Yelin Testimony - SB978 2024.pdf

Uploaded by: Ben Yelin

Position: FAV

TESTIMONY IN SUPPORT OF SB0978- ELECTION LAW - SYNTHETIC MEDIA- DISCLOSURE AND REGULATION

EDUCATION, ENERGY AND ENVIRONMENT COMMITTEE

FEBRUARY 21, 2024

UNIVERSITY OF MARYLAND CENTER FOR HEALTH AND HOMELAND SECURITY

BEN YELIN, JD

PROGRAM DIRECTOR, PUBLIC POLICY & EXTERNAL AFFAIRS

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and the Environment Committee:

Thank you for this opportunity to testify in support of SB0978, Election Law – Synthetic Media – Disclosure and Regulation. My name is Ben Yelin, and I am the Program Director for Public Policy & External Affairs at the University of Maryland Center for Health and Homeland Security. During the interim, our team of legal researchers studied state legislation related to Artificial Intelligence. We were pleased to be able to brief members of the Joint Committee on Cybersecurity, Information Technology and Biotechnology on emerging issues in AI, and how other states were crafting policies to meet these new challenges.

One of our areas of study included looking at state statutes regulating the use of deep fakes during political campaigns. Several states, not just blue States like California, but also red states like Texas and Kentucky have recognized the need to institute regulations and restrictions on the dissemination of deep fakes. These state governments have recognized that a functioning democracy relies on access to accurate information about candidates and campaigns. Because of rapidly advancing technology, deep fakes have become easier to produce, and more convincing than they were even a couple of years ago. It is incumbent upon policymakers to ensure that when someone sees a video of a political figure speaking, that it is. Indeed, that political figure and that the words were actually spoken.

SB0978 would put Maryland at the forefront of this effort. If enacted, this bill would require ththe incorporation of identification and disclaimer for any deep fake or synthetic video produced for a political campaign. In addition, any entity creating a deep fake for a political campaign would have to submit the unaltered content to the State Board of Elections before any altered content could be released to the public. The State Board of Election could also take an active role in monitoring the use of this content and would have the authority to identify manipulated content and require that such content be clearly labeled as altered or manipulated. The bill also has strong enforcement mechanisms. In addition to civil and criminal penalties, this bill allows any individual harmed by these videos to seek legal damages.

SB0978 represents a balanced approach to regulation that puts guard rails around the use of this technology, while not infringing on anyone's 1st Amendment rights to free speech and expression. The bill is limited to deep fakes used for political campaigns, the restrictions here only apply in the 90 days prior to an election, and there are proper carveouts for the use of these images in bona fide news broadcasts about the campaign.

Based on our research, this bill is commensurate with some of the best practices instituted in states across the country and strikes a proper balance between ensuring the integrity of our elections and maintaining the right to free speech and expression. For these reasons, I respectfully urge a favorable report on SB0978.

SB0978_Synthetic_Media_MLC_FAV.pdf

TESTIMONY FOR SB0978
ELECTION LAW - SYNTHETIC MEDIA - DISCLOSURE AND REGULATION

Bill Sponsor: Senator Hester
Committee: Education, Energy, and the Environment
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Cecilia Plante, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of SB0978 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

What is real anymore? With the advent of electronic media and AI, it is too hard to tell if what you are seeing is real or artificially generated, or even spliced together from something that was real. We form opinions based on what we see, and we always presume that what we are seeing is the real thing. This can be dangerous in the best of times, since synthetically generated images, video and audio are designed to produce a reaction, including anger and fear and some people act on those emotions.

During election season, the issue of synthetic media becomes even more dangerous. We are voting based on what we see and hear, so it is changing the playing field for any given candidate.

This bill, if enacted, would require any entity that publishes synthetic media to clearly mark it as such. This will include all forms of media – still images, audio and video. Violation of this procedure would incur a civil penalty of up to $10,000 for a violation within 5 years of a previous violation; $5,000 for any violation intended to cause violence or physical harm; and $1,000 for any other violation. Persons who are harmed by synthetic media would be able to sue based on the lack of disclaimer on the media.

