

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Disclosure and Transparency of Artificial) MB Docket No. 24-211
Intelligence-Generated Content in Political)
Advertisements)

MOTION FOR EXTENSION OF TIME

Pursuant to Sections 1.415(e) and 1.46(b) of the Commission’s rules,¹ the National Association of Broadcasters (NAB)² and the Motion Picture Association (MPA)³ (together, the Movants) request an extension of the comment and reply comment deadlines in the above-captioned proceeding.⁴ Comments are currently due September 4, 2024, and reply comments are due September 19, 2024.⁵ We seek an extension of an additional 30 days for comments, which would be due October 4, 2024, and an extension of an additional 15 days from the adjusted date for reply comments, which would be due November 4, 2024.

¹ 47 C.F.R. §§ 1.415(e) and 1.46(b).

² NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

³ The MPA is a not-for-profit trade association founded in 1922. The MPA serves as the voice and advocate of the film and television industry, advancing the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and supporting the creative ecosystem that brings entertainment and inspiration to audiences worldwide. The MPA’s member companies are Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc. In addition, several of the MPA’s members have as corporate affiliates major news organizations and dozens of owned-and-operated local television stations with broadcast news operations.

⁴ *Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements*, Notice of Proposed Rulemaking, MB Docket No. 24-211 (July 25, 2024) (Notice).

⁵ 89 Fed. Reg. 63381 (Aug. 5, 2024).

The Movants unequivocally support the FCC's goal of informing the public about false, misleading, or deceptive political advertisements, whether generated by artificial intelligence (AI) or other means. Broadcasters take our role as the most trusted source for news seriously, and our viewers and listeners rely on us to provide accurate news and information. And while most, if not all, AI-generated deceptive political advertising has been promulgated on non-broadcast platforms, we recognize that broadcast stations are not immune from third-party attempts to mislead the American public.

The Movants require additional time to provide meaningful comment on the Notice because it raises significant, novel factual and legal issues that will entail extensive fact-finding and research. Whereas in other contexts, the FCC has offered additional processes to work through thorny issues related to AI's use – whether starting with a Notice of Inquiry or holding roundtables⁶ to publicly consider a wide variety of issues – here, the Notice has been issued without any prior process and under incredibly tight timelines. Indeed, even apart from the fact that the FCC pushed the Notice through the Federal Register process in near-record time (thereby not even leaving a typical buffer between release and publication), because the Commission remains intent on not making circulation items public, no member of the public had a chance to see even a draft version of the Notice until it was released on July 25, 2024. And even that release was delayed, as the item privately was adopted on July 10, 2024.

Moreover, there is simply no need to rush through the process under a notion that a decision could somehow be relevant for the 2024 election. To have done that, the

⁶ *Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, Notice of Inquiry, CG Docket No. 23-362 (rel. Nov. 16, 2023); FCC, *The Opportunities and Challenges of Artificial Intelligence for Communications Networks and Consumers* (July 13, 2023), <https://www.fcc.gov/fcc-nsf-ai-workshop>.

Commission should have released a rulemaking notice at the beginning of 2024 at the very latest, so it could have already adopted a timely order. The Notice references several state bills that have been considered and passed, all before the Commission even produced its Notice. The 2024 election cycle is in fact already well underway.⁷ There is no chance an adopted item could have any impact. Indeed, early voting is just around the corner.⁸ And even if there was some value in racing through the process to release a final order before election day, the FCC would have to violate either the Administrative Procedure Act (APA) or the Paperwork Reduction Act of 1995 (PRA) just to adopt an order days before the election and after nearly every advertisement this cycle has run.⁹ Practically speaking, there is no

⁷ See, e.g., Domenico Montanaro, Steve Inskeep, *Campaigns are starting earlier than ever – due, in part, to early voting*, NPR (May 24, 2024), <https://www.npr.org/2024/05/24/nx-s1-4977365/campaigns-are-starting-earlier-than-ever-due-in-part-to-early-voting> (“because of how many people are voting early, the stakes are pretty high to start campaigning, fundraising and advertising earlier than ever”); Blaine Britten, *How Early Voting Will Control Effectiveness of Political Ads*, Ad Age (Sept. 12, 2023), <https://adage.com/article/advertising-news/how-early-voting-will-control-effectiveness-political-ads/2513226> (observing that targeting voters near Election Day 2020 was a “waste” of advertising dollars because 101 million people, or 65% of voters, voted early that year; early voting in the midterm elections increased by 92% from 2018 to 2022).

⁸ See, e.g., Vote.org, *Early Voting Calendar*, <https://www.vote.org/early-voting-calendar/> (accessed August 7, 2024) (in several states, some form of early voting begins as soon as 45-50 days prior to Election Day; some Americans will be voting on September 16, three days before the current reply comment deadline).

