Transparency Rules in Online Political Advertising:
Mapping Global Law and Policy

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Transparency Rules in Online Political Advertising: Mapping Global Law and Policy

This report has been prepared by Carolina Menezes Cwajg. It was written under the academic guidance of Dr. Jef Ausloos and Paddy Leerssen, at the Institute for Information Law (IViR) and the Information, Communication & the Data Society (ICDS) Initiative at the University of Amsterdam (https://www.ivir.nl; https://www.uva-icds.net/).

The findings and views expressed in this report are solely those of the author and should not be attributed to any of the other aforementioned entities. Comments and suggestions are welcome at <operational-transparency@ivir.nl>
Executive Summary

In response to the rise of online political microtargeting, governments across the globe are launching transparency initiatives. Most of these aim to shed light on who is buying targeted political ads, and how they are targeted. The present Report offers a comprehensive mapping exercise of this new field of regulation, analysing new laws, proposed or enacted, that impose transparency rules on online political microtargeting.

The Report consists of two components: a global overview, and detailed case study of the United States. The first section begins with a geographical overview by showing where and what initiatives were proposed and enacted, looking in particular at Canada, France, Ireland, Singapore and the United States. It then unpacks these initiatives in greater detail by outlining what requirements they impose in terms of disclosure content, scope of application, and format. The second section of the Report then zooms into the United States, outlining the various initiatives that have been proposed and enacted at state-level.
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- Vermont Statutes, Title 17, Chapter 61

- The Washington State Legislature amendments are of a series of amendments found in different bills. Yet, all those cited in the Report were enacted.

- Wyoming Statutes Section 22-25-101; Wyoming Statutes Section 22-25-110

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References
Methodology

The scope of this report covers legal and policy initiatives aimed at promoting platform transparency within the context of elections. Accordingly, the selection of laws featuring in Part 1 is based on a mapping exercise of initiatives promoting increased online political advertisement transparency, whether merely proposed or already implemented. On this basis, a preliminary list of countries and their respective initiatives was devised.\textsuperscript{18} This was then narrowed down to a list of initiatives that appeared to be most tangible; i.e. initiatives that directly addressed online political advertising and were detailed with respect to content, scope and form. In other words, the selection of laws for Part 1 of this Report covers the most advanced proposals and legislation on the issue of online political advertising transparency, and does not include more early-stage proposals and policy papers with higher levels of generality.

After research revealed the abundance of state-level initiatives within the US, it was decided to devote Part 2 of this Report specifically to these initiatives alone. These state-level initiatives offer valuable information on the regulatory thinking and approaches to online political advertisement transparency.

Ultimately, this report is intended as a resource for researchers and policymakers engaged in policy debates surrounding election law and the regulation of online political advertisement; to offer, amidst a sudden proliferation of new laws and policies, a basis for comparative analyses across different jurisdictions.

Navigating this document

This document contains 2 main parts:
- Part 1: National Initiatives
- Part 2: US State Initiatives

Each initiative is sub-divided on the basis of the terms defined in legislation and the specific requirements imposed that we believed to be the most relevant to assessing transparency. These were categorised into:
- Disclosure requirements (e.g. the requirement that disclosure notices be added to a political ad).

\textsuperscript{18} The preliminary list included initiatives such as the: South African Real 411 Digital Disinformation Complaints mechanism, Indian Voluntary Code of Ethics for 2019 General Elections, Germany’s Network Enforcement Act (English text), Netherlands new proposed Political Parties Act, UK’s response in 2018 to the Electoral Commission’s recommendations, Australian Government’s response to the Digital Platforms Inquiry, Argentina’s changes to the Law on the Financing of Political Parties, Brazilian Fake News Bill. Also note that although the Report examines the Canadian Elections Modernization Act, it does not explore the newly added rules on ‘Third Party Advertising, Partisan Activities and Election Surveys’ found in the Canada Elections Act.
• Reporting requirements (e.g. the requirement that reports on how measures have been implemented be provided to a designated office, or in a public registry).
• Record-keeping requirements.
• Verification requirements.
• Other types of obligations:
  o Obligation not to use a bot
  o Obligation to set up means to fight disinformation
  o Obligation to make reasonable efforts
  o Obligation to provide input-transparent algorithms
  o Obligation to provide information and related offences
  o Obligation to cease providing access to an individual’s personal information

Under each of those requirements, the report further specifies:
• Definitions: any important defined terms in legislation.
• Content: what specific information must be shared.
• Scope: what platforms/services are covered by that requirement.
• Form requirements: in what format the disclosure must be made.
• Procedural requirements.
Part 1: National Initiatives

Canada: Elections Modernization Act ¹⁹

The Elections Modernization Act amends the Canada Elections Act ²⁰ and other Acts. This Report focuses on the changes made by Section 7, Section 10 and Section 208.1 of the Elections Modernization Act.

Definitions

- Section 7 in Elections Modernization Act
  - Amends Section 2(1) of the Canada Elections Act
    - Definition of election advertising
      - 'Election advertising means the transmission to the public by any means during an election period of an advertising message that promotes or opposes a registered party or the election of a candidate, including by taking a position on an issue with which a registered party or candidate is associated. For greater certainty, it does not include':
        ♦ 'the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news';
        ♦ 'the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election';
        ♦ 'the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be';
        ♦ 'the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views'; or
        ♦ 'the making of telephone calls to electors only to encourage them to vote.(publicité électorale)'

- Section 7 in Elections Modernization Act
  - Amends Section 2(1) of the Canada Elections Act
    - Definition of partisan advertising
      - 'Partisan advertising means the transmission to the public by any means during a pre-election period of an advertising message that promotes or opposes a registered party or eligible party or the election of a potential candidate, nomination contestant or leader of a

¹⁹ Election Modernization Act
²⁰ Canada Elections Act
registered party or eligible party, otherwise than by taking a position on an issue with which any such party or person is associated. For greater certainty, it does not include:

- 'the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news';
- 'the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election';
- 'the transmission of a document by a Senator or a member the expense of which is paid by the Senate or House of Commons';
- 'the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be';
- 'the transmission of a document by an individual, on a non-commercial basis on the Internet, of his or her personal political views'; or
- 'the making of telephone calls to electors only to encourage them to vote.(publicité partisane)'

- Section 10 in Elections Modernization Act
  o Amends Section 2 of the Canada Elections Act by adding the following after subsection 6
    - Definitions of 'promoting and opposing'
      - 'For the purposes of the definitions election advertising and partisan advertising, promoting or opposing includes':
        - 'in relation to a registered party or eligible party,
          (i) naming it,
          (ii) identifying it, including by its logo, and
          (iii) providing a link to an Internet page that does anything referred to in subparagraphs (i) and (ii)'; and
        - 'in relation to the election of a potential candidate, a nomination contestant, a candidate or a leader of a registered party or eligible party,
          (i) naming him or her,
          (ii) showing a photograph, cartoon or drawing of him or her,
          (iii) identifying him or her, including by political affiliation or by any logo that he or she has, and
          (iv) providing a link to an Internet page that does anything referred to in subparagraphs (i) to (iii)'.


• Section 7 in Elections Modernization Act
  o Amends Section 2(1) of the Canada Elections Act
    - Definition of pre-election period
      - ‘Pre-election period’ means the period beginning on the June 30 before the day set in accordance with subsection 56.1(2) for the holding of a general election and ending on the day before the earlier of:
        ♦ ‘the first day of an election period for a general election’, and
        ♦ ‘the 37th day before the Monday referred to in subsection 56.1(2) or, if the Governor in Council makes an order under subsection 56.2(3), the 37th day before the alternate day referred to in that order. (période pré-électorale)’

Record-keeping requirement

Content
• Section 208.1 in Elections Modernization Act
  o Amends the Canada Elections Act by adding after Section 325, Section 325.1
    - Section 325.1 (2)
      - ‘The owner or operator of an online platform that sells, directly or indirectly, advertising space to the following persons and groups shall publish on the platform a registry of the persons’ and groups’ partisan advertising messages and election advertising messages published on the platform during that period:
        ♦ a registered party or eligible party;
        ♦ a registered association;
        ♦ a nomination contestant;
        ♦ a potential candidate or a candidate; or
        ♦ a third party that is required to register under subsection 349.6(1) or 353(1).’

• Section 208.1 in Elections Modernization Act
  o Amends the Canada Elections Act by adding after Section 325, Section 325.1
    - Section 325.1 (3)
      The registry described in Section 325.1 (2) must include:
        - ‘an electronic copy of each partisan advertising message and each election advertising message published on the platform’; and
        - ‘for each advertising message...the name of the person who authorized the advertising message’s publication on the platform, namely’:
          ♦ ‘a registered agent of the registered party or eligible party, in the case of an advertising message whose publication was requested by a registered party or eligible party’;
The financial agent of the registered association, in the case of an advertising message whose publication was requested by a registered association;

The financial agent of the nomination contestant, in the case of an advertising message whose publication was requested by a nomination contestant;

The official agent of the potential candidate or candidate, in the case of an advertising message whose publication was requested by a potential candidate or a candidate, and

The financial agent of the registered third party, in the case of an advertising message whose publication was requested by a registered third party.

Scope

Section 208.1 in Elections Modernization Act

- Amends the Canada Elections Act by adding after Section 325, Section 325.1
  - Section 325.1 (1)
    - Applies to online platforms where partisan advertising or election advertising is displayed. However, these must meet a certain threshold.
      - Applies ‘to any online platform that, in the 12 months before the first day of the pre-election period, in the case of the publication on the platform of a partisan advertising message, or the 12 months before the first day of the election period, in the case of the publication on the platform of an election advertising message, was visited or used by Internet users in Canada an average of at least’ a given number of times per month.

  - Section 325.1 (1)
    - Threshold that must be met so that an ad registry is required:
      - Visited or used 3 million times ‘if the content of the online platform is available mainly in English’.
      - Visited or used 1 million times ‘if the content of the online platform is available mainly in French’.
      - Visited or used 100,000 times ‘if the content of the online platform is available mainly in a language other than English or French’.

Section 208.1 in Elections Modernization Act

- Amends the Canada Elections Act by adding after Section 325, Section 325.2
  - Section 325.2
    - Also imposes an obligation on advertisers
‘A person or group referred to’ in Section 325.1 (2) ‘that requests the publication of a partisan advertising message or election advertising message on an online platform shall provide the owner or operator of the platform with all information in the person’s or group’s control that the owner or operator needs in order to comply with’ Section 325.1 (2).

Procedural requirements
- Section 208.1 in Elections Modernization Act
  o Amends the Canada Elections Act by adding after Section 325, Section 325.1
    • Section 325.1(4)
      - The owner or operator of the online platform shall publish in the registry the information for each partisan advertising message and each election advertising message during the following periods:
        ◆ ‘in the case of a partisan advertising message, during the period that begins on the day on which the online platform first publishes the advertising message and ends’ 2 years after:
          • ‘the end of the election period of the general election immediately following the pre-election period’, or
          • ‘the day referred to in paragraph (b) of the definition pre-election period’ (the 37th day before the Monday referred to in subsection 56.1(2) or, if the Governor in Council makes an order under subsection 56.2(3), the 37th day before the alternate day referred to in that order) ‘if there is no general election immediately following the pre-election period’; and
        ◆ ‘in the case of an election advertising message, during the period that begins on the first day on which the online platform publishes such an advertising message and ends’ 2 years after the end of the election period.
    • Section 325.1(5)
      - ‘The owner or operator of the online platform shall keep the information that was included in the registry’ referred to in Section 325.1 (2) for 5 years ‘after the end of the applicable publication period’ referred to in Section 325.1 (4).
France: Law No. 2018-1202

Articles cited in this part of the Report are all contained in Law No. 2018-1202. The Report also addresses the fact that the French media regulator (Conseil Supérieur de l’Audiovisuel) (CSA) can issue recommendations to online platforms. It makes reference to the first recommendation issued by the CSA.

Definitions

- **Online platforms operators** within the meaning of Article L 111-7 of the French Consumer Code.

Disclosure requirement

Content

- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - During the 3 months before the first day of the month of general elections until the date of the ballot, online platforms must display to users information on:
      - the identity of the individual or on the company name, registered office and corporate purpose of the legal person and of the person on whose behalf, where applicable, it has declared that it is acting, which pays for the promotion of content related to a debate of general interest;
      - use of personal data when promoting content related to a debate of general interest;
      - the amount received in return for the promotion of such content when the amount exceeds a determined threshold, which should be made public.

- No definition of a ‘debate of general interest’ was found in the French Law.
- No definition of the ‘threshold amount’ was found in the French Law.

Scope

- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1

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21 French Law on Combating the Manipulation of Information
22 Article L111-7 French Consumer Code
23 Note that the original text of the French legislation was translated by the author to English for the purposes of this Report.
- Online platforms operators within the meaning of Article L 111-7 of the Consumer Code, ‘whose activity exceeds five million unique visitors per month, per platform, calculated on the basis of the last calendar year’.  

**Form requirements**
- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - During the specified period, online platforms must display to users:
      - fair, clear and transparent information.

**Record-keeping requirement**

**Content**
- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - Online platforms must create a register of promoted content.

**Scope**
- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - Online platforms operators within the meaning of Article L 111-7 of the Consumer Code, ‘whose activity exceeds five million unique visitors per month, per platform, calculated on the basis of the last calendar year’.  

**Form requirements**
- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - The register must be:
      - accessible to all
      - in an open format
      - by electronic means
      - and regularly updated during the period mentioned in the first paragraph of this Article.
      - [Period mentioned in the first paragraph of this Article: During the 3 months preceding the first day of the month of general elections and until the date of the ballot.]

