

United States Senate

WASHINGTON, DC 20510

June 11, 2020

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Chair
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James E. Trainor III
Commissioner
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Dear Commissioners:

We write to express concern regarding the lack of transparency surrounding online political advertisements and to urge the Federal Election Commission (FEC) to move quickly to complete the rulemaking process that began on March 14, 2018.¹ Having been without a quorum since August 31, 2019, the FEC has not been able to undertake many of the agency's key policymaking duties. However, now that a quorum has been restored and with the 2020 election just months away, there is a dire need for clear rules concerning disclaimers on online political advertisements. These rules are necessary so that the American people can have confidence in their electoral system and know what entities are behind online advertisements intended to influence their vote.

Transparency is a key feature of a healthy democracy. As our democracy has modernized, our disclosure laws have not. The FEC last revised its rules governing internet disclaimers in 2006.² With online advertising playing an increasingly important role in political elections, it is critical that the FEC issue clear up-to-date guidance on disclosure rules for online ads.

It is not enough that the FEC issue a rule – it must issue one that is strong. We need clear and conspicuous disclaimers on all political advertisements within the Commission's jurisdiction. These are necessary to ensure the level of transparency and accountability that a healthy democracy demands. Americans have the right to know who is paying for advertisements placed to influence their vote, regardless of whether those advertisements run on the radio, television, or online.

¹ https://www.fec.gov/resources/cms-content/documents/mtgdoc_18-12-a.pdf%20.

² *Id.*

Spending on political advertising, including online advertising, is growing rapidly. According to a 2019 study of archives created by Google, Facebook, and Twitter, ads with political content generated as many as 34 billion impressions.³ During the 2018 midterm elections, federal, state, and local campaigns spent approximately \$2.3 billion on online advertising, compared to just \$35 million in the 2014 cycle. When ads purchased by outside groups are included, the figure jumps to nearly \$9 billion. Already, more than \$1 billion has been spent on political advertisements for the 2020 election – the most money at any equivalent point in election history.⁴ Experts project that spending on political advertising will continue to grow, with more than \$6 billion estimated to be spent this election cycle.⁵ As the amount of money flowing into online political advertising increases, so must our oversight of the spending.

The 2016 and 2018 elections exposed glaring holes in our ability to police foreign intervention, including interference through online political ads. America’s top intelligence officials have testified to the Senate Intelligence Committee that foreign adversaries are continuing to target our elections by sowing division online, and that the 2020 presidential election is a target.⁶ As recently as February of this year, intelligence officials warned that Russia was already interfering in the 2020 election.⁷

The FEC’s mission is to “protect the integrity of the federal campaign finance process by providing transparency and fairly enforcing and administering federal campaign finance laws.” By failing to issue regulations that stay up to date with technological advancements, the FEC is failing in its core mission. For these reasons, we urge the FEC to complete the rulemaking process that began on March 14, 2018 and provide clarity to the disclaimer requirements for online political advertisements.

Thank you for your prompt attention to this serious matter.

Sincerely,

/s/ Amy Klobuchar

Amy Klobuchar
United States Senator

/s/ Michael F. Bennet

Michael F. Bennet
United States Senator

³ <https://arxiv.org/pdf/1902.04385.pdf>.

⁴ <https://www.axios.com/presidential-primary-ad-spending-record-e5b6a234-a24c-4ac8-801f-55881dba6712.html>.

⁵ <https://www.politico.com/f/?id=00000172-150d-d57a-ad7b-5f2fd9520000>.

⁶ Senate Intelligence Hearing on Worldwide Threats, January 29, 2019.

⁷ <https://www.nytimes.com/2020/02/20/us/politics/russian-interference-trump-democrats.html>.

/s/ Richard Blumenthal

Richard Blumenthal
United States Senator

/s/ Cory A. Booker

Cory A. Booker
United States Senator

/s/ Thomas R. Carper

Thomas R. Carper
United States Senator

/s/ Richard J. Durbin

Richard J. Durbin
United States Senator

/s/ Dianne Feinstein

Dianne Feinstein
United States Senator

/s/ Mazie K. Hirono

Mazie K. Hirono
United States Senator

/s/ Angus S. King, Jr.

Angus S. King, Jr.
United States Senator

/s/ Patrick Leahy

Patrick Leahy
United States Senator

/s/ Edward J. Markey

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United States Senator

/s/ Robert Menendez

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/s/ Jeffrey A. Merkley

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United States Senator

/s/ Jeanne Shaheen

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United States Senator

/s/ Tina Smith

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/s/ Tom Udall

Tom Udall
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/s/ Mark R. Warner

Mark R. Warner
United States Senator

/s/ Ron Wyden

Ron Wyden
United States Senator