

AI Regulatory Update: National Telecommunications and Information Administration Seeks Comments on Dual-Use Foundation Models

February 27, 2024

The National Telecommunications and Information Administration (NTIA) announced a [request for comment](#) regarding the potential risks and benefits of dual-use foundation models with weights that are widely available. NTIA also asked for comment on potential regulatory models that could promote the benefits of dual-use foundation models while mitigating any associated risks from these models, or any others that fall outside the primary scope of the request for comment.

NTIA's request was mandated by President Joe Biden's October 30, 2023, [executive order](#) on "Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence" and regulatory approaches of those models. The executive order charges NTIA to solicit comments "from the private sector, academia, civil society, and other stakeholders through a public consultation process on the potential risks, benefits, other implications, and appropriate policy and regulatory approaches related to dual-use foundation models for which the model weights are widely available." NTIA will review comments received and then collaborate with the secretaries of commerce and state to prepare a report to the president. That report likely will provide specific policy and regulatory recommendations pertaining to dual-use foundation models.

In the request for comment, NTIA seeks public input on a number of questions regarding the issues impacting dual-use foundation models, including the following:

- How should NTIA define "open" or "widely available" when thinking about foundation models and model weights?
- How do the risks associated with making model weights widely available compare to the risks associated with nonpublic model weights?
- What are the benefits of foundation models with model weights that are widely available as compared to fully closed models?
- Are there other relevant components of open foundation models that – if simultaneously widely available – would change the risks or benefits presented by widely available model weights? If so, please list them and explain their impact.
- What are the safety-related or broader technical issues involved in managing the risks and amplifying the benefits of dual-use foundation models with widely available model weights?
- What are the legal or business issues or effects related to open foundation models?
- What are current or potential voluntary, domestic regulatory, and international mechanisms to manage the risks and maximize the benefits of foundation models with widely available weights? What kind of entities should take a leadership role and across which features of governance?
- In the face of continually changing technology, and given unforeseen risks and benefits, how can governments, companies and individuals make decisions or plans today about open foundation models that will be useful in the future?
- What other issues, topics or adjacent technological advancements should be considered when analyzing the risks and benefits of dual-use foundation models with widely available model weights?

Comments are due on March 27, 2024. NTIA staff is interested in hearing from a wide range of stakeholders, as this is a key issue for developing an AI regulatory framework. We encourage companies developing AI to contact one of the Cooley lawyers listed below to determine how best to communicate their message to NTIA.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

Key Contacts

Robert M. McDowell Washington, DC	rmcdowell@cooley.com +1 202 842 7862
Vince Sampson Washington, DC	vsampson@cooley.com +1 202 728 7140
Henry Wendel Washington, DC	hwendel@cooley.com +1 202 776 2943

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.