



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

June 3, 2022

**VIA ELECTRONIC MAIL**

Cabell Hobbs, Treasurer  
Our American Century  
P.O. Box 365  
McLean, VA 22101  
[compliance@complianceconsultingva.com](mailto:compliance@complianceconsultingva.com)  
[admin@ouramericancentury.org](mailto:admin@ouramericancentury.org)

RE: MUR 7867  
Our American Century

Dear Mr. Hobbs:

On December 23, 2020, the Federal Election Commission (the "Commission") notified Our American Century and you in your official capacity as treasurer of a complaint alleging violations of the Federal Election Campaign Act of 1971. A copy of the complaint was forwarded to you at that time.

Upon review of the allegations contained in the complaint and information supplied by you, the Commission on April 26, 2022, found reason to believe that Our American Century and you in your official capacity as treasurer violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include valid disclaimers. The Factual and Legal Analysis, which forms the basis of the Commission's determination, is attached.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

Enclosed is a conciliation agreement for your consideration

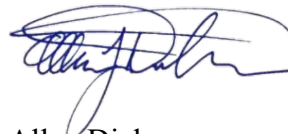
If you are interested in engaging in pre-probable cause conciliation, please contact Aaron Rabinowitz, the attorney assigned to this matter, at (202) 694-1476 or at [arabinowitz@fec.gov](mailto:arabinowitz@fec.gov), within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,



Allen Dickerson  
Chairman

Enclosures:  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Our American Century PAC and Cabell Hobbs MUR 7867  
in his official capacity as treasurer

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”). As set forth below, the available information indicates that, on October 23, 2020, President Donald J. Trump tweeted a link to a video posted on YouTube by Make America Great Again PAC f/k/a Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”), which was titled, “As per your request, Joe . . . .” The 50-second video consisted of clips of Trump and then candidate Joseph R. Biden and concluded with a Trump Committee logo and slogan as well as a disclaimer stating that the video was “[p]aid for by Donald J. Trump for President, Inc.” Within hours, Our American Century PAC and Cabell Hobbs in his official capacity as treasurer (“Our American Century”) purchased Google advertisements republishing in full the same Trump Committee video. The video included the original disclaimer and did not include a disclaimer by Our American Century. The advertisements purchased by Our American Century ran from October 23, 2020, to October 30, 2020, and were shown to Google users in Arizona, Michigan, Ohio, and Pennsylvania. Google’s Transparency Reports website indicates that Our American Century paid between \$5,100 and \$251,000 for these advertisements.

Accordingly, the Commission finds reasons to believe that Our American Century failed to include necessary disclaimers in violation of 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11.

1 **II. FACTUAL BACKGROUND**

2 Our American Century is an independent expenditure-only political committee that first  
3 registered with the Commission in 2012.<sup>1</sup> During the 2020 election cycle, Our American  
4 Century made \$5.5 million in independent expenditures, all between September 18 and October  
5 30, 2020, to Old Town Digital Agency LLC for “digital media” in support of Trump or in  
6 opposition to his opponent, Biden.<sup>2</sup> Make America Great Again PAC is a nonconnected political  
7 action committee; Bradley T. Crate is its treasurer.<sup>3</sup> During the 2020 election, the committee  
8 operated with the name Donald J. Trump for President and served as the authorized committee of  
9 Trump’s 2020 presidential campaign.<sup>4</sup>

10 On October 23, 2020, Trump tweeted a link to a video on his YouTube page, titled “As  
11 per your request, Joe...”<sup>5</sup> The 50-second video, which was created by the Trump Committee,  
12 consists of a clip from one of the presidential debates between Trump and Biden and various  
13 clips featuring Biden, and it concludes with a Trump 2020 campaign logo and slogan, “Keep  
14 America Great,” as well as the disclaimer: “Paid for by Donald J. Trump for President, Inc.”<sup>6</sup>  
15 There is also a red banner across the top of screen with the words “Text TRUMP To 88022” that  
16 runs throughout the video.<sup>7</sup>

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<sup>1</sup> Geaux PAC, Statement of Org. (Oct. 17, 2012). Geaux PAC changed its name to Our American Century in 2017. Our American Century, Am. Statement of Org. (Feb. 15, 2017).