**Obligation to set up means to fight disinformation**

**General requirements**

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24 IVIR Disinformation Report
25 IVIR Disinformation Report
Content

- Title III, Article 11
  - Requires that ‘online platforms take measures to fight the dissemination of false information that is likely to disturb public order or to alter the sincerity of certain elections’ by establishing a mechanism that enables users to report it ‘particularly when such information arises from content promoted on behalf of a third party’.  

- Title III, Article 11
  - It also requires online platforms implement other measures, which may include:
    - ‘transparency of algorithms’;
    - ‘promotion of content from press companies and news agencies and from audiovisual communication services’;
    - ‘combatting accounts disseminating false information on a massive scale’;
    - ‘the identity of individuals providing remuneration in return for the promotion of information content’;
    - ‘information on the nature, origin and modalities for dissemination of content’; and
    - ‘promote media and information literacy’.  

Scope

- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - Online platforms operators within the meaning of Article L 111-7 of the Consumer Code, ‘whose activity exceeds five million unique visitors per month, per platform, calculated on the basis of the last calendar year’.  

Form requirements

- Title III, Article 11
  - The mechanism implemented by online platform operators to report false information must be:
    - an ‘easily-accessible and visible’.  

Specific requirements

Content

- Title III, Article 12
  - The Conseil Supérieur de l’Audiovisuel (CSA) can issue recommendations to online platforms aiming to improve the effort to combat the propagation of false information ‘that is likely to disturb public order or to affect the sincerity of the
election’. It issued its first recommendation in May 2019, in which it provided details on how platforms could implement measures described in Article 11.31

- Recommendation no. 2019-03 of 15 May 2019 of the CSA32
  - The CSA suggest how each of the possible measures should be implemented:
    - ‘transparency of algorithms’;
    - ‘promotion of content from press companies and news agencies and from audio-visual communication services’;
    - ‘combatting accounts disseminating false information on a massive scale’;
    - ‘information of users on the nature, origin and modalities for dissemination of content, and the identity of individuals providing remuneration in return for the promotion of information content’;
    - ‘promote media and information literacy’.

**Scope**
- Title I, Article I, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - Online platforms operators within the meaning of Article L 111-7 of the Consumer Code, ‘whose activity exceeds five million unique visitors per month, per platform, calculated on the basis of the last calendar year’. 33

**Form requirements**
- Recommendation no. 2019-03 of 15 May 2019 of the CSA34
  - The CSA suggests there should be ‘ease of access and proper visibility’ and this is ensured when platform operators:
    - ‘use a clear title to refer to the mechanism, for example by clearly displaying the indication “report content”’;
    - ‘place the mechanism in the immediate vicinity of the content or of the account likely to be reported’.

  - Platform operators can also improve the mechanism’s ease of access and visibility by:
    - ‘providing a reporting tool that is identical across all variants of their service, regardless of the means of access to the service offered (website, application, etc.) and regardless of the type of content reported (video, comment, account, etc.)’;
• ‘promoting exchanges between the recipients of this recommendation in order to harmonise their respective reporting mechanisms’;
• ‘ensuring that the mechanism is as user-friendly as possible by providing a simple and logical reporting process. Thus, the user should be able to complete the reporting procedure by following three hyperlinks at the most; all reasons for reporting (hateful content, false information, etc.) should appear in one single dialogue box and this box should be the same for a given service, regardless of the means of access’;
• ‘enabling users to monitor the processing of their reports in order to follow their progress and by informing them without undue delay on the actions taken as regards the content reported.’

**Reporting requirement**

**Content**
- Title III, Article 11
  - Platforms must provide 'an annual declaration to the French media regulator (Conseil Supérieur de l'Audiovisuel) (CSA) of the methods of implementation of each of the measures taken pursuant to Article 11'.

**Scope**
- Title I, Article 1, creates Article L163-1 of the Electoral Code
  - Article L163-1
    - Online platforms operators within the meaning of Article L 111-7 of the Consumer Code, 'whose activity exceeds five million unique visitors per month, per platform, calculated on the basis of the last calendar year'.

**Procedural requirements**
- Recommendation no. 2019-03 of 15 May 2019 of the CSA
  - The annual declaration:
    - ‘Must be sent to the CSA at the latest on 31 March of the year following the calendar year in question.’
    - ‘It shall include the difficulties encountered in the implementation of the measures suggested in this recommendation.’

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36 CSA Recommendation no. 2019-03 of 15 May 2019
37 IVIR Disinformation Report
38 IVIR Disinformation Report
39 CSA Recommendation no. 2019-03 of 15 May 2019
Ireland: Online Advertising and Social Media (Transparency) Bill 40

Definitions

- Section 2 (1)
  - Definition of online platform
    - ‘any website, web application, or digital application (which shall include a social network or search engine) which has 10,000 or more unique monthly visitors or users in the State in at least six of the preceding twelve months; or, where the online platform is targeted at a local or regional audience, has 1,000 or more unique monthly visitors or users in the State in at least six of the preceding twelve months’.

- Section 2 (1)
  - Definition of online advertising
    - ‘any communication which is placed or promoted for a fee on an online platform’.

- Section 2 (1)
  - Definition of online political advertising
    - ‘online advertising which is directed towards a political end’.

- Section 2 (1)
  - Definition of multiple online presences
    - ‘25 or more accounts or profiles on any online platform’.

- Section 2 (2)
  - Definition of directed towards a political end
    - ‘a matter is directed towards a political end if it communicates a message that promotes a candidate or candidates for public office in an election within the State or a political party registered on the Register of Political Parties, or if it promotes a message on a matter of political interest or importance or a matter which, at the time when the online advertising is placed or promoted, is before or intended to be before either House of the Oireachtas or the Northern Ireland Assembly or the European Parliament or a local authority within the State or to be the subject matter of a referendum or which has any relation to an industrial dispute going on within the State, but a matter is not directed towards a political end if it is contained in online advertising placed or promoted at the request of the Referendum Commission in relation to a matter referred to in section 3 of the Referendum Act 1998 concerning a referendum.’

40 Online Advertising and Social Media (Transparency) Bill 2017
• Section 2 (3)
  o Definition of targeted online platform
    - ‘an online platform is targeted at a local or regional audience if the primary intended audience of the online platform is not the entire territory of the State but a particular community, town, county or group of counties within the State.’

Disclosure requirement

Content
• Section 3 (1)
  o Online platforms have the duty to ensure that transparency notices are displayed in online political advertising.
    - (Section 4 (1)) The transparency notice must include:
      - ‘the name and address of the person, company, organisation or entity (whether that entity has legal personality or otherwise) who paid for the online political advertising’;
      - ‘a description of the audience targeted by the online political advertising’;
      - ‘such other information as the Minister may by order provide’.

Scope
• Applies to online platforms as defined in the Act.

Form requirements
• Section 4 (1)
  o Transparency notices must be displayed in a ‘clear and conspicuous manner’.
    - (Section 4(3)) ‘a notice shall not be deemed to be displayed in a clear and conspicuous manner if it is difficult to read or if the placement is easily overlooked.’

Obligation to provide information and related offences

Content
• Section 5 (1)
  o ‘Any person who requests to purchase online political advertising shall provide to the online platform to which the request is made such information as is necessary for the online platform to comply with its obligations’ under Section 3.

• Section 5 (2) and (3)
  o ‘Any person who requests to purchase online political advertising and who knowingly provides to the online platform to which the request is made false or misleading information for the purposes of the online platform complying with its obligations’ under Section 3 ‘shall be guilty of an offence.’
    - A person found guilty shall be liable:
On summary conviction to a fine not exceeding €500 or, at the discretion of the court, to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; or
- On conviction on indictment to a fine not exceeding €10,000 or, at the discretion of the court, to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Scope
- ‘Any person who requests to purchase online political advertising’.

Obligation not to use a bot

Content
- Section 6 (1) and (2)
  - ‘Any person who knowingly uses a bot, or causes a bot to be used, in such a way as to cause multiple online presences that are directed towards a political end to present to a user of an online platform as an individual account or profile on any online platform shall be guilty of an offence’
    - A person found guilty shall be liable:
      - ‘On summary conviction, to a fine not exceeding €500 or, at the discretion of the court, to imprisonment for a period not exceeding six months or to both such fine and imprisonment’, or
      - ‘On conviction on indictment to a fine not exceeding €10,000 or, at the discretion of the court, to imprisonment for a period not exceeding five years or to both such fine and such imprisonment’.

Scope
- ‘Any person who knowingly uses a bot, or causes a bot to be used, in such a way as to cause multiple online presences that are directed towards a political end to present to a user of an online platform as an individual account or profile on any online platform’.

Singapore: Code of Practice for Transparency of Online Political Advertisement

Definitions
- Para. 3 (a)
  - Definition of political advertisement
    - ‘an advertisement or paid content that can reasonably be regarded as being directed towards a political end’.

41 Code of Practice for Transparency of Online Political Advertisements
• Para. 3 (b)
  o Definition of ‘towards a political end’
    ■ ‘to promote the interests of a political party or other group of persons organised in Singapore for political objects’;
    ■ ‘to influence, or to seek to influence, the outcome of an election to the office of President, a general election of Members of Parliament, a by-election of a Member of Parliament, or a referendum’;
    ■ ‘to influence, or to seek to influence, public opinion on a matter which in Singapore is a matter of public interest or public controversy, with key examples being those relating to race or religion’;
    ■ ‘or to bring about, or to seek to bring about, changes of the law in the whole or a part of Singapore, or to otherwise influence, or to seek to influence, the legislative process or outcome in Singapore’.

Disclosure requirement

Content
• Para. 6 (b)
  o Disclosure notices must follow all online political ads targeted at end-users in Singapore (including those relating to elections in Singapore) and include:
    ■ ‘the name(s) of the person(s) or organisation(s) that requested to place or paid for the advertisement’.

Scope
• Para. 4
  o Applies to ‘prescribed digital advertising intermediaries and internet intermediaries’.

Form requirements
• Para. 6 (b)
  o Disclosure notices must be ‘easily accessible’.

Record-keeping requirement

Content
• Para. 6 (c)
  o ‘A record of all such online political advertisements, regardless of whether the advertisement has been removed by the person or organisation who requested or paid to place the advertisement’, must be kept and made available for viewing by the POFMA office. It must include:
    ■ A digital copy of the ad;
    ■ The ‘name (s) of the person(s) or organisation(s) that requested to place or paid for the advertisement’;
    ■ The amount or range paid for the ad;
• A ‘description of the advertisement’s intended target audience, or actual viewers reached (eg. demographics of target audience or viewers)’;
• Number or range of views the ad received;
• Date when the ad was first and last displayed (in case it is applicable).

Scope
• Para. 4
  o Applies to ‘prescribed digital advertising intermediaries and internet intermediaries’. These must make records available for viewing by the POFMA Office.

Form requirements
• Para. 6 (c)
  o Records provided to the POFMA Office must be:
    ■ ‘accessible’; and
    ■ in ‘machine-readable format with search interface (eg. stable API) requirements’.

Procedural requirements
• Para. 6 (c)
  o Records must be kept by ‘prescribed digital advertising intermediaries and internet intermediaries for no less than four years after the date on which the advertisement was first displayed’.

Reporting requirement

Content
• Para. 7
  o Annual report should be provided to the POFMA Office on the implementation of the due diligence measures required.

Scope
• Para. 4
  o Applies to ‘prescribed digital advertising intermediaries and internet intermediaries’.
Singapore: Annex to the Code of Practice for Transparency of Online Political Advertisement 42

Definitions

• Definitions in the Code of Practice for Transparency of Online Political Advertisement apply.

Verification requirement

Content

• Para. 5
  o During election periods, an advertiser’s identity and location must be verified.

Scope

• Para. 5
  o Applies to ‘prescribed digital advertising intermediaries and internet intermediaries’.

United States: Filter Bubble Transparency Act 43

Definitions

• Section 2 (1)
  o Definition of algorithmic ranking system
    • ‘A computational process, including one derived from algorithmic decision-making, machine learning, statistical analysis, or other data processing or artificial intelligence techniques, used to determine the order or manner that a set of information is provided to a user on a covered internet platform, including the ranking of search results, the provision of content recommendations, the display of social media posts, or any other method of automated content selection.’

• Section 2 (3)
  o Definition of connected device
    • ‘A physical object that’:
      - ‘is capable of connecting to the internet, either directly or indirectly through a network, to communicate information at the direction of an individual’; and

42 Code of Practice for Transparency of Online Political Advertisements
43 Filter Bubble and Transparency Act
- ‘has computer processing capabilities for collecting, sending, receiving, or analyzing data’.

- Section 2 (4)
  o Definition of **covered internet platform**
    ▪ ‘Any public-facing website, internet application, or mobile application, including a social network site, video sharing service, search engine, or content aggregation service.’
    ▪ ‘Such term shall not include a platform that’:
      - ‘is wholly owned, controlled, and operated by a person that’
        ♦ ‘for the most recent 6-month period, did not employ more than 500 employees’;
        ♦ ‘for the most recent 3-year period, averaged less than $50,000,000 in annual gross receipts’; and
        ♦ ‘collects or processes on an annual basis the personal data of less than 1,000,000 individuals’; or
      - ‘is operated for the sole purpose of conducting research that is not made for profit either directly or indirectly’.

- Section 2 (5)
  o Definition **input-transparent algorithm**
    ▪ ‘An algorithmic ranking system that does not use the user-specific data of a user to determine the order or manner that information is furnished to such user on a covered internet platform, unless the user-specific data is expressly provided to the platform by the user for such purpose.’
    ▪ It ‘shall include an algorithmic ranking system that uses user-specific data to determine whether a user is old enough to access age-restricted content on a covered internet platform, provided that the system otherwise meets the requirements’ outlined above.
    ▪ ‘User-specific data that is provided by a user for the express purpose of determining the order or manner that information is furnished to a user on a covered internet platform’:
      (i) ‘shall include user-supplied search terms, filters, speech patterns (if provided for the purpose of enabling the platform to accept spoken input or selecting the language in which the user interacts with the platform), saved preferences, and the user’s current geographical location’;
      (ii) ‘shall include data supplied to the platform by the user that expresses the user’s desire that information be furnished to them, such as the social media profiles the user follows, the video channels the user subscribes to, or other sources of content on the platform the user follows’;
(iii) shall not include the history of the user’s connected device, including the user’s history of web searches and browsing, geographical locations, physical activity, device interaction, and financial transactions; and
(iv) shall not include inferences about the user or the user’s connected device, without regard to whether such inferences are based on data described in clause (i).’

