



Lisa J. Stevenson  
Office of General Counsel  
Federal Election Commission  
1050 First Street NE  
Washington, DC 20463

Re: Artificial Intelligence in Campaign Ads, REG 2023-02

Submitted electronically at [www.regulations.gov](http://www.regulations.gov) and <https://sers.fec.gov/fosers/>

October 13th, 2023

Dear Ms. Stevenson:

The AFL-CIO Technology Institute (Tech Institute) commends the Federal Elections Commission for issuing the notification of availability (“NOA”) in the Federal Register at 88 Fed. Reg. 55606 that seeks public comment on a petition for rulemaking filed by Public Citizen<sup>1</sup>. The AFL-CIO Technology Institute (Tech Institute) is an independent, non-partisan organization affiliated with the AFL-CIO—a voluntary, democratic federation of 60 unions representing 12.5 million workers in all regions and sectors of the economy and public service. The AFL-CIO Technology Institute seeks to provide workers a voice in the technological developments sweeping the workplace and society, including artificial intelligence.

Union members represented by AFL-CIO affiliates facilitate and participate in every aspect of the federal elections process. Union members work on the administration of federal elections, the creation of campaign advertising, the running of electoral campaigns, journalistic reporting on elections and more. They also run for office and vote. The core mission of the AFL-CIO is to ensure that working people are treated fairly and with respect, that hard work is rewarded with family-supporting wages and benefits, and that workplaces are safe. Ensuring that workers have a voice in the political process and are able to express their interests and carry out their election-related responsibilities free from AI-generated misinformation and manipulation is vital to forwarding that mission.

The AFL-CIO Tech Institute strongly encourages the FEC to conduct a rulemaking to clarify the meaning of “fraudulent misrepresentation” at 11 C.F.R. §110.16 as proposed

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<sup>1</sup> <https://sers.fec.gov/fosers/showpdf.htm?docid=423639>

in the Public Citizen petition. Clarifying this regulation helps ensure that workers' voices are heard in the political process, are able to express their interests and carry out their work free from AI-generated misinformation and manipulation.

The rise of generative AI tools has now made the production of deepfake images, audio and video fast, cheap and available to anyone regardless of expertise. In the last year it has now become possible for the average person to create a deepfake within seconds with a plain english text prompt. The ability and effort required to create a deliberately deceptive AI campaign advertisement has exponentially decreased when compared to the last presidential election and it is only going to get easier in the coming months and years.

There has been an explosion in availability and public adoption of generative AI tools. In January 2023, industry analysts reported that ChatGPT, a leading generative AI chatbot developed by OpenAI, became the fastest consumer application to reach 100 million monthly active users, just two months after release.<sup>2</sup> There are a growing number of text-to-video AI tools entering the market as well.<sup>3</sup> Along with wider adoption, generative AI has also become more sophisticated and deepfakes are growing harder to spot. The issues the petition seeks to address are only getting worse and need to be dealt with in a timely manner.

Deepfakes utilizing generative AI technologies are already being used to perpetrate fraud in non-elections arenas. We see scammers using deepfakes to convincingly mimic the voices of loved ones in distress to deceive people into sending money. A recent study by McAfee showed it takes as little as 3 seconds of audio to convincingly mimic a voice using generative AI.<sup>4</sup>

More relevant, there are numerous examples of deepfakes in the context of elections and politicians:

- 1) Days before election day in the most recent Chicago mayoral race, a video surfaced on Twitter of a photo of candidate Paul Vallas and a voice saying that back in his day, cops would kill 17 or 18 people and "nobody would bat an eye." The video was revealed to be a deepfake but experts identified it as fairly convincing and it was viewed thousands of times before being taken down.<sup>5</sup>
- 2) In April this year, a politician in India was able to create doubt about real audio clips of his voice by showing that AI can generate false audio clips. He effectively avoided accountability for his statements.<sup>6 7</sup>
- 3) An AI-generated video showing President Biden declaring a national draft to aid Ukraine's war effort was viewed more than 8 million times on X (formerly Twitter). The original poster disclosed it was a deepfake but subsequent sharing of the video

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<sup>2</sup><https://www.reuters.com/technology/chatgpt-sets-record-fastest-growing-user-base-analyst-note-2023-02-01/>

<sup>3</sup><https://fortune.com/2023/10/10/generative-ai-4chan-dall-e-canva-magic-studio-google-pixel/>

<sup>4</sup><https://www.axios.com/2023/06/13/generative-ai-voice-scams-easier-identity-fraud>

<sup>5</sup><https://www.cbsnews.com/chicago/news/vallas-campaign-deepfake-video/>

<sup>6</sup><https://epic.org/generative-ai-and-elections-the-approaching-train-wreck/>

<sup>7</sup><https://restofworld.org/2023/indian-politician-leaked-audio-ai-deepfake/>

stripped it of that context and shared it as if it were actual news.<sup>8</sup>

- 4) A deepfake of Senator Elizabeth Warren also made the rounds of social media recently, depicting her insisting that Republicans should be barred from voting in 2024.<sup>9</sup>

Much is at stake for workers in the 2024 election cycles. Both as members of the voting public who wish to have their voices heard and as workers facilitating the election process. Disinformation puts our members at risk at their jobs. It can lead to harassment and threats to the safety of campaign workers and journalists covering the election. Our members, and all Americans, deserve the right to make informed decisions about the future of our democracy free from AI-induced harassment, intimidation and deception. Letting deepfakes go unchecked is a threat to both democracy and national security. Disinformation breeds a myriad of harmful consequences such as voter disenfranchisement, the fracturing of our communities, and increased vulnerability to malicious actors.

The threat posed by generative AI is large and will take many avenues to combat. Clarifying existing rules that protect Americans from elections fraud to keep up with changing technology is an essential first step to achieve those goals. It's clear that these technologies could easily be wielded by one candidate to falsely represent another. We strongly encourage that the FEC honor its mission to protect the integrity of federal elections by engaging in rulemaking and issuing guidance to clarify 52 U.S.C. §30124 such that a candidate or their agents' use of generative AI would qualify as a means to "fraudulently misrepresent" other candidates or political parties as laid out in the The Public Citizen petition.

Thank you for your attention to this important matter.

Sincerely,

Amanda Ballantyne  
Executive Director  
AFL-CIO Technology Institute

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<sup>8</sup> <https://www.snopes.com/fact-check/biden-military-national-draft/>

<sup>9</sup> <https://www.newsweek.com/elizabeth-warren-msnbc-republicans-vote-deep-fake-video-1784117>