

117TH CONGRESS
2D SESSION

S. 5054

To enhance transparency and accountability for online political advertisements by requiring those who purchase and publish such ads to disclose information about the advertisements to the public, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Ms. KLOBUCHAR (for herself, Mr. GRAHAM, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To enhance transparency and accountability for online political advertisements by requiring those who purchase and publish such ads to disclose information about the advertisements to the public, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Honest Ads Act”.

5 **SEC. 2. PURPOSE.**

6 The purpose of this subtitle is to enhance the integ-
7 rity of American democracy and national security by im-
8 proving disclosure requirements for online political adver-

1 tisements in order to uphold the Supreme Court’s well-
2 established standard that the electorate bears the right to
3 be fully informed.

4 **SEC. 3. FINDINGS.**

5 Congress makes the following findings:

6 (1) In 2002, the Bipartisan Campaign Reform
7 Act of 2002 (Public Law 107–155) became law, es-
8 tablishing disclosure requirements for political adver-
9 tisements distributed from a television or radio
10 broadcast station or provider of cable or satellite tel-
11 evision. In 2003, the Supreme Court upheld regula-
12 tions on electioneering communications established
13 under the Act, noting that such requirements “pro-
14 vide the electorate with information and insure that
15 the voters are fully informed about the person or
16 group who is speaking”. The Court reaffirmed this
17 conclusion in 2010 by an 8–1 vote.

18 (2) In its 2006 rulemaking, the Federal Elec-
19 tion Commission, the independent Federal agency
20 charged with protecting the integrity of the Federal
21 campaign finance process, noted that 18 percent of
22 all Americans cited the internet as their leading
23 source of news about the 2004 Presidential election.
24 By contrast, Gallup and the Knight Foundation
25 found in 2020 that the majority of Americans, 58

1 percent, got most of their news about elections on-
2 line.

3 (3) According to a study from Borrell Associ-
4 ates, in 2016, \$1,415,000,000 was spent on online
5 advertising, more than quadruple the amount in
6 2012.

7 (4) Effective and complete transparency for vot-
8 ers must include information about the true and
9 original source of money given, transferred, and
10 spent on political advertisements made online.

11 (5) Requiring the disclosure of this information
12 is a necessary and narrowly tailored means to in-
13 form the voting public of who is behind digital ad-
14 vertising disseminated to influence their votes and to
15 enable the Federal Election Commission and the De-
16 partment of Justice to detect and prosecute illegal
17 foreign spending on local, State, and Federal elec-
18 tions and other campaign finance violations.

19 (6) Paid advertising on large online platforms is
20 different from advertising placed on other common
21 media in terms of the comparatively low cost of
22 reaching large numbers of people, the availability of
23 sophisticated microtargeting, and the ease with
24 which online advertisers, particularly those located
25 outside the United States, can evade disclosure re-

1 requirements. Requiring large online platforms to
2 maintain public files of information about the online
3 political ads they disseminate is the best and least
4 restrictive means to ensure the voting public has
5 complete information about who is trying to influ-
6 ence their votes and to aid enforcement of other
7 laws, including the prohibition on foreign money in
8 domestic campaigns.

9 (7) The reach of a few large internet plat-
10 forms—larger than any broadcast, satellite, or cable
11 provider—has greatly facilitated the scope and effec-
12 tiveness of disinformation campaigns. For instance,
13 the largest platform has over 210,000,000 American
14 users—over 160,000,000 of them on a daily basis.
15 By contrast, the largest cable television provider has
16 22,430,000 subscribers, while the largest satellite
17 television provider has 21,000,000 subscribers, and
18 the most-watched television broadcast in United
19 States history had 118,000,000 viewers.

20 (8) The public nature of broadcast television,
21 radio, and satellite ensures a level of publicity for
22 any political advertisement. These communications
23 are accessible to the press, fact-checkers, and polit-
24 ical opponents. This creates strong disincentives for
25 a candidate to disseminate materially false, inflam-

1 matory, or contradictory messages to the public. So-
2 cial media platforms, in contrast, can target portions
3 of the electorate with direct, ephemeral advertise-
4 ments often on the basis of private information the
5 platform has on individuals, enabling political adver-
6 tisements that are contradictory, racially or socially
7 inflammatory, or materially false.

