
Ending FCC Meddling in Our Elections Act

In May, the Federal Communications Commission (FCC) voted 3-2 to begin the process of promulgating new regulations on the use of AI in campaign advertising. The notice of proposed rulemaking, which was supported exclusively by Democrat-appointed FCC Commissioners, would result in television and radio providers being required to issue an on-air disclosure every time an ad created in whole or in part with AI appears on their platforms.

There is nothing inherently wrong with wanting to increase transparency over the use of AI in election ads; that's why Congress is actively considering a number of measures to do just that. **There is, however, something very wrong with a partisan agency attempting to unilaterally alter the rules of the road for campaigning just months before the most consequential Presidential election in a generation.** Here's what you need to know:

- The FCC does not possess the authority to single-handedly impose new regulations on the expression of political speech. For decades, the FCC has recognized that they do not have the authority to impose regulations that will specifically impact political speech and campaign-related activities. Commissioner Brendan Carr, in his dissent, furthered this argument by noting that the FCC hadn't attempt to regulate political speech since the 1950s. This argument has been further supported by the Federal Elections Commission (FEC) Chairman, who noted that Congress vested sole authority in regulating campaign activities in the FEC.
- The FCC's proposed order would further muddy the waters, not provide enhanced clarity. The FCC's rulemaking would only apply to television and radio platforms, leaving ads posted on social media and the internet more broadly completely unaffected. This means that the exact same ad posted on a social media platform will not be accompanied by a disclosure noting that the ad was created with the use of AI, but when that same ad appears on television the disclosure will have to be posted. Rather than providing clarity to voters, the FCC's decision to pick and choose which platforms will be impacted by their rulemaking will only further sow confusion.
- The FCC's proposed order is undoubtedly politically motivated and meant to undermine President Trump's election prospects. For months, the DNC has been publicly panicking that the Republican Party has been more successful at integrating AI into their campaign strategy. Now, just months before the Presidential election, the Biden-appointed Chair of the FCC has decided to heed those concerns by promulgating new regulations on the use of AI in campaign advertising. This rulemaking is clearly politically motivated, and represents the latest attempt by the Biden Administration to corrupt the legal system and Administrative State in order to stack the deck against President Trump.

In response, Senator Lee's *Ending FCC Meddling in Our Elections Act* would prohibit the use of federal funds to enforce any order issued as a result of the FCC's notice of proposed rulemaking. If your boss is interested in cosponsoring the legislation, please reach out to Will Mascaro (william_mascaro@lee.senate.gov).