



Center for AI and
Digital Policy

CAIDP Update Special

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CAIDP FILES FORMAL COMPLAINT WITH FTC, URGING INVESTIGATION OF
OPENAI AND SUSPENSION OF LARGE LANGUAGE MODEL SALES,
INCLUDING GPT-4

CAIDP Says OpenAI Violated Section 5 of the FTC Act, FTC Guidance for AI
Products, and Rules for Governance of AI

In the matter of)
)
OpenAI, Inc.)
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Submitted by

The Center for Artificial Intelligence and Digital Policy (CAIDP)

I. Summary

1. OpenAI, Inc., a California-based corporation, has released a product GPT-4 for the consumer market that is biased, deceptive, and a risk to privacy and public safety. The outputs cannot be proven or replicated. No independent assessment was undertaken prior to deployment. OpenAI has acknowledged the specific dangers of “Disinformation and influence operations,” “Proliferation of conventional and unconventional weapons,” and “Cybersecurity.” OpenAI has warned that “AI systems will have even greater potential to reinforce entire ideologies, worldviews, truths and untruths, and to cement them or lock them in, foreclosing future contestation, reflection, and improvement.” The company already disclaims liability for the consequences that may follow.

2. The Federal Trade Commission has declared that the use of AI should be “transparent, explainable, fair, and empirically sound while fostering accountability.” OpenAI’s product GPT-4 satisfies none of these requirements. It is time for the FTC to act. There should be independent oversight and evaluation of commercial AI products offered in the United States. CAIDP urges the FTC to open an investigation into OpenAI, enjoin further commercial releases of GPT-4, and ensure the establishment of necessary guardrails to protect consumers, businesses, and the commercial marketplace.

WASHINGTON DC - The Center for AI and Digital Policy (CAIDP) today filed a complaint with the Federal Trade Commission (FTC) charging that OpenAI’s recently launched GPT-4 product violates federal consumer protection law.

CAIDP has asked the FTC to open an investigation and then to suspend the further deployment of GPT commercial products until the company complies with the FTC Guidance for AI products.

“The FTC has a clear responsibility to investigate and prohibit unfair and deceptive trade practices. We believe that the FTC should look closely at OpenAI and GPT-4,” said Marc Rotenberg, President and General Counsel of the Center. “We are

specifically asking the FTC to determine whether the company has complied with the guidance the federal agency has issued.”

Just one week ago, the FTC told American companies advertising AI products, “Merely warning your customers about misuse or telling them to make disclosures is hardly sufficient to deter bad actors. Your deterrence measures should be durable, built-in features and not bug corrections or optional features that third parties can undermine via modification or removal.”

The OpenAI GPT-4 System Card, a technical description of the product describes almost a dozen major risks, The CAIDP FTC Complaint quotes extensively from the GPT-4 System Card including “Disinformation and influence operations,” “Proliferation of conventional and unconventional weapons,” and “Cybersecurity.”

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The FTC has announced a wide range of business practices that companies offering AI products are expected to follow. For example, the FTC has said that AI companies should “ensure that data and models are empirically sound.” The FTC has also said companies should “embrace transparency.” And FTC Commissioner Slaughter has said that any claims that AI companies make about their products “must be supported by verifiable substantiation.”

Merve Hickok, Chair and Research Director of CAIDP, said “We are at a critical moment in the evolution of AI products. We recognize the opportunities and we support research. But without the necessary safeguards established to limit bias and deception, there is a serious risk to businesses, consumers, and public safety. The FTC is uniquely positioned to address this challenge.”

Ms. Hickok testified before the House Oversight Committee earlier this month. She warned Congress that “we do not have the guardrails in place, the laws that we need, the public education, or the expertise in government to manage the consequences of the rapid changes that are now taking place.”

AI policymakers outside the United States are also following closely the regulatory response to GPT-4. European consumer organizations have been at the forefront of efforts to establish new safeguards for the public.

Ursula Pahl, CAIDP board member and Deputy Director General of the European

Consumer Organisation (BEUC), said, “CAIDP has raised critical issues about the impact of GPT-4 on consumer protection, data protection and privacy, and public safety.”

Ms. Pachl continued, “This complaint should serve as a wake-up call in the EU. The EU’s proposed AI Act is currently under discussion but it will only fully apply in 3 to 4 years. We call on EU authorities to launch an investigation now into the risks of Chat GPT and similar chatbots for European consumers.”

BEUC is the umbrella group for 46 independent consumer organizations from 32 countries. The main role is to represent these organizations to the EU institutions and defend the interests of European consumers.

ABOUT CAIDP

The Center for AI and Digital Policy is a non-profit, research organization, incorporated in Washington, DC. The mission of CAIDP is to “promote a better society, more fair, more just—a world where technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law.” CAIDP’s global network of AI policy experts and advocates spans 60 countries. CAIDP routinely provides advice on emerging AI policies to national governments and international organizations.

CAIDP, In the Matter of OpenAI (FTC 2023)



Center for AI and Digital Policy

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Washington, DC and online

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