This is a great step forward to ensuring that we can believe what we see and hear. We support this bill and recommend a **FAVORABLE** report in committee.

SB978_Public Citizen_fav.pdf

Uploaded by: Craig Holman

Position: FAV

February 21, 2024

Senate of Maryland
Education, Energy, and the Environment Committee
The Hon. Brian Feldman, Chair
The Hon. Cheryl Kagan, Vice Chair
Annapolis, Maryland 21401

Dear Members of the Committee:

On behalf of our 15,880 supporters in Maryland, Public Citizen submits this testimony in strong support of S.B. 978 – "Synthetic Media – Disclosure and Regulation."

The 2024 election is shaping up to become the "first serious deepfake election" in the United States, in which many campaign advertisements will be entirely fabricated by advanced computer technology depicting candidates saying and doing things in seemingly real-life voices and images that never really happened. These fabricated images and audios generated by generative "artificial intelligence" are known as deepfakes.

There are almost no disclosure requirements at the state or federal levels that would give voters a reasonable chance to discern the accuracy of these deceptive campaign communications.

S.B. 978 would change that for voters in Maryland. The legislative proposal would address head-on the dangers of deceptive and fraudulent AI-generated deepfakes in campaign communications by imposing disclosure requirements. The legislation proposes all the key elements necessary for mitigating the spread of misinformation among voters from otherwise highly convincing but entirely fabricated AI-generated content in political messages, all the while being protective of First Amendment concerns. S.B. 978 does not prohibit the use of synthetic media and deceptive deepfakes in campaign communications, but instead requires reasonable disclosure to voters that what they may be seeing or hearing on broadcast or social media is instead AI-generated content that is not real. With that information, voters are left to decide on their own the merits of the messages. This is transparency legislation.

S.B. 978 would require that campaign messages using images and voices intentionally created or manipulated through artificial intelligence disclose that fact in any messages disseminated within 90 days of an election. It would also require that the producers of deepfakes, whether a candidate or outside group, place such disclosures on their websites.

The legislation provides exemptions from liability for news media and other broadcasters that make a good faith effort to discern whether the advertisements are deepfakes, including social media news outlets, as well as exemptions for satire or parody.

BACKGROUND

Extraordinary advances in artificial intelligence now provide political operatives with the means to produce campaign ads and other communications with computer-generated fake images, audio or video of candidates that appear real-life, fraudulently misrepresenting what candidates say or do. Generative artificial intelligence and deepfake technology – a type of artificial intelligence used to create convincing images, audio and video hoaxes[1] – is evolving very rapidly. Every day, it seems, new and increasingly convincing deepfake audio and video clips are disseminated.

When AI-generated content makes a candidate or party representative say or do things they never did – for the explicit purpose of damaging that targeted candidate's reputation or deceiving voters – these ads are known as "deepfakes." The practice of disseminating deepfakes in political communications on social media or mainstream television and radio outlets is currently legal in federal elections and most states. These deceptive and fraudulent deepfakes are not even subject to a disclaimer requirement noting that the content never happened in real life.

In the recent mayoral election in Chicago, mayoral candidate Paul Vallas complained that AI technology was used to clone his voice in a fake news outlet on Twitter in a way that made him appear to be condoning police brutality.[1] It never happened. Vallas lost the race.

As the 2024 presidential election heats up, some campaigns are already testing AI technology to shape their campaign communications. The presidential campaign of Gov. Ron DeSantis, for example, posted deepfake images of former President Donald Trump hugging Dr. Anthony Fauci.[2] The hug never happened. The just concluded national elections in Slovakia were marred by late-breaking deepfake audio clips spread over social media,[3] and which may have exerted a decisive influence over the results.[4]

Altogether, the stakes of an unregulated and undisclosed Wild West of AI-generated campaign communications are far more than the impact on candidates; it will further erode the public's confidence in the integrity of the electoral process itself. If voters cannot discern fact from fiction in campaign messages, they will increasingly doubt the value of casting a ballot – or the value of ballots cast by others.

