H. R. 3044

To amend the Federal Election Campaign Act of 1971 to provide further transparency and accountability for the use of content that is generated by artificial intelligence (generative AI) in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image or video footage in the advertisements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2023

Ms. CLARKE of New York introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to provide further transparency and accountability for the use of content that is generated by artificial intelligence (generative AI) in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image or video footage in the advertisements, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Require the Exposure of AI–Led Political Advertisements Act” or the “REAL Political Advertisements Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the revolutionary innovations in generative artificial intelligence (generative AI) and the potential for their use in exacerbating and spreading misinformation and disinformation at scale and with unprecedented speed requires Congress and the Federal Election Commission to take action to protect against the use of generative AI that harms our democracy; and

(2) free and fair elections require transparency and accountability, which allow the public to make informed decisions and hold public officials accountable.

SEC. 3. EXPANSION OF DEFINITION OF ELECTIONEERING COMMUNICATION.

(a) Expansion to Online Communications.—

(1) Application to Qualified Internet and Digital Communications.—

is amended by striking “or satellite communication” each place it appears in clauses (i) and
(ii) and inserting “satellite, or qualified internet
or digital communication”.

(B) QUALIFIED INTERNET OR DIGITAL
COMMUNICATION.—Paragraph (3) of section
304(f) of such Act (52 U.S.C. 30104(f)) is
amended by adding at the end the following
new subparagraph:

“(D) QUALIFIED INTERNET OR DIGITAL
COMMUNICATION.—The term ‘qualified internet
or digital communication’ means any commu-
nication which is placed or promoted for a fee
on an online platform.”.

(2) NONAPPLICATION OF RELEVANT ELEC-
TORATE TO ONLINE COMMUNICATIONS.—Section
304(f)(3)(A)(i)(III) of such Act (52 U.S.C.
30104(f)(3)(A)(i)(III)) is amended by inserting “any
broadcast, cable, or satellite” before “communication”.

(3) NEWS EXEMPTION.—Section
304(f)(3)(B)(i) of such Act (52 U.S.C.
30104(f)(3)(B)(i)) is amended to read as follows:

“(i) a communication appearing in a
news story, commentary, or editorial dis-
tributed through the facilities of any broadcasting station or any online or digital newspaper, magazine, publication, periodical, blog, or platform, unless such broadcasting, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;”.

(b) DEFINITION OF ONLINE PLATFORM.—Section 301 of such Act (52 U.S.C. 30101) is amended by adding at the end the following:

“(27) ONLINE PLATFORM.—

“(A) IN GENERAL.—The term ‘online platform’ means any public-facing website, web application, or digital application (including a social network, ad network, or search engine) which—

“(i)(I) sells qualified political advertisements; and

“(II) has 50,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months; or

“(ii) is a third-party advertising vendor that has 50,000,000 or more unique monthly United States visitors in the ag-
gregate on any advertisement space that it
has sold or bought for a majority of
months during the preceding 12 months,
as measured by an independent digital rat-
ings service accredited by the Media Rat-
ings Council (or its successor).

“(B) QUALIFIED POLITICAL ADVERTISE-
MENT.—For purposes of this paragraph, the
term ‘qualified political advertisement’ means
any advertisement (including search engine
marketing, display advertisements, video adver-
tisements, native advertisements, and sponsor-
ships) that—

“(i) is made by or on behalf of a can-
didate; or

“(ii) communicates a message relating
to any political matter of national impor-
tance, including—

“(I) a candidate;

“(II) any election to Federal of-

“(III) a national legislative issue

“(C) THIRD-PARTY ADVERTISING VENDOR

DEFINED.—For purposes of this paragraph, the
term ‘third-party advertising vendor’ includes any third-party advertising vendor network, advertising agency, advertiser, or third-party advertisement serving company that buys and sells advertisement space on behalf of unaffiliated third-party websites, search engines, digital applications, or social media sites.”.

(c) **Effective Date.**—The amendments made by this section shall apply with respect to communications made on or after January 1, 2024, and shall take effect without regard to whether or not the Federal Election Commission has promulgated regulations to carry out such amendments.

**SEC. 4. REQUIRING DISCLAIMERS ON ADVERTISEMENTS CONTAINING CONTENT GENERATED BY ARTIFICIAL INTELLIGENCE.**

(a) **Requirement.**—Section 318 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30120) is amended by adding at the end the following new subsection:

“(e) **Special Disclaimer for Communications Containing Content Generated by Artificial Intelligence.**—

“(1) **Requirement.**—If a communication described in subsection (a) contains an image or video
footage which was generated in whole or in part with
the use of artificial intelligence (generative AI), the
communication shall include, in a clear and con-
spicuous manner, a statement that the communica-
tion contains such an image or footage.

“(2) SAFE HARBOR FOR DETERMINING CLEAR
AND CONSPICUOUS MANNER.—A statement required
under this subsection shall be considered to be made
in a clear and conspicuous manner if the statement
meets the following requirements:

“(A) TEXT OR GRAPHIC COMMUNICA-
TIONS.—In the case of a text or graphic com-
munication, the statement—

“(i) appears in letters at least as large
as the majority of the text in the commu-
nication; and

“(ii) meets the requirements of para-
graphs (2) and (3) of subsection (c).

“(B) AUDIO COMMUNICATIONS.—In the
case of an audio communication, the statement
is spoken in a clearly audible and intelligible
manner at the beginning or end of the commu-
nication and lasts at least 3 seconds.
“(C) VIDEO COMMUNICATIONS.—In the case of a video communication which also includes audio, the statement—

“(i) is included at either the beginning or the end of the communication; and

“(ii) is made both in—

“(I) a written format that meets the requirements of subparagraph (A) and appears for at least 4 seconds; and

“(II) an audible format that meets the requirements of subparagraph (B).

“(D) OTHER COMMUNICATIONS.—In the case of any other type of communication, the statement is at least as clear and conspicuous as the statement specified in subparagraph (A), (B), or (C).

“(3) REGULATIONS.—Not later than 120 days after the date of the enactment of the REAL Political Advertisements Act, the Commission shall promulgate a regulation to carry out this subsection, including—

“(A) criteria for determining whether an advertisement contains an image or video foot-
age created through generative artificial intelligence;

“(B) requirements for the contents of the statement required under paragraph (1); and

“(C) a definition of content generated by artificial intelligence that considers current and future uses of artificial intelligence and similar technologies that have a high risk for use in creating and spreading misinformation or disinformation about candidates, elections, and issues of national concern.”.

(b) Effective Date.—The amendments made by this section shall apply with respect to communications made on or after January 1, 2024, and shall take effect without regard to whether or not the Federal Election Commission has promulgated regulations to carry out such amendments.

SEC. 5. REPORTS.

Not later than 2 years after the date of the enactment of this Act, and biannually thereafter, the Federal Election Commission shall submit a report to Congress which includes—

(1) an assessment of the compliance with and the enforcement of the requirements of section
318(e) of the Federal Election Campaign Act of 1971, as added by this Act;

(2) recommendations for any modifications to such section to assist in carrying out its purposes; and

(3) the identification of ways to bring further transparency and accountability to political advertisements.