FEDERAL ELECTION COMMISSION
Washington, DC 20463

**STATEMENT OF COMMISSIONERS DARA LINDENBAUM AND
SHANA M. BROUSSARD ON
INTERPRETIVE RULE REGARDING 52 U.S.C. § 30124**

Today, the Federal Election Commission took an important and bipartisan step in issuing an Interpretive Rule clarifying that the fraudulent misrepresentation statute and regulation are "technology neutral" and therefore *already* apply to fraudulent misrepresentation that is perpetrated using artificial intelligence-assisted media.[1] For the last year, the Commission has been considering a Petition for Rulemaking on this topic.[2] During that time, we received over 2,000 comments from the public, representing invaluable feedback and viewpoints across the ideological spectrum.[3] The Interpretive Rule adopted today provides the sought-after clarity at a critical time leading up to the 2024 election.

Our action represents a small piece of the puzzle that is addressing the role of artificial intelligence in elections more broadly. Misinformation is by no means a new threat. The increasing availability of artificial intelligence tools, however, can amplify misinformation and expand its reach. Thus, for example, it can exacerbate the particular threat that microtargeted misinformation can pose to specific populations, such as Black and brown communities or those in swing states or competitive districts.

We are hopeful that Congress will move forward on proposed legislation that offers more comprehensive solutions, such as the series of bipartisan bills that were voted out of the Senate Committee on Rules and Administration this summer. States continue to lead the way on different approaches to addressing artificial intelligence in campaign advertisements, such as prohibitions on deepfake videos and disclaimer requirements for artificial intelligence content.[4] More than a dozen states have enacted such legislation in 2024 already, and nearly double that number had proposed but not passed legislation on this subject.[5]

Traditional regulators are not likely to stop all of the threats posed by artificial intelligence, such as its use by foreign adversaries and other bad actors to interfere with our democracy. A rogue actor bent on influencing an election is doubtful to adhere to a disclaimer

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[1]   Draft Interpretive Rule at 2 (Sept. 10, 2024); *see* Draft Notice of Disposition at 3 (Sept. 10, 2024).
[2]   Petition for Rulemaking at 1.
[3]   Draft Notice of Disposition at 2-3 (Sept. 10, 2024).
[4]   *See, e.g.*, TEX. ELEC. CODE ANN. § 255.004(d)-(e) (deepfake prohibition within 30 days of an election); FLA. STAT. ANN. § 106.145(2) (disclaimer requirement); CAL. ELEC. CODE § 20010(a)-(b) (disclaimer requirement within 60 days of an election).
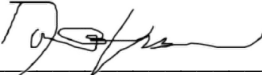[5]   *See* Lawrence Norden, Niyati Narang, & Laura J. Protzmann, *States Take the Lead in Regulating AI in Elections – Within Limits*, BRENNAN CTR. FOR JUSTICE (Aug. 7, 2024), https://www.brennancenter.org/our-work/research-reports/states-take-lead-regulating-ai-elections-within-limits.

requirement for its misinformation in the same way a candidate campaign is likely to for a negative advertisement against his or her opponent.

For those types of threats, we need a whole-of-society approach. American intelligence agencies have a significant role to play in identifying and publicizing known threats and combatting those rogue actors. We, as citizens, also have roles to play in rejecting misinformation by focusing on digital literacy and finding and promoting trusted sources of information. Formal legal requirements and enforcement mechanisms are important guardrails, but alone cannot control the spread of misinformation. In addition to robust regulation and enforcement, one of the best ways to fight bad misinformation may be with good, accurate information.

Finally, the bipartisan nature of these efforts to regulate is paramount. Political attacks leveraging artificial intelligence routinely cross the aisle against both political parties. Nonpartisan threats require bipartisan solutions. The Commission's actions today are the result of hard work and collaboration with our colleagues Commissioners Allen Dickerson and Trey Trainor. The proposed pieces of federal legislation referenced above are bipartisan efforts, as are state measures from states both red and blue.
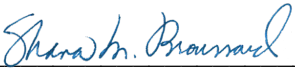
The Commission's actions today are a small part of current efforts to regulate the use of artificial intelligence in campaign advertisements. However, we hope they can serve as a model for other successful efforts to combat the negative uses of artificial intelligence: by working hard in a bipartisan manner and with the benefit of extensive participation of American citizens to find solutions to the threats that face our democracy.

_____   9/19/24
Dara Lindenbaum   _____
Commissioner   Date

_____   9/19/24
Shana M. Broussard   _____
Commissioner   Date