

My name is Duncan Crabtree-Ireland and I am the National Executive Director of the Screen Actors Guild-American Federation of Television and Radio Artists. SAG-AFTRA is the nation's largest labor union representing working media and entertainment artists. Its more than 160,000 members include actors, recording artists, broadcasters, disc jockeys, stunt performers, background actors, narrators, and more. Our members are the faces and voices that entertain and inform America and the world. The union exists to secure strong protections for creative professionals. We negotiate collective bargaining agreements with motion picture and television production companies, commercial producers, record labels and broadcast employers, which govern the wages, hours, and working conditions of our members. As many of you may know, our national board just approved a tentative deal with the Association of Motion Picture and Television Producers, the studios and streamers who make film and television content. We had to strike for 4 months to reach a fair deal, and AI and its impacts on our members were at the very center of that deal.

I want to thank Senator Schumer, and your staff, for your attention to these incredibly important and timely issues, particularly given the speed and breadth of the development of generative artificial intelligence and its impact across all industries. While I will focus remarks on AI's impact on creative workers, it is critical that we recognize this as a global phenomenon and an existential threat to workers, and humans. It must be handled responsibly, carefully, and in a manner that ensures humans remain at the forefront. It must always be a tool for human ingenuity and human creativity, and never a replacement. GAI has hit the creative community, particularly the film and music industries, early. We share our

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insights in hopes of helping to shape a broader narrative that always places humans at the center of the story.

SAG-AFTRA members' careers depend on their ability to protect the fruits of their labor. That includes the development of professional voice, likeness and performance talent. We represent the voices that sing our favorite songs, read our favorite books, give voice to our favorite animated characters in films and videogames, tell us what music we are listening to or should be listening to, inform us of public affairs, narrate our favorite books and documentaries, and so much more. We represent the familiar faces and likenesses who report the news, play our favorite characters in film and TV, perform live on stages around the world, and host our favorite shows.

Our members must be able to protect their voice and likeness rights, and exploit those rights how they choose, when they choose, and if they choose.

AI companies are rapidly introducing new and innovative AI technologies that can easily mimic and replicate voices and likenesses. They can clone individuals' and make it appear that they are saying and doing things they never said or did. This has even happened in our current ratification vote process on our contract with the studios and streamers - an unauthorized deepfake replica of me was made to say things I would never say and don't believe about our contract. The fact that this tech can even create entirely new performances from both living and deceased performers obviously impacts the ability of our members to make a living and sustain a career, but it also has far reaching consequences for us all. Because of the persuasive power of audio and video, we are at risk of massive misinformation on a scale never seen before.

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We have seen the immediate dangers from this technology. When a digital voice or likeness clone is made to perform against the will of the human it represents, it is a theft of that person's profession. We have seen it with fake songs, fake commercials, and fake performances. Our members can be replaced by digital versions of *themselves*. This is very different from technology reducing the number of available jobs, this is your digital self replacing your human self. Unregulated AI will usurp individuals' entire acts by creating digital clones that can act in their stead. It will take away the value of their own hard earned talents, the result of much time, effort, and expense. Half a century ago, the Supreme Court recognized the importance of protecting one's performance rights, what they referred to as rights of publicity, as "closely analogous to the goals of patent and copyright law, focusing on the right of the individual to reap the reward of his endeavors". The "rationale ...is the straightforward one of preventing unjust enrichment by the theft of goodwill" because "[n]o social purpose is served by having a defendant get free some aspect of the plaintiff that would have market value for which he would normally pay."

We have addressed many of these concerns with the studios and streamers in our recent negotiations, but our solutions are limited to film, television, and streaming productions. They must be implemented nationwide. The protection against non consensual replication in film, TV, and streaming and our demands for informed consent and fair compensation were historic achievements. We are hopeful these creator-related protections will pave the way for other creative industries, here and around the world. We must build upon these protections by enacting a long overdue, much needed, federal IP right in voice and likeness. This would protect

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~~everyone~~. The patchwork of state rights that currently exist to protect name, image and likeness are not ~~well~~ suited to ~~address~~ digital replication. A new federal right is ~~essential~~. That is why we are excited about the introduction of the discussion draft of the No Fakes Act in the Senate (Coons D, Tillis R, Klobuchar D and Blackburn R, ~~and the introduction of the companion NO AI Frauds Bill in the House (Salazar R, Dean D, Morelle D, and Moran R) (if dropped by Wednesday)~~). We look forward to working with ~~all~~ interested stakeholders to ~~achieve the enactment of~~ those protections.

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The potential for AI to improve healthcare & climate, diminish poverty, and strengthen education is real. The potential for AI to advance and improve storytelling is also real. However, we must never relegate the importance of human creativity and human ingenuity in these fields. To prioritize humanity, and human creativity, we must enact smart, strong AI regulations. For SAG-AFTRA, that starts with protecting the voice and likeness assets of our creative members.

A note also about copyright and the issues surrounding AI and copyright. We applaud the US ~~Copyright Office~~ for affirming that copyright registration exists to incentivize human creators, not machines, and that the phrase “works of authorship” refers solely to human authors. That decision was upheld recently by the DC District Court where Judge Holmes stated, “in the absence of any human involvement in the creation of the work, the clear and straightforward answer [of copyrightability] is the one given by the [Copyright Office]: No.” The creative and expressive elements in a work must be of human origin or they are not eligible for protection. Our members are not typically the owners of copyrighted works in film and

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music, but they provide their talents and their performances, their voices and likenesses, to those works, and they benefit from the exploitation of those works. We have collectively bargained to ensure actors, singers and recording artists benefit when the copyrighted works they are in are licensed, distributed and made available. We must ensure that creative copyrighted works are not used as training fodder for generative artificial intelligence systems whose only purpose is to create a marketplace of competing works. The use of copyrighted works in AI systems should be consensual, should be opt-in, and should be subject to fair market direct licensing. This protects both the owners of the works, and those who have bargained for compensation for their contributions to those works.