- Section 2 (6)
  - Definition of opaque algorithm
    - ‘An algorithmic ranking system that determines the order or manner that information is furnished to a user on a covered internet platform based, in whole or part, on user-specific data that was not expressly provided by the user to the platform for such purpose.’
    - It ‘shall not include an algorithmic ranking system used by a covered internet platform if’:
      - ‘the only user-specific data (including inferences about the user) that the system uses is information relating to the age of the user’;
      - ‘such information is only used to restrict a user’s access to content on the basis that the individual is not old enough to access such content’.

- Section 2 (7) (A)
  - Definition of search syndication contract
    - ‘A contract or subcontract for the sale, license, or other right to access an index of web pages on the internet for the purpose of operating an internet search engine.’

- Section 2 (7) (B)
  - Definition of upstream provider
    - ‘With respect to a search syndication contract, the person that grants access to an index of web pages on the internet to a downstream provider under the contract.’

- Section 2 (7) (C)
  - Definition of downstream provider
    - ‘With respect to a search syndication contract, the person that receives access to an index of web pages on the internet from an upstream provider under such contract.’

- Section 2 (8)
  - Definition of user-specific data
‘Information relating to an individual or a specific connected device that would not necessarily be true of every individual or device.’

Obligation to provide input-transparent algorithms

**Content**

- Section 3 (b) (1) (B)
  - Those operating covered internet platforms that use opaque algorithms must make available a version of the platform that uses input-transparent algorithms.

- Section 3 (b) (1) (B)
  - Users must be able to ‘easily switch between the version of the platform that uses an opaque algorithm and the version of the platform that uses the input-transparency algorithm’ by selecting an icon.

- Section 3 (b) (2)
  - However, this requirement that covered internet platforms using opaque algorithms must provide a version of the platform that uses input-transparent algorithms, shall not apply to certain downstream providers with respect to an internet search engine, if:
    - The search engine is operated by a downstream provider with less than 1,000 employees; and
    - ‘The search engine uses an index of web pages on the internet to which such provider received access under a search syndication contract’.

**Scope**

- Applies to covered internet platforms.

**Form requirements**

- Section 3 (b) (1) (B)
  - The icon that enables the user to switch between the version of the platform that uses opaque algorithms and the input-transparent version must be:
    - ‘prominently placed’; and
    - ‘shall be displayed wherever the user interacts with an opaque algorithm’.

**Disclosure requirements**

**Notice to users**

**Content**

- Section 3 (b) (1) (A)
  - Those operating covered internet platforms that use opaque algorithms must provide notice to users:
• “that the platform makes inferences based on user-specific data to select the content the user sees”.

• Section 3 (b) (2)
  o However, the requirement in Section 3 (b) (1) (A) shall not apply to certain downstream providers with respect to an internet search engine, if:
    ▪ The search engine is operated by a downstream provider with less than 1,000 employees; and
    ▪ “The search engine uses an index of web pages on the internet to which such provider received access under a search syndication contract”.

Scope
• Applies to covered internet platforms.

Form requirement
• Section 3 (b) (1) (A)
  o Notice to platform users of the platform’s use of opaque algorithms must be displayed in:
    ▪ ‘clear, conspicuous manner on the platform’
    ▪ ‘whenever the user interacts with an opaque algorithm for the first time’
    ▪ and ‘may be a one-time notice that can be dismissed by the user’.

Information made available to downstream providers

Content
• Section 3 (c) (1)
  o For any upstream provider to grant access to an index of webpages on the internet under a search syndication contract, it must comply with the following requirements. ‘The upstream provider must make available to the downstream provider’:
    ▪ Section 3 (b) (1) (B) A version of the platform that uses the opaque algorithms and a version that uses input-transparent algorithms by selecting an icon.
    ▪ (Section 3 (b) (1) (B)) Users must be able to ‘easily switch between the version of the platform that uses an opaque algorithm and the version of the platform that uses the input-transparency algorithm’ by selecting the icon.
    ▪ (Section 3 (c) (2)) the upstream provider must ‘not impose any additional costs, degraded quality, reduced speed, or other constraint on the functioning of such algorithm when used by a downstream provider to operate an internet search engine relative to the performance of such algorithm when used by the upstream provider to operate an internet search engine.’
Scope
• Applies to upstream providers.

Form requirements
• Section 3 (b) (1) (b)
  o The icon that enables the user to switch between the version of the platform that uses opaque algorithms and the input-transparent version must be:
    ▪ ‘prominently placed’; and
    ▪ ‘shall be displayed wherever the user interacts with an opaque algorithm’.

United States: Honest Ads Act

The Honest Ads Act makes amendments to various sections within the United States Code Title 52, Subtitle III, Chapter 301, Subchapter 1 found in the Federal Election Campaign Laws document compiled by the Federal Election Commission in 2019. The Report thus makes reference to the amended sections within this Title of the United States Code.

Note that the Honest Ads Act was introduced in 2017 and then re-introduced in 2019. The version analysed in this Report is that which was re-introduced in 2019.

Definitions

• Section 6 (a) (1) (B) in Honest Ads Act
  o Amends Section 30104 (f) (3), Title 52 of the United States Code by adding:
    ▪ Section 30104 (f) (3) (D)
      - Definition of qualified internet or digital communication
        ♦ ‘Any communication which is placed or promoted for a fee on an online platform’.

• Section 8 (a) in Honest Ads Act
  o Amends Section 30104, Title 52 of the United States Code by adding:
    ▪ Section 30104 (j) (3)
      - Definition of online platform
        ♦ ‘Any public-facing website, web application, or digital application (including a social network, ad network, or search engine) which’:
          • ‘sells qualified political advertisements’; and
          • ‘has 50,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months’.

44 Honest Ads Act
45 Federal Election Campaign Laws 2019
- Section 8 (a) in Honest Ads Act
  o Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (4)
      - Definition of qualified political advertisement
        ♦ ‘Any advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that’:
          • ‘is made by or on behalf of a candidate’; or
          • ‘communicates a message relating to any political matter of national importance, including’:
            o ‘a candidate’;
            o ‘any election to Federal office’; or
            o ‘a national legislative issue of public importance’.

Disclosure requirement

Content
- Section 7 (b) (1) in Honest Ads Act
  o Amends Section 30120, Title 52 of the United States Code by adding:
    - Section 30120 (e) (1)
      - Special rules with respect to statements. ‘In case of any qualified internet or digital communication… which is disseminated through a medium in which the provision of all the information specified in this section is not possible, the communication shall’:
        • ‘state the name of the person who paid for the communication’; and
        • ‘provide a means for the recipient of the communication to obtain the remainder of the information required under this section with minimal effort and without receiving or viewing any additional material other than such required information’.

Scope
- Special rules that apply to statements.

Form requirements
- Section 7 (b) (1) in Honest Ads Act
  o Amends Section 30120, Title 52 of the United States Code by adding:
    - Section 30120 (e) (1)
      - Information with regards to statements must be displayed in a ‘clear and conspicuous manner’.

- Section 7 (a) in Honest Ads Act
Amends Section 30120 (a), Title 52 of the United States Code by adding the following sentence:

- 'A communication does not make a statement in a clear and conspicuous manner if it is difficult to read or hear or if the placement is easily overlooked.'

Section 7 (b) (1) in Honest Ads Act

Amends Section 30120, Title 52 of the United States Code by adding:

- Section 30120 (e) (2)
  - Depending on the type of communication, the legislation states that a qualified internet or digital communication shall be considered to be made in clear and conspicuous manner if it meets the following requirements:

  (A) ‘text or graphic communications’
  
  ‘In the case of a text or graphic communication, the statement’:
  
  (i) ‘appears in letters at least as large as the majority of the text in the communication’; and
  
  (ii) ‘meets the requirements of paragraphs (2) and (3) of subsection (c).’

  [This refers to requirements in Section 30120 (c) (2) and (3), Title 52 of the United States Code, which states: any printed communication described in Section 30120 (a) must be ‘contained in a printed box set apart from the other contents of the communication; and be printed with a reasonable degree of color contrast between the background and the printed statement’.]

  (B) audio communications
  
  ‘In the case of an audio communication, the statement is spoken in a clearly audible and intelligible manner at the beginning or end of the communication and lasts at least 3 seconds.’

  (C) video communications
  
  ‘In the case of a video communication which also includes audio, the statement’:

46 Federal Election Campaign Laws 2019
(i) ‘is included at either the beginning or the end of the communication’; and
(ii) ‘is made both in’:
   (I) ‘a written format that meets the requirements of subparagraph (A) and appears for at least 4 seconds’; and
   (II) ‘an audible format that meets the requirements of subparagraph (B).’

(D) other communications
   ‘In the case of any other type of communication, the statement is at least as clear and conspicuous as the statement specified in subparagraphs (A), (B), or (C).’

Record-keeping requirements

Online platforms

Content

- Section 8 (a) in Honest Ads Act
  - Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (1) (A)
      - Online platforms must produce ‘a complete record of any request to purchase on such online platform a qualified political advertisement which is made by a person whose aggregate requests to purchase qualified political advertisements on such online platform during the calendar year exceeds $500’.

- Section 8 (a) in Honest Ads Act
  - Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (2)
      - The record must contain:
        - ‘a digital copy of the qualified political advertisement’;
        - ‘a description of the audience targeted by the advertisement, the number of views generated from the advertisement, and the date and time that the advertisement is first displayed and last displayed’; and
        - ‘information regarding’:
          (i) ‘the average rate charged for the advertisement’;
          (ii) ‘the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, the election to which the advertisement
refers, or the national legislative issue to which the advertisement refers (as applicable)’;

(iii) ‘in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee’; and

(iv) ‘in the case of any request not described in clause (iii), the name of the person purchasing the advertisement, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person’.

**Scope**
- Applies to online platforms.

**Form requirements**
- Section 8 (a) in Honest Ads Act
  - Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (1) (A)
      - Records kept by online platforms must be maintained and made available for online public inspection in:
        - ‘Machine-readable format’;
        - (Section 30104 (j) (5) the information must be made available ‘as soon as possible’.

- Section 8 (b) in Honest Ads Act
  - ‘Not later than 90 days after the date of the enactment of this Act, the Federal Election Commission shall establish rules’:
    - ‘requiring common data formats for the record required to be maintained under’ Section 30104 (j) ‘so that all online platforms submit and maintain data online in a common, machine-readable and publicly accessible format’; and
    - ‘establishing search interface requirements relating to such record, including searches by candidate name, issue, purchaser, and date’.

**Procedural requirements**
- Section 8 (a) in Honest Ads Act
  - Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (5)
      - Records ‘shall be retained by the online platform for a period of no less than 4 years.’
Advertisers

Content

- Section 8 (a) in Honest Ads Act
  - Amends Section 30104, Title 52 of the United States Code by adding:
    - Section 30104 (j) (1) (B)
      - ‘Any person who requests to purchase a qualified political advertisement on an online platform shall provide the online platform with such information as is necessary for the online platform to comply with the requirements in Section 30104 (j) (1) (A).

Scope

- Applies to ‘any person who requests to purchase a qualified political advertisement on an online platform’.

Reporting requirement

Content

- Section 8 (c) in Honest Ads Act
  - Biannual reports shall be submitted no ‘later than 2 years after the date of the enactment of this Act’ on:
    - ‘matters relating to compliance with and the enforcement of the requirements of Section 30104 (j);
    - ‘recommendations for any modifications to such section to assist in carrying out its purposes’; and
    - ‘identifying ways to bring transparency and accountability to political advertisements distributed online for free’.

Scope

- The requirement applies to the Chairman of the Federal Election Commission, who must submit the report to Congress.

Obligation to make reasonable efforts

Content

- Section 9 in Honest Ads Act
  - ‘Each television or radio broadcast station, provider of cable or satellite television, or online platform’ as defined in Section 30104 (j) (3) ‘shall make reasonable efforts to ensure that communications’ described in Section 30120 (a) ‘and made available by such station, provider, or platform are not purchased by a foreign national, directly or indirectly.’
  - However, ‘reasonable efforts’ is not accompanied by any further description or any indication of what these should look like.
Scope

• Section 9 in Honest Ads Act
  Applies to any ‘television or radio broadcast station, provider of cable or satellite television’ and online platforms.

United States: Voter Privacy Act 47

The Voter Privacy Act amends Title III of the Federal Election Campaign Act 1971 by adding at the end a new subtitle: Subtitle B- Privacy of Voter’s Personal Information. All explored in this part of the Report is under Subtitle B.

Definitions

• Section 4 in Voter Privacy Act
  o Subtitle B, Section 351 (1)
    • Definition of covered entity
      - ‘Covered entity is’:
        (A) ‘any candidate, political committee, national committee, connected organization, or political party (as those terms are defined in section 301)’;
        (B) ‘any political organization under section 527 of the Internal Revenue Code of 1986’; and
        (C) ‘any person that obtains an individual’s personal information for the purpose of conducting’:
          (i) ‘a public communication as defined in section 301(22), except for purposes of this subtitle such term includes a communication by means of any paid internet or paid digital communication’;
          (ii) ‘an electioneering communication as defined in section 304(f)(3)’;
          (iii) ‘any communication that would be an electioneering communication as defined in such section if such section were applied’:
            (I) ‘by taking into account communications made over the internet’;
            (II) ‘without regard to subparagraph (A)(i)(III) of such section with respect to communications described in subclause (I) of this clause’; and

47 Voter Privacy Act
(III) ‘by treating the facilities of any online or digital newspaper, magazine, blog, publication, or periodical in the same manner as the facilities of a broadcasting station for purposes of subparagraph (B)(i) of such section’;

(iv) ‘an independent expenditure as defined in section 301(17)’; or

(v) ‘a generic campaign activity as defined in section 301(21)’.