8 (9) According to comscore, 2 companies own 8
9 of the 10 most popular smart phone applications as
10 of June 2017, including the most popular social
11 media and email services which deliver information
12 and news to users without requiring proactivity by
13 the user. Those same 2 companies accounted for 99
14 percent of revenue growth from digital advertising in
15 2016, including 77 percent of gross spending. 79
16 percent of online Americans—representing 68 per-
17 cent of all Americans—use the single largest social
18 network, while 66 percent of these users are most
19 likely to get their news from that site.

20 (10) Large social media platforms are the only
21 entities in possession of certain key data related to
22 paid online ads, including the exact audience tar-
23 getted by those ads and their number of impressions.
24 Such information, which cannot be reliably disclosed
25 by the purchasers of ads, is extremely useful for in-

1 forming the electorate, guarding against corruption,
2 and aiding in the enforcement of existing campaign
3 finance regulations.

4 (11) Paid advertisements on social media plat-
5 forms have served as critical tools for foreign online
6 influence campaigns—even those that rely on large
7 amounts of unpaid content—because such ads allow
8 foreign actors to test the effectiveness of different
9 messages, expose their messages to audiences who
10 have not sought out such content, and recruit audi-
11 ences for future campaigns and posts.

12 (12) In testimony before the Senate Select
13 Committee on Intelligence titled, “Disinformation: A
14 Primer in Russian Active Measures and Influence
15 Campaigns”, multiple expert witnesses testified that
16 while the disinformation tactics of foreign adver-
17 saries have not necessarily changed, social media
18 services now provide “platform[s] practically pur-
19 pose-built for active measures[.]”. Similarly, as Gen.
20 Keith B. Alexander (RET.), the former Director of
21 the National Security Agency, testified, during the
22 Cold War “if the Soviet Union sought to manipulate
23 information flow, it would have to do so principally
24 through its own propaganda outlets or through ac-
25 tive measures that would generate specific news:

1 planting of leaflets, inciting of violence, creation of
2 other false materials and narratives. But the news
3 itself was hard to manipulate because it would have
4 required actual control of the organs of media, which
5 took long-term efforts to penetrate. Today, however,
6 because the clear majority of the information on so-
7 cial media sites is uncurated and there is a rapid
8 proliferation of information sources and other sites
9 that can reinforce information, there is an increasing
10 likelihood that the information available to average
11 consumers may be inaccurate (whether intentionally
12 or otherwise) and may be more easily manipulable
13 than in prior eras.”.

14 (13) On November 24, 2016, The Washington
15 Post reported findings from 2 teams of independent
16 researchers that concluded Russians “exploited
17 American-made technology platforms to attack U.S.
18 democracy at a particularly vulnerable moment * *
19 * as part of a broadly effective strategy of sowing
20 distrust in U.S. democracy and its leaders.”.

21 (14) On January 6, 2017, the Office of the Di-
22 rector of National Intelligence published a report ti-
23 tled “Assessing Russian Activities and Intentions in
24 Recent U.S. Elections”, noting that “Russian Presi-
25 dent Vladimir Putin ordered an influence campaign

1 in 2016 aimed at the U.S. presidential election * *
2 *”. Moscow’s influence campaign followed a Russian
3 messaging strategy that blends covert intelligence
4 operation—such as cyber activity—with overt efforts
5 by Russian Government agencies, state-funded
6 media, third-party intermediaries, and paid social
7 media users or “trolls”.

8 (15) On September 6, 2017, the nation’s larg-
9 est social media platform disclosed that between
10 June 2015 and May 2017, Russian entities pur-
11 chased \$100,000 in political advertisements, pub-
12 lishing roughly 3,000 ads linked to fake accounts as-
13 sociated with the Internet Research Agency, a pro-
14 Kremlin organization. According to the company,
15 the ads purchased focused “on amplifying divisive
16 social and political messages * * *”.

17 (16) Findings from a 2017 study on the manip-
18 ulation of public opinion through social media con-
19 ducted by the Computational Propaganda Research
20 Project at the Oxford Internet Institute found that
21 the Kremlin is using pro-Russian bots to manipulate
22 public discourse to a highly targeted audience. With
23 a sample of nearly 1,300,000 tweets, researchers
24 found that in the 2016 election’s 3 decisive States,
25 propaganda constituted 40 percent of the sampled

1 election-related tweets that went to Pennsylvanians,
2 34 percent to Michigan voters, and 30 percent to
3 those in Wisconsin. In other swing States, the figure
4 reached 42 percent in Missouri, 41 percent in Flor-
5 ida, 40 percent in North Carolina, 38 percent in
6 Colorado, and 35 percent in Ohio.

