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August 27, 2024

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
45 L Street NE  
Washington, DC 20554

**Re: Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements**

The Future of Privacy Forum (FPF) welcomes the opportunity to submit comments in response to the Federal Communications Commission’s (FCC, or Commission) Notice of Proposed Rulemaking (NPRM) on the use of artificial intelligence (AI) to generate content for political advertisements.<sup>1</sup> In the NPRM, the FCC seeks comment on a proposal to require broadcasters, cable operators, satellite providers, and others to make on-air disclosures that any political ad that runs on their platform contains AI-generated content, and to include notices of such content in their online political files. FPF is a global non-profit organization dedicated to advancing privacy leadership, scholarship, and principled data practices in support of emerging technologies.

Generative AI can both benefit political outreach as well as harm the political information ecosystem, and greater transparency can help reduce the risk of some of these harms occurring. While generative AI could be used responsibly to help candidates more effectively communicate with different segments of the population, particularly resource-constrained campaigns, it could also spread disinformation and misinformation, or damage election integrity.<sup>2</sup> For example, earlier this year a political consultant created AI-generated robocalls impersonating President Biden and discouraging New Hampshire voters from voting in the primary.<sup>3</sup> More recently, former President Trump reposted false AI-generated images of Taylor Swift endorsing him for president on his

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<sup>1</sup> Federal Communications Commission, *Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements* (MB Docket No. 24-21; FCC 24-74; FR ID 235498) (Aug. 5, 2024), <https://www.federalregister.gov/documents/2024/08/05/2024-16977/disclosure-and-transparency-of-artificial-intelligence-generated-content-in-political-advertisements>.

<sup>2</sup> Christina LaChapelle and Catherine Tucker, *Generative AI in Political Advertising*, Brennan Center for Justice (Nov. 23, 2023), <https://www.brennancenter.org/our-work/research-reports/generative-ai-political-advertising>.

<sup>3</sup> Holly Ramer and Ali Swenson, *Political consultant behind fake Biden robocalls faces \$6 million fine and criminal charges*, Associated Press (May 23, 2024), <https://apnews.com/article/biden-robocalls-ai-new-hampshire-charges-fines-9e9cc63a71eb9c78b9bb0d1ec2aa6e9c>.

social media account.<sup>4</sup> Malicious actors also use AI to create deepfake non-consensual intimate imagery (NCII), particularly of women and girls and people from historically marginalized communities, which can be used to discourage their political and civic participation.<sup>5</sup>

At the same time, there are legitimate questions about how effective the Commission’s proposed measures would be, in practice, in achieving its goals of mitigating the risks associated with synthetic political content. The vast majority of synthetic content—political or otherwise—is found online, rather than on TV or the radio, raising questions about the level of impact the Commission’s rules would have on political disinformation and misinformation. An inconsistency in the treatment of online political ads on one hand, and TV or radio political ads on the other, may also create confusion, leading viewers to regard unlabeled online ads or other content less skeptically than labeled synthetic TV or radio ads.<sup>6</sup> If the Commission proceeds with rulemaking, it should consider how to address these potential shortcomings and consequences.

Attached to this comment you will find an op-ed published in *The Hill* by FPF’s Vice President of U.S. Policy Amie Stepanovich and Policy Counsel Ambel Ezzell, “Generative AI could be used to steal the next election and how we can stop it.” The article, published in August 2023, highlights the potential for generative AI to manipulate voters and election outcomes, while also illustrating possible benefits for voters and candidates when these tools are deployed ethically and responsibly.

FPF appreciates the opportunity to comment on these issues, and the FCC’s ongoing efforts to improve transparency around the use of AI in political advertisements. We welcome any further opportunity to provide resources or information to assist in this effort. If you have any questions regarding these comments, please contact Jameson Spivack at [jspivack@fpf.org](mailto:jspivack@fpf.org) (cc: [info@fpf.org](mailto:info@fpf.org)).

Sincerely,

Jameson Spivack, Senior Policy Analyst

**Future of Privacy Forum**

<https://fpf.org>

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<sup>4</sup> Elizabeth Wagmeister and Kate Sullivan, *Trump posts fake AI images of Taylor Swift and Swifties, falsely suggesting he has the singer’s support*, CNN (Aug. 19, 2024), <https://www.cnn.com/2024/08/19/politics/donald-trump-taylor-swift-ai/index.html>.

<sup>5</sup> Coralie Kraft, *Trolls Used Her Face to Make Fake Porn. There Was Nothing She Could Do.*, The New York Times (Jul. 31, 2024), <https://www.nytimes.com/2024/07/31/magazine/sabrina-javellana-florida-politics-ai-porn.html>.

<sup>6</sup> Research finds that people are less trusting of content labeled as synthetic than they are of content not labeled as such. The existence of labels for some synthetic content—such as TV and radio ads—may inadvertently cause people to believe that unlabeled content they encounter online is *not* synthetic, even if it is synthetic, and to scrutinize it less strictly. See Sacha Altay and Fabrizio Gilardi, *Headlines Labeled as AI-Generated Are Distrusted, Even When True or Human-Made, Because People Assume Full AI Automation* (2023), <https://osf.io/preprints/psyarxiv/83k9r>.