- Section 4 in Voter Privacy Act
  o Subtitle B, Section 351 (2)
    - Definition of targeting service
      - ‘Any interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (42 U.S.C. 230(f)(2)), that allows a third party to target communications to an individual based on that individual’s personal information.’

- Section 4 in Voter Privacy Act
  o Subtitle B, Section 351 (4) (A)
    - Definition of personal information
      - ‘Information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household that includes’:
        (i) ‘identifiers such as internet protocol address, email address, account name, social security number, driver’s license number, passport number, or other similar identifiers’;
        (iii) ‘commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies’;
        (iv) ‘biometric information’;
        (v) ‘internet or other electronic network activity information, including browsing history, search history, and information regarding consumer’s interaction with an internet website, application, or advertisement’;
        (vi) ‘geolocation data’;
        (vii) ‘health insurance information’;
        (vii) ‘audio, electronic, visual, thermal, olfactory, or similar information’;
        (ix) ‘professional or employment-related information’;
(x) ‘education information’; and
(xii) ‘inferences drawn from any of the information identified in this subparagraph to create a profile regarding an individual reflecting the individual’s preferences, characteristics, psychological traits, psychographic modeling, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes’.

- However, excluded from the definition of personal information is:
  - Publicly available information
    - ‘information obtained from a Federal, State, or local voter registration database that is lawfully made available to the public.’
  - Deidentified information
    - ‘information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular individual.’
  - Aggregate polling information
    - ‘information that relates to a group or category of individuals, from which individual identities have been removed, that is not linked or reasonably linkable to any known individual, including via a device or other unique identifier.’

- Section 4 in Voter Privacy Act
  - Subtitle B, Section 351 (5)
    - Definition of biometric information
      - ‘An individual’s physiological, biological, or behavioral characteristics, including an individual’s deoxyribonucleic acid (DNA), that can be used, singly or in combination with each other or with other identifying data, to establish individual identity. Biometric information includes imagery of the iris, retina, fingerprint, face, hand, palm, vein patterns, and voice recordings, from which an identifier template, such as a faceprint, a minutiae template, or a voiceprint, can be extracted, and keystroke patterns or rhythms, and sleep, health, or exercise data that contain identifying information.’

- Section 4 in Voter Privacy Act
  - Subtitle B, Section 351 (6)
    - Definition of health insurance information
      - ‘An individual’s insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify a person, or any information in the individual’s application and claims history.’
Subtitle B, Section 351 (7)
- **Definition of categories of personal information**
  - ‘Means the enumerated categories of information described in clauses (i) through (xi) of Section 351 (4) (A).
  - This applies in all such enumerated categories except as modified pursuant to regulations or guidance of the Commission pursuant to section 359(b)”.

Subtitle B, Section 351 (8)
- **Definition of verifiable request**
  - ‘A request made by an individual that a covered entity can reasonably verify, pursuant to regulations adopted by the Commission pursuant to section 359, to be the individual about whom the covered entity has collected information.’

Subtitle B, Section 351 (9)
- **Definition of ‘collect or collected’**
  - Means ‘with respect to an individual, any personal information that is gathered directly from that individual’.

Subtitle B, Section 351 (10)
- **Definition of ‘received’**
  - ‘Any individual’s personal information that is not collected by a covered entity directly from that individual, including any personal information that is bought, rented, licensed, acquired, or accessed, by a covered entity from any third party.’

Subtitle B, Section 351 (11)
- **Definition of ‘obtained’**
  - ‘Any personal information that is either collected or received’.

Subtitle B, Section 351 (12)
- **Definition of ‘processing’**
  - ‘Any operation or set of operations that are performed on personal information or on sets of personal information, whether or not by automated means.’
Definition of ‘third party’
- ‘A person who is not’:
  ♦ ‘the person that collects an individual’s personal information directly from that individual’; or
  ♦ ‘a person to whom a covered entity discloses an individual’s personal information for processing pursuant to a written contract, provided that the contract prohibits the person receiving the personal information from’:  
    • ‘selling or transferring the personal information to a third party’; or
    • ‘retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services specified in the written contract’.

Disclosure requirements

Individual’s right to access information under a verifiable request

Content
- Section 4 in Voter Privacy Act
  o Subtitle B, Section 352 (b) and (e)
    ▪ ‘A covered entity that receives a verifiable request from an individual to access that individual’s personal information… shall provide the requested information.’ Each request shall include:
      - ‘The categories of personal information obtained regarding that individual’;
      - ‘The specific sources from which the personal information was obtained’;
      - ‘The specific third party or third parties to whom the personal information has been transferred or disclosed’;
      - ‘The period for which the personal information will be stored by the covered entity’;
      - ‘The existence of the right of an individual to request a copy of that individual’s specific pieces of personal information under’ section 352 (f);
      - ‘The existence of the right of an individual to request erasure of that individual’s personal information under section 353’;
      - ‘The existence of the right to request prohibition of the transfer of personal information to any third party under section 354’;
      - ‘Information regarding the right to lodge a complaint with the Commission under section 309(a) as described in section 356 regarding any potential violation of this subtitle.’
Scope
• Applies to covered entities.

Form requirements
• Section 4 in Voter Privacy Act
  o Subtitle B, Section 352 (g)
    ▪ A covered entity shall provide information as required to the requesting individual in a:
      - ‘concise, and easily accessible form’;
      - ‘using clear and plain language’; and
      - ‘the information may be delivered by mail or electronic mail, or made available via a secured internet website’.

Procedural requirements
• Section 4 in Voter Privacy Act
  o Subtitle B, Section 352 (d)
    ▪ A covered entity shall comply with all verifiable requests ‘within a reasonable period after receiving such a request, but not later than 10 calendar days after receiving such a request’.

  o Subtitle B, Section 352 (h)
    ▪ It shall be provided ‘free of charge’.

  o Subtitle B, Section 352 (i)
    ▪ ‘A covered entity shall not be required to provide an individual’s personal information to the individual pursuant to this section more than two times in a 12-month period.’

Notice of receipt of individual’s personal information from a third party

Content
• Section 4 in Voter Privacy Act
  o Subtitle B, Section 355 (a) and (c)
    ▪ ‘A covered entity that receives any individual’s personal information from a third party shall inform such individual as to the scope and purpose of receiving such personal information’. The notice shall include:
      - ‘The identity and the contact information of the covered entity’;
      - ‘The categories of personal information received’;
      - ‘The purposes for which the personal information was received’;
      - ‘The period for which the personal information will be retained’;
      - ‘The existence of the right to request from the covered entity access to all specific pieces of personal information under section 352 (f)’;
- ‘The existence of the right of an individual to request erasure of all that individual’s personal information obtained by a covered entity under section 353’;
- ‘The existence of the right of an individual to prohibit the transfer of that individual’s personal information to a third party under section 354’;
- ‘Information regarding the right to lodge a complaint with the Commission under section 309(a) as described in section 357 regarding any violation of this subtitle’.

**Scope**
- Applies to covered entities.

**Form requirements**
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 355 (d)
    - The notice shall be provided in:
      - ‘Concise and easily accessible form’
      - ‘Using clear and plain language’.

**Procedural requirements**
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 355 (b)
    - The notice must be provided ‘within a reasonable period after receiving that individual’s personal information, but not later than’:
      1. ‘except as provided in paragraphs (2) and (3), 30 days after receiving such information, or if personal information is received in an anonymized format then 30 days after the personal information is connected to an identifiable individual’;
      2. ‘if the personal information is to be used for a communication or targeted advertisement with an individual, at the time of the first communication with that individual’; and
      3. ‘if the personal information is to be transferred or sold to a third party, 14 days prior to that transfer or sale’.

  - Subtitle B, Section 355 (e)
    - ‘Notice… shall be provided at no cost’.

**Notice of use of individual’s personal information by a covered entity**

**Content**
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 356 (c) (1) (B)
• ‘A targeting service shall provide notice to any individual whose personal information is accessed, used, or processed, including for use in delivering a targeted communication based on that individual’s personal information, by a covered entity.’

• (Subtitle B, Section 356 (c) (2)) It must include:
  - ‘the identity and the contact information for the targeting service’;
  - ‘the identity and the contact information of the covered entity’;
  - ‘the categories of personal information accessed, used, or otherwise made available to a covered entity, including any personal information used to target an advertisement or other information to that individual on behalf of a covered entity’; and
  - ‘information on the right of an individual to prohibit a covered entity or all covered entities from using a targeting service to deliver advertisements or other information to that individual based on that individual’s personal information under this section.’

Scope
• Applies to targeting services.

Form requirements
• Section 4 in Voter Privacy Act
  o Subtitle B, Section 356 (c) (4)
    ▪ The notice shall be provided in:
      - ‘Concise and easily accessible form’
      - ‘Using clear and plain language’.

Procedural requirements
• Section 4 in Voter Privacy Act
  o Subtitle B, Section 356 (c) (3)
    ▪ The notice shall be provided ‘at the time of each targeted communication with an individual by the targeting service on behalf of a covered entity that is based on the individual’s personal information’.

Notice of covered entity’s status to a targeting service

Content
• Subtitle B, Section 356 (c) (1) (A)
  o ‘A covered entity shall provide notice to a targeting service of the covered entity’s status as a covered entity under this subtitle, prior to accessing, using, or processing any individual’s personal information provided by the targeting service.’

Scope
• Applies to covered entities.
Obligation to cease providing access to an individual’s personal information

Content
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 356 (a) and (b)
    - ‘A targeting service that receives a verifiable request’ from an individual who wishes to prohibit the targeting service from using their personal information to deliver targeted communications to that individual ‘on behalf of a covered entity, and on behalf of all covered entities’ shall:
      - ‘immediately cease providing access, use, or processing of that individual’s personal information to any or all covered entities with respect to which such request is made, including for use in delivering targeted communications to that individual based on the individual’s personal information’; and
      - ‘not provide any future access, use or processing of that individual’s personal information to any or all covered entities with respect to which such request is made, including for use in delivering targeted communications to that individual based on their personal information without express written permission from that individual’.

Scope
- Applies to targeting services.

Procedural requirements
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 356 (d)
    - ‘A targeting service shall provide confirmation of an individual’s verifiable request to prohibit targeted communications from a covered entity or all covered entities based on the individual’s personal information not later than 3 days following the receipt of a verifiable request from that individual pursuant to’ section 356 (a).

Record-keeping requirement

Content
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 356 (e)
    - Both targeting services and covered entities must maintain records.
      - Targeting services must maintain records of any individual’s request under section 356 (a) ‘and, if applicable, any written permission provided under’ section 356 (b) (2).
      - Covered entities must ‘maintain records of all notices provided to a targeting service as required under’ section 356 (c) (1) (A).
Subtitle B, Section 356 (e)
- These records must be reviewable by the Commission.

Scope
- Applies to targeting services and covered entities.

Form requirements
- Section 4 in Voter Privacy Act
  - Subtitle B, Section 356 (e) (1)
    - Records kept by targeting services must be maintained adequately.
Part 2: US State Initiatives

California: Bolstering Online Transparency Act 48

The Bolstering Online Transparency Act adds Chapter 6 (beginning with Section 17940) to Part 3, Division 7 of the Business and Professions Code, relating to bots.

Definitions

- Section 17940 (a)
  - Definition of Bot
    - ‘An automated online account where all or substantially all of the actions or posts of that account are not the result of a person.’

- Section 17940 (c)
  - Definition of online platform
    - ‘Any public-facing Internet Web site, Web application, or digital application, including a social network or publication, that has 10,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.’

- Section 17940 (d)
  - Definition of ‘person’
    - ‘A natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, government, governmental subdivision or agency, or other legal entity or any combination thereof.’

Disclosure requirement

Content

- Section 17941 (a)
  - ‘It shall be unlawful for any person to use a bot to communicate or interact with another person in California online, with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication in order to’:
    - ‘incentivize a purchase or sale of goods or services in a commercial transaction’; or
    - ‘to influence a vote in an election’.
  - ‘A person using a bot shall not be liable under this section if the person discloses that it is a bot.’

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48 Bolstering Online Transparency Act
Scope
- Applies to a ‘person’ as defined within the legislation.

Form requirements
- Section 17941 (b)
  - ‘The disclosure required by this section shall be’:
    - ‘clear’;
    - ‘conspicuous’; and
    - ‘reasonably designed to inform persons with whom the bot communicates or interacts that it is a bot.’

California: Social Media DISCLOSE Act

The Social Media DISCLOSE Act amends Sections 84504.3, 84504.4 and 84510 of the Government Code, relating to the Political Reform Act 1974. It also adds Sections 84503.5 and 84504.6 to the Government Code, relating to the Political Reform Act 1974.

Definitions
- Section 4 in Social Media DISCLOSE Act
  - Adds Section 84504.6
    - Section 84504.6 (e) (1)
      - Definition of online platform
        - ‘A public-facing Internet Web site, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers. A public-facing Internet Web site, web application, or digital application is not an online platform for purposes of this article to the extent that it displays advertisements that are sold directly to advertisers through another online platform.’

- Section 4 in Social Media DISCLOSE Act
  - Adds Section 84504.6
    - Section 84504.6 (e) (2)
      - Definition of online platform disclosed advertisement
        - ‘An electronic media advertisement on an online platform that is not any of the following’:
          (A) ‘A graphic, image, animated graphic, or animated image that the online platform hosting the
advertisement allows to hyperlink to an Internet Web site.’
(B) ‘A video, audio, or email’.