7 (17) 2018 reporting by the Washington Post
8 estimated that paid Russian ads received more than
9 37,000,000 impressions in 2016 and 2017.

10 (18) A 2019 Senate Select Committee on
11 Intelligence’s Report on Russian Active Measures
12 Campaigns and Interference in the 2016 U.S. Elec-
13 tion Volume 2: Russia’s Use of Social Media with
14 Additional Views, the Committee recommended
15 “that Congress examine legislative approaches to en-
16 suring Americans know the sources of online polit-
17 ical advertisements. The Federal Election Campaign
18 Act of 1971 requires political advertisements on tele-
19 vision, radio and satellite to disclose the sponsor of
20 the advertisement. The same requirements should
21 apply online. This will also help to ensure that the
22 IRA or any similarly situated actors cannot use paid
23 advertisements for purposes of foreign inter-
24 ference.”.

1 (19) A 2020 study by researchers at New York
2 University found undisclosed political advertisement
3 purchases on a large social media platform by a Chi-
4 nese state media company in violation of that plat-
5 form’s supposed prohibitions on foreign spending on
6 ads of social, national, or electoral importance.

7 (20) The same study also found that “there are
8 persistent issues with advertisers failing to disclose
9 political ads” and that in one social media plat-
10 form’s political ad archive, 68,879 pages (54.6 per-
11 cent of pages with political ads included in the ar-
12 chive) never provided a disclosure. Overall, there
13 were 357,099 ads run on that platforms without a
14 disclosure, accounting for at least \$37,000,000 in
15 spending on political ads.

16 (21) A 2020 report by the bipartisan and bi-
17 cameral U.S. Cyberspace Solarium Commission
18 found that “Although foreign nationals are banned
19 from contributing to U.S. political campaigns, they
20 are still allowed to purchase U.S. political advertise-
21 ments online, making the internet a fertile environ-
22 ment for conducting a malign influence campaign to
23 undermine American elections.”. The Commission
24 concluded that Russian interference in the 2016
25 election was and still is possible, “because the

1 FECA, which establishes rules for transparency in
2 television, radio, and print media political adver-
3 tising, has not been amended to extend the same po-
4 litical advertising requirements to internet plat-
5 forms,” and that “[a]pplying these standards across
6 all media of communication would, among other
7 things, increase transparency of funding for political
8 advertisements, which would in turn strengthen reg-
9 ulators’ ability to reduce improper foreign influence
10 in our elections”.

11 (22) On March 16, 2021, the Office of the Di-
12 rector of National Intelligence released the declas-
13 sified Intelligence Community assessment of foreign
14 threats to the 2020 U.S. Federal elections. The de-
15 classified report found: “Throughout the election
16 cycle, Russia’s online influence actors sought to af-
17 fect U.S. public perceptions of the candidates, as
18 well as advance Moscow’s longstanding goals of un-
19 dermining confidence in U.S. election processes and
20 increasing sociopolitical divisions among the Amer-
21 ican people.”. The report also determined that Iran
22 sought to influence the election by “creating and
23 amplifying social media content that criticized [can-
24 didates]”.

1 (23) According to a Wall Street Journal report
2 in April 2021, voluntary ad libraries operated by
3 major platforms rely on foreign governments to self-
4 report political ad purchases. These ad-buys, includ-
5 ing those diminishing major human rights violations
6 like the Uighur genocide, are under-reported by for-
7 eign government purchasers, with no substantial
8 oversight or repercussions from the platforms.

9 (24) Multiple reports have indicated that online
10 ads have become a key vector for strategic influence
11 by the People’s Republic of China. An April 2021
12 Wall Street Journal report noted that the Chinese
13 Government and Chinese state-owned enterprises are
14 major purchasers of ads on the U.S.’s largest social
15 media platform, including to advance Chinese propa-
16 ganda.

