



MARYLAND GENERAL ASSEMBLY

House Ways and Means Committee

Written Testimony of Timothy G. Nelson on behalf of the Maryland-DC-Delaware Broadcasters Association Regarding House Bill 740

(Election Law – Campaign Materials – Disclosure of Use of Synthetic Media)

Submitted February 7, 2025

Thank you for the opportunity to submit this written testimony regarding House Bill 740 – “Election Law – Campaign Materials – Disclosure of Use of Synthetic Media”. 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 Delegate Kaiser and several of her colleagues for sponsoring and the Committee for holding a hearing on House Bill 740, which legislation addresses the very important issue of the use of generative artificial intelligence (AI) and similar technology in the context of elections—and the proper disclosure thereof to the public.

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 transparency-focused goals House Bill 740 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. MDCD notes that it has provided its input on other pieces of legislation involving regulation of AI in the context of elections, both in the current Legislative Session and during the prior Legislative Session (e.g., HB 525 in this Session; SB 978 in 2024); MDCD’s testimony here largely echoes that which it has said previously. With respect to our concerns regarding HB 740, specifically:

- House Bill 740 does not appear to provide an exception for liability for broadcasting or disseminating “Synthetic Media” that would violate § 13-401.2 either (1) when a broadcaster or other news media entity is paid to distribute such Synthetic Media, or (2) when the broadcaster or other news media entity distributes such Synthetic Media

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.

as part of bona fide news reporting. A broadcaster or other news media entity in receipt of paid advertising/programming (that the broadcaster/news media entity did not create/produce) containing Synthetic Media that violates § 13-401.2 should not be subject to legal liability for airing/disseminating such content. And, a broadcaster's important reporting on the use of Synthetic Media (if such Synthetic Media is violative of § 13-401.2) should not be chilled because the broadcaster fears potential criminal liability. MDCD requests that amendatory language addressing these issues be added to HB 740 and would happily work with the bill's sponsors to accomplish same.

- Moreover, with respect to advertising, MDCD notes that 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 respectfully submits that the language of HB 740 must account for this provision of federal law; even if, for example, a broadcaster knows that a paid candidate ad uses "Synthetic Media" that lacks the disclosure required by § 13-401.2(D), the broadcaster is, generally, required by law to broadcast such advertisement without modification. A broadcaster should not be subject to liability in Maryland for complying with federal law; HB 740 should harmonize with the federal statute.

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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