

**Questions from Senator Tillis
for Tahliah Debrett Barnett (FKA twigs)**

**Witness for the Senate Committee on the Judiciary Subcommittee on Intellectual Property
Hearing “The NO FAKES Act: Protecting Americans from Unauthorized Digital Replicas”**

- 1. Regarding the NO FAKES Act, which is currently a strict liability bill, should there be a notice and takedown provision? If so, why?**

Platforms should be responsible for taking down stolen works and unauthorized deep fakes immediately, and irresponsible platforms should be held accountable under the law. As I mentioned during my appearance before the Committee, 85 of my unreleased songs were recently leaked online, which could have put my entire next project in jeopardy. My label helped issue takedown notices and we were able to get the content removed. If the platforms had not faced the threat of legal liability if they failed to take it down, I am not sure I would have had the same positive result. Platforms must be incentivized to do the right thing.

- 2. Regarding the NO FAKES Act, do you agree that individuals should only have the right to license out their digital likeness if they are represented by counsel or a member of a union? If so, why?**

To fully benefit from the opportunities of AI, I should be able to license the right to use my likeness and voice on terms that I freely negotiate. Licensing those rights presents a possible, additional source of revenue.

I understand concerns around artists and other individuals who could sign licensing deals that they do not fully understand or that they later regret, particularly for those who are young or early in their careers. To this end the importance of limiting licensing agreements in time subject to reasonable renewable contractual terms and conditions must be made clear and provided for. There should be no suggestion of or opportunity for licensed rights being given in perpetuity. Equally, the NO FAKES Act, should also provide for protection of the artist’s rights and image after their death in perpetuity. The law already provides for individual and societal protection from theft, fraud and crime related to deceased impersonation, developed identity and fraudulent misrepresentation. This should be no different because we are dealing with AI in the context of the performing arts. Identity theft and fraudulent misrepresentation is unlawful whatever the medium used and I would expect the Act to reflect this and make the appropriate links to existing laws. As I understand it, the proposed Bill would require that artists who license their rights must be represented by legal counsel to ensure they fully understand what they are agreeing to. Those types of safeguards seem reasonable, but otherwise, the government should not place additional limitations.

I would caution against going too far in this respect and taking away or limiting artists' power to make their own decisions about their faces, voices, and works, or making the right so restrictive that it limits their opportunities to monetize the right. To ensure the right has value to the right holders, it must be monetizable, which may require working with others who can help market and amplify it.

3. Regarding the NO FAKES Act, should there be a preemption clause in cases of conflict with state laws? If so, why?

I will let the American lawyers debate the intricacies of US Federalism. What I can say is that I have worked hard for my image, reputation, and voice to be of commercial value in all 50 states and internationally. I need certainty across the United States that my legal protections do not depend on which state I am working in or where a bad actor appropriates my work. There should be a Federal law that establishes nationwide protections, but it should not prevent states from enacting additional protections or responding to new problems as they emerge.

4. Regarding the NO FAKES Act, what unintended consequences do you foresee, if any?

I am very concerned by the categorical exemptions in the NO FAKES Act. As I understand the current discussion draft, the bill could allow a movie studio to make a "biographical" film about me and use AI to put me – my face, my voice, and my body – in places I never was and doing things I never did, and leaving me powerless to object to what is essentially the commercial release of my autobiography by a third party. I am especially afraid of how this loss of bodily autonomy in films could affect young women who could be depicted in intimate and inappropriate ways.

My understanding is that no court has ever said that the First Amendment requires this extreme license to put words in others' mouths, and Congress should not permit it now. No studio should be allowed to produce a project using my likeness or voice without my permission or that of my Estate or other legally appointed representatives. There is no censorship or limitation of First Amendment freedoms if I decline to authorize the use of my likeness or voice; the studio remains free to produce the project using an actor to portray an approximation of me, just as they do today.

5. Will deep fakes potentially dissuade talented individuals from becoming artists?

Absolutely. If anyone can produce a deep fake using my likeness or voice without my permission, it will directly undermine my ability to make a living as an artist. It will not only discourage future generations from pursuing a career in the creative industries, but it will also kill the sector as a viable career option for them. It has always been challenging to have

a career in music and the creative industries. Without reasonable guardrails, deep fakes can make it impossible.

As an artist, I have spent my entire life and career developing my individual style and artistry to express my thoughts, my lived experiences, and my aspirations and desires. My voice and likeness are the foundation of my identity and my ability to make a living from my creativity.

If Congress does not seize this opportunity to create an intellectual property right to our likeness and voice, artists will have no say over how our identities are used and, for those of us who want to lean into AI and grant those rights, we will be denied an opportunity to benefit when our own identities are used by others. I would also be concerned to ensure that the Act is equally secure in enabling protection of my personal reputation and integrity, as well as those of others in society from fraudulent misrepresentation using AI.

6A. How does it feel to see unauthorized AI fakes depicting and sounding like you?

Finding songs online, including collaborations between me and other artists that I did not create, makes me feel vulnerable because, as an artist, I am very precise. I am thoughtful and purposeful, and I take my time to create work that I am proud of. My fans trust me because they know that I put so much of myself into what I do.

The fact that somebody can take my voice, change the lyrics, change messaging, maybe work with an artist who I didn't want to work with, or maybe work with an artist who I wanted to work with is inherently wrong. This leaves me feeling very raw and very vulnerable.

It is intensely offensive to think that an AI developer can rob me of my identity and my artistry, without my permission and without compensation, to create new content that competes with my original creative work. It is wrong and immoral, and it should be illegal.

6B. How does it affect your art and your business?

The proliferation of unauthorized deep fakes will present an existential threat to creators. It threatens us professionally, financially, artistically, spiritually, and intellectually. We are entering a world where artists are actually competing with deep fake versions of themselves for revenue on streaming platforms.

Unauthorized deep fakes can harm a performer's reputation by using their voice to sing offensive lyrics that alienate their audience, that misrepresent their artistry, or that embarrass or humiliate the artist. Once something is out in the world, we cannot take it back and it can have a lasting impact on artists' income, reputation and relationship with their fans.

Creativity over time will be stifled, and the cultural harm to society will be dramatic. For many artists, it would be a career ender.