17 (25) Large online platforms have made changes
18 to their policies intended to make it harder for for-
19 eign actors to purchase political ads. However, these
20 private actions have not been taken by all platforms,
21 have not been reliably enforced, and are subject to
22 immediate change at the discretion of the platforms.

23 (26) The Federal Election Commission has
24 failed to take action to address online political ad-
25 vertisements and current regulations on political ad-

1 advertisements do not provide sufficient transparency
2 to uphold the public’s right to be fully informed
3 about political advertisements made online.

4 **SEC. 4. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the dramatic increase in digital political ad-
7 vertisements, and the growing centrality of online
8 platforms in the lives of Americans, requires the
9 Congress and the Federal Election Commission to
10 take meaningful action to ensure that laws and reg-
11 ulations provide the accountability and transparency
12 that is fundamental to our democracy;

13 (2) free and fair elections require both trans-
14 parency and accountability which give the public a
15 right to know the true sources of funding for polit-
16 ical advertisements, be they foreign or domestic, in
17 order to make informed political choices and hold
18 elected officials accountable; and

19 (3) transparency of funding for political adver-
20 tisements is essential to enforce other campaign fi-
21 nance laws, including the prohibition on campaign
22 spending by foreign nationals.

1 **SEC. 5. EXPANSION OF DEFINITION OF PUBLIC COMMU-**
2 **NICATION.**

3 (a) IN GENERAL.—Paragraph (22) of section 301 of
4 the Federal Election Campaign Act of 1971 (52 U.S.C.
5 30101(22)) is amended by striking “or satellite commu-
6 nication” and inserting “satellite, paid internet, or paid
7 digital communication”.

8 (b) TREATMENT OF CONTRIBUTIONS AND EXPENDI-
9 TURES.—Section 301 of such Act (52 U.S.C. 30101) is
10 amended—

11 (1) in paragraph (8)(B)(v), by striking “on
12 broadcasting stations, or in newspapers, magazines,
13 or similar types of general public political adver-
14 tising” and inserting “in any public communica-
15 tion”; and

16 (2) in paragraph (9)(B)—

17 (A) by amending clause (i) to read as fol-
18 lows:

19 “(i) any news story, commentary, or
20 editorial distributed through the facilities
21 of any broadcasting station or any print,
22 online, or digital newspaper, magazine,
23 blog, publication, or periodical, unless such
24 broadcasting, print, online, or digital facili-
25 ties are owned or controlled by any polit-

1 ical party, political committee, or can-
2 didate;” and

3 (B) in clause (iv), by striking “on broad-
4 casting stations, or in newspapers, magazines,
5 or similar types of general public political ad-
6 vertising” and inserting “in any public commu-
7 nication”.

8 (c) DISCLOSURE AND DISCLAIMER STATEMENTS.—
9 Subsection (a) of section 318 of such Act (52 U.S.C.
10 30120) is amended—

11 (1) by striking “financing any communication
12 through any broadcasting station, newspaper, maga-
13 zine, outdoor advertising facility, mailing, or any
14 other type of general public political advertising”
15 and inserting “financing any public communication”;
16 and

17 (2) by striking “solicits any contribution
18 through any broadcasting station, newspaper, maga-
19 zine, outdoor advertising facility, mailing, or any
20 other type of general public political advertising”
21 and inserting “solicits any contribution through any
22 public communication”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act and shall take effect without regard to whether

1 or not the Federal Election Commission has promulgated
2 the final regulations necessary to carry out this part and
3 the amendments made by this part by the deadline set
4 forth in subsection (e).

5 (e) REGULATION.—Not later than 1 year after the
6 date of the enactment of this Act, the Federal Election
7 Commission shall promulgate regulations on what con-
8 stitutes a paid internet or paid digital communication for
9 purposes of paragraph (22) of section 301 of the Federal
10 Election Campaign Act of 1971 (52 U.S.C. 30101(22)),
11 as amended by subsection (a), except that such regulation
12 shall not define a paid internet or paid digital communica-
13 tion to include communications for which the only pay-
14 ment consists of internal resources, such as employee com-
15 pensation, of the entity paying for the communication.