# Generative AI could be used to steal the next election — here's how we can stop it

*Amie Stepanovich and Amber Ezzell, Opinion Contributors*

“I don’t invite her to events,” says former President Donald Trump about Iowa Gov. Kim Reynolds in a [new campaign ad](#) from presidential rival Ron DeSantis.

Except Trump never spoke those words at all — the voice was generated through artificial intelligence (AI) technology, and is maybe the first major example of what may become the next frontier of political campaign tools and tactics in the 2024 elections and beyond.

While generative AI can be used for good in elections, including to inform and educate voters, it can also be misused to spread misinformation, suppress voter turnout and harass candidates. We must invest now in risk-mitigation planning, education and outreach tools, particularly for our most at-risk populations.

Generative AI algorithms can be used to generate text, audio, images, videos, computer code or other content. Today, students are using generative AI to [conduct research](#), designers use AI tools to [create graphic and video ads](#) and AI-powered voices are [narrating audiobooks](#). Some applications are promising, but AI also poses risks to election integrity and individuals’ safety on a scale not seen before. These threats require a coordinated response.

The potential [political](#) uses of generative AI are endless. Candidates and parties may use it to help write prime-time national advertisements as well as micro-targeted text messages tailored to specific voters. Meanwhile, the next generation of political memes set to dominate certain corners of social media may very well be AI-driven. No longer must a candidate’s supporters rely on their own photo editing skills to create political images; they can provide prompts to online generative AI tools that will create the images for them.

In fact, before the ad with Donald Trump ever surfaced, [Gov. DeSantis’s PAC used generative AI](#) to alter an image of him at a campaign rally to include fighter jets. The authenticity of photos and videos is becoming difficult to prove. When generative AI tools can be leveraged to hoodwink voters, candidates will need to discredit increasingly convincing records of things they never did or said.

The United States doesn’t have a law to govern the use of generative AI for electioneering — although [general election laws](#) would still apply — and political campaigns are exempt from many state privacy laws. There is little [mandated transparency](#) into how political organizations or campaigns gather or use data, and none for unaffiliated supporters or unofficial groups that [tend to produce the most](#)

[radical content](#).

The Terms of Use for generative AI engines vary widely. Some organizations prohibit the use of their tools for political content (though a determined user is likely to find workarounds), while others have more specific, if limited, prohibitions on deceptive impersonation or harassment. These also may offer little shield, since detection and enforcement is not likely to happen before a great amount of content is generated and stored.

While generative AI may have many uses in elections to persuade, influence or even mislead, its most nefarious uses may be to amplify pre-existing discrimination and inequitable practices. Generative AI can be a force multiplier for hateful messages, images, anecdotes or rumors; voters and candidates from historically marginalized communities will likely be disproportionately affected. While many candidates today are familiar with abuse and harassment, women in politics receive threats approximately [3.4 times more frequently](#) than men. Those numbers are [likely much higher](#) for women of color and other marginalized groups.

Even when harassment is not the aim, bias may still permeate the use of generative AI. For instance, feminine users of AI-powered image generators have found they are [more likely to receive outputs that are sexually suggestive](#). This shrouded but pervasive discrimination can be even more harmful because it hides the bias embedded in society's history beneath a veneer of a theoretically neutral algorithm.

Voters are also at risk for manipulation through messaging created with generative AI, where anyone can write in a voice that is tailored for specific communities. The potential for misleading election news to spread is greater with individuals who are [not fluent English speakers](#), given English is the exclusive language for most educational materials and resources designed to detect and counter misinformation.

The credible claims of Russian interference in the 2016 U.S presidential election led to a heightened investment in tools to secure our election infrastructure and monitor all systems for suspicious behavior. The result was what has been called [“the most secure election in U.S. history”](#) in 2020 – not for lack of attempts to compromise it, but for resources to combat those attempts. In advance of the 2024 presidential election, we will need a similarly coordinated effort to prepare for the impacts of generative AI and other technological advancements.

To start, we must encourage active conversations with stakeholders from all sectors, demographics, backgrounds and areas of expertise, to provide guidance for how generative AI could be lawfully and ethically incorporated into organizations.

We must also remain vigilant. History has taught us how messaging can be used to radicalize individuals, and how to mitigate these risks. Consider the power of basic education in the labeling of

nutrition facts, advertising and for hazardous products. It's as crucial to invest in long-term digital literacy as short-term response.

There is genuine potential for generative AI to have a positive and lasting impact on human society. We must commit to ensuring that it is deployed ethically, with respect for the people it affects and alongside sufficient resources to identify and respond when and how it may be misused.

*Amie Stepanovich is an internationally recognized expert in domestic surveillance, cybersecurity and privacy law. She is currently vice president for U.S. policy at the Future of Privacy Forum.*

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