

October 16, 2023

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

Re: Rulemaking on 11 C.F.R. §110.16

Dr. Ms. Stevenson,

Asian Americans Advancing Justice | AAJC (“Advancing Justice | AAJC”) supports the [petition submitted by Public Citizen](#) on July 13, 2023 to clarify the meaning of “fraudulent misrepresentation” under 52 U.S.C. 30124(a)(1) to include the use of generative artificial intelligence (GAI). In an information climate where the distinction between truth and fiction is becoming increasingly hazy, it is important to protect voters against the harms of deceptive campaign advertisements that leverage the use of GAI.

As noted in the original petition, several political campaigns have already used GAI to misrepresent political opponents, including the DeSantis’ campaigns deepfakes of Donald Trump embracing Anthony Fauci<sup>1</sup> and the RNC’s use of GAI to show a dystopian future under a second Biden term.<sup>2</sup> If campaigns continue to use GAI in advertisements without regulation, Asian Americans and other marginalized communities are especially at risk.

**Lack of public awareness about generative AI**

Based on existing patterns and assumptions drawn from other areas of emerging technology, there are likely stark racial disparities surrounding who is and is not knowledgeable about GAI and its associated risks. Many Asian Americans already struggle with digital literacy, and may be completely oblivious that such new technologies even exist. GAI has the potential to be especially pernicious; individuals who are not knowledgeable about deep fakes or computer-generated audio are more likely to take everything they see at face value.

Some efforts to bring greater public visibility to the impact of AI on elections do exist, such as initiatives from the nonprofit AlandYou that seek to help underrepresented groups understand AI through inoculation.<sup>3</sup> However, in the absence of more robust protections like government-funded

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<sup>1</sup><https://www.nytimes.com/2023/06/08/us/politics/desantis-deepfakes-trump-fauci.html>

<sup>2</sup> <https://www.theverge.com/2023/4/25/23697328/biden-reelection-rnc-ai-generated-attack-ad-deepfake>

<sup>3</sup> <https://www.politico.com/news/2023/10/03/ai-campaigns-nonprofit-misinformation-00119579>

public awareness campaigns or any enforceable federal AI legislation, it is imperative that the FEC take action to regulate AI-generated deceptive advertisements. Building up AI literacy and awareness is an important longer-term solution, but with the 2024 presidential election just a little over a year away, more immediate intervention is necessary.

### **Proposed legislation, which fails to include language access requirements, is insufficient**

Language access is also an important consideration, especially for the 31% of Asian Americans who have limited English proficiency (LEP).<sup>4</sup> For example, the above-referenced DeSantis ad contained an English disclaimer reading that the ad was “built entirely with AI imagery” in the top left hand corner of the video. Its caption also reads “An AI-generated look into the country’s possible future if Joe Biden is re-elected in 2024.” Introduced legislation like the REAL Political Ads Act<sup>5</sup> would require “clear and conspicuous” disclaimers on advertisements. This proposed law and others like it, however, do not stipulate any requirements around multilingual warnings, leaving LEP Americans behind.

Additionally, as content is reshared across social media platforms, captions can easily get edited, mistranslated, or removed altogether. Disclaimers can also be edited out. Within the context of elections, it is not enough for AI to be simply labeled. Even “transparent” deepfakes that do not purport to be authentic sully our information ecosystem and make it harder for voters to make informed decisions about candidates and elections. To safeguard our democracy and mitigate against myriad potential harms, deepfakes should be kept out of political advertising entirely.

### **Potential for campaigns to use AI for xenophobic, hateful content**

In the face of heightened US-China tensions, another alarming potential use case of GAI is campaigns using this technology in inflammatory ways that scapegoat or marginalize Asian American communities. As the 2024 election draws near, we are already seeing an increase in anti-immigrant and anti-China rhetoric from presidential hopefuls and other politicians. Unfortunately, such language conditions Americans to conflate the Chinese government with Chinese people and see all East Asian-presenting people as a threat.<sup>6</sup> GAI has the potential to further muddy the water and grant a veneer of legitimacy to ideas steeped in racism and xenophobia; this could lead to real world violence against Asian Americans.<sup>7</sup> Campaigns could put out deepfakes of Biden being “cozy” with China or being “controlled” by Xi Jinping. Images of this vein that are clearly fake already [exist](#), but far more convincing ones like Biden hugging Xi, for example, could be harder for voters to identify as AI-produced and not legitimate.

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<sup>4</sup><https://www.rwjf.org/en/insights/our-research/2022/12/many-asian-american-and-native-hawaiian-pacific-islander-adults-may-face-healthcare-access-challenges-related-to-limited-english-proficiency.html>

<sup>5</sup> <https://www.congress.gov/bill/118th-congress/senate-bill/1596/text?s=1&r=4>

<sup>6</sup>[https://www.washingtonpost.com/outlook/atlanta-shooting-political-rhetoric-violence/2021/03/19/f882f8e8-88b9-11eb-8a8b-5cf82c3dffe4\\_story.html](https://www.washingtonpost.com/outlook/atlanta-shooting-political-rhetoric-violence/2021/03/19/f882f8e8-88b9-11eb-8a8b-5cf82c3dffe4_story.html)

<sup>7</sup> <https://www.vox.com/22558949/china-violence-asian-americans>

## **Additional considerations**

Furthermore, while this proposed change and related restrictions and penalties would only apply to any “person who is a candidate for Federal office or an employee or agent of such a candidate...,” there are certainly other instances of individuals with no explicit affiliation to political candidates utilizing GAI to cause harm and manipulate voter beliefs. Recent examples include a Twitter deepfake of Biden announcing a national draft in response to the conflict in Ukraine<sup>8</sup> and an altered Facebook video showing Biden repeatedly touching the chest of his granddaughter.<sup>9</sup> Other potential harmful uses of GAI could include bad actors creating AI-generated videos of Biden “admitting” he accepted bribe money from China or Anthony Fauci “acknowledging” that the Chinese government purposefully created COVID-19 as a bioweapon. This type of China-related disinformation disproportionately harms Asian Americans and ultimately hurts ALL voters.

While these hypothetical instances of AI-generated content fall outside the purview of this proposed change, as the FEC reviews this petition, it is important for the agency to consider context and the broader state of our increasingly polluted information ecosystem. Deepfake technology is getting better and better every day, and the use of GAI in politics for a wide spectrum of activities<sup>10</sup> is growing; it is important for the FEC to take a proactive approach to regulating the use of GAI in campaign ads. This change would represent a crucial initial step to combat disinformation targeting voters.

For questions or additional information, please contact Emily Chi, Senior Director of Telecommunications, Technology, and Media at [echi@advancingjustice-aajc.org](mailto:echi@advancingjustice-aajc.org)

Sincerely,  
Asian Americans Advancing Justice | AAJC

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

<sup>9</sup> <https://apnews.com/article/fact-check-biden-granddaughter-sticker-voting-495345266413>

<sup>10</sup> <https://www.nytimes.com/2023/03/28/us/politics/artificial-intelligence-2024-campaigns.html>