Disclosure requirements

Electronic media advertisement

Content
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (a)
      - ‘An electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall’:
        - Include the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by”.
    - Section 84504.3 (b)
      - The text in amended Section 84504.3 (a) is not required if including it would take up more than one-third of the graphic or image.
        - In these cases: the ad only needs to include a hyperlink to a website containing the disclosures required by Sections 84502, 84503, and 84506.5.
    - Section 84504.3 (h)
      - The disclosures required by Section 84504.3 ‘do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title’.

Scope
- Applies to ‘an electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate’.

Form requirements
- Section 2 in Social Media DISCLOSE Act
Amends Section 84504.3
- Section 84504.3 (a)
  - The text “Who funded this ad?, “Paid for by” or “Ad Paid for by” must be in:
    ♦ ‘a contrasting color’;
    ♦ ‘a font size that is easily readable by the average viewer for the duration of the advertisement’;
    ♦ ‘shall be included or displayed as a hyperlink, icon, button, or tab to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.’

Procedural requirements
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (d)
      - An Internet Web site that is linked as provided in amended Section 84504.3 (a) (2) ‘shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon’.

Email message or Internet Web site

Content
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (c)
      - ‘An email message, or Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5.’
    - Section 84504.3 (h)
      - The disclosures required by Section 84504.3 ‘do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title’.
Scope
- Applies to ‘an email message, or Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate’.

Form requirements
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (c)
      - It must be:
        ♦ ‘printed clearly and legibly’;
        ♦ ‘in a contrasting colour’; and
        ♦ ‘in no less than 8 point font at the top or bottom of the email message, or at the top or bottom of every publicly accessible page of the Internet Web site as applicable’.

Electronic media disseminated as audio only

Content
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (e)
      - An advertisement made via a form of electronic media that is audio only and thus cannot include the disclosure requirements in 84504.3 (a), ‘shall comply with the disclosure requirements for radio advertisements in Section 84504’.
      - Section 84504.3 (h)
        - The disclosures required by Section 84504.3 ‘do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title’.

Scope
- An advertisement made via a form of electronic media that is audio only.

Form requirements
- Section 3 in Social Media DISCLOSE Act
  - Amends Section 84504.4
    - Section 84504.4 (a) (1)
      - Requirements for radio advertisements:
        ♦ ‘…the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a
pitch and tone substantially similar to the rest of the advertisement’.

**Electronic media disseminated as video**

**Content**
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (f)
      - ‘An electronic media advertisement that is disseminated as a video shall comply with the disclosure requirements of Sections 84504.1, 84504.4, and 84504.5, depending on the type of committee that paid for it.’
      - ‘If the video is longer than 30 seconds, the disclosures required by Sections 84504.1, 84504.4, and 84504.5 shall be made at the beginning of the advertisement.’
    - Section 84504.3 (h)
      - The disclosures required by Section 84504.3 ‘do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title’.

**Scope**
- An electronic media advertisement that is disseminated as a video.

**Form requirements**
- Disclosures required by Sections 84504.1, 84504.4, and 84504.5 of the California Government Code
  - Section 84504.1
    - ‘(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.”

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50 California Government Code, Title 9, Chapter 4, Article 5
51 California Government Code, Title 9, Chapter 4, Article 5
(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the name of the top contributor from exceeding the width of the screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.'

○ Section 84504.452

‘(a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

52 California Government Code, Title 9, Chapter 4, Article 5
(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(2) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

(b) An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 in accordance with subdivision (h) of Section 84504.3.

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Section 84504.5

- ‘An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds.

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53 California Government Code, Title 9, Chapter 4, Article 5
of a broadcast of 30 seconds or less or for less than 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)

(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), each line of the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.'

**Electronic media that permits user engagement**

**Content**
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (g) (1)
      - ‘An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5… and shall not be required to include the disclosure required by’ Section 84504.3 (a) ‘on each individual post, comment, or other similar communication.’

- Section 84504.3 (h)
  - The disclosures required by Section 84504.3 ‘do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title’.

**Scope**
- ‘An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media’.
Form requirements

• Section 2 in Social Media DISCLOSE Act
  o Amends Section 84504.3
    - Section 84504.3 (g) (1)
      The ad made ‘made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media’ shall:
      - ‘only be required to include the disclosures required by Sections 84502, 84503, and 84506.5’:
        ♦ ‘in a contrasting color’;
        ♦ ‘that is easily readable by the average viewer’;
        ♦ ‘in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location’; and
      - ‘not be required to include the disclosure required’ by Section 84504.3 (a) ‘on each individual post, comment, or other similar communication’; and
      - make the disclosures ‘fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media’.

• Section 2 in Social Media DISCLOSE Act
  o Amends Section 84504.3
    - Section 84504.3 (g) (2)
      - In case making the disclosures ‘fully visible on a commonly used electronic device would be impracticable, the cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an Internet Web site containing the disclosures specified in’ Section 84504.3 (g) (1).

Electronic media that permits user engagement and is paid for by a political party of a candidate controlled committee

Content

• Section 3 in Social Media DISCLOSE Act
  o Amends Section 84504.4
    - Section 84504.4 (b)
      - ‘An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot
measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 in accordance with subdivision (g) of Section 84504.3.'

- **Section 84502, California Government Code**

(a)

‘(1) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

- (A) Paid for by an independent expenditure.
- (B) An advertisement supporting or opposing a ballot measure.
- (C) A radio or television advertisement.
- (D) A text message advertisement that is required to include a disclosure pursuant to Section 84504.7.

(b) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words “Ad paid for by” followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, internet website, or email message, the text described in subdivisions (a) and (b) may include the words “Paid for by” instead of “Ad paid for by.”

(d) Notwithstanding subdivisions (a) and (b), if an advertisement is a text message, the text described in subdivisions (a) and (b) may include the words “Paid for by” or “With,” instead of “Ad paid for by”.

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54 California Government Code, Title 9, Chapter 4, Article 5
Scope
- ‘An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure’.

Form requirements
- Section 2 in Social Media DISCLOSE Act
  - Amends Section 84504.3
    - Section 84504.3 (g) (1)
      The ad made ‘made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media’ shall:
      - only be required to include the disclosures required by Sections 84502, 84503, and 84506.5:
        ♦ ‘in a contrasting color’;
        ♦ ‘that is easily readable by the average viewer’;
        ♦ ‘in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location’; and
      - ‘not be required to include the disclosure required by’ Section 84504.3 (a) ‘on each individual post, comment, or other similar communication’; and
      - make the disclosures ‘fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media’.
    - Section 84504.3 (g) (2)
      - In case making the disclosures ‘fully visible on a commonly used electronic device would be impracticable, the cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an Internet Web site containing the disclosures specified in’ Section 84504.3 (g) (1).

Notice provided by a committee that disseminates a disclosed advertisement to an online platform

Content
- Section 4 in Social Media DISCLOSE Act
  - Adds Section 84504.6
    - Section 84504.6 (a)
A committee that disseminates an online platform disclosed advertisement shall do all of the following:

1) Upon requesting the dissemination, expressly notify the online platform through which the advertisement would be disseminated that the advertisement is an advertisement as defined in Section 84501.

2) (A) Provide the online platform with the disclosure name of the committee.

(B) For purposes of this section, “disclosure name” means the text required by Section 84503, followed by a colon, followed by, surrounded in quotation marks, the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101. If no disclosure text is required by Section 84503, “disclosure name” means the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(C) If the disclosure name changes due to a change in the top contributors or the name of the committee, the committee shall provide the online platform with an updated disclosure name within five business days.

3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

4) Provide the online platform with the name and identification number of the committee that paid for the advertisement.

Scope
- Applies to a committee that disseminates an online platform disclosed advertisement.

Notice provided by an online platform that disseminates a committee’s disclosed advertisement to users

Content
- Section 4 in Social Media DISCLOSE Act
  - Adds Section 84504.6
    - Section 84504.6 (b)
- ‘An online platform that disseminates a committee’s online platform disclosed advertisement shall do one of the following’:
  ◆ ‘Display “Paid for by” or “Ad Paid for by” followed by the disclosure name provided by the committee’.
  ◆ ‘The online platform may instead display a hyperlink, icon, button, or tab with the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by”.

Scope
- Applies to an online platform that disseminates a committee’s online platform disclosed advertisement.

Form requirements
- Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6
    ▪ Section 84504.6 (b) (1)
      - If the online platform opts for the use of this route: Display “Paid for by” or “Ad Paid for by” followed by the disclosure name provided by the committee. It must display it in a way that is:
        ◆ ‘easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored’;
        ◆ ‘The online platform may display only one hundred or more characters of the disclosure name if it is followed by a “…” that is clearly clickable and that links to a page’ as described in Section 84504.6 (b) (3).

- Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6
    ▪ Section 84504.6 (b) (2)
      - If the online platform opts for the use of this route: Display a hyperlink, icon, button, or tab with the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by”. It must display it in a way that is:
        ◆ ‘clearly clickable in the same or similar font’; and
        ◆ ‘in at least the same font size as the online platform’s text’; and
        ◆ ‘easily readable to the average viewer, stating that the advertisement is an advertisement or is promoted or sponsored, that links to a page’ as described in Section 84504.6 (b) (3).

- Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6
• Section 84504.6 (b) (3)
  - In addition:
    ♦ ‘Hyperlinks, icons, buttons, or tabs used for the purposes as described in’ Section 84504.6 (b) (1) and (2) ‘shall be linked to the profile or landing page of the committee that paid for the advertisement; to another page to which the average viewer would normally navigate to view additional information about a committee containing the disclosure name in a manner that is easily seen and readable by the average viewer; or to an Internet Web site containing the disclosure required by subdivision (c) of Section 84504.3.’

Record-keeping requirement

Content
• Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6
    ♦ Section 84504.6 (c) (1)
      - Records must be kept on any advertisement disseminated on the online platform by a committee that purchased $500 or more in advertisements on the platform during the preceding 12 months. Each record shall contain:
        ♦ ‘A digital copy of the advertisement’;
        ♦ ‘The approximate number of impressions generated from the advertisement and the date and time that the advertisement was first displayed and last displayed’;
        ♦ ‘Information regarding the range charged or the total amount spent on the advertisement’;
        ♦ ‘The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers’;
        ♦ ‘The name and identification number of the committee that paid for the advertisement’.

Scope
• Applies to online platforms that disseminate any advertisement in their platform by a committee that purchased $500 or more in advertisements on the platform during the preceding 12 months.

Form requirements
• Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6
Section 84504.6 (c) (1)
- The records must be made ‘available for online public inspection in machine-readable format’.

Section 4 in Social Media DISCLOSE Act
  o Adds Section 84504.6

- Section 84504.6 (c) (3)
  - Online platforms must ‘display a prominent button, icon, tab, or hyperlink with the text “View Ads” or similar text in one of the following locations’:
    ♦ ‘near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page’;
    ♦ ‘on a page that displays the committee’s profile information or biographical information’;
    ♦ ‘or on a page on which the average viewer would normally navigate to view additional information about a committee’.

  ‘The button, icon, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by’ Section 84504.6 (c) (1).

Procedural requirements
- Section 84504.6 (c) (2)
  - ‘The information required… shall be made available as soon as practicable’; and
  - records ‘shall be retained by the online platform for no less than four years’.

Connecticut: An Act Concerning Dark Money and Disclosure of Foreign Political Spending and of Political Advertising on Social Media 55

The Act amends the Connecticut General Statutes and creates new sections. This part of the Report focuses on the requirements imposed by Section 23, a new section created by the Act.

Definitions
  o Section 23 (a) (1)
    o Definition of online platform

55 Raised Bill No 7329
‘Any public-facing Internet web site or application or digital application, including, but not limited to, a social network, advertisement network or search engine, that sells qualified political advertisements and’:
- has 400,000 ‘or more unique monthly visitors or users, which visitors or users have an assigned Internet protocol address within the United States, for seven of the preceding twelve months’, or
- ‘has revenue from advertising in excess of’ $1000 per year.

• Section 23 (a) (2)
  o Definition of qualified political advertisement
    • ‘Any advertisement including, but not limited to, sponsorship and search engine marketing, that is an expenditure, as defined in section 9-601b of the general statutes.’

Record-keeping requirement

Online platforms

Content
• Section 23 (b) and (d)
  o ‘An online platform shall maintain, and make available for online public inspection… a complete record of any request to purchase on such online platform a qualified political advertisement, which request is made by a person whose aggregate requests to purchase qualified political advertisements on such online platform during the calendar year exceeds’ $200. The records must contain:

  (1) ‘A digital copy of the qualified political advertisement;
  (2) A description of the audience targeted by such advertisement, the number of views generated from such advertisement and the date and time that such advertisement is both first and last displayed; and
  (3) Information regarding
     (A) the average rate charged for such advertisement,
     (B) as applicable,
        (i) the name of any candidate to whom such advertisement refers and the office to which such candidate is seeking nomination or election,
        (ii) the primary or election to which such advertisement refers, or
        (iii) the referendum question to which such advertisement refers, and

     (C)
(i) for a request by or on behalf of a candidate to make such purchase,
   (I) the name of such candidate,
   (II) the name of the authorized candidate committee of such candidate, and
   (III) the name of the treasurer of such candidate committee, or

(ii) for any other request to make such purchase,
   (I) the name of the person making such request,
   (II) the name, street address and phone number of a contact individual for such person, and
   (III) in the case of a person other than a human being, the name of an individual who had direct, extensive and substantive decision-making authority over the request to make such purchase.

Scope
- Applies to online platforms.

