and Financial Markets  
Association  
Silicon Valley Leadership Group  
TechNet  
Technology Industry Association of California

cc: Legislative Affairs, Office of the Governor  
Edmundo Cuevas, Office of Assemblymember Chau  
Liz Enea, Assembly Republican Caucus

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