16 **SEC. 6. EXPANSION OF DEFINITION OF ELECTIONEERING**
17 **COMMUNICATION.**

18 (a) EXPANSION TO ONLINE COMMUNICATIONS.—

19 (1) APPLICATION TO QUALIFIED INTERNET AND
20 DIGITAL COMMUNICATIONS.—

21 (A) IN GENERAL.—Subparagraph (A) of
22 section 304(f)(3) of the Federal Election Cam-
23 paign Act of 1971 (52 U.S.C. 30104(f)(3)(A))
24 is amended by striking “or satellite communica-
25 tion” each place it appears in clauses (i) and

1 (ii) and inserting “satellite, or qualified internet
2 or digital communication”.

3 (B) QUALIFIED INTERNET OR DIGITAL
4 COMMUNICATION.—Paragraph (3) of section
5 304(f) of such Act (52 U.S.C. 30104(f)) is
6 amended by adding at the end the following
7 new subparagraph:

8 “(D) QUALIFIED INTERNET OR DIGITAL
9 COMMUNICATION.—The term ‘qualified internet
10 or digital communication’ means any commu-
11 nication which is placed or promoted for a fee
12 on an online platform (as defined in subsection
13 (j)(3)).”.

14 (2) NONAPPLICATION OF RELEVANT ELEC-
15 TORATE TO ONLINE COMMUNICATIONS.—Section
16 304(f)(3)(A)(i)(III) of such Act (52 U.S.C.
17 30104(f)(3)(A)(i)(III)) is amended by inserting “any
18 broadcast, cable, or satellite” before “communica-
19 tion”.

20 (3) NEWS EXEMPTION.—Section
21 304(f)(3)(B)(i) of such Act (52 U.S.C.
22 30104(f)(3)(B)(i)) is amended to read as follows:

23 “(i) a communication appearing in a
24 news story, commentary, or editorial dis-
25 tributed through the facilities of any

1 broadcasting station or any online or dig-
2 ital newspaper, magazine, blog, publica-
3 tion, or periodical, unless such broad-
4 casting, online, or digital facilities are
5 owned or controlled by any political party,
6 political committee, or candidate;”.

7 (b) **EFFECTIVE DATE.**—The amendments made by
8 this section shall apply with respect to communications
9 made on or after January 1, 2023, and shall take effect
10 without regard to whether or not the Federal Election
11 Commission has promulgated regulations to carry out
12 such amendments.

13 **SEC. 7. APPLICATION OF DISCLAIMER STATEMENTS TO ON-**
14 **LINE COMMUNICATIONS.**

15 (a) **CLEAR AND CONSPICUOUS MANNER REQUIRE-**
16 **MENT.**—Subsection (a) of section 318 of the Federal Elec-
17 tion Campaign Act of 1971 (52 U.S.C. 30120(a)) is
18 amended—

19 (1) by striking “shall clearly state” each place
20 it appears in paragraphs (1), (2), and (3) and in-
21 serting “shall state in a clear and conspicuous man-
22 ner”; and

23 (2) by adding at the end the following flush
24 sentence: “For purposes of this section, a commu-
25 nication does not make a statement in a clear and

1 conspicuous manner if it is difficult to read or hear
2 or if the placement is easily overlooked.”.

3 (b) SPECIAL RULES FOR QUALIFIED INTERNET OR
4 DIGITAL COMMUNICATIONS.—

5 (1) IN GENERAL.—Section 318 of such Act (52
6 U.S.C. 30120) is amended by adding at the end the
7 following new subsection:

8 “(e) SPECIAL RULES FOR QUALIFIED INTERNET OR
9 DIGITAL COMMUNICATIONS.—

10 “(1) SPECIAL RULES WITH RESPECT TO STATE-
11 MENTS.—In the case of any qualified internet or
12 digital communication (as defined in section
13 304(f)(3)(D)) which is disseminated through a me-
14 dium in which the provision of all of the information
15 specified in this section is not possible, the commu-
16 nication shall, in a clear and conspicuous manner—

17 “(A) state the name of the person who
18 paid for the communication; and

19 “(B) provide a means for the recipient of
20 the communication to obtain the remainder of
21 the information required under this section with
22 minimal effort and without receiving or viewing
23 any additional material other than such re-
24 quired information.