Form requirements
- Section 23 (b) and (e)(1)
  - ‘An online platform shall maintain, and make available for online public inspection in’:  
    - ‘machine-readable format’; and 
    - be made available ‘as soon as possible’.

Procedural requirements
- Section 23 (e)(1)
  - An online platform should maintain the record for a period of not less than 4 years.

Advertisers

Content
- Section 23 (c)
  - ‘Any person who requests to purchase a qualified political advertisement on an online platform shall provide to the online platform all information necessary for such online platform to comply with the requirements of Section 23 (b)
**Scope**
- ‘Any person who requests to purchase a qualified political advertisement on an online platform’.

**Maryland: Online Electioneering Transparency and Accountability Act**

An Act enacted under Article II, Section 17 (c) of the Maryland Constitution, Chapter 833, which repeals, re-enacts, amends or adds to the Maryland Election Law Articles.  

**Definitions**

- **Article-Election Law, Section 1-101 dd-1**
  - Definition of **online platform**
    - ‘Any public-facing website, web application, or digital platform, including a social network, ad network, or search engine, that’:
      1. ‘Has 100,000 or more unique monthly United States visitors or users for a majority of months during the immediately preceding 12 months’;
      2. ‘Receives payment for qualifying paid digital communications’.

- **Article-Election Law, Section 1-101 LL-1**
  - Definition of **qualifying paid digital communication**
    - ‘Any electronic communication that:
      1. is campaign material;
      2. is placed or promoted for a fee on an online platform;
      3. is disseminated to 500 or more individuals; and
      4. does not propose a commercial transaction.’

- **Article-Election Law, Section 13-306 (a) (6)**
  - Definition of **public communication**
    - ‘A communication by means of any broadcast television or radio communication, cable television communication, satellite television or radio communication, newspaper, magazine, outdoor advertising facility, mass mailing, e-mail blast, text blast, qualifying paid digital communication, or telephone bank to the general public, or any other form of general public political advertising.’
    - It does not include:
      - ‘a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, Web site, newspaper, magazine, or other periodical publication, including

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56 Online Electioneering Transparency and Accountability Act
57 Bill track web page on Online Electioneering Transparency and Accountability Act
any Internet or electronic publication, that is not controlled by a candidate or political party';
- ‘an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under §13-243 of this title, to its members, executive and administrative personnel and their immediate families'; or;
- ‘A candidate debate or forum’.

- Article-Election Law, Section 13-306 (a) (8)
  - Definition of **text blasts**
    - ‘Means a transmission of text messages of an identical or substantially similar nature to 5,000 or more telephone numbers simultaneously.’

- Article-Election Law, Section 13-307 (a) (3)
  - Definition of **electioneering communication**
    - ‘A broadcast television or radio communication, a cable television communication, a satellite television or radio communication, a mass mailing, an email blast, a text blast, a telephone bank, a qualifying paid digital communication, or an advertisement in a print publication that:
      - (1) Refers to a clearly identified candidate or ballot issue;
      - (2) Is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;
      - (3) Is capable of being received by:
        - (A) 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is transmitted by television or radio; or
        - (B) 5,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is a mass mailing, an email blast, a text blast, a telephone bank, a qualifying paid digital communication, or an advertisement in a print publication; and
      - (4) Is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.’

  - It does not include:
    - (1) ‘An independent expenditure
    - (2) A news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, website, newspaper, magazine, or other periodical publication,
including any internet or electronic publication, that is not controlled by a candidate or a political party;
(3) A candidate debate or forum;
(4) An internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under §13-243 of this title to its members, executive and administrative personnel and their immediate families; or
(5) A communication that proposes a commercial transaction’.

- ‘For the purposes of this paragraph, clearly identified means:
  (i) The name of a candidate appears;
  (ii) A photograph or drawing of a candidate appears; or
  (iii) The identity of a candidate or ballot issue is apparent by unambiguous reference’.

Disclosure requirements

Campaign material published, distributed or disseminated by a campaign finance entity

Content
- Article-Election Law, Section 13-401 (a)(1)
  o ‘Except as otherwise provided in this section, each item of campaign material shall contain, set apart from any other message, an authority line that states’:
    • ‘As to campaign material published [or], distributed, or disseminated by a campaign finance entity’:
      - ‘The name and address of the treasurer of each campaign finance entity responsible for the campaign material’; and
      - As for each treasurer named, ‘the name of each campaign finance entity for which the treasurer is acting’; and
    • ‘as to campaign material published [or], distributed, or disseminated by any other person, the name and address of the person responsible for the campaign material’.

- Article-Election Law, Section 13-401 (a)(2)
  o ‘The authority line may omit an address that is on file with the State Board or local board.’

- Article-Election Law, Section 13-401 (a)(3)
  o ‘If the campaign material is too small to include all the information specified’ in Section 13-401 (a)(1) ‘in a legible manner, the authority line need only contain the [name and title of the treasurer or other person responsible for it] information required by regulations adopted by the State Board.’
• Article-Election Law, Section 13-401 (a)(4)
  o ‘The authority line for campaign material that is commercial advertisement need only contain the information specified in’ Section 13-401 (a) (1) and (2) ‘for one campaign finance entity or other person responsible for the advertisement.’

Scope
• Applies to ‘campaign material published [or], distributed, or disseminated by a campaign finance entity’ or ‘any other person’.

Campaign material published or distributed in support of or in opposition to a candidate, unauthorized by candidate

Content
• Article-Election Law, Section 13-401 (b)
  o ‘Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement’:
    • ‘This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of the treasurer or president). This message has not been authorized or approved by any candidate’.

Scope
• Applies to ‘campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate’.

Record-keeping requirements

Online platforms to public: in general

Content
• Article-Election Law, Section 13-405 (B) (1)
  o ‘An online platform shall make available for public inspection on the internet… records…’ described in Section 13-405 (B) (6) ‘regarding qualifying paid digital communications disseminated through the online platform for which the online platform has received notice in accordance’ with Section 13-405 (A).

• Article-Election Law, Section 13-405 (B) (5)
  o ‘An online platform may apply to the State Board for a compliance waive to allow the online platform to make the records’ described in Section 13-405 (B) (6) ‘available for public inspection on the internet within up to 7 days after a qualifying paid digital communication is purchased.’
Scope

- Applies to online platforms.

Form requirements

- Article-Election Law, Section 13-405 (B) (1)
  - Records must be ‘available for public inspection on the internet’ and provided in ‘machine-readable format’.

- Article-Election Law, Section 13-405 (B) (2)
  - Online platform must allow the public to search the records described in Section 13-405 (B) (6) by purchaser.

- Article-Election Law, Section 13-405 (B) (3)
  - Records shall be available in a ‘clearly identifiable location’ on the platform’s website:
    - ‘Within 48 hours after a qualifying paid digital communication is purchased’; and
    - (Section 13-405 (B) (4)) ‘A person shall be considered to have purchased a qualifying paid digital communication if the person has executed a contract to purchase a qualifying paid digital communication.’
    - ‘For at least 1 year after the general election following the date when the online platform disseminated the qualifying paid digital communication to which the record relate.’

Online platforms to public: information on communications a purchaser requests to disseminate

Content

- Article-Election Law, Section 13-405 (B) (6)
  - ‘For each qualifying paid digital communication a purchaser requests to disseminate through an online platform and for which the purchaser has provided notice in accordance with’ Section 13-405 (A) ‘the online platform shall maintain the following records’:
    - ‘For each qualifying paid digital communication purchased by a political committee’:
      - ‘The name of the person and any contact information for the person required by the State Board, of the political committee’;
      - ‘The treasurer of the political committee’; and
      - ‘The total amount paid by the purchaser to the online platform for the placement of the qualifying paid digital communication’.
- ‘For each qualifying paid digital communication purchased by a person other than a political committee or an ad network’:
  - ‘The name of the person and any contact information for the person required by the State Board, of the person’;
  - ‘The identity of the individuals exercising direction or control over the activities of the person, including the chief executive officer or board of directors, if applicable’; and
  - ‘The total amount paid by the purchaser to the online platform for the placement of the qualifying paid digital communication’.

- ‘For each qualifying paid digital communication purchased by an ad network’:
  - ‘The contact information for the ad network’;
  - ‘A hyperlink to the ad network’s website where the contact information is located’.

Scope
- Applies to qualifying paid digital communication purchased by a political committee, person other than an ad network or political committee, or an ad network depending on which Section is referred to.

Online platforms to State Board upon request

Content
- Article-Election Law, Section 13-405 (C) (1)
  - ‘An online platform shall maintain and make available to the State Board on request the records described in’ Section 13-405 (C) (3) ‘regarding qualifying paid digital communications disseminated through the online platform for which the online platform has received notice in accordance with Section 13-405 (A).

- Article-Election Law, Section 13-405 (C) (3)
  - ‘For each qualifying paid digital communication a purchaser requests to disseminate through an online platform and for which the purchaser has provided notice in accordance with’ Section 13-405 (A) ‘the online platform shall maintain the following records:
    - ‘The candidate or ballot issue to which the qualifying paid digital communication relates and whether the qualifying paid digital communication supports or opposes that candidate or ballot issue’;
    - ‘The dates and times that the qualifying paid digital communication was first disseminated and last disseminated’;
    - ‘A digital copy of the content of the qualifying paid digital communication’;
    - ‘An approximate description of the geographic locations where the qualifying paid digital communication was disseminated’;
    - ‘An approximate description of the audience that received or was targeted to receive the qualifying paid digital communication’; and
• ‘The total number of impressions generated by the qualifying paid digital communication’.

Scope
• Applies to online platforms.

Form requirements
• Article-Election Law, Section 13-405 (C) (2)
  o The records described in Section 13-405 (C) (3) must be available on request of the State Board:
    ▪ ‘Within 48 hours after a qualifying paid digital communication is first disseminated on the online platform’; and
    ▪ ‘For at least 1 year after the general election following the date when the online platform disseminated the qualifying paid digital communication to which the records relate’.

Provision of necessary information by purchaser of qualifying paid digital communications to online platform

[Purchasers must disclose information necessary to online platforms so these can, in turn, comply with record-keeping requirements.]

Content
• Article-Election Law, Section 13-405 (D)
  o ‘A purchaser of a qualifying paid digital communication shall provide the online platform that disseminates the qualifying paid digital communication with the information necessary for the online platform to comply with’ Section 13-405 (B) and (C).

Scope
• Applies to purchasers of qualifying paid digital communications.

Obligation to make reasonable efforts

Content
• Article-Election Law, Section 13-405 (E)
  o ‘An online platform shall make reasonable efforts to allow the State Board to’:
    ▪ ‘obtain the information required under’ Section 13-405 (B) and (C);
    ▪ ‘obtain the information that a purchaser of a qualifying paid digital communication provided to the online platform’, following Section 13-405 (D); and
    ▪ ‘otherwise request that a purchaser of a qualifying paid digital communication comply with this Section or’ Section 13-401.
Scope

- Applies to online platforms.

New Jersey: Legislature amendment to existing political ad laws

Amendment to the New Jersey Statutes 19:44A-22.3 (2) (a) - (e).

Definitions

- New Jersey Statutes 19:44A-22.3 (2)(e)
  - Definition of communication
    - ‘A press release, pamphlet, flyer, form letter, sign, billboard, paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or telephone call featuring a recorded message, or any other form of advertising, including Internet and digital advertising, directed to the electorate.’

Disclosure requirements

Those who incur or authorize an expenditure for the purpose of financing a communication

Content

- New Jersey Statutes 19:44A-22.3 (2) (a) and (b)
  - A communication:
    - ‘aiding or promoting the nomination, election or defeat of any candidate or providing political information on any candidate which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L. 1973, c. 83 (C.19:44A-1 et seq.)’
    - ‘aiding the passage or defeat of any public question or providing political information on any public question, or aiding the passage or defeat of legislation or regulation in the case of an independent expenditure committee, which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L. 1973, c. 83 (C.19:44A-1 et seq.)’
  - All of these must state:
    - Name; and
    - ‘business or residence address of the committee, group or person, as that information appears on reports filed with the commission, and that the communication has been financed by that committee, group or person’.

58 New Jersey Statutes 19:44A-22.3
Scope
- New Jersey Statutes 19:44A-22.3 (2) (a) and (b)
  - Applies to those who incur or authorize an expenditure for the purpose of financing a communication such as ‘a candidate committee, joint candidates committee, political committee, continuing political committee, independent expenditure committee, political party committee or legislative leadership committee, or any group other than such a committee, or any person’.

Form requirements
- New Jersey Statutes 19:44A-22.3 (2) (a) and (b)
  - The disclosure requirement shall be clearly stated.

Additional requirements for independent expenditure committees

Content
- New Jersey Statutes 19:44A-22.3 (2) (c)
  - A communication financed by an independent expenditure committee must contain a statement that:
    - The ‘expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any such candidate, person or committee’.

Scope
- New Jersey Statutes 19:44A-22.3 (2) (c)
  - Applies to communications purchased by ‘an independent expenditure committee or by any person, not acting in concert with a candidate or any person or committee acting on behalf of a candidate’.

Form requirements
- New Jersey Statutes 19:44A-22.3 (2) (c)
  - The statement shall be made in a ‘clear and conspicuous manner’.

Record-keeping requirement

Content
- New Jersey Statutes 19:44A-22.3 (2) (d)
  - Those paid to spread political advertising must keep:
    - ‘an exact copy of the communication’
    - ‘a statement of the number of copies made or the dates and times that the communication was broadcast or otherwise transmitted’; and
    - ‘the name and address of the committee, group or individual paying for the communication’.
Scope

- New Jersey Statutes 19:44A-22.3 (2) (d)
  - Applies to ‘any person who accepts compensation from a committee, group or individual described’ in New Jersey Statutes 19:44A-22.3 (a) and (b) ‘for the purpose of printing, broadcasting, or otherwise disseminating to the electorate a communication’.

