

Amendment to HB 145/SB 141 – Election Law – Election Misinformation, Election Disinformation, and Deepfakes

Amendment #1

On page 4, strike lines 5-6 in their entirety.

Explanation:

This amendment removes the provision that in order to be exempted, a broadcaster must make a good faith effort that the deepfake is not deceptive and fraudulent. (“Television Broadcasting Station” is technically an over the air broadcaster, eg your local ABC CBS, etc.)

On behalf of DISH Network and DirecTV, acting in their capacity as broadcasters, our clients don’t vet ads for truth or the presence of synthetic media. They simply don’t have the tech capability to detect synthetic media that is given to them by other companies.

As a general rule, DISH and DirecTV don’t validate the claims in any advertisements, political or otherwise. For example, they don’t check to see if the toothpaste ad is true in the claim that it gets teeth 3 whole shades whiter, or that the Chevy Tahoe actually gets 24 MPG, or that The General really offers the best insurance rates for auto compared to every other insurance out there.

Much of the content DirecTV and DISH broadcast is a live pass-through feed. E.g. the Baltimore ABC, NBC, CBS and Fox stations. So that the ad that contains deceptive synthetic media is sold to the local ABC station and placed it that feed. The ABC feed is carried by DISH and DirecTV, but they don’t stop the live feed to check on the commercials that are actually paid to run on ABC. DirecTV or DISH are even able to do that (and it may not even be legal).

In addition, by striking the language pursuant to this amendment, it removes the redundancy in the bill. We believe that B(2)(I) already captures the intent of the exemption, and that by requiring a good faith attempt on something we believe is already exempted, it makes the bill more confusing.

Amendment #2

On page 3, in line 21, after “a cable or satellite television operator, programmer, or producer” insert **“AND THEIR AFFILIATES.”**

Explanation

In addition to satellite, DISH and DirecTV offer streaming video programming, which is also pass through. This language captures the necessary broadcasters without an overly broad exemption to that would exclude all “streaming and streamers.”

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