1 “(2) SAFE HARBOR FOR DETERMINING CLEAR
2 AND CONSPICUOUS MANNER.—A statement in quali-
3 fied internet or digital communication (as defined in
4 section 304(f)(3)(D)) shall be considered to be made
5 in a clear and conspicuous manner as provided in
6 subsection (a) if the communication meets the fol-
7 lowing requirements:

8 “(A) TEXT OR GRAPHIC COMMUNICA-
9 TIONS.—In the case of a text or graphic com-
10 munication, the statement—

11 “(i) appears in letters at least as large
12 as the majority of the text in the commu-
13 nication; and

14 “(ii) meets the requirements of para-
15 graphs (2) and (3) of subsection (c).

16 “(B) AUDIO COMMUNICATIONS.—In the
17 case of an audio communication, the statement
18 is spoken in a clearly audible and intelligible
19 manner at the beginning or end of the commu-
20 nication and lasts at least 3 seconds.

21 “(C) VIDEO COMMUNICATIONS.—In the
22 case of a video communication which also in-
23 cludes audio, the statement—

24 “(i) is included at either the beginning
25 or the end of the communication; and

1 “(ii) is made both in—

2 “(I) a written format that meets
3 the requirements of subparagraph (A)
4 and appears for at least 4 seconds;
5 and

6 “(II) an audible format that
7 meets the requirements of subpara-
8 graph (B).

9 “(D) OTHER COMMUNICATIONS.—In the
10 case of any other type of communication, the
11 statement is at least as clear and conspicuous
12 as the statement specified in subparagraph (A),
13 (B), or (C).”.

14 (2) NONAPPLICATION OF CERTAIN EXCEP-
15 TIONS.—The exceptions provided in section
16 110.11(f)(1)(i) and (ii) of title 11, Code of Federal
17 Regulations, or any successor to such rules, shall
18 have no application to qualified internet or digital
19 communications (as defined in section 304(f)(3)(D)
20 of the Federal Election Campaign Act of 1971).

21 (c) MODIFICATION OF ADDITIONAL REQUIREMENTS
22 FOR CERTAIN COMMUNICATIONS.—Section 318(d) of such
23 Act (52 U.S.C. 30120(d)) is amended—

24 (1) in paragraph (1)(A)—

1 (A) by striking “which is transmitted
2 through radio” and inserting “which is in an
3 audio format”; and

4 (B) by striking “BY RADIO” in the heading
5 and inserting “AUDIO FORMAT”;

6 (2) in paragraph (1)(B)—

7 (A) by striking “which is transmitted
8 through television” and inserting “which is in
9 video format”; and

10 (B) by striking “BY TELEVISION” in the
11 heading and inserting “VIDEO FORMAT”; and

12 (3) in paragraph (2)—

13 (A) by striking “transmitted through radio
14 or television” and inserting “made in audio or
15 video format”; and

16 (B) by striking “through television” in the
17 second sentence and inserting “in video for-
18 mat”.

19 (d) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act and shall take effect without regard to
22 whether or not the Federal Election Commission has pro-
23 mulgated regulations to carry out such amendments.

1 **SEC. 8. POLITICAL RECORD REQUIREMENTS FOR ONLINE**
2 **PLATFORMS.**

3 (a) IN GENERAL.—Section 304 of the Federal Elec-
4 tion Campaign Act of 1971 (52 U.S.C. 30104) is amended
5 by adding at the end the following new subsection:

6 “(j) DISCLOSURE OF CERTAIN ONLINE ADVERTISE-
7 MENTS.—

8 “(1) IN GENERAL.—

9 “(A) REQUIREMENTS FOR ONLINE PLAT-
10 FORMS.—

11 “(i) IN GENERAL.—An online plat-
12 form shall maintain, and make available
13 for online public inspection in machine
14 readable format, a complete record of any
15 request to purchase on such online plat-
16 form a qualified political advertisement
17 which is made by a person whose aggre-
18 gate requests to purchase qualified political
19 advertisements on such online platform
20 during the calendar year exceeds \$500.

21 “(ii) REQUIREMENT RELATING TO PO-
22 LITICAL ADS SOLD BY THIRD-PARTY AD-
23 VERTISING VENDORS.—An online platform
24 that displays a qualified political advertise-
25 ment sold by a third-party advertising ven-
26 dor as defined in (3)(C), shall include on

1 its own platform an easily accessible and
2 identifiable link to the records maintained
3 by the third-party advertising vendor under
4 clause (i) regarding such qualified political
5 advertisement.

