



November 9, 2017

**Submitted Electronically** (<http://www.fec.gov/fosers>)

Federal Election Commission  
Attn: Neven F. Stipanovic  
Acting Assistant General Counsel  
999 E Street NW  
Washington, DC 20463

Dear Mr. Stipanovic and Honorable Commissioners:

Thank you for the opportunity to comment on the Federal Election Commission's proposed rulemaking to revise certain regulations concerning disclaimers on Internet communications. We respectfully submit the following on behalf of Voters' Right to Know, a nonpartisan, nonprofit organization that seeks to ensure public transparency of the money being spent to influence American elections.

**At Voters' Right to Know, it is our strong belief that the rules surrounding political advertising on the Internet are in critical need of revision.** In the 2016 election, an estimated \$1.4 billion was spent on digital political ads, accounting for 14% of all campaign spending that cycle. Given the magnitude of this spending, and the probability that spending on digital campaign ads will only continue to increase, **it is deeply problematic that there is currently no national standard of transparency surrounding online political advertising.** Last month we published a white paper on this topic entitled *Illuminating Dark Digital Politics: Campaign Finance Disclosure for the 21<sup>st</sup> Century*, comprising perspectives from interviews we conducted with digital campaign practitioners across the political spectrum as well as a review of commentary on the issue of digital ad disclosure by academics and policy experts. We have attached a copy of this paper here for your consideration.

As we conclude in *Illuminating Dark Digital Politics*, not only is there no compelling reason that digital political advertising should be exempt from the disclosure requirements that govern other types of paid political communications – what's more, **as long as digital ads remain exempt from disclosure requirements, the integrity of our elections is under grave threat.** Nothing has underscored this more poignantly than the recent revelation that *thousands* of digital political ads were run by Russia-backed groups in advance of the 2016 election, in direct violation of federal election law.

In the wake of these revelations, we applaud the actions taken by online companies such as Facebook, Twitter, and Google to improve the transparency of political ads

on their platforms. However, these self-regulatory actions, taken alone, will not be sufficient to ensure the integrity of American elections. **Without a unified set of rules, maintained and enforced by the Federal Election Commission, disclosure practices surrounding political advertising in the digital realm will be disparate at best.** The following are several reasons why it is critical that the FEC take action to revise the rules surrounding disclosure of digital political ads:

- **We need a standard definition of which online ads require disclosure.** Because Internet ads are currently not included in the federal definition of electioneering communications or public communications, there is currently no requirement that even the most explicitly political online ads be subject to disclosure requirements. Companies such as Facebook and Google have announced their intention to require disclosure for “election-related” ads, but have not yet defined the set of criteria that, when met, would cause an ad to qualify as such. In reality, the number of ads that might reasonably be construed as “election-related” greatly exceeds the number that meet the narrow definitions of electioneering communications or express advocacy, underscoring an urgent need to ensure that a standard surrounding which online ads are subject to disclosure requirements at a bare minimum meets but ideally surpasses the narrow standard that currently governs the disclosure of ads run on broadcast and other traditional media.
- **We need a standard surrounding the presentation of disclosed information for online ads.** Without a set of rules governing all federal election-related digital ads, the manner in which ad disclosures are presented will inevitably vary from platform to platform, creating an information ecosystem that will be difficult for the public to navigate. At a minimum, sponsored political content on the Internet should be clearly highlighted as such in a reasonably legible font, contrasting sufficiently with the body of the ad, with a disclaimer that clearly identifies the name of the sponsoring entity. Ads below a certain size should be required to provide either a clearly accessible rollover or link to a landing page containing this information.
- **We need a standard of consistency between an online advertiser’s disclaimed identity and its official committee identity, as maintained by the FEC.** Though Internet companies have expressed their intention to make publicly visible certain information about the ads being run by a particular advertiser, there has been no agreement regarding a standard of disclosure of an advertiser’s identity. When considering the standard that exists for political ads on broadcast and other more traditional media, the requirement that they display a committee’s name, wherever applicable, confers critical informational value, as it gives the public a means to seek out additional information about the advertiser via public records maintained by the FEC. With online political ads, there is an opportunity not only to meet but to enhance this informational value by requiring a hyperlink that connects an

election-related ad to the committee record of its sponsoring advertiser, as hosted by the FEC website.

According to a recent Marist poll, 78% of Americans across the ideological spectrum want to see full disclosure of information about who is paying for political ads on online platforms. Without action by the FEC to establish national standards such as the above, there will have been a woeful failure to meet this public mandate. In light of this, we strongly urge you to commence a rulemaking that brings online political ads under a standardized national regime of required disclosure.

Sincerely,

/s/ Jay Costa  
Political Director  
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