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[1] Megan Hickey, "Vallas campaign condemns deepfake posted to Twitter," CBS News (Feb. 27, 2023), available at: https://www.cbsnews.com/chicago/news/vallas-campaign-deepfake-video/

[2] Nicholas Nehamas, "DeSantis campaign uses apparently fake images to attack Trump on Twitter, New York Times (June 8, 2023), available at: https://www.nytimes.com/2023/06/08/us/politics/desantis-deepfakes-trump-fauci.html?auth=login-google1tap&login=google1tap

[3] Olivia Solon, "Trolls in Slovakian Election Tap AI Deepfakes to Spread Disinfo," Bloomberg (Sept. 29, 2023), available at: https://www.bloomberg.com/news/articles/2023-09-29/trolls-in-slovakian-election-tap-ai-deepfakes-to-spread-disinfo

[4] Morgan Meaker, "Slovakia's Election Deepfakes Show AI is a Danger to Democracy," Wired (Oct. 3, 2023), available at: https://www.wired.co.uk/article/slovakia-election-deepfakes

CONCLUSION: PROTECT THE INTEGRITY OF ELECTIONS BY PASSING S.B. 978

Currently, there are no regulations of deepfakes at the federal level – and there is not likely to be any federal regulations in place for the 2024 elections. Only five states – California, Minnesota, Michigan, Texas and Washington – have laws on the books designed to mitigate the damage of deceptive and fraudulent deepfakes in campaign communications. Though New Mexico is about to join the ranks. However, 34 other states, including Maryland, are considering similar legislation.[5]

In state after state, the idea of transparency of deepfakes in campaign communications has gained bipartisan support in state legislatures and overwhelming support among the public. In a recent survey conducted by Data for Progress, after being provided with a short description of how deepfakes are used to create convincing images, audio, and videos to represent someone saying or doing something that they never said or did, a strong majority of voters (80%) say they are concerned with the use of deepfakes of candidates and political figures during the November 2024 election. This sentiment is shared among voters across party lines, with Democrats (82%), Independents (80%), and Republicans (79%) saying they are concerned about the use of this form of synthetic media in the upcoming election.[6]

Public Citizen strongly urges the Maryland Senate Education, Energy, and Environment Committee to move S.B. 978 forward for final passage in order to put in place much-needed regulations to protect voters, our elections and our democracy from the harms of deepfakes.

Respectfully Submitted,

Craig Holman, Ph.D., on behalf of
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Washington, D.C. 20003
(202) 454-5182
cholman@citizen.org

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[5] Public Citizen, Tracker of State Legislation on Deepfakes in Elections (Feb. 12, 2024), available at: https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/

[6] Data for Progress, Voters Overwhelmingly Believe in Regulating Deepfakes and the Use of Artificial Intelligence (Feb. 8, 2024), https://www.dataforprogress.org/blog/2024/2/8/voters-overwhelmingly-believe-in-regulating-deepfakes-and-the-use-of-artificial-intelligence

SB 978 - Election Law - Synthetic Media - Disclosu

Uploaded by: Joanne Antoine

Position: FAV

February 21, 2024

Testimony on SB 978
Election Law - Synthetic Media - Disclosure and Regulation
Education, Energy, and the Environment

Position: Favorable

Common Cause Maryland supports SB 978 which would require that individuals disclose any deepfake or AI-generated media content that is being distributed to the public to the State Board of Elections (SBE). It also provides SBE the opportunity to label or remove such content when necessary.

Academics and researchers have been sounding the alarm about the use of deepfakes in our elections since well before the dramatic rise in interest in Artificial Intelligence (AI) and the potential risks to democracy and national security. The public is also beginning to understand the risk posed by the use of AI in our elections, with polls from Ispos and YouGov showing anywhere from 70% to 85% of people concerned about the role AI deepfakes and other AI-generated content could play in the spread of misinformation. At the same time, research is raising concerns about the ability of viewers to recognize deepfakes when they see them. For example, a study by the Rand Corporation found that 27% to 50% of respondents were unable to distinguish deepfakes.