6 “(B) REQUIREMENTS FOR ADVERTISERS.—Any person who requests to purchase
7 a qualified political advertisement on an online
8 platform shall provide the online platform with
9 such information as is necessary for the online
10 platform to comply with the requirements of
11 subparagraph (A).
12

13 “(2) CONTENTS OF RECORD.—A record main-
14 tained under paragraph (1)(A) shall contain—

15 “(A) a digital copy of the qualified political
16 advertisement;

17 “(B) a description of the audience targeted
18 by the advertisement, the number of views gen-
19 erated from the advertisement, and the date
20 and time that the advertisement is first dis-
21 played and last displayed; and

22 “(C) information regarding—

23 “(i) the total cost of the advertise-
24 ment;

1 “(ii) the name of the candidate to
2 which the advertisement refers and the of-
3 fice to which the candidate is seeking elec-
4 tion, the election to which the advertise-
5 ment refers, or the national legislative
6 issue to which the advertisement refers (as
7 applicable);

8 “(iii) in the case of a request made
9 by, or on behalf of, a candidate, the name
10 of the candidate, the authorized committee
11 of the candidate, and the treasurer of such
12 committee; and

13 “(iv) in the case of any request not
14 described in clause (iii), the name of the
15 person purchasing the advertisement, the
16 name and address of a contact person for
17 such person, and a list of the chief execu-
18 tive officers or members of the executive
19 committee or of the board of directors of
20 such person.

21 “(3) ONLINE PLATFORM.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, subject to subparagraph (B), the
24 term ‘online platform’ means any public-facing
25 website, web application, or digital application

1 (including a social network, ad network, or
2 search engine) which—

3 “(i)(I) sells qualified political adver-
4 tisements; and

5 “(II) has 50,000,000 or more unique
6 monthly United States visitors or users for
7 a majority of months during the preceding
8 12 months; or

9 “(ii) is a third-party advertising ven-
10 dor that has 50,000,000 or more unique
11 monthly United States visitors in the ag-
12 gregate on any advertisement space that it
13 has sold or bought for a majority of
14 months during the preceding 12 months,
15 as measured by an independent digital rat-
16 ings service accredited by the Media Rat-
17 ings Council (or its successor).

18 “(B) EXEMPTION.—Such term shall not
19 include any online platform that is a distribu-
20 tion facility of any broadcasting station or
21 newspaper, magazine, blog, publication, or peri-
22 odical.

23 “(C) THIRD-PARTY ADVERTISING VENDOR
24 DEFINED.—For purposes of this subsection, the
25 term ‘third-party advertising vendor’ includes,

1 but is not limited to, any third-party adver-
2 tising vendor network, advertising agency, ad-
3 vertiser, or third-party advertisement serving
4 company that buys and sells advertisement
5 space on behalf of unaffiliated third-party
6 websites, search engines, digital applications, or
7 social media sites.

8 “(4) QUALIFIED POLITICAL ADVERTISEMENT.—
9 For purposes of this subsection, the term ‘qualified
10 political advertisement’ means any advertisement
11 (including search engine marketing, display adver-
12 tisements, video advertisements, native advertise-
13 ments, and sponsorships) that—

14 “(A) is made by or on behalf of a can-
15 didate; or

16 “(B) communicates a message relating to
17 any political matter of national importance, in-
18 cluding—

19 “(i) a candidate;

20 “(ii) any election to Federal office; or

21 “(iii) a national legislative issue of
22 public importance.

23 “(5) TIME TO MAINTAIN FILE.—The informa-
24 tion required under this subsection shall be made
25 available as soon as possible and shall be retained by

1 the online platform for a period of not less than 4
2 years.

3 “(6) SPECIAL RULE.—For purposes of this sub-
4 section, multiple versions of an advertisement that
5 contain no material differences (such as versions
6 that differ only because they contain a recipient’s
7 name, or differ only in size, color, font, or layout)
8 may be treated as a single qualified political adver-
9 tisement.

10 “(7) PENALTIES.—For penalties for failure by
11 online platforms, and persons requesting to purchase
12 a qualified political advertisement on online plat-
13 forms, to comply with the requirements of this sub-
14 section, see section 309.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act and shall take effect without regard to whether
18 or not the Federal Election Commission has promulgated
19 the final regulations necessary to carry out this part and
20 the amendments made by this part by the deadline set
21 forth in subsection (c).

