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INNOVATION ECONOMY

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October 16, 2023

Federal Elections Commission
Lisa J. Stevenson, Office of General Counsel
1050 First Street, NE
Washington, D.C. 20463

RE: Artificial Intelligence in Campaign Ads

Dear Ms. Stevenson,

TechNet supports Public Citizen's petition requesting the Federal Elections Commission (FEC) conduct rulemaking pursuant to 11 C.F.R §200.1 *et seq.* on the subject of "fraudulent misrepresentation" regarding deliberately misleading campaign communications generated with artificial intelligence (AI).

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

Millions of Americans have been using AI for years to navigate traffic, search the internet, undertake research, conduct a spell check, vacuum their home, and discover new music. AI is also being used to predict severe weather more accurately, protect critical infrastructure, defend against cyber threats, and accelerate the development of new medical treatments, including life-saving vaccines and ways to detect earlier signs of cancer.

AI has immense potential for good, but it must have sensible guardrails to protect the American public and our core institutions. We agree with Public Citizen's petition, which outlined many of the potential harms "deepfakes" — deliberately deceptive visual and/or audio materials produced by AI — could have on our elections.

Several federal government leaders have shared concerns about the proliferation of deepfakes. The National Security Agency, Federal Bureau of Investigation, and Cybersecurity and Infrastructure Security Agency put out a joint information sheet

on potential deepfake threats to organizations.¹ Section 589F of the Fiscal Year 2021 National Defense Authorization Act (P.L. 116-283) directed the Secretary of Defense to conduct an intelligence assessment of the threat posed by deepfakes to servicemembers and their families, including an assessment of the maturity of the technology and how it might be used to conduct information operations.

Existing federal law forbids candidates for federal office or their agents from fraudulently misrepresenting themselves as speaking or acting for or on behalf of any other candidate or political party on a matter which is damaging to such other candidate or political party.² TechNet believes this prohibition should be extended to state campaigns as well. Campaigns have always utilized modern technologies to reach potential voters. From placing advertisements and Op-Eds in the newspaper, to radio interviews and catchy jingles, to televised debate stages, to social media outreach, to now advanced AI being used to create campaign materials, political leaders have utilized all tools at their disposal to reach out to the public. Regardless of the tools or medium that campaigns may choose to employ, TechNet believes that media of candidates that is “fraudulent misrepresentation” must be barred for the safety of our democracy. That is why we support the FEC clarifying that the existing “fraudulent misrepresentation” doctrine applies to deliberately deceptive AI-generated campaign content.

We agree with Public Citizen’s statement regarding the disclosure of content that was generated by AI and portrays fictitious statements and actions of a candidate.³ We urge the FEC to establish a disclosure advisory during their rulemaking.

Voters need to have confidence that the information they receive about candidates is accurate and reliable in order to make informed decisions. We believe that candidates or their agents should be barred from utilizing AI to release deliberately misleading campaign content of any other candidate or political party. We appreciate the opportunity to comment on this petition and commend your work to protect federal election integrity. Thank you for your consideration of this important issue, and we look forward to working with you in the future.

Sincerely,



Linda Moore
President and CEO

¹ <https://media.defense.gov/2023/Sep/12/2003298925/-1/-1/0/CSI-DEEPFAKE-THREATS.PDF>

² 52 U.S.C. §30124

³ “The prohibition on fraudulent misrepresentation would not apply in cases where there is a sufficiently prominent disclosure that the image, audio or video was generated by artificial intelligence and portrays fictitious statements and actions; the fact of a sufficiently prominent disclosure would eliminate the element of deception and fraud.”