

118TH CONGRESS
1ST SESSION

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) the revolutionary innovations in generative
8 artificial intelligence (generative AI) and the poten-
9 tial for their use in exacerbating and spreading mis-
10 information and disinformation at scale and with un-
11 precedented speed requires Congress and the Fed-
12 eral Election Commission to take action to protect
13 against the use of generative AI that harms our de-
14 mocracy; and

15 (2) free and fair elections require transparency
16 and accountability, which allow the public to make
17 informed decisions and hold public officials account-
18 able.

19 **SEC. 3. EXPANSION OF DEFINITION OF ELECTIONEERING**
20 **COMMUNICATION.**

21 (a) **EXPANSION TO ONLINE COMMUNICATIONS.—**

22 (1) **APPLICATION TO QUALIFIED INTERNET AND**
23 **DIGITAL COMMUNICATIONS.—**

24 (A) **IN GENERAL.—**Subparagraph (A) of
25 section 304(f)(3) of the Federal Election Cam-
26 paign Act of 1971 (52 U.S.C. 30104(f)(3)(A))

1 is amended by striking “or satellite communica-
2 tion” each place it appears in clauses (i) and
3 (ii) and inserting “satellite, or qualified internet
4 or digital communication”.

5 (B) QUALIFIED INTERNET OR DIGITAL
6 COMMUNICATION.—Paragraph (3) of section
7 304(f) of such Act (52 U.S.C. 30104(f)) is
8 amended by adding at the end the following
9 new subparagraph:

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

15 (2) NONAPPLICATION OF RELEVANT ELEC-
16 TORATE TO ONLINE COMMUNICATIONS.—Section
17 304(f)(3)(A)(i)(III) of such Act (52 U.S.C.
18 30104(f)(3)(A)(i)(III)) is amended by inserting “any
19 broadcast, cable, or satellite” before “communica-
20 tion”.

21 (3) NEWS EXEMPTION.—Section
22 304(f)(3)(B)(i) of such Act (52 U.S.C.
23 30104(f)(3)(B)(i)) is amended to read as follows:

24 “(i) a communication appearing in a
25 news story, commentary, or editorial dis-

1 tributed through the facilities of any
2 broadcasting station or any online or dig-
3 ital newspaper, magazine, publication, peri-
4 odical, blog, or platform, unless such
5 broadcasting, online, or digital facilities are
6 owned or controlled by any political party,
7 political committee, or candidate;”.

8 (b) DEFINITION OF ONLINE PLATFORM.—Section
9 301 of such Act (52 U.S.C. 30101) is amended by adding
10 at the end the following:

11 “(27) ONLINE PLATFORM.—

12 “(A) IN GENERAL.—The term ‘online plat-
13 form’ means any public-facing website, web ap-
14 plication, or digital application (including a so-
15 cial network, ad network, or search engine)
16 which—

17 “(i)(I) sells qualified political adver-
18 tisements; and

19 “(II) has 50,000,000 or more unique
20 monthly United States visitors or users for
21 a majority of months during the preceding
22 12 months; or

23 “(ii) is a third-party advertising ven-
24 dor that has 50,000,000 or more unique
25 monthly United States visitors in the ag-

1 gregate on any advertisement space that it
2 has sold or bought for a majority of
3 months during the preceding 12 months,
4 as measured by an independent digital rat-
5 ings service accredited by the Media Rat-
6 ings Council (or its successor).

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

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

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

19 “(I) a candidate;

20 “(II) any election to Federal of-
21 fice; or

22 “(III) a national legislative issue
23 of public importance.

24 “(C) THIRD-PARTY ADVERTISING VENDOR
25 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

1 footage which was generated in whole or in part with
2 the use of artificial intelligence (generative AI), the
3 communication shall include, in a clear and con-
4 spicuous manner, a statement that the communica-
5 tion contains such an image or footage.

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

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

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

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

19 “(B) AUDIO COMMUNICATIONS.—In the
20 case of an audio communication, the statement
21 is spoken in a clearly audible and intelligible
22 manner at the beginning or end of the commu-
23 nication and lasts at least 3 seconds.

1 “(C) VIDEO COMMUNICATIONS.—In the
2 case of a video communication which also in-
3 cludes audio, the statement—

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

6 “(ii) is made both in—

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

11 “(II) an audible format that
12 meets the requirements of subpara-
13 graph (B).

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

19 “(3) REGULATIONS.—Not later than 120 days
20 after the date of the enactment of the REAL Polit-
21 ical Advertisements Act, the Commission shall pro-
22 mulgate a regulation to carry out this subsection, in-
23 cluding—

24 “(A) criteria for determining whether an
25 advertisement contains an image or video foot-

1 age created through generative artificial intel-
2 ligence;

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

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

12 (b) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply with respect to communications
14 made on or after January 1, 2024, and shall take effect
15 without regard to whether or not the Federal Election
16 Commission has promulgated regulations to carry out
17 such amendments.

18 **SEC. 5. REPORTS.**

19 Not later than 2 years after the date of the enact-
20 ment of this Act, and biannually thereafter, the Federal
21 Election Commission shall submit a report to Congress
22 which includes—

23 (1) an assessment of the compliance with and
24 the enforcement of the requirements of section

1 318(e) of the Federal Election Campaign Act of
2 1971, as added by this Act;

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

6 (3) the identification of ways to bring further
7 transparency and accountability to political adver-
8 tisements.

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