Deepfakes and AI-generated content would likely cause hard to communities that have been targets of disinformation campaigns – from Black and brown communities, young people, those with first language is not English and those with limited mobility – as there is limited ability to combat biases as the systems used to identify this type of content can for example not recognize darker skin tones.

SB 978 aims to mitigate these risks by establishing a process that ensures we know who and what deepfake or AI content is being distributed to the public with a process to combat any disinformation in this content. Several states like California and Texan have already taken steps to counter deepfakes, with many others with bills moving through their legislature, especially as AI deepfakes are already appearing in our elections and expected to increase as we get closer to the 2024 general election.

Disinformation is already a threat to democracy and deepfakes and AI builds on that danger. It is critical that the Maryland General Assembly respond promptly to this new technology to ensure our regulations address these changes. SB 978 is a step in that direction.

We urge a favorable report.

SB978
Election Law - Synthetic Media - Disclosure and Regulation
Testimony before the Education, Energy, and the Environment Committee
Hearing February , 21 2024
Position: Favorable

Dear Chair Feldman, Vice-Chair Kagan, and members of the committee,

My name is Peter Alexander. I am a resident of Woodbine, Howard County, MD and a constituent of Senator Hester's. I am writing today **in support of SB978** and I thank the Senator for introducing this important bill.

We are just beginning to appreciate the importance of synthetic media in our daily lives. Almost every day we hear news about how our images and voices can be copied and manipulated, often by "bad actors" with malicious intent. These "deep fakes" can have an enormous impact in this era of social media and mis- and disinformation.

Senate Bill 978 aims to regulate synthetic media, or "deep fakes," as they relate to elections. It requires:

● Publishers and creators of synthetic media to disclose that the photo or video "has been altered or modified through the use of computer programs … that did not occur."

○ This only applies to synthetic media used within or in regard to elections.

● Original content is to be submitted to the State Board of Elections. This includes specific disclosures about the medium's authenticity.

○ If synthetic media are used on a campaign's mailers, it must be disclosed within the authority line.

○ If there is no "original content," the publisher and creator of the synthetic media will disclose to the State Board of Elections what AI model created the image, what prompt was used, and a timestamp for the creation.

● The State Board of Elections will adopt regulations for labeling or removing synthetic media and seek injunctions against non-compliant publications.

The bill also establishes:

● Violations that include fines or imprisonment, depending on the nature of the offense.

This bill is considered an emergency measure so that it will take effect in time for the upcoming 2024 election cycle.

Thank you for your consideration of this important legislation.

I respectfully urge a favorable report.

Peter Alexander, PhD
District 9A
Woodbine, MD 21797

Deep Fake elections.pptx.pdf

Uploaded by: Katie Fry Hester

Position: FWA

Testimony in Support of SB0978:
Election Synthetic Media

February 21, 2024

Senator Katie Fry Hester
Legislative District 09
Howard and Montgomery Counties

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology

AI- Opportunities & Threats

REUTERS

Disrupted

Meet Ashley, the world's first AI-powered political campaign caller

Ashley is one of the first examples of how generative AI is ushering in a new era of political campaigning in which candidates use technology to engage with voters in ways increasingly difficult to track.

To some, it is an exciting new tool for conducting high-quality conversations on a large scale. Others worry this will worsen disinformation in the polarized landscape of American politics already battling "deepfakes," realistic but fabricated videos and images created using AI algorithms.

"Voting this Tuesday only enables the Republicans in their quest to elect Donald Trump again. Your vote makes a difference in November, not this Tuesday."

