

NEWSLETTER

Morning Tech

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The race to regulate deepfakes, AI before November

BY: **MALLORY CULHANE** | 02/07/2024 05:49 AM EST*With help from Brendan Bordelon and Rebecca Kern*

DRIVING THE DAY

— **Against the clock:** Concerns over artificial intelligence and deepfakes to influence the November elections are spreading like wildfire in state legislatures. Amid a lack of action at the federal level, state lawmakers are likely to lead the way enacting guardrails before November.

It's Wednesday, Feb. 7. Welcome to Morning Tech! Halfway to the weekend! I personally can't wait for the week to end because Kristin Hannah, aka one of the greatest authors (read [The Great Alone](#) if you haven't), came out with [a new book](#) yesterday. And it's taking everything in me to wait until Friday to go on a nice little walk to the bookstore, get a nice little coffee and read all day.

Thoughts? Tips? Coffee recs? Send 'em my way at mculhane@politico.com or via DM at [@mallorykculhane](#). Got an event for our calendar? Send details to techcalendar@politicopro.com. Anything else? Team info below. And don't forget to add [@POLITICOPro](#) on X.

TODAY'S AGENDA

Anne Neuberger, White House deputy national security adviser for cyber and emerging tech, delivers keynote remarks at [the Energy Department's 2024 Energy Transition Summit](#). 8 a.m.

Sen. **Marsha Blackburn** (R-Tenn.), Rep. **Zoe Lofgren** (D-Calif.), FCC Commissioner **Anna Gomez**, NTIA Administrator **Alan Davidson**, National Cyber Director **Harry Coker**, **Anne Neuberger** and more government officials speak at [the Information Technology Industry Council's tech policy summit](#). 1 p.m.

TECH OF THE TOWN

THE OTHER 2024 RACE — In the nearly two weeks since an AI-generated robocall mimicking President Joe Biden told Democratic voters to skip the New Hampshire primary, 21 bills have been proposed in the states to combat the use of AI in campaign communications, such as through disclosures or outright bans. As of Monday, [39 bills have been introduced in 27 states](#) so far this year.

With some state sessions only lasting a few months, the race is now on to implement guardrails before the election — and before everyone goes home. Adding an extra layer of urgency for the states is a belief that no major legislation regulating AI will get through Congress this year.

At least 15 state legislatures — including Kansas, Maryland, New Hampshire and Oklahoma — are holding hearings this month on bills that would regulate the use of AI in campaign communications. The Indiana House [on Jan. 25 unanimously passed a bill mandating disclosures](#) on AI-generated campaign ads on Jan. 25. The progress of these bills also shows that it's a rare area with broad support on both sides of the political spectrum.

Critics, though, say the state bills are too narrow to be useful, especially since many only focus on disclosing when AI is used.

“Disclosure is not sufficient, all that does is let people know where false narratives are coming from, but they don't actually do anything about fake information,” said Darrell West, a senior fellow in the Brookings Institution's Center for Technology Innovation. “Like in the case of bank fraud: If a bank tells you it might engage in fraudulent practices, it doesn't help with the actual fraud. You need to police the actual fraud, so we need to bring that mentality to the elections area.”

For a stronger approach, West points to a law Minnesota passed last spring to prohibit the creation and publication of deepfake images, audio and videos that are produced without the consent of the depicted person, and made with the intention to “hurt a candidate or influence the result of an election” within 90 days of Election Day. Some states have introduced similar legislation, including [New York](#) (which prohibits the creation and sharing of deepfakes to influence elections within 60 days of Election Day) [and Arizona](#) (which follows Minnesota's 90-day limit).

— **Meanwhile, in Washington:** Lawmakers at the federal level have introduced bills to regulate AI-generated campaign ads, including the Protect Elections from Deceptive AI Act, which would impose an outright ban on creating deepfakes depicting federal candidates. That bill has support from both Republicans and Democrats, including Sens. [Amy Klobuchar](#) (D-Minn.), [Josh Hawley](#) (R-Mo.), [Michael Bennet](#) (D-Colo.) and [Susan Collins](#) (R-Maine). But the bill only covers federal elections, leaving a gaping hole for state elections.

“There is a really important element regardless of what folks on a federal level do, at least with the legislation as it stands currently, that has been put forth,” said Ilana Beller, organizing manager for the democracy team at Public Citizen. “It’s very likely that we will see AI-generated deepfakes being used against state and local candidates.” Though Beller did say that a federal law addressing AI-generated election content would be better to have consistent rules across the U.S.

Some lawmakers want federal agencies to use their authority to impose regulatory rules to combat concerns around AI-generated campaign communications.

