Adobe Comments on the Federal Election Commission's Notification of Availability of Petition for Rulemaking: Artificial Intelligence in Campaign Ads

Executive Summary

Adobe Inc. (Adobe) appreciates the opportunity to submit comments in response to the Federal Elections Commission's (FEC) notification of availability of Petition for Rulemaking concerning artificial intelligence (AI) in campaign ads.[1] We recognize the challenges the FEC faces in trying to determine whether the Agency has the statutory authority to regulate the use of AI-produced content in campaign communications.

Adobe believes this petition represents a unique opportunity for the FEC to consider how to increase transparency in the use of generative AI in election campaign materials. Because the FEC has the authority to regulate against fraudulent misrepresentations in campaigns as well as require the disclosure of political advertising on public communications, we believe the FEC should evaluate how emerging provenance[2] technologies, like Content Credentials, could be integrated into the FEC's existing disclosure frameworks to provide voters transparency about AI-generated campaign materials. Here, the collaborative work being done in partnership together by organizations like the Content Authenticity Initiative (CAI)[3] and the Coalition for Content Provenance and Authenticity (C2PA)[4] is illustrative of the types of efforts the FEC should consider leveraging in furtherance of achieving the Commission's mission to drive transparency and integrity in the campaign process. We look forward to engaging further with the Commission on this important topic.

---

[1] Federal Election Commission, Artificial Intelligence in Campaign Ads, 88 Fed. Reg. 55,606 (Aug. 16, 2023) (to be codified at 11 C.F.R. pt. 112)

[2] Provenance refers to the basic trustworthy facts about the origins of a piece of digital content (photo, video, audio file). That is, how a piece of digital content has changed over time, how it has been edited, combined, manipulated etc.

[3] The Content Authenticity Initiative is a group of creators, technologists, journalists, and activists leading the global effort to address digital misinformation and content authenticity. We're focused on promoting and providing an open, cross-industry approach to media transparency. https://contentauthenticity.org/

[4] The Coalition for Content Provenance and Authenticity (C2PA) addresses the prevalence of misleading information online through the development of technical standards for certifying the source and history (or provenance) of media content. https://c2pa.org/

Introduction

At Adobe, our mission is to empower everyone to deliver the world's best digital experiences. Since our founding in December 1982, we have continued to pioneer transformative technologies that allow our customers—who range from emerging artists to global brands—to channel their imaginations, unleash their creativity, and power their businesses.

Our tools like Photoshop, Illustrator, and Premiere Pro empower millions of creators around the world to create compelling assets like photos, videos, and illustrations. Our Document Cloud products support organization's digital document needs, and our Experience Cloud business supports businesses with their website and e-commerce experiences. And, with the recent commercial release of Adobe Firefly, a family of creative generative AI models, Adobe is enabling users to channel their creativity in ways they never imagined possible all while protecting their creative rights and helping ensure their creations are safe for commercial use.[5]

From animating video to quickly changing the color of the sky, AI has powered hundreds of capabilities across Adobe tools that creators love. And now, generative AI is the latest version of AI that is transforming the way we work, create, and communicate. Creative professionals are using this technology to bring precision and ease to their workflows; conjure up beautiful imagery; design marketing materials, album covers, social media posts, and more. And non-professionals are using generative AI to channel their creativity in ways they never dreamed possible. And generative AI is the way people will work: with the recent introduction of Generative technologies in Photoshop, we have seen over 50% of creative professionals use AI features as part of their normal Photoshop workflow. That number will quickly grow to 100% as AI becomes the easiest, highest quality, and most productive way to accomplish all the traditional content creation tasks.