- **Transcript of robocall mocking Joe Biden's voice**

AI- Elections

HILLARY CLINTON ENDORSES DESANTIS

MSNBC RAMBLE RANTS

New Hampshire
Department of Justice
Office of the Attorney General

FCCNEWS from the Federal Communications Commission

Media Contact:
MediaRelations@fcc.gov

For Immediate Release

FCC MAKES AI-GENERATED VOICES IN ROBOCALLS ILLEGAL

State AGs Will Now Have New Tools to Go After Voice Cloning Scams

PUBLICCITIZEN

JANUARY 22, 2024
New Hampshire Deepfake of Biden Shows Danger of AI in Elections

State Legislation on Deepfakes in Elections

Bill Status	States Enacted
Enacted	5 states (CA, TX, MI, MN, WA)
Passed in 2024	1 state (NM)
Various stages of process (Filed, First Reading, Referred to Committee, Passed One Chamber)	7 states (SD, IL, IN, MA, OK, UT, VA)
Introduced in 2023	7 states (IL, NH, NJ, NY, OH, SC, WI)
Introduced in 2024	26 states (incl. AZ, CO, FL, HI, ID, UT, WV, & more)

OpenAI Unveils A.I. That Instantly Generates Eye-Popping Videos

The start-up is sharing the new technology, called Sora, with a small group of early testers as it tries to understand the potential dangers.

GENERATED BY A.I.

SB 978

Requires:
1. Incorporation of identification and disclaimer requirements for any political advertisement or communication
2. Submission of the unaltered material to the state board of elections 1 business day before the altered material is disseminated to the public

Establishes:
1. Criminal and civil penalties for violations
2. A mechanism for individuals harmed by violations to seek damages

Emergency Measure:
→ This is an emergency bill - ensuring it will go into effect in time for the upcoming 2024 election cycle.

SB 978 Deep Fake Election Testimony.docx.pdf

Uploaded by: Katie Fry Hester

Position: FWA

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

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Education, Energy, and
Environment Committee

———

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB0978- Election Law - Synthetic Media - Disclosure and Regulation

February 21, 2024

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and the Environment Committee:

Thank you for your consideration of Senate Bill 0978- Election Law - Synthetic Media-Disclosure and Regulation, which will regulate the use of deep fakes throughout election cycles to retain the integrity of our elections.

The use of deepfakes in elections is a burgeoning threat that has already impacted the 2024 presidential election. The expansion of new video and image editing AI technology allows malicious actors to easily produce images, videos, and audio recordings that imitate electoral candidates. The rise of deepfakes used throughout campaigning and elections contributes to the spread of misinformation, leading to a lack of trust and the undermining of the truth for voters.

Already in this election cycle, we have seen the use of deepfakes for the purpose of election interference. Last year, a deepfake video purporting to depict Hillary Clinton endorsing Governor Ron DeSantis was shared on social media site X. Although the video is not entirely convincing, it presents a good indication of where AI-created videos are going and their potential to increase in quality and quantity during the upcoming election and any future elections.

More recently, AI-generated robocalls with President Biden's voice were used to discourage voters in the New Hampshire presidential primary election.[1] In response to this robocall, the FCC declared that calls made with AI-generated voices are "artificial" under the Telephone Consumer Protection Act (TCPA). The ruling, which takes effect immediately, makes voice

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[1] https://www.route-fifty.com/digital-government/2024/02/ai-misinformation-whole-new-area-elections-officials-deal/393962/?oref=rf-today-nl&utm_source=Sailthru&utm_medium=email&utm_campaign=Route%20Fifty%20Today%3A%20February%2008%2C%202024&utm_term=newsletter_rf_today

cloning technology used in common robocall scams targeting consumers illegal. However, this only covers telecommunications, not social media.

In response, we have seen a number of states begin to act:[2]

- Minnesota's law prohibits using AI-generated content, such as manipulated photos, videos, and audio, if it's created without the consent of the person depicted and with the intent of hurting a candidate or influencing an election within 90 days of an election.
- California and Texas have passed laws that make it a criminal offense to generate and distribute a deceptive video with the intent to influence the outcome of an election.
- In Kentucky, lawmakers have introduced a comprehensive bill that establishes regulations on a wide range of emergent technologies. Within this bill, spreading "deep fakes" of people created without their consent would be a felony, punishable by up to five years in prison.
- New Mexico's bill, passed in February 2024, newly defined "materially deceptive media" and created a crime violating their Campaign Reporting Act for someone who knowingly distributes or agrees to distribute materially deceptive media within 90 days of an election without the proper disclaimers.