<sup>2</sup> Our American Century, October 2020 Report at 8-9 (Oct. 20, 2020); Our American Century, 2020 Post-General Report at 11-13 (Dec. 3, 2020).

<sup>3</sup> Trump Committee, Amended Statement of Org. (Feb. 27, 2021).

<sup>4</sup> Trump Committee, Amended Statement of Organization (Mar. 4, 2020).

<sup>5</sup> *Internet Archive*, WAYBACK MACHINE, <https://archive.org/details/twitter-1319491234042269696> (October 23, 2020, post by Donald J. Trump (@realdonaldtrump) on Twitter at 3:15PM).

<sup>6</sup> Donald J. Trump, *As per your request, Joe...*, YOUTUBE (Oct. 23, 2020) [https://www.youtube.com/watch?v=NnrEh9\\_5\\_9I](https://www.youtube.com/watch?v=NnrEh9_5_9I).

<sup>7</sup> *Id.*

1           Shortly after Trump’s tweet, Our American Century made six ad buys from Google to  
2 display the full “As per your request, Joe ...” video created by the Trump Committee.<sup>8</sup> The ads  
3 were visible to Google users in Arizona, Ohio, Pennsylvania, and Michigan between October 23  
4 and 30, and cost between \$5,100 and \$251,000.<sup>9</sup> Specifically, according to the information  
5 available from Google’s Transparency Reports website, five of the six purchases cost between  
6 \$1,000 and \$50,000, while the sixth cost between \$100 and \$1,000.<sup>10</sup> The ads, which duplicated  
7 in full the video posted on Trump’s YouTube page and link back to Trump’s YouTube page,  
8 contained the disclaimer for the Trump Committee originally in the video and did not contain a  
9 disclaimer specific to Our American Century.

10           The Complaint in this matter contends that Our American Century failed to include the  
11 required disclaimer when it disseminated the Trump Committee video.<sup>11</sup> Our American  
12 Century’s Response contends that it “had no contact with the [Trump] campaign prior to nor

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<sup>8</sup> Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR357180131854254080> (first ad purchase in Arizona); Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR498269463930470400> (second ad purchase in Arizona); Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR371102148085153792> (third ad purchase in Arizona); Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR502843432302018560> (ad purchase in Michigan); Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR45376226403024896> (ad purchase in Pennsylvania); Google Transparency Report, <https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520/creative/CR330228902834208768> (ad purchase in Ohio) (collectively, “Google Transparency Reports”). Google’s Transparency Report does not indicate on what platform or website the ads were distributed.

<sup>9</sup> Google Transparency Reports.

<sup>10</sup> Google’s Transparency Report website shows that Our American Century spent \$271,500 in total to purchase 353 ads through Google in 2020. Google Transparency Reports, [https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520?advertiser\\_spend\\_over\\_time=start:1577836800000:end:1609459199999&lu=advertiser\\_spend\\_over\\_time](https://transparencyreport.google.com/political-ads/advertiser/AR309697722208747520?advertiser_spend_over_time=start:1577836800000:end:1609459199999&lu=advertiser_spend_over_time) (showing all advertisements purchased by Our American Century during 2020). The majority of these ad purchases were for banner ads. *Id.*

<sup>11</sup> Compl. ¶ 28 (Dec. 12, 2020).