Procedural requirements

- New Jersey Statutes 19:44A-22.3 (2) (d)
  - Records must be:
    - ‘maintained on file at the principal office of the person accepting the communication for at least’ 2 years; and
    - ‘available for public inspection during normal business hours’.

New York: Election Law Rules and Regulations amendments

Amendments were made to the New York Election Laws Rules and Regulations. These were found on the State of New York Election Law 2019 document. The focus of this Report is on amendments made to Title V, Subtitle V, Part 6200.

Definitions

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (b) (1)
  - Definition of independent expenditure
    - ‘Independent expenditure means an expenditure made by an independent expenditure committee conveyed to 500 or more members of a general public audience or any paid internet or digital advertisement targeted to 50 or more members of the general public audience, provided such expenditure is in a form described in subparagraph (i) of this paragraph and meets one of the three content and timing criteria described in subparagraph (ii) of this paragraph and is not a communication exempted from the definition of independent expenditure by paragraph (2) of this subdivision or other provision of law.

  (i) An independent expenditure shall be in the form of:
    (a) an audio or video communication via broadcast, cable or satellite;
    (b) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads;

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(c) other published statements which shall include, but not be limited to, digital media; or:
(d) any paid internet or digital advertisement as defined in paragraph (11) of this subdivision.

(ii) An independent expenditure shall have the following attributes:
(a) irrespective of when such communication is made, contains words such as “vote”, “oppose”, “support”, “elect”, “defeat”, or “reject”, which call for the election or defeat of the clearly identified candidate;
(b) refers to and advocates for or against a clearly identified candidate or ballot proposal on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot; or
(c) within 60 days before a general or special election for the office sought by the candidate or 30 days before a primary election, includes or references a clearly identified candidate.

- (Section 6200.10 (b) (2)) However, it shall not include:
  - ‘payments or expenditures made by a party or constituted committee that is required to file disclosure reports under the Election Law’;
  - ‘communications where such candidate, the candidate’s political committee or its agents, a party committee or its agents, or a constituted committee or its agents or a political committee formed to promote the success or defeat of a ballot proposal or its agents, did authorize, request, suggest, foster or cooperate in such communication’;
  - ‘payments or expenditures where coordination occurs in the creation, formation, or operation of the independent expenditure committee making the payment or expenditure’.

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (b) (1) (ii) (c) (1), (2), (3), (4)
  - Definition of advocates for or against
    - Means ‘in the absence of explicit words of advocacy for or against a candidate or ballot proposal—that the expenditure, through the use of images, photos, or language, promotes, supports, attacks, or opposes the clearly identified candidate or ballot proposal.’
    - ‘For purposes of determining that a communication is advocating for or against a candidate or ballot proposal, the following factors shall be considered, but shall not be limited to:’
whether it identifies a particular candidate by name or other means such as party affiliation or distinctive features of a candidate's platform or biography or identifies a ballot proposal;

(ii) whether it expresses approval or disapproval for said candidate’s positions or actions or for a ballot proposal;

(iii) whether it refers to a candidate or ballot proposal and is part of an ongoing series by the group on the same issue and the expenditure is made on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot;

(iv) whether the issue raised in the communication has been raised as a distinguishing characteristic amongst the referenced candidates; and

(v) whether its timing and the identification of the candidate are related to a vote on legislation or a position on legislation by an officeholder who is also a candidate and is made on or after January 1st of the year of the election in which such candidate is seeking office’.

‘For purposes of determining that a communication is not advocating for or against a candidate or ballot proposal, the following factors shall be considered, but shall not be limited to:

(i) whether it is part of an ongoing series by the group on the same issue and does not refer to a candidate or ballot proposal; and

(ii) whether its timing and the identification of the candidate or ballot proposal are related to a non-electoral event (e.g., a vote on legislation or a position on legislation by an officeholder who is also a candidate) and is not made on or after January 1st of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot’.

‘However, even if some of the above factors in item (ii) or (iii) of this subclause are found, the communication must still be considered in its context before arriving at any conclusion.’

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (b) (9)
  - Definition of independent expenditure committee
    - ‘A political committee, that makes only independent expenditures as defined in article 14 of the Election Law, and does not coordinate with a candidate, candidate’s authorized committees or an agent of the candidate as defined in paragraph (g) of subdivision (1) of section 14–107 of the Election Law. For purposes of this section, an independent expenditure committee may be created by a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association, or organization, or political committee (EL 14–100[15]).’
• N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (b) (11)
  o Definition of **paid internet or digital advertisement**
    - ‘Any digitally displayed advertising paid for by an independent expenditure committee that exists on or is transmitted via the internet’.
    - ‘It includes but is not limited to’:
      - ‘display advertising’;
      - ‘image, video, audio, or interactive media advertisements’;
      - ‘paid or promoted content on social networking sites’;
      - ‘search engine marketing’;
      - ‘native advertising’; and
      - ‘sponsorships’.
    - ‘For purposes of this Part, advertisements that are purchased for broadcast from a radio or television broadcaster; radio or television broadcast network; satellite system or satellite network; or cable system…or cable network; and such advertisements are also retransmitted on the internet or through a web application, shall not be considered a paid internet or digital advertisement, provided that the advertisements otherwise comply with the requirements of section 14–107 of the Election Law for satellite, cable, radio, or television broadcast advertisements.’

• N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (b) (12)
  o Definition of **online platform**
    (i) ‘a public-facing internet website, web application, web domain or digital application, including a social network or search engine, which sells political advertisements and has 70,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months as measured by an independent digital ratings service accredited by the media ratings council’; or
    (ii) ‘any third-party advertising vendor that has 30,000,000 or more unique monthly United States visitors in the aggregate on any advertisement space that it has sold or bought for a majority of months during the preceding 12 months as measured by an independent digital ratings service accredited by the media ratings council. Any website, web application, web domain or digital application of a newspaper or periodical shall not be considered an online platform, provided, however, that nothing in this paragraph shall exempt any third-party advertising vendor from the requirement of collecting registration forms pursuant to subparagraph (i) of this paragraph for advertising space on a newspaper website that it bought or sold on behalf of a third-party. For purposes of this paragraph, *newspaper* shall have the same meaning as found in section 60 of the General Construction Law and *periodical* shall have the same meaning as found in section 528.6 of Title 20 NYCRR’. 
Disclosure requirements

Independent expenditures

Content
- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (1)
  - ‘Whenever any person makes an independent expenditure, such communication shall… state’:
    - ‘the name of the person who paid for or otherwise published or distributed the communication’; and
    - ‘with respect to communications regarding candidates, that the communication was not expressly authorized or requested by any candidate, candidate’s political committee, or any of its agents’.

Scope
- Applies to anyone who makes an independent expenditure.

Form requirements
- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (1)
  - The disclosure requirement must be clearly stated

Paid internet or digital advertisement

Content
- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (i)
  - ‘A paid internet or digital advertisement with text or graphic components must contain’:
    - ‘an attribution that is of sufficient type size’.

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (ii)
  - ‘A paid internet or digital advertisement with text or graphic components but without any video or audio component that, due to external character or space constraints, cannot fit a required attribution must include’:
    - ‘an adapted attribution’.

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (iv)
  - ‘A paid internet or digital advertisement with an audio and/or video component must include’:
    - ‘a full attribution included in such video or audio component’.

Scope
- Applies to paid internet or digital advertisement.

Form requirements
- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (i)
A paid internet or digital advertisement with text or graphic components must contain:

- ‘an attribution that is of sufficient type size to be clearly readable by the recipient or viewer of the communication’; and
- ‘with a reasonable degree of color contrast between the background and the text of the disclaimer’.

N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (ii)

- ‘For purposes of this paragraph, an adapted attribution means an abbreviated attribution on the face of a communication in conjunction with an indicator through which a reader can locate the full attribution required by subdivision (g) of this section. The adapted attribution must indicate the person or persons who paid for the expenditure in letters of sufficient size to be clearly readable by a recipient of the communication. The technological mechanism for an adapted attribution must be associated with the indicator and must allow a recipient of the communication to locate the full attribution by navigating no more than one step away from the adapted attribution and without receiving or viewing any additional material other than the full attribution required by this section.’

N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (f) (2) (iii)

- ‘An attribution is not clearly readable if it is not clear and conspicuous, if it is difficult to see or read, or the placement is easily overlooked.’

Paid internet or digital advertisements made by political committees

Content

N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.11 (a)

- ‘All political committees required to file primary, general and/or special election reports, must at the same time the applicable post-election campaign financial disclosure report is due and made, submit copies of all the filer’s political communications, also known as campaign materials, purchased in connection with such election by or under the authority of the person filing the statement of the committee of the person on whose behalf it is filed, as the case may be. Copies shall include’:
  - ‘a copy of all broadcast, cable or satellite schedules and scripts’;
  - ‘internet, print and other types of advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced’;
  - ‘reproductions of statements or information published to 500 or more members of a general public audience’;
  - ‘by computer or other electronic device including but not limited to electronic mail or text message’; and
  - ‘any paid internet or digital advertisement unless such advertisement had previously been provided to the State Board pursuant to this section. Such
copies, schedules and scripts shall be preserved by the officer with whom
or the board with which it is required to be filed for a period of one year from
the date of filing thereof (EL 14–106).

**Scope**
- Applies to political committees.

**Paid internet or digital advertisements made by independent expenditure committees**

**Content**
- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.11 (b)
  - ‘Independent expenditure committees must file at the same time as any required
    financial statement disclosures, including any weekly or 24 hour disclosures, a
    copy of all political communications paid for by the independent expenditure
    committee, including but not limited to’:
    - ‘broadcast, cable or satellite schedules and scripts, advertisements,
      pamphlets, circulars, flyers, brochures, letter heads and other printed
      matter’;
    - ‘any paid internet or digital advertisement targeted to a general public
      audience of 50 or more persons’; and
    - ‘any statements or information conveyed to 1,000 or more members of a
      general public audience by computer or other electronic devices. Such
      copies, schedules and scripts shall be preserved by the officer with whom
      or the board with which it is required to be filed for a period of one year from
      the date of filing thereof. Any political communication filed by an
      independent expenditure committee with a weekly or 24 hour disclosure
      statement shall not be required to be again filed with the post election
      report, and such previously filed political communication shall be deemed
      filed therewith’.

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.11 (c)
  - ‘Copies of any paid internet or digital advertisement, as required by’ Section
    6200.11 (b) ‘shall be submitted by the independent expenditure committee to the
    State Board of Elections... For the purposes of this section, copies of any paid
    internet or digital advertisement shall include’:
    - ‘scripts for any paid internet or digital advertisement with an audio and/or
      video component which shall include a reasonable description of any visual
      elements’;
    - ‘screenshots of any paid or digital advertisement without an audio and/or
      video component’;
    - ‘for paid internet or digital advertisements without a video component that
      are dynamic, such as advertisements with animation, or interactive
      advertisements that change when a viewer views or interacts with the
      advertisement, each image in the advertisement’. 
Scope

- Applies to independent expenditure committees.

Form requirements

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.11 (c)
  - The copies submitted by the independent expenditure committee to the State Board of Elections must be:
    - ‘via an electronic format specified by the Board of Elections that is accessible and can be read by a screen reader’.

Record-keeping requirement

Content

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (g)
  - The New York State Board of Elections ‘shall maintain and make available online for public inspection, in addition to other information required by this Part, a complete record of paid internet or digital advertisements filed by independent expenditure committees’.
  - ‘Such record shall include the registration information required by Election Law section 14–107(3)(a) and (b) and a digital copy of such paid internet or digital advertisement’.

- Applies to the New York State Board of Elections.

Form requirements

- N.Y. Elec. Law R. & Reg. Title V, Subtitle V, Part 6200, Section 6200.10 (g)
  - ‘The complete record of paid internet or digital advertisements filed by independent expenditure committees’ must be in ‘machine readable format’.

Vermont: General Assembly amendment to existing political ad laws

Amendments were made to the Vermont Statutes. The focus of this Report lies on changes made to Vermont Statutes, Title 17, Chapter 061, Section 2901, Section 2972 and Section 2973.

Definitions

- Vermont Statutes, Title 17, Chapter 061, Section 2901 (1)\(^\text{61}\)
  - Definition of candidate
    - ‘An individual who has taken affirmative action to become a candidate for State, county, local or legislative office in a primary, special, general or local election. An affirmative action shall include one or more of the following’:

\(^{61}\) [Vermont Statutes, Title 17, Section 2901](#)
- ‘Accepting contributions or making expenditures totalling $500.00 or more’;
- ‘Filing the requisite petition for nomination under this title or being nominated by primary or caucus’; or
- ‘Announcing that the individual seeks an elected position as a State, county, or local officer or a position as Representative or Senator in the General Assembly’.

- Vermont Statutes, Title 17, Chapter 061, Section 2901 (2)
  - Definition of candidate’s committee
    - ‘The candidate’s campaign staff, whether paid or unpaid’.

- Vermont Statutes, Title 17, Chapter 061, Section 2901 (6)
  - Definition of electioneering communication
    - ‘Any communication that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or any public address system; placed on any billboards, outdoor facilities, buttons, or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars; or contained in any direct mailing, robotic phone calls, or mass electronic or digital communications.’

- Vermont Statutes, Title 17, Chapter 061, Section 2901 (7)
  - Definition of expenditure
    - ‘A payment, disbursement, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates. As used in this chapter, “expenditure” shall not include any of the following’:
      - ‘a personal loan of money to a candidate from a lending institution made in the ordinary course of business’;
      - ‘services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party’;
      - ‘unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate’; or
      - ‘unreimbursed campaign-related travel expenses paid for by the candidate or the candidate’s spouse’.

- Vermont Statutes, Title 17, Chapter 061, Section 2901 (13)
  - Definition of political committee or political action committee
    - ‘Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not
including a political party, that accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee and a legislative leadership political committee.’