SB978 takes a balanced approach to ensure honesty and transparency throughout Maryland's election cycle. As amended, the bill grants the State Board of Elections the authority to identify manipulated content and requires that such content be clearly labeled as altered or manipulated. Specifically, the bill:

- Requires the incorporation of identification and disclaimer requirements for any political advertisement or communication.
- Requires the submission of the unaltered material to the state board of elections one business day before the altered material is disseminated to the public.
- Establishes a range of criminal and civil penalties for violations.
- Allows individuals harmed by violations to seek damages.

In closing, the emergence of deepfakes poses a substantial threat to Maryland's electoral integrity, fostering uncertainty about the credibility of campaign content among voters. SB 978 is an essential first step towards regulating the use of deepfakes in state elections, striking a delicate balance by providing guardrails while upholding the First Amendment's protection of free speech. For these reasons, I respectfully request a favorable report on SB0978.

Sincerely,

Senator Katie Fry Hester
Howard and Montgomery Counties

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[2] https://www.nytimes.com/2024/01/11/us/ai-election-ads-state-legislators.html

SB 978 MDDC-Favorable w/Amendments

Uploaded by: Rebecca Snyder

Position: FWA

Maryland | Delaware | DC Press Association
P.O. Box 26214 | Baltimore, MD 21210
443-768-3281 | rsnyder@mddcpress.com
www.mddcpress.com

To: Senate EEE Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 20, 2024

Re: SB978 – FAVORABLE WITH AMENDMENTS

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Frederick News Post to publications such as The Daily Record, the AFRO, and online-only publications such as MoCo 360 and Baltimore Banner.

The Press Association applauds efforts to keep communications about candidates and by extension elections transparent and accurate, something that the news media itself strives to achieve. Further, it is appropriate to exempt news media in its newsgathering role as it reports on synthetic media.

As drafted, however, the bill does raise various issues of concern, which we will be happy to work through with the sponsor, including, for example:

- To the extent the proposed legislation would impose on the news media an affirmative legal duty to determine whether an image or recording is "synthetic media," including because news organizations typically attempt to do so as a matter of editorial policy (SB 978 – Section 13-401.2(B)(1)(II)(2))
- To the extent that the proposed legislation would impose on the news media an affirmative legal duty compelling news organizations to label synthetic media in a particular way (including that "CLEARLY STATES, IN A MANNER REASONABLY CALCULATED TO BE UNDERSTOOD BY THE AVERAGE READER") or compelling the news media to report such synthetic media to the State (SB 978 – Section 13-401.2(B)(II)(2)), (C)(I)(2), and (F)(1)(I))
- To the extent that the proposed legislation would allow a subject or the Board to seek, or a court to grant, injunctive relief against the news media (SB 978 – Section 13-401.2(E) and (F)(2)

We look forward to working with the sponsor to resolve these issues.

**We believe a strong news media is
central to a strong and open society.**
Read local news from around the region at www.mddcnews.com

MDCD Broadcasters Association -- Nelson Written Te

Uploaded by: Timothy Nelson

Position: FWA

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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2024 SB0978 Testimony against 2024-02-21.pdf

Uploaded by: Alan Lang

Position: UNF

Testimony Against SB0978

Please vote against SB0978.

This bill has good intentions of protecting the public from the effects of using Artificial Intelligence (AI) in campaign ads within 90 days of an election. However, this bill has been rushed in an attempt to get it passed before the primary on May 14.

It is already within 90 days of the primary. Also, it seems that this bill would allow ads with AI from the date of the primary until roughly mid-September. By then, any possible damage from the ads could already have occurred. More time should be taken to think this process through.

Please vote against SB0978.

Alan Lang
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