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Subject: Support for an Open Source Exemption in California AI Transparency Act SB 942 via Amendment in AB 853

Dear Assemblymember Wicks and Senator Becker,

California's leadership in technology, research, and innovation has long been fueled by the vibrant ecosystem of open source software developers. Within the rapidly advancing field of artificial intelligence (AI), open source development plays a foundational role—advancing scientific research, ensuring transparency and reproducibility, and enabling the creation of safer, more accountable AI systems by making the technology available for anyone to study and scrutinize. Open source software fosters a competitive and innovative environment across California, enabling startups and small enterprises to develop new products by leveraging a broad spectrum of freely available resources.

While the benefits of open source software and [open source AI](#) are broadly recognized, its unique licensing frameworks and decentralized, often community-driven, development and distribution models require deeper consideration within legislative frameworks. On behalf of the open source development community, we respectfully request the inclusion of a targeted exemption for open source licenses in the California AI Transparency Act (SB 942), through amendment in AB 853.

The licensing model for [open source software](#) and [open source AI](#) defined by the Open Source Initiative (OSI) and used in the [California State Administrative Manual 4919-2](#) allows software to be freely used, modified, and shared, without discrimination or restrictive terms. In contrast, vendor licenses typically include usage limitations, fees, and contractual obligations. These structural differences mean that compliance mechanisms used to govern vendor-licensed technology may be incompatible with and potentially disincentivize the development of open source software and open source AI.

SB 942 mandates that providers of generative AI systems ensure licensed systems retain capabilities to disclose AI-generated content, and revoke licenses within 96 hours if those features are disabled. This requirement is incompatible with open source licensing for several reasons:

- **Decentralized development:** Open source projects are frequently forked, modified, and redistributed by third parties, creating a decentralized ecosystem that makes tracking and enforcing compliance for downstream usage infeasible.
- **No contractual control:** Open source licenses such as MIT, Apache, and GPL do not include revocation clauses or downstream usage restrictions, leaving providers without legal mechanisms to enforce disclosure compliance.
- **Global distribution:** Open source models are often hosted and modified across jurisdictions, complicating enforcement under California law and making providers unaware of potential in-state use.
- **Resource constraints:** Due to the community-driven nature of the open source ecosystem—often maintained by individuals or small organizations with limited capacity for oversight—imposing burdensome requirements on contributors could discourage open collaboration and hinder the sharing of innovative work.

To preserve the open source ecosystem's ability to support innovation and transparency in California, we recommend amending Section 22757.3(c) of SB 942 with the following exemption: "*This subsection does not apply to free and open source licenses offered to the public.*"

We welcome the opportunity to engage further with policymakers and offer additional insight as stakeholders engaged in open source developer communities. Open source has received global policy validation—from the EU AI Act, the White House National AI Strategy, to California's own AI Task Force Report—and remains vital to our state's economic growth and technological leadership.

Sincerely,



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