



In the Matter of )  
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Artificial Intelligence in Campaign Ads ) FEC REG 2023-02  
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### **Executive Summary**

This comment, submitted by The American Association of Political Consultants, weighs in on the issues raised Public Citizen's petition for rulemaking regarding deceptive use of artificial intelligence in political advertising. We concur with the concerns raised in the petition, particularly the misuse of generative AI "deepfake" content, which poses a significant threat to the integrity of elections, but are concerned about whether the Commission's current statutory authority allows the Federal Election Commission to regulate content other than disclaimers. The AAPC Professional Code of Ethics clearly condemns false and misleading statements and believes deepfake content is a deception and has no place in legitimate, ethical campaigns.

### **Increased use of generative AI in political advertising**

As noted in the petition for rulemaking, the rise of AI is increasing rapidly. While the quality is still where one can identify deception after careful examination, it may soon be hard for a reasonable person to identify what is AI-generated content and what is real. We have already seen the use of deepfake content in the last election cycle and we are seeing an increased use of AI in this election cycle. As noted in an article by *The New York Times* in June, there is an increase in AI generated ads across the world and across all levels of elected office.<sup>1</sup>

### **AI as deceptive advertising**

In May 2023, The AAPC Board of Directors condemned the use of deepfake content to deceive voters and agreed it has no place in legitimate ethical campaigns. AAPC believes there is a strong distinction between parody and an intent to deceive. AAPC believes that issuing a warning or disclaimer that the audience is viewing deepfake content is an insufficient means of reducing citizen confusion.

Deepfake content can be used to deceive voters in a variety of ways. For example, deepfake videos could be used to make it appear that a candidate said or did something that never actually occurred. Deepfake videos could also be used to create fake endorsements or to make it appear that a candidate is not qualified for office. For example, a deepfake video could be created to make it appear that a candidate is giving a speech that they never actually gave, in which they say things that they are opposed to. Additionally, a deepfake video could be created to make it appear that a candidate is being endorsed by a celebrity or politician who does not actually support them.

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<sup>1</sup> <https://www.nytimes.com/2023/06/25/technology/ai-elections-disinformation-guardrails.html>



### **Satire vs. Deception**

The AAPC does not believe deepfake content qualifies as satire. AAPC believes there is a strong distinction between parody and an intent to deceive. Satire and even comedic impersonation have a long tradition in democracies and have always been presented with the audience being fully aware and “in on the joke” and are protected by the right to free speech in the First Amendment.

Satire refers to language or imaging that is easily distinguished by a reasonable person. For example, a candidate growing a 'Pinocchio' nose or flying through the air would be considered satire, while deception would be having the candidate saying something they did not say.

### **Threat to election integrity**

Deepfake content poses a significant threat to the integrity of elections. Deepfake content can be used to suppress voter turnout by making voters feel like they cannot trust the information they are seeing. Deepfake content can also be used to sow discord among the electorate by making it appear that candidates are saying or doing things that they are not. And, deepfake content can be used to undermine public trust in the electoral process by making it appear that elections are rigged or that the results are not legitimate.

We have already seen the impacts of deepfake imagery this year with the fake photo of the Pentagon explosion that caused the stock market to move “in ways that typically occur when fear enters the market.”<sup>2</sup> If something similar were to occur pushing voters to think the election was canceled or changed, it could have catastrophic ramifications for the country.

### **Conclusion**

The AAPC agrees with issues raised in Public Citizen’s petition for rulemaking about the use of deepfake, deliberately false AI-generated content, but remains concerned about whether the Commission has the legal or constitutional authority to implement such a proposal. Deepfakes and deception have no place in legitimate and ethical campaigns in the United States.

### **Who We Are**

Founded in 1969, the AAPC is a multi-partisan organization of political and public affairs professionals dedicated to improving democracy. The AAPC has over 1,600 members hailing from all across the United States. Our members are experts on political campaigns and are skilled in general consulting, digital campaigns, media buying, polling, data and analytics, fundraising, and campaign technology. It is the largest association of political and public affairs professionals

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<sup>2</sup> <https://apnews.com/article/pentagon-explosion-misinformation-stock-market-ai-96f534c790872fde67012ee81b5ed6a4>



in the world. The AAPC represents its members on issues ranging from protecting free speech to defending democracy to preparing the next generation of political consultants.