MARYLAND GENERAL ASSEMBLY

Senate Education, Energy, and the Environment Committee

Written Testimony of Timothy G. Nelson on behalf of the
Maryland-DC-Delaware Broadcasters Association
Regarding Senate Bill 978

(Election Law – Synthetic Media – Disclosure and Regulation)

February 21, 2024

Thank you for the opportunity to submit this written testimony regarding Senate Bill 978, "Election Law – Synthetic Media – Disclosure and Regulation." My name is Tim Nelson, and I serve as counsel to the Maryland-DC-Delaware Broadcasters Association.[1] On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, I thank Senator Hester for sponsoring and the Committee for holding a hearing on Senate Bill 978, which legislation addresses the very important issue of the use of generative artificial intelligence (AI) and similar technology in the context of elections.

MDCD's Members—local television and radio stations—are the most trusted source of news and information here in Maryland and across the country; that role for local broadcasters is all the more important in light of the rampant increase in the use of generative AI in spreading misinformation and disinformation. As is the case in newsrooms across America, MDCD's television and radio stations are working diligently to protect against generative artificial intelligence distorting the news reporting and informational content that they source, produce, and freely deliver to the public.

While MDCD is supportive of the goals Senate Bill 978 appears intended to achieve, MDCD does have some concerns regarding the legislation as currently drafted—and we hope to have the opportunity to work with the Committee to address them. Specifically:

- While implied, MDCD urges that the definition of "News Media Entity" expressly include "a radio or television broadcasting station" to avoid any doubt whether MDCD's Members are included in such definition. (SB 978 – Section 13-401.2(A)(2)(I))

- Under federal law (47 U.S.C. § 315(a)), broadcasters are prohibited from censoring (including editing by way of addition or removal) the content of an advertisement that is paid for by a legally qualified candidate for public office and/or such candidate's authorized campaign committee (unless such content is legally obscene). MDCD

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[1] The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

respectfully submits that the language of SB 978 must account for this provision of federal law; even if, for example, a broadcaster knows that a paid candidate ad uses "Synthetic Media," the broadcaster is, generally, required by law to broadcast such advertisement without modification. A broadcaster should not be held liable for its compliance with federal law; SB 978 should harmonize with the federal statute. (SB 978 – Section 13-401.2(B)(1)(II)(1-2); Section 13-401.2(C)(1))

- MDCD urges reconsideration of the "good faith effort" standard when determining whether a News Media Entity (including but not limited to MDCD's Members) should be afforded the exception from liability for broadcasting Synthetic Media for which such News Media Entity is paid. (SB 978 – Section 13-401.2(B)(1)(II)(1-2)) MDCD's Members and other News Media Entities are already undertaking efforts to discover the use of generative AI. The "good faith effort" standard, however, is arguably ambiguous and focuses on undefined actions. MDCD respectfully submits that News Media Entities in receipt of paid advertising/programming should not be held responsible for ascertaining, on threat of violation of law, whether an image, or audio or video used in third-party content is generative AI. MDCD therefore encourages the Committee to consider amendatory language to the exception such that SB 978 would not apply to a News Media Entity that is paid to broadcast Synthetic Media that would otherwise violate the Section. (SB 978 – Section 13-401.2(B)(1)(II)(1-2))

To reiterate, MDCD supports efforts to harness the power of generative artificial intelligence and to reduce the spread of misinformation and disinformation, particularly in the context of free and fair elections. It is important that such efforts, however, do not inadvertently sweep up broadcasters and other news media entities that are already working tirelessly to provide trusted local journalism and information—and to root out deceptive uses of AI. We look forward to working with the Committee on this important legislation.

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