⁹ 44 U.S.C. ¶ 3506(c)(2)(A) (establishing a 60-day comment period before the federal agency); 44 U.S.C. ¶ 3507(b) (establishing a 30-day comment period before the Office of Management and Budget). In addition, we note that even the least complex rulemakings with only a handful of comments that are on a fast track take at least a few months to result in an order. See, e.g., *Revisions to Political Programming and Record-Keeping Rules*, Report and Order, MB Docket No. 21-293, 37 FCC Rcd 1359 (2022) (order issued three months after comment period closed with only three comments filed); *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Second Report and Order, MB Docket No. 11-43, FCC No. 23-82, 2023 LEXIS 3203 (2023) (order issued five months after comment period closed with only five comments and one reply comment filed).

reasonable way for broadcasters to implement new core processes – including updating NAB’s widely-used political broadcasting form – when the election cycle is nearly complete.

Given therefore that rushing through a critical rulemaking, such as this, provides no benefit to the public, the Commission should provide additional time to ensure it has a robust record on the broad-ranging set of topics introduced for the first time in the Notice. Some of those issues include: the costs and benefits of the use of AI in generating advertisements;¹⁰ the costs and benefits of an accompanying disclosure about the use of AI;¹¹ the universe of political advertisements covered and whether it is appropriately designed to identify false, misleading, or deceptive political advertisements;¹² how broadcasters should determine whether a political advertisement used AI;¹³ the technical and practical elements of making a disclosure;¹⁴ and the language of the disclosure,¹⁵ as well as many other factual and legal questions, including the FCC’s authority to promulgate the proposed rule and whether it is consistent with the First Amendment.¹⁶ In addition to this lengthy list, there are other highly relevant issues that will require research and input to inform the FCC’s considerations. For instance:

- Are there AI uses not relevant to the FCC’s concerns with false, misleading, or deceptive advertisements, such as quality touch ups? If so, can the proposed rule be modified to better target actual false, misleading, or deceptive uses of AI?

¹⁰ Notice at ¶¶ 9-10.

¹¹ *Id.* at ¶¶ 13-14.

¹² *Id.* at ¶¶ 11-14.

¹³ *Id.* at ¶¶ 15-17.

¹⁴ *Id.* at ¶¶ 16-17.

¹⁵ *Id.* at ¶ 18.

¹⁶ *Id.* at ¶¶ 27-35.

- What does the best available research show about the effect of various mandatory disclosure requirements on consumers and their impact on public perceptions of advertisements?
- If broadcasters (and other regulated entities to a lesser extent) must place disclosures on political advertisements, but other platforms do not, how will the public perceive the different treatment of advertisements across platforms? To the extent the FCC's proposal asymmetrically regulates broadcast stations, how will that affect advertisers' incentives to place political ads on different types of platforms and perceptions about broadcast stations compared to other outlets?
- Who, if anyone, possesses personal knowledge of whether AI was used in an ad? A media buyer at an advertising agency? A technical employee at an agency, political advertiser or production company? And will they have a consistent view of whether AI was used in an advertisement (based on the Notice's proposed definition)?

As evident from even just this cursory list of issues, a significant amount of fact-finding and consideration will be required to determine whether the FCC should move forward, and if so, how to develop a well-reasoned rule within the bounds of the law.

The Movants and their member companies have firsthand, probative information that they can provide to inform many of these issues, but the individuals, entities, and other information sources needed to fully respond to the Notice will be time consuming and challenging to access, particularly around the August and Labor Day holiday periods when the comments must be prepared and filed. Absent grant of an extension of time, interested parties will have less than six weeks from the release of the Notice to the deadline for initial comments to research the relevant factual, legal, and technical issues and develop thoughtful comments. This is an extremely short turnaround for a proceeding of this significance and complexity.

Although the Commission does not routinely grant motions for extensions of time, it has granted extensions of comment deadlines when circumstances warrant, and an

extension here would serve the public interest.¹⁷ For the reasons explained above, the Movants submit that an extension is justified in this case. The requested brief extension will allow time for a more fulsome record that will better inform the Commission's deliberations on the significant issues raised and will not cause prejudice to any party or unduly delay resolution of this proceeding, especially since no rule developed could conceivably have an impact on the current election.¹⁸

Accordingly, the Movants respectfully request that the Commission grant the requested extension of the deadlines for the filing of comments and reply comments on the Notice.

Respectfully submitted,

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¹⁷ See, e.g., *Media Bureau Extends Comment and Reply Comment Deadlines for FM Directional Antenna NPRM*, MB Docket No. 21-422, DA 21-1611 (rel. Dec. 20, 2021); *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Order, DA 21-1395 (rel. Nov. 5, 2021).

¹⁸ Indeed, one could also argue that even if it could have an impact on the election, the Commission should take special care not to rush to judgment on this issue of first impression.