The "AI CONSENT Act"

Senator Peter Welch

Background: Artificial Intelligence (AI) systems proliferated in the past year as technological developments have spurred rapid innovation and attracted significant investment. While popular generative AI tools like ChatGPT and Dall-E have captivated users with their human-like outputs, countless inconspicuous models have been used to enhance search engines, automate decision-making, and improve the user experience on a variety of platforms. Meanwhile, developers across the world are scrambling to develop new tools, hone algorithms, and harness the power of AI to transform economic sectors, from agriculture to healthcare.

This AI arms race is fueled by data—and the belief that larger datasets translate into stronger AI systems. Sustainable AI innovation requires that this appetite for data not come at the expense of consumers. Informed consent is foundational to the ethical collection and deployment of individuals' sensitive data, empowering consumers with the information and authority to determine how their data is used.

Summary: The *Artificial Intelligence Consumer Opt-In, Notification Standards, and Ethical Norms for Training (AI CONSENT) Act* would require covered entities to receive an individual's express informed consent before using their personally identifiable information to train an AI system. Specifically, this bill directs the FTC to implement regulations to improve transparency by requiring companies disclose when an individual's data will be used to train AI and receive consumer opt-in to this use. The AI CONSENT Act provides strong guidelines for these regulations, such as:

Disclosure Standards
- Guaranteeing the accessibility and clarity the disclosure, across a variety of platforms and media.
- Requiring that the disclosure explain how an individual's data will be used and their right to withhold consent for this use.
- Directing the FTC to consider the impact of "consumer fatigue" from repeat exposure to such disclosures.

Consumer Consent
- Establishing standards for an easily navigable mechanism for individuals to opt-in to this use.

- Prohibiting services from being made contingent upon an individual's decision to grant or withhold consent.
- Requiring consent be received independently from a user's terms of service agreement.

This bill would also commission an FTC report on the technical feasibility of de-identifying data given rapid advancements in AI technologies, evaluating potential measures companies could take to effectively de-identify user data.

Endorsers: The *AI CONSENT Act* is endorsed by National Consumers League (NCL) and Public Citizen.