We believe that AI done right will amplify human creativity and capabilities to new levels with deeper insights, accelerated task performance, and improved decision-making ability. As we continue to harness the power of AI, we are committed to developing and deploying AI in line with our AI Ethics principles of accountability, responsibility, and transparency, while considering its broader impact on society.[6]

While AI is a powerful technology transforming how we work, create, and communicate, AI can be misused by bad actors to erode the pillars of our democracy. Nowhere is this more apparent than in our political process, particularly with the growing use of AI-generated images in political campaigns and advertising heading into the 2024 Presidential election.[7] As these technologies

---

[5] Adobe. "Adobe Unleashes New Era of Creativity for All With the Commercial Release of Generative AI." September 13, 2023. https://news.adobe.com/news/news-details/2023/Adobe-Unleashes-New-Era-of-Creativity-for-All-With-the-Commercial-Release-of-Generative-AI/default.aspx

[6] Adobe Blog, "Responsible innovation in the age of generative AI," Dana Rao (March, 3, 2023)

[7] Hani Farid, "Deepfakes in the 2024 Presidential Election," Accessed September 25, 2023.

proliferate and their quality increases, as Public Citizen notes in their petition "it will become increasingly difficult and, perhaps, nearly impossible for an average person to distinguish deepfake videos and audio clips from authentic media,"[8] particularly without some way to determine the origins of a piece of digital media and how it has evolved over time. The use of generative AI in the political space will only increase, and as the 2024 election approaches, the FEC should take a proactive approach in determining how best to ensure the responsible use of AI in campaign ads.

Many efforts to combat deepfakes has focused on detection. Detection technologies still face significant limitations: they tend to struggle to identify when someone made edits to an original real image, and they often don't catch fake images of lower quality. Adobe itself reviewed the state of the art on detection technology with its AI and image scientists, but we concluded that detection technology would lag behind the ability to create synthetic images, and consumers would need an extremely high level of accuracy of an AI deepfake detector before it could be used. That technology does not seem possible in the medium term.

Instead, we focused on providing a way for good actors to be trusted. When all content can be disbelieved, it will be critical to give good actors a way to prove what they are saying is true. And so, along with others, we founded the Content Authenticity Initiative, which developed an open-source provenance technology, called Content Credentials, dedicated to this approach.

What follows is background on this global coalition and the tools and technologies being developed to bring layers of verifiable trust and transparency to digital content. We also provide several recommendations for the FEC's consideration to evaluate how these capabilities could be integrated into the FEC's existing disclosure requirements.

The Content Authenticity Initiative and the Coalition for Content Authenticity and Provenance

Content Credentials for Promoting Trust in Digital Content in the Age of Generative AI

In today's digital world, content creation is exploding. Thanks to new technologies, developing, editing, and distributing content has become more powerful and more accessible. However, the same tools used to make and share legitimate content could also be misused by bad actors to create and spread disinformation or misinformation. Without tools to help people understand how a piece of content came to be, people risk believing lies and no longer accepting the truth. However, with new tools and approaches pioneered by the CAI and the C2PA, the technologies to provide people with a simple, reliable method of determining the provenance and authenticity of the content they're seeing now exist.

---

[8] Public Citizen, "Second Submission: Petition for Rulemaking to Clarify that the Law Against "Fraudulent Misrepresentation" (52 U.S.C. §30124) Applies to Deceptive AI Campaign Communications," July 12, 2023. https://sers.fec.gov/fosers/showpdf.htm?docid=423502

In 2019, Adobe founded the CAI with the goal of restoring trust and transparency in digital content. In just four years, the CAI has grown to nearly 2,000 members across industries, ranging from technology companies like Adobe and NVIDIA to gen AI developers like Stability AI to news organizations like the New York Times and the Wall Street Journal to camera companies like Nikon and Leica to academic organizations, non-profits, and more. The CAI's Content Credentials Technology is built upon an open technical standard developed by the C2PA; a Joint Development Foundation project led by the Linux Foundation.[9]

Content Credentials: How They Work

The CAI's Content Credential technology acts like a "nutrition label": they allow creators to attach information to their content such as name, date, and what tools were used to create an image, as well as any edits that were made to the image along the way. This information can travel with a piece of content wherever it goes. This way, Content Credentials give people a way to show their work and give consumers a way to see context alongside the content they are consuming.