1 after any projects.”<sup>12</sup> Our American Century also counters that the advertisement had a  
2 sufficient disclaimer because “the particular clip has a ‘Transparency Report’ associated with it  
3 that prominently indicates that OAC is responsible for the advertisement.”<sup>13</sup> And its Response  
4 further represents that it “republished the publicly available clip as a very minor part of a larger  
5 communication expenditure which was properly conducted and reported.”<sup>14</sup>

### 6 **III. LEGAL ANALYSIS**

#### 7 **The Commission Finds Reason to Believe that Our American Century Failed to** 8 **Include Required Disclaimers**

9 The Act requires that all public communications made by a political committee include a  
10 disclaimer.<sup>15</sup> “Public communications” include “communications placed for a fee on another  
11 person’s Web site.”<sup>16</sup> Thus, disclaimer requirements apply to “all potential forms of advertising”  
12 placed for a fee online, including “banner advertisements, streaming video, popup  
13 advertisements, and directed search results.”<sup>17</sup> Where required, disclaimers must be “presented  
14 in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the  
15 identity of the person or political committee that paid for, and where required, that authorized the

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<sup>12</sup> Resp. at 1 (Feb. 1, 2021) (citing 11 C.F.R. 109.23(a)). The Response further states that Our American Century never “employed any common vendors, former employees or independent contractors.” *Id.* at 2.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.*

<sup>15</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1).

<sup>16</sup> 11 C.F.R. § 100.26.

<sup>17</sup> See Internet Communications, 71 Fed. Reg. 18,589, 18,594 (Apr. 12, 2006); see also F&LA at 7-8, MUR 7280 (Unknown Owner of “Trump 2020” Facebook Page) (finding reason to believe that the unknown owner of a Facebook page named “Elect Trump 2020” failed to report over \$31,400 in independent expenditures on Facebook to the Commission, and failed to include required disclaimers on these Facebook advertisements); Advisory Opinion 2017-12 (Take Back Action Fund) (“The Commission concludes that, under the circumstances described in the request, TBAF must include all of the disclaimer information specified by 52 U.S.C. § 30120(a) on its proposed paid Facebook Image and Video advertising.”).

1 communication.”<sup>18</sup> If a communication is not authorized by a candidate or candidate’s  
2 authorized committee, it must clearly state the name and permanent street address, telephone  
3 number, or website address of the person who paid for the communication and state that the  
4 communication is not authorized by any candidate or candidate’s committee.<sup>19</sup>

5 Our American Century does not dispute that the advertisement in question did not contain  
6 a proper disclaimer but instead contends that it satisfied the disclaimer requirement because of  
7 the Google Transparency Report page, which identifies Our American Century as the  
8 purchaser.<sup>20</sup> This, however, does not meet the disclaimer requirements of the Act and  
9 Commission regulations, as it does not include all required information — it only states that Our  
10 American Century paid for the advertisement, but does not state whether the distribution was  
11 authorized by any candidate or candidate’s committee and does not provide an address, phone  
12 number, or website for Our American Century — and is not made in a “clear and conspicuous”  
13 manner that cannot be “easily overlooked.”<sup>21</sup> To find the Google Transparency Report, one must  
14 independently search for a list of advertisements by Our American Century on Google, scroll  
15 down until screen captures of the particular advertisement purchases become visible, and then  
16 click on the particular reports to view the advertisement in its entirety.<sup>22</sup> In addition, the lack of  
17 a disclaimer in this case is likely to cause additional confusion to the public because the  
18 advertisement retained the Trump Committee’s original disclaimer, leading viewers to believe

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<sup>18</sup> 11 C.F.R. § 110.11(c).

<sup>19</sup> *Id.* § 110.11(b)(3).

<sup>20</sup> Resp. at 2.

<sup>21</sup> 11 C.F.R. § 110.11(c).

<sup>22</sup> *See supra* note 8.

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Factual and Legal Analysis

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1 that the Trump Committee, rather than Our American Century, paid to distribute the  
2 advertisement.

3 Therefore, the Commission finds reason to believe that Our American Century violated  
4 52 U.S.C § 30120(a) and 11 C.F.R. § 110.11 by failing to include a valid disclaimer.