In [a letter sent to FCC Chair Jessica Rosenworcel](#) on Tuesday, Sens. [Ben Ray Lujan](#) (D-N.M.) and [Mark Kelly](#) (D-Ariz.) urged the agency to move forward with a proposed rule that would make robocalls using voice cloning technology illegal. Although the rule is intended to cover AI-generated robocalls generally, it was proposed just days after the Biden deepfake robocall in New Hampshire.

The lawmakers urged the FCC in the letter, which was shared exclusively with MT, to move forward with the rules and use its enforcement authority to combat generative AI from harming election integrity.

But even the FCC ruling would only cover a subset of issues when it comes to AI-generated campaign communications.

“I do not think that we can assume that there will be federal protections in place in time for this upcoming election,” Beller said. “It’s important that the states are widely taking up this type of legislation ahead of the 2024 election.”

ON K STREET

SPEAKING OF STATE AI LAWS — As Amazon [races to catch up](#) with its Big Tech rivals on generative AI, it’s keeping one eye on Washington — and urging policymakers to act before states pass their own AI laws.

In a [post published](#) early Wednesday morning, David Zapolsky, Amazon’s general counsel and head of global public policy, urged Congress to move on AI in order to “avoid

a patchwork of state regulations.”

“Just this year in statehouses across the country, hundreds of bills have been introduced on AI,” Zapolsky warned. The Amazon lobbyist called the federal government “the appropriate lead on AI” and said Washington “should act to ensure we have robust and consistent policies throughout the country.”

— **Echoes of the privacy fight:** Zapolsky’s statement suggests Amazon and other top tech firms are warily eyeing this year’s surge in state AI bills. Legislators in California and Connecticut, in particular, have recently made big moves on AI. California’s 2018 passage of the first state privacy law kicked off a lobbying firestorm in Washington, with industry rushing to Capitol Hill in an effort to push lawmakers toward lighter-touch rules that would preempt Sacramento’s heavy hand.

That effort ultimately failed to inspire Congress. And in the absence of federal rules, industry learned to tolerate — [and at times, co-opt](#) — the growing patchwork of state privacy laws. But they’re in no hurry to repeat that process on AI. If states do start passing new AI laws, lobbying for a federal bill may ramp up accordingly.

ANTITRUST

FIRST IN MT: GUARDRAILS FOR CHIPS — The American Economic Liberties Project, an anti-monopoly advocacy group, [sent a letter](#) to the White House today urging the administration to implement guardrails for subsidy programs under the CHIPS Act to promote competition in the industry.

“Without clear policy guardrails to foster competition, we fear CHIPS Act investment will be undermined by some of the problematic dynamics that led to the decline of domestic production in the first place,” AELP wrote in the letter, which was shared exclusively with MT.

— **What AELP wants:** The letter follows [an AELP report released Tuesday](#), which argues that the U.S. semiconductor industry is too concentrated and outlines a series of policy recommendations to address it.

The organization is calling on the administration to direct more funding for reshoring chips production to smaller players in the industry. AELP also calls on the CHIPS Program Office to work with the Federal Trade Commission when reviewing funding applications and distributing grants, including setting criteria for eligible recipients. The CPO and FTC should take into consideration “past mergers where chip companies intentionally bought and shuttered low-cost competitors, past and ongoing violations of antitrust policies, and any future plans for intra-sector acquisitions,” the letter states.

ON THE HILL

ONBOARDING AI INTO THE WORKPLACE — Sens. [John Hickenlooper](#) (D-Colo.) and [Mike Braun](#) (R-Ind.) [sent a letter](#) to acting Labor Secretary Julie Su, seeking information on how DOL is working to ensure the workforce is prepared to embrace AI.

“Artificial intelligence is reshaping how we interact with every part of the world, including our workplaces,” Hickenlooper and Braun wrote. “Responding to this change and effectively preparing our workforce for the jobs of the future will require a coordinated, thoughtful effort across government and the private sector.”

President Joe Biden’s [AI executive order directed DOL](#) to evaluate federal agencies’ ability to aid workers whose jobs are disrupted by AI and develop best practices for employers looking to implement AI technologies.

Hickenlooper and Braun want to know how DOL is progressing on those tasks, including how it plans to improve workforce training on AI and how the department’s guidelines will keep pace with the advancement of AI. The senators also want to know if there are any existing federal laws that Congress may need to update “to address the growth and advancement of AI in the workplace.”

HAWLEY ATTEMPT TO MOVE KIDS’ SAFETY BILL FAILS — A spat over encryption doomed the bid by Sen. [Josh Hawley](#) (R-Mo.) to get a Senate floor vote on his [STOP CSAM Act](#) — a bill that would allow victims sexually exploited online as children to sue the social media platforms that hosted the content.