Content Credentials can enable people to see whether AI was used and – more importantly – how it was used. Beyond creative use cases, there are lots of good reasons to use AI in newsworthy content. Let's say a presidential candidate wants to use an image of herself shaking hands with voters outside a polling station in an upcoming campaign ad but the background of the image has a bunch of cars in it. The candidate may want to use AI to quickly remove the visible license plate numbers to protect people's privacy. Transparency technologies give the good actors, like candidates who want to deliver trustworthy content, a way to be believed while still allowing them to use AI to add quality and clarity to their work more easily and efficiently than ever before. By adding this level of transparency, people can make an informed decision about whether or not to trust any AI-edited content they are consuming.

Additionally, Content Credentials technology can help ensure that the engagement of the public with elected representatives – a cornerstone of democracy – is not drowned out by AI-generated noise. By providing verifiable information about what they are sharing with their constituents, elected representatives can foster a sense of trust and transparency in their engagements with the public. This level of transparency helps citizens make more informed decisions about whether to trust what they are seeing online and helps create a more trustworthy digital space. Much the way consumers have come to look for the Energy Star as a trusted signal to indicate an appliance's energy efficiency, in the future, with the widespread use of this solution, the American public will come to expect trustworthy content they consume online, such as photos and videos, to contain Content Credentials and be skeptical when they are absent.

---

[9] The Linux Foundation is a nonprofit established to support open-source software projects with over 17,000 contributing organizations. The Linux Foundation provides a neutral, trusted hub for developers and organizations to code, manage, and scale open technology projects and ecosystems.

Content Credentials: Their Use Case

These are just four examples of how Content Credentials are being integrated and deployed in widely available commercial products today and how they're being used to securely document current events; they represent only a small fraction of the possible use-cases for this capability.[10] Content Credentials works with many forms of media beyond photos, to include video, audio, and documents, and in areas as diverse as forensics, archival collections, scientific reports, AI training, overhead imagery, and AI-generated campaign materials. Wherever the integrity and authenticity of information is at stake, Content Credentials can be leveraged to provide trust and transparency.

Recommendations

Federal campaigns will continue to leverage generative AI capabilities for campaign communications, fundraising, and advertising. The question then becomes, how do we separate the good actors who are using AI to add quality and clarity to their work from the bad ones who misuse this technology to mislead voters, and how do we provide Americans with the transparency they deserve? Adobe believes Content Credentials technology and the C2PA open standard is part of the solution to this question. Given the FEC's statutory authority to regulate against fraudulent misrepresentations in campaigns, Adobe urges the FEC to review the CAI's opensource tool kit and Content Credentials technology and require this, or similar provenance technology, in all federal campaign materials and advertising. By requiring campaigns to integrate Content Credentials into their campaign communications, especially AI-generated ads, people would be afforded a level of transparency about what they are consuming and be better equipped to make an informed decision to trust the material or not. Additionally, to support this approach, the FEC should require campaigns to maintain embedded Content Credentials so they cannot be stripped away, depriving voters of important information and context about the advertisement's provenance.

Generative AI will continue to be wielded for both good and bad purposes, particularly when it comes to our elections process. However, the technologies now exist to prevent the misuse of AI tools to deceive voters by providing them with more sophisticated information. We would urge the FEC to assess how these technologies could be used to bring greater transparency to campaigns.

Conclusion

Adobe appreciates the opportunity to comment on the FEC's petition for rulemaking. We recognize the challenge before the Agency but believe that leveraging industry-developed initiatives and standards such as the CAI and C2PA would advance the FEC's efforts to guard against fraudulent misrepresentations in our elections.

---

[10] For additional case studies and use-cases, consult the CAI's Case Studies page or their Blog.

Our recommendations are not a quick fix to the problems of political disinformation – but rather, should be considered as part of a long-term, holistic strategy to put information in the hands of American voters so that they can evaluate the trustworthiness of the elections-related content they are consuming. With the 2024 elections drawing nearer, we are at a pivotal moment. AI has the power to unleash human creativity in new ways, power human ingenuity to new levels, and bring our society to unimagined heights. But it must be done right. With the right tools and frameworks, like Content Credentials and the C2PA opensource standard, we can create a trustworthy digital space for everyone.