Consumer Federation of America

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Dear Leader Thune and Minority Leader Schumer,

The Consumer Federation of America (CFA), on behalf of our member organizations across the country, write to express vehement opposition to the "AI Sandbox" provision in the CLARITY Act (Title V), a law CFA is also opposing in whole. Despite a more innocuous name, the sandbox provision is essentially another try at the repeated failed efforts of preemption of state AI laws. The provisions in this section will expose consumers to unacceptable risk while hindering the development of a regulatory regime sufficient to counter these risks. At a time when the basic cost of living in America has become a crisis, exposing our savings to untested and nascent technologies without existing legal safeguards is unacceptable.

The proposed Title V of the CLARITY act allows certain firms to seek exemptions from critical consumer safety laws merely by averring that they are small businesses testing an "innovative" technology. The provision could magnify AI's already existing harms; hobble the growth of the firms it intends to promote; and amplify the risk to markets.

All technologies, no matter how old, could once have been described as "innovative." That does not mean that those technologies aren't dangerous, or that they deserve to be above the law. Artificial intelligence in particular has already shown that it can supercharge unlawful discrimination and enable dangerous . Those facts indicate that there should be more oversight of those emerging technologies, not less.

The sandbox provision also creates perverse incentives for firms to keep profits and employee numbers low to continue their participation in the program, when Congress should be incentivising these firms to grow into large, successful, and legally compliant businesses. Sandbox participation could artificially inhibit the growth of firms that designed themselves to exist only within the coddling perimeter of the "sandbox", when those entrants should be developing stronger, more flexible businesses ready to adapt to legal guardrails and regulatory conditions in the real world.

CFA has, elsewhere, expressed our opposition to this legislation. Even were that not the case, CFA's opposition to this section alone is sufficient for us to know that this law, if passed, would be harmful to consumers and America's economy as a whole.

Thank you for your attention. Please feel free to contact us if there is any further information we can provide as you consider this legislation.

Sincerely,

Corey Frayer – Director, Consumer Financial Services
Emily Peterson-Cassin – Director, Competition and Market Fairness
Ben Winters – Director, Artificial Intelligence and Privacy