



PARTNERSHIP ON AI

Partnership on AI's Response to the Federal Election Commission's Notification of Availability of Petition for Rulemaking – Artificial Intelligence in Campaign Ads

Notice 2023-13

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Executive Summary

The Partnership on AI (PAI) is pleased to submit this response to the Federal Elections Commission (FEC) on the Availability of Petition for Rulemaking - Artificial Intelligence in Campaign Ads. PAI applauds the timely and important nature of this request for comment.

In this comment, PAI recommends that the FEC accept the proposed amendment, making clear that “deliberately false” AI-generated content will fall under the regulation governing “fraudulent misrepresentation” in campaign ads.

The speed and scale with which highly-realistic synthetic media can be created and shared using increasingly accessible generative AI tools warrants emphasis as we have already seen the impact of this technology on international elections. PAI has identified specific harms related to synthetic media, such as voter deception and damaging the reputation of a candidate ahead of an election, that can have potential negative effects on democratic and political processes. The need to address this harm supports our recommendation of this amendment.

About PAI

Founded in 2016, PAI is a nonprofit partnership of academic, civil society, industry, and media organizations creating solutions to ensure that AI advances positive outcomes for people and society. Today, we connect 104 partner organizations in 14 countries, uniting them toward the responsible development and deployment of AI technologies.

PAI develops tools, recommendations, and other resources by inviting diverse voices from across the AI community and beyond to share insights that can be synthesized into actionable guidance. We then work to promote adoption in practice, inform public policy, and advance public understanding. We are not an industry or trade group, nor are we an advocacy organization.

While the information in this document is provided by PAI and is not intended to reflect the view of any PAI Partner organization or collaborator, much of it has been informed through years of collaboration with our international, multistakeholder group of 104 Partner organizations.

PAI's Work on Generative Media

Since 2018, PAI has been working on normative guidance around deepfakes and other synthetic media through collaboration with industry, media, civil society, and academic stakeholders – [including governance of a machine learning competition for deepfake detection](#), [research on how audiences respond to manipulated media labels](#), and [even how to think about watermarking AI content](#). In February 2023, PAI launched its [Responsible Practices for Synthetic Media: A Framework for Collective Action](#), a technology policy exploring how those creating, developing, and distributing synthetic media can do so responsibly. This effort stems from a collaborative drafting process that featured over 100 global stakeholders considering a set of shared values, tactics, and practices for responsible governance of synthetic media. The Framework has support from 18 leading technology, civil society, and media institutions, including OpenAI, the BBC, Bumble, Adobe, TikTok, WITNESS, [and more](#).

This group has aligned on a key definition for synthetic media, one that notably leaves room for policies and technologies that are also applied to *non-AI* manipulated media that deceive or cause harm. The Framework defines synthetic media as “visual, auditory, or multimodal content that has been generated or modified (commonly via artificial intelligence). Such outputs are often highly realistic, would not be identifiable as synthetic to the average person, and may simulate artifacts, persons, or events.”

PAI's Recommendation

The FEC should make clear that ["deliberately false" AI-generated content](#) will fall under the regulation governing “fraudulent misrepresentation” in campaign ads.

While the use of technology to alter media for political purposes is [not a new phenomenon](#), the speed and scale with which highly-realistic synthetic media can be created and shared using increasingly accessible generative AI tools warrants emphasis. Specifically, it prompts us to consider explicit policy and technology mitigations that emphasize AI technology's potential impact. This amendment can help emphasize the existing language, thereby bolstering the mitigation of AI-generated content used to deceptively mislead and cause harm during elections.

In [PAI's Responsible Practices for Synthetic Media](#), we highlight an explicit list of Potential Harms from Synthetic Media (see [Appendix B](#) of the Framework). Notably, our community felt that a policy focused on harm, rather than intent, would be a useful framing for the field to align upon and enact synthetic media policy, though there is still live discussion on this topic. One related harm is explicitly related to the amendment, and is described as:

- “Manipulating democratic and political processes, including deceiving a voter into voting for or against a candidate, damaging a candidate’s reputation by providing false statements or acts, influencing the outcome of an election via deception, or suppressing voters.”

The need to develop socio-technical mitigations around this type of harm supports our recommendation that the FEC amend its regulation.

Why Does AI-Generated Content Require an Explicit Amendment?

Several dynamics require express attention be paid to AI-generated content in election policy. Today, generative AI tools can create [synthetic media that is nearly indistinguishable from real media, and most importantly, trusted. The introduction of widely accessible text-to-image tools in 2022](#) has also enabled the public to create synthetic imagery with little technical expertise. While we are still more concerned about the use of low-tech methods for manipulating media that do not rely on AI (like miscontextualization), it is important to get ahead of AI’s potential malicious use in high-risk, high-stakes events such as elections that, as of writing, is inevitable.