Hawley’s request to get an expedited unanimous consent vote failed on the Senate floor Tuesday after Sen. [Ron Wyden](#) (D-Ore.) blocked it. The Senate Judiciary Committee unanimously advanced STOP CSAM Act and four other kids’ online safety bills last spring, but none have seen a floor vote.

“Until victims can get into court and have the rights and dignity of every other American challenging any other company, this will not change,” Hawley said, referring to opening up tech companies to lawsuits. “Congress created this problem by giving the most powerful companies in the world a sweetheart deal.”

— **Wyden objects over encryption:** Wyden, the author of the tech’s liability shield known as Section 230 of the Communications Decency Act, echoed talking points from tech, civil liberty and privacy groups who fear the bill will weaken encryption.

“Weakening encryption is the single biggest gift that you can give to the predators and monsters who want to stalk and spy on kids,” he said. Senate Judiciary staff are working on revising the bill to address encryption concerns.

— **Riding the kids' safety wave:** Hawley — a co-sponsor of the STOP CSAM Act with Senate Judiciary Chair [Dick Durbin](#) (D-Ill.) — was acting on the momentum from last week's [Judiciary Committee hearing](#) with top execs from Meta, TikTok, X, Snap and Discord over allegations they failed to keep kids safe on their platforms. X CEO Linda Yaccarino backed the bill during the hearing. However, Senate Majority Leader [Chuck Schumer](#) hasn't brought any kids safety bills to a vote, despite saying kids' online safety is a priority. A Schumer staffer told POLITICO they're still waiting on bill sponsors to get more support.

QUICK DOWNLOADS

FIRST IN MT: A coalition of competition advocacy groups are applauding [the agency's investigation](#) into some of the largest companies' investments and partnerships with AI startups, as part of a broader market study of competition in the industry. "The concentration of AI development within a small group of powerful corporations is detrimental to market competition and poses significant risks to consumer rights, data privacy, and the ethical development of AI technologies," the groups wrote in [the letter](#), which was shared first with MT.

TRANSITIONS

The **Wireless Infrastructure Association** announced several additions to its Board of Directors: SBA Communications' **Brendan Cavanagh**, Crown Castle's **Mike Kavanagh** and American Tower's **Bud Noel**. ... **Eric Baker** has joined the **Aspen Institute** as media relations manager. He previously was associate director for communications at the Atlantic Council's Digital Forensic Research Lab. ... **Melika Carroll** is joining AI company **Cohere** as its first head of government affairs and public policy.

ALSO HAPPENING TODAY

8 a.m. — The Intelligence and National Security Alliance [holds a discussion](#) on "Zero Trust with Zero Budget."

9 a.m. — The Business Council for International Understanding and the U.S. Trade and Development Agency [hold a briefing](#) as part of the Nigeria and Ghana Financial Sector Cybersecurity Reverse Trade Mission.

10 a.m. — The Center for Strategic and International Studies [holds a virtual discussion](#) on "Artificial Intelligence and Neurodiversity."

10:30 a.m. — The Technology Policy Institute [holds a virtual discussion](#) on "Spectrum Pipeline: Discussion of Reauthorization, Inventory, and Incentives in Exclusive Use and

Shared Spectrum Bands.”

11:30 a.m. — The Technology Policy Institute [holds a virtual discussion](#) on “National Strategies, Space, and the Future of Global Competition.”

11:45 a.m. — USTelecom [holds a webinar](#) looking ahead to the next phases for implementation of the BEAD program.

2:30 p.m. — The Brookings Institution [holds a virtual discussion](#) on “Assessing the Impact of Generative AI and Other Online Threats in a Historic Election Year.”

4:45 p.m. — The Johns Hopkins University Paul H. Nitze School of Advanced International Studies [holds a discussion](#) on “Social Media and Democratic Reform in Kazakhstan.”

Have a great day!

Tips, comments, suggestions? Send them along via email to our team: Steve Heuser (sheuser@politico.com), Nate Robson (nrobson@politico.com), Daniella Cheslow (dcheslow@politico.com), Mallory Culhane (mculhane@politico.com), Brendan Bordelon (bbordelon@politico.com), John Hendel (jhendel@politico.com), Rebecca Kern (rkern@politico.com), Alfred Ng (alfredng@politico.com), Josh Sisco (jsisco@politico.com), Derek Robertson (drobotson@politico.com), Mohar Chatterjee (mchatterjee@politico.com) and Christine Mui (cmui@politico.com). Got an event for our calendar? Send details to techcalendar@politicopro.com. And don't forget to add [@PoliticoPro](#) on X.

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