22 (c) RULEMAKING.—Not later than 120 days after the
23 date of the enactment of this Act, the Federal Election
24 Commission shall establish rules—

1 (1) requiring common data formats for the
2 record required to be maintained under section
3 304(j) of the Federal Election Campaign Act of
4 1971 (as added by subsection (a)) so that all online
5 platforms submit and maintain data online in a com-
6 mon, machine-readable and publicly accessible for-
7 mat; and

8 (2) establishing search interface requirements
9 relating to such record, including searches by can-
10 didate name, issue, purchaser, and date.

11 (d) REPORTING.—Not later than 2 years after the
12 date of the enactment of this Act, and biannually there-
13 after, the Chairman of the Federal Election Commission
14 shall submit a report to Congress on—

15 (1) matters relating to compliance with and the
16 enforcement of the requirements of section 304(j) of
17 the Federal Election Campaign Act of 1971, as
18 added by subsection (a);

19 (2) recommendations for any modifications to
20 such section to assist in carrying out its purposes;
21 and

22 (3) identifying ways to bring transparency and
23 accountability to political advertisements distributed
24 online for free.

1 **SEC. 9. PREVENTING CONTRIBUTIONS, EXPENDITURES,**
2 **INDEPENDENT EXPENDITURES, AND DIS-**
3 **BURSEMENTS FOR ELECTIONEERING COM-**
4 **MUNICATIONS BY FOREIGN NATIONALS IN**
5 **THE FORM OF ONLINE ADVERTISING.**

6 Section 319 of the Federal Election Campaign Act
7 of 1971 (52 U.S.C. 30121) is amended by adding at the
8 end the following new subsection:

9 “(c) RESPONSIBILITIES OF BROADCAST STATIONS,
10 PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND
11 ONLINE PLATFORMS.—

12 “(1) IN GENERAL.—Each television or radio
13 broadcast station, provider of cable or satellite tele-
14 vision, or online platform (as defined in section
15 304(j)(3)) shall make reasonable efforts to ensure
16 that communications described in section 318(a) and
17 made available by such station, provider, or platform
18 are not purchased by a foreign national, directly or
19 indirectly.

20 “(2) REGULATIONS.—Not later than 1 year
21 after the date of the enactment of this subsection,
22 the Commission shall promulgate regulations on
23 what constitutes reasonable efforts under paragraph
24 (1).”.

1 **SEC. 10. REQUIRING ONLINE PLATFORMS TO DISPLAY NO-**
2 **TICES IDENTIFYING SPONSORS OF POLIT-**
3 **ICAL ADVERTISEMENTS AND TO ENSURE NO-**
4 **TICES CONTINUE TO BE PRESENT WHEN AD-**
5 **VERTISEMENTS ARE SHARED.**

6 (a) IN GENERAL.—Section 304 of the Federal Elec-
7 tion Campaign Act of 1971 (52 U.S.C. 30104), as amend-
8 ed by section 8(a), is amended by adding at the end the
9 following new subsection:

10 “(k) ENSURING DISPLAY AND SHARING OF SPONSOR
11 IDENTIFICATION IN ONLINE POLITICAL ADVERTISE-
12 MENTS.—

13 “(1) REQUIREMENT.—An online platform dis-
14 playing a qualified political advertisement shall—

15 “(A) display with the advertisement a visi-
16 ble notice identifying the sponsor of the adver-
17 tisement (or, if it is not practical for the plat-
18 form to display such a notice, a notice that the
19 advertisement is sponsored by a person other
20 than the platform); and

21 “(B) ensure that the notice will continue to
22 be displayed if a viewer of the advertisement
23 shares the advertisement with others on that
24 platform.

25 “(2) DEFINITIONS.—In this subsection—

1 “(A) the term ‘online platform’ has the
2 meaning given such term in subsection (j)(3);
3 and

4 “(B) the term “qualified political adver-
5 tisement’ has the meaning given such term in
6 subsection (j)(4).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall take effect on the date of the enactment
9 of this Act without regard to whether or not the Federal
10 Election Commission has promulgated regulations to carry
11 out such amendment.

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