Campaign content created using AI tools has already had a [significant impact](#) in the May 2023 presidential election in Turkey, an important NATO Ally. More recently, in October 2023, ahead of parliamentary elections in Slovakia, [AI-generated audio content](#) emerged depicting the head of its progressive party discussing vote buying with a journalist. As the Electronic Privacy Information Center [has noted](#), “generative AI will make it much easier for campaigns, PACs, and individuals to create content that is false, misleading, inflammatory, or dangerous.”

Public attitudes also necessitate explicit focus on AI-generated content. A September 2023 [poll by Axios and Morning Consult](#) found that half of Americans expect misinformation that relies upon AI will impact the outcome of the 2024 U.S. presidential election. Similarly, a September 2023 [poll by philanthropic organization](#)

[Luminate](#) found that 70% of citizens in the UK and Germany who “understood AI and deepfake technology” said they were concerned about the use of such technology in elections. In France, 57% of citizens were concerned, according to that same poll. Earlier this year, the bipartisan Board of Directors of the American Association of Political Consultants [unanimously agreed](#) to condemn the use of deepfakes in political campaigns and called it a “dangerous threat to democracy.” Such concern about AI’s impact on media might also prompt publics to distrust *real* media, a concept known as [“the liar’s dividend”](#) that requires interventions that support trust in real content.

Of course, policies that deal with “deliberately false” political speech must also be careful to not stifle [artistic, satirical, and other forms of political speech](#) and free expression that are the bedrock of democratic society and can also make use of AI techniques.

PAI’s Work on Generative Media Enforcement: Disclosure Can Enable Responsible Synthetic Media

There are key policy and technology interventions that can help support implementation of the amendment and mitigate the use of harmful synthetic media during elections, such as **disclosure** (informing users, either directly or indirectly, that the content they are viewing was made using generative AI tools). This is a key principle in PAI’s [Responsible Practices for Synthetic Media: A Framework for Collective Action](#).

Disclosure, or media authentication practices, is already being implemented. Large AI industry organizations are taking steps toward self-regulating the use of synthetic media in campaign ads on their platforms. [Beginning in November 2023](#), Google will require all election advertisers in regions where verification is required to prominently disclose when campaign ads “contain synthetic content that inauthentically depicts real or realistic-looking people or events.” However, self-regulation is not sufficient to deal with malicious synthetic media.

In July 2023, the White House convened several leading AI companies including Amazon, Google, Meta, Microsoft, and OpenAI to [announce it had secured voluntary commitments](#) from them “to help move toward safe, secure, and transparent development of AI technology.” Among these commitments is a pledge to “Develop and deploy mechanisms that enable users to understand if audio or visual content is

AI-generated, including robust provenance, watermarking, or both, for AI-generated audio or visual content.”

Importantly, those looking to “fraudulently misrepresent” persons, places, or events in a deceptive way during an election cycle might try to strip out disclosure signals, despite regulations prohibiting such action. However, the existence of this challenge does not render disclosure useless. Rather than thwart collective action, this should promote cross-sector collaboration; policymakers, technologists, civil society representatives, academics, and those in media/journalism should standardize, test, and monitor disclosure methods and their adoption. They must also continue [active work](#) already begun on how to incorporate resilient indirect disclosure mechanisms into generative AI models that are shared open source and might be used to “fraudulently misrepresent.”

At PAI, we are currently convening leaders from across sectors to do just this, and to align on how to meaningfully disclose that content is AI-generated to mislead, in a way that is resilient to both technical manipulations and that supports societal understanding.

This work will culminate in a consensus-driven taxonomy of different methods for media authentication alongside recommendations that will help industry and policy makers better understand existing challenges and risks from synthetic media, and how to prevent them. Implementing media authentication methods and disclosure protocols can support the enforcement of this amendment.

Conclusion

Generative AI tools are becoming increasingly sophisticated and more readily available, making reducing their potential for malicious use even more challenging, and more urgent. The upcoming 2024 U.S. presidential election, which has already seen the use of synthetic media in [campaign ads](#), will serve as a high-stakes litmus test for the efficacy of malicious AI-generated content in elections.

Ultimately, as more and more online content is AI-generated, AI tools should be developed and shared with transparency mechanisms built in that help society respond to them. Ensuring that FEC regulations on “fraudulent misrepresentation” include guidance that specifically mentions AI-generated content is a good first step to safeguarding the upcoming elections from potentially misleading, harmful

AI-generated campaign ads -- while upholding free expression and permissible political speech.