**Disclosure requirements**

**Identification requirements for electioneering communications**

**Content**

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (a) 62
  - Electioneering communications must state:
    - the name;
    - and ‘mailing address of the person, candidate, political committee, or political party that paid for the communication’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (a) (1)
  - However, an ‘audio electioneering communication paid for by a candidate does not need to contain the candidate’s address’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (a) (2)
  - ‘An electioneering communication paid for by a person acting as an agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate’:
    - the name;
    - and ‘mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (b)
  - ‘If an electioneering communication is a related campaign expenditure made on a candidate’s behalf as provided in section 2944 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate’:
    - ‘the candidate on whose behalf it was made by including language such as “on behalf of” such candidate’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (c) (1) and (2)
  - ‘In addition to the identification requirements in’ Section 2972 (a) and (b) ‘an electioneering communication paid for by or on behalf of a political committee or

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62 Vermont Statutes, Title 17, Section 2972
political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than $2,000.00 to that committee or party since the beginning of the two-year general election cycle in which the electioneering communication was made to the date on which the expenditure for the electioneering communication was made.’

{o ‘For the purposes of this subsection, a political committee or political party shall be treated as having made an expenditure if the committee or party or person acting on behalf of the committee or party has executed a contract to make the expenditure.’

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (d)
  {o In case ‘it is not practicable to meet the identification requirements of this section within an electioneering communication that is broadcast over the Internet, such an electioneering communication shall contain’:
   {i ‘a link… that, if clicked, takes the reader to a web page or social medial page that provides all of the identification information as required by this section’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (e)
  {o However, the ‘identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year election cycle, a cumulative amount of not more than $150 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.’

Scope
- Applies to electioneering communications.

Form requirements
- Vermont Statutes, Title 17, Chapter 061, Section 2972 (a)
  {o ‘The name and address shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (a) (2)
  {o ‘The name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast’ must be designated ‘clearly’.

- Vermont Statutes, Title 17, Chapter 061, Section 2972 (b)
  {o The communication must ‘clearly designate’ ‘the candidate on whose behalf it was made by including language such as “on behalf of” such candidate.’
• Vermont Statutes, Title 17, Chapter 061, Section 2972 (d)
  o The link must be ‘clear and conspicuous’.

Specific identification requirements for radio, television or internet communications

Content
• Vermont Statutes, Title 17, Chapter 061, Section 2973 (a)\(^{63}\)
  o ‘A person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication that is transmitted through radio, television, or online video’:
    ▪ ‘an audio statement of the name and title of the person who paid for the communication’; and
    ▪ ‘that the person paid for the communication’.

• Vermont Statutes, Title 17, Chapter 061, Section 2973 (b)
  o ‘If the person who paid for the communication is not an individual, the audio statement required by this section shall include’:
    ▪ ‘the name of that person’; and
    ▪ ‘the name and title of the treasurer in the case of a political committee or political party or the principal officer in the case of any other person that is not an individual.’

Scope
• Applies to anyone who makes an expenditure for an electioneering communication ‘that is transmitted through radio, television, or online video’.

Form requirements
• Vermont Statutes, Title 17, Chapter 061, Section 2973 (a)
  o The ‘audio statement of the name and title of the person who paid for the communication and that the person paid for the communication’ must be ‘in a clearly spoken manner’.

Washington: State Legislature amendment to existing political ad laws

A series of amendments were made to Washington’s political advertising laws in the form of different Bills. The amendments were found in the Revised Code of Washington, Section 42.17A. The Report will focus on changes affecting the Revised Code of Washington Section 42.17A.005, Section 42.17A.320, Section 42.17A.345, Section 42.17A.350.

\(^{63}\) Vermont Statutes, Title 17, Section 2973
Definitions

- Revised Code of Washington, Section 42.17A.005 (39)
  - Definition of political advertising
    - 'includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign'.

- Revised Code of Washington, Section 42.17A.005 (29)
  - Definition of independent expenditure
    - ‘Means an expenditure that has each of the following elements’:
      (i) ‘It is made in support of or in opposition to a candidate for office by a person who is not:
        (A) A candidate for that office;
        (B) An authorized committee of that candidate for that office; and
        (C) A person who has received the candidate’s encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;
      (ii) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;
      (iii) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate’s name; and
      (iv) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one

64 Revised Code Washington Section 42.17A.005
independent expenditure if their cumulative value is one thousand dollars or more'.

- It ‘does not include: Ordinary home hospitality; communications with journalists or editorial staff designed to elicit a news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, controlled by a person whose business is that news medium, and not controlled by a candidate or a political committee; participation in the creation of a publicly funded voters pamphlet statement in written or video form; an internal political communication primarily limited to contributors to a political party organization or political action committee, the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid for by the worker’.

- Revised Code of Washington, Section 42.17A.005 (21)
  o Definition of electioneering communications
    - ‘Means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper or periodical that:
      (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;
      (ii) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and
      (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value or cost of one thousand dollars or more’.

- It ‘does not include’:
  (i) ‘Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding the candidate becoming a candidate;
  (ii) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as
two or more candidates for the same position have been invited to participate in the debate or forum;

(iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(A) Of interest to the public;
(B) In a news medium controlled by a person whose business is that news medium; and
(C) Not a medium controlled by a candidate or a political or incidental committee;

(iv) Slate cards and sample ballots;
(iv) Advertising for books, films, dissertations, or similar works (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (B) written about a candidate;

(v) Public service announcements;
(vi) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or
(viii) Any other communication exempted by the commission through rule consistent with the intent of this chapter'.

Disclosure requirement

Content

- Revised Code of Washington, Section 42.17A.320 (1) and (2)\textsuperscript{65}
  - ‘All written political advertising, whether relating to candidates or ballot propositions, shall include the’:
    - ‘sponsor’s name’; and
    - ‘address.’
  - ‘For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy’:
    - ‘that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.’

\textsuperscript{65} \textit{Revised Code Washington Section 42.17A.320}
‘All political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication’:

- ‘The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";
- ‘If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregated contributions as determined by RCW 42.17A.350(2); and
- ‘If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.’

Revised Code of Washington, Section 42.17A.320 (4) and (5)

- ‘In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print’:
  - "No candidate authorized this ad. Paid for by (name, city, state)."
- ‘If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included’:
  - "Top Five Contributors" followed by a listing of the names of the five persons making the largest aggregate contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.’

- In an independent expenditure or electioneering communication transmitted by a method that does not include a visual image, this statement must be clearly spoken:
  - “No candidate authorized this ad. Paid for by (name, city, state).”
- ‘If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included:
  - "Top Five Contributors" followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors
to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.’

- Revised Code of Washington, Section 42.17A.320 (6)
  o Political advertising that costs $1000 or more ‘supporting or opposing ballot measures sponsored by a political committee must include the information on the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350 once their cumulative value reaches one thousand dollars or more.’

Scope
- Applies to political advertising, independent expenditure or electioneering communication depending on which Section of the RCW is being referred to.

Form requirements
- Revised Code of Washington, Section 42.17A.320 (1)
  o ‘For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy:
    ▪ that party or independent designation shall be **clearly identified** in electioneering communications, independent expenditures, or political advertising’.

- Revised Code of Washington, Section 42.17A.320 (3)
  o Requirements listed in Revised Code of Washington, Section 42.17A.320 (1) and (2) must:
    ▪ ‘appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger’;
    ▪ ‘Not be subject to the half-tone or screening process’; and
    ▪ ‘Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required’ by Section 42.17A.320 (1) and (2).

  o Revised Code of Washington, Section 42.17A.320 (4)
- In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement: "No candidate authorized this ad. Paid for by (name, city, state)."
  - must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background.

o Revised Code of Washington, Section 42.17A.320 (5)
  - In an independent expenditure or electioneering communication transmitted by a method that does not include a visual image, this statement must be clearly spoken:
    - “No candidate authorized this ad. Paid for by (name, city, state)”.

Record-keeping requirement

Content
- Revised Code of Washington, Section 42.17A.345 (1)\(^66\)
  o Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain current books of account and related materials as provided by rule...The documents and books of account shall specify:
    - The names and addresses of persons from whom it accepted political advertising or electioneering communications’;
    - The exact nature and extent of the services rendered’; and
    - The total cost and the manner of payment for the services.’

- Revised Code of Washington, Section 42.17A.345 (2)
  o At the request of the commission, each commercial advertiser required to comply with’ Section 42.17A.345 (1) ‘shall provide to the commission copies of the information that must be maintained and be open for public inspection pursuant to’ Section 42.17A.345 (1).

Scope
- Applies to commercial advertisers.

Form requirements
- Revised Code of Washington, Section 42.17A.345 (1)

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\(^66\) Revised Code Washington Section 42.17A.345
Commercial advertisers must maintain ‘current books of account and related materials’ in a manner that is ‘open for public inspection’.

Procedural requirements
- Revised Code of Washington, Section 42.17A.345 (1)
  - Commercial advertisers must maintain records on those advertisements for ‘no less than 5 years after the date of the applicable election’.
  - Records ‘shall be open for public inspection during normal business hours during the campaign’.

Wyoming: State Legislature amendment to existing political ad laws

Amendments were made to Wyoming’s political advertising laws. The Report focuses on Wyoming Statutes Annotated, Section 22-25-101 and Section 22-25-110.

Definitions
- Wyoming Statutes Annotated Section 22-25-101 (c) 67
  - Definition of electioneering communication
    - ‘Means...any communication, including an advertisement, which is publicly distributed as a billboard, brochure, email, mailing, magazine, pamphlet or periodical, as the component of an internet website or newspaper or by the facilities of a cable television system, electronic communication network, internet streaming service, radio station, telephone or cellular system, television station or satellite system and which’:
      - ‘Refers to or depicts a clearly identified candidate for nomination or election to public office or a clearly identified ballot proposition and which does not expressly advocate the nomination, election or defeat of the candidate or the adoption or defeat of the ballot proposition’;
      - ‘Can only be reasonably interpreted as an appeal to vote for or against the candidate or ballot proposition’;
      - ‘Is made within thirty (30) calendar days of a primary election, sixty (60) calendar days of a general election or twenty-one (21) calendar days of any special election during which the candidate or ballot proposition will appear on the ballot’; and
      - ‘Is targeted to the electors in the geographic area’:
        - ‘The candidate would represent if elected’; or
        - ‘Affected by the ballot proposition’.
    - It does not mean:

67 Wyoming Statutes Section 22-25-101
- ‘A communication made by an entity as a component of a newsletter or other internal communication of the entity which is distributed only to members or employees of the entity’;
- ‘A communication consisting of a news report, commentary or editorial or a similar communication, protected by the first amendment to the United States constitution and article 1, section 20 of the Wyoming constitution, which is distributed as a component of an email, internet website, magazine, newspaper or periodical or by the facilities of a cable television system, electronic communication network, internet streaming service, radio station, television station or satellite system’;
- ‘A communication made as part of a public debate or forum that invites at least two (2) opposing candidates for public office or one (1) advocate and one (1) opponent of a ballot proposition or a communication that promotes the debate or forum and is made by or on behalf of the person sponsoring or hosting the debate or forum’;
- ‘The act of producing or distributing an electioneering communication’.

• Wyoming Statutes Annotated Section 22-25-101 (c) (iii)
  o Definition of independent expenditure
    ▪ ‘Means an expenditure that is made without consultation or coordination with a candidate, candidate’s campaign committee or the agent of a candidate or candidate’s campaign committee and which expressly advocates the’:
      - ‘Nomination, election or defeat of a candidate’; or
      - ‘Adoption or defeat of a ballot proposition’.

Disclosure requirement

Content
• Wyoming Statutes Annotated Section 22-25-110 (a) 68
  o ‘It is unlawful for a candidate, political action committee, organization, including organizations causing an electioneering communication or an independent expenditure to be made, candidate’s campaign committee, or any political party central committee to pay for campaign literature or campaign advertising without conspicuously displaying or speaking the following disclosure’:
    ▪ “paid for by (name of candidate, organization or committee sponsoring the campaign literature or campaign advertising)”.

68 Wyoming Statutes Section 22-25-110
Scope

- Wyoming Statutes Annotated Section 22-25-110 (a) (i) – (iv)
  - The disclosure obligation applies to:
    - ‘Paid placement of campaign advertising on the internet or other electronic communication network.’ However, the disclosure obligation described in Section 22-25-110(a) ‘shall not apply when including the disclosure is impracticable due to size and text limitations in electronic campaign advertising, provided that the campaign advertising shall include a hyperlink to an internet website containing the disclosure.’
  - It also applies to the following forms of campaign literature or campaign advertising:
    - ‘Printed campaign literature or campaign advertising including mailers, pamphlets, brochures, periodicals or billboards’;
    - ‘Campaign advertising appearing on the radio or distributed through a telephone or cellular system or other solely auditory medium’;
    - ‘Campaign advertising appearing on television’.

- Wyoming Statutes Annotated Section 22-25-110 (b)
  - ‘For purposes of this section, “campaign literature or campaign advertising” does not include small campaign items such as tickets, bumper stickers, pens, pencils, buttons, rulers, nail files, balloons and yard signs displaying the name of the candidate or office sought and any other items specified by rule of the secretary of state.’

Form requirements

- The disclosure requirement described in Wyoming Statutes Annotated Section 22-25-110(a) must be conspicuously displayed.
References


LOI No 2018-1202 Du 22 Décembre 2018 Relative À La Lutte Contre La Manipulation De L’Information (Journal Officiel De La République Française 2018)
<https://www.legifrance.gouv.fr/download/file/6-nJtAIQpD8-Ugn4wumM7q3PzXyh2U2x_naRfEud_Wg=/JOE_TEXTE> accessed 23 June 2020.


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