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Federal Election Commission
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Submitted via email and U.S.P.S.

Petition for Rulemaking to Explicitly Incorporate Streaming Media Services in Federal Election Commission Regulations

Dear Ms. Stevenson,

As television and radio have moved online to provide most American voters with on-demand, à la carte access to programming offered through digital devices and streaming services, political advertisers have adapted their practices accordingly. Federal campaign finance regulations, however, have not kept pace, leaving unclear how these technologies are covered by existing legal requirements for political ads. Accordingly, Campaign Legal Center (“CLC”) petitions¹ the Federal Election Commission (“FEC” or “Commission”) to open a rulemaking to explicitly incorporate streaming media services into its regulations implementing the Federal Election Campaign Act (“FECA”), particularly with regard to the definitions of “public communication” and “electioneering communication.”²

Political advertising on streaming media services is already a widespread, multibillion-dollar practice, and it is poised to continue growing as the media landscape shifts further away from traditional linear (*i.e.*, broadcast, cable, and

¹ 11 C.F.R. § 200.1, *et seq.*

² See *id.* §§ 100.26 (public communication), 100.29 (electioneering communication).

satellite) media.³ Without clarifying the rules for streaming media services, the Commission’s regulations will steadily grow further out of step with the media technologies being used to reach voters, thus increasingly failing to fulfill the Commission’s duty to interpret how FECA applies to new situations. Given the exponential growth in spending on streaming political ads, that failure threatens to create confusion for advertisers, undermine the legal guardrails that curtail actual and apparent corruption, and deprive voters of the transparency to which they are legally entitled to make informed electoral choices.

Streaming Media Services Feature Billions of Dollars in Political Advertising Each Election Cycle

A substantial and rapidly growing proportion of political advertising appears on streaming media services—including connected television (“CTV”) services (e.g., internet-connected smart TVs and external devices that provide streaming content, such as Roku, Amazon Fire TV Stick, and Apple TV+), over-the-top (“OTT”) services (e.g., Netflix, Disney+, Hulu, Amazon Prime Video, YouTube TV, HBO Max), and other internet-based media services. At the same time, and as discussed further below, existing FEC regulations are ambiguous regarding how federal campaign finance rules apply to ads disseminated on streaming media services. This ambiguity will matter tremendously in the election cycles ahead.

Streaming media services are a major, growing source of media consumption and advertising, and as a result they are a major avenue through which political groups seek to reach voters. A recent report from Nielsen, a company that tracks media industry data, concluded that in May 2025, streaming media services “outpaced the *combined* share of broadcast and cable for the first time ever,” representing “44.8% of TV viewership” while “broadcast (20.1%) and cable (24.1%) combined to represent 44.2%” of TV viewership.⁴ The same report found that streaming viewership had increased 71% between 2021 and 2025.⁵ A February 2024 AdImpact and Google study reported that “there are now two

³ The term “linear media” generally refers to a service that provides scheduled programming that users view simultaneously, in contrast to “streaming media” services that allow users to independently engage with content of their choosing, on their schedule.

⁴ *Streaming Reaches Historic TV Milestone, Eclipses Combined Broadcast and Cable Viewing For First Time*, Nielsen (June 17, 2025), <https://www.nielsen.com/news-center/2025/streaming-reaches-historic-tv-milestone-eclipses-combined-broadcast-and-cable-viewing-for-first-time/> (emphasis added).

⁵ *Id.*

CTV viewers for every one linear [broadcast or cable TV] viewer in the United States.”⁶

Political ad spending has followed suit. During the 2024 presidential election cycle, spending on streaming political ads reportedly topped \$2.3 billion, or roughly one-fifth of the total spent (\$11.1 billion) on political ads during the cycle.⁷ Projections for the 2026 midterm elections indicate that streaming political ad spending will surpass that figure, reaching \$2.48 billion; while broadcast remains the dominant category of spending for political ads, CTV ads are “expected to account for nearly half as much spending as broadcast television, which is a huge increase from 2022, when CTV spending was equivalent to roughly a quarter of broadcast TV spending.”⁸ Another recent media industry report indicates that CTV “is expected to receive about \$2.9 billion in [political ad] spending,” which represents “a 16 percent increase over” the previous midterm election cycle in 2022, “when political advertisers dropped about \$1.6 billion on streaming TV.”⁹ Indeed, some linear television providers appear to be embracing, even facilitating, the shift to streaming—and thus further blurring the line between streaming and linear platforms: the satellite television provider DIRECTV recently launched “DIRECTV Elect” as a “new artificial intelligence-driven digital advertising platform for political advertisers,” which is “expected to offer both national insights and local analysis with zip code geo-targeting.”¹⁰

⁶ *Despite Overall Viewing Shifts Towards Streaming, the Majority of Political Ad Budgets Go to Linear Television*, BusinessWire (Feb. 1, 2024), <https://www.businesswire.com/news/home/20240201290165/en/Despite-Overall-Viewing-Shifts-Towards-Streaming-the-Majority-of-Political-Ad-Budgets-Go-to-Linear-Television> (citing an AdImpact and Google white paper, *Tipping Point: How the Shift of Live Sports to Streaming Is Accelerating the Growth of CTV Advertising*).

⁷ *2023-2024 Cycle in Review* at 5, AdImpact (Dec. 20, 2024), <https://adimpact.com/reports/cycle-in-review-2023-2024> (“CTV accounted for \$2.3B in spending, making it the second-highest spending category and capturing 21% of total cycle expenditures. . . . As more consumers cut the cord and advertisers increasingly leverage the precision of digital targeting, CTV expenditures are expected to continue growing in the years ahead.”).

⁸ Sara Fischer, *2026 Midterm Elections Projected to Set New Advertising Record*, Axios (Sept. 2, 2025), <https://www.axios.com/2025/09/02/2026-midterm-election-political-ads-spending>.

⁹ Max Greenwood, *Video Ad Spending to Set Record for a Midterm Cycle in 2026*, Campaigns & Elections (Nov. 17, 2025), <https://campaignsandelections.com/industry-news/video-ad-spending-to-set-record-in-2026/>.

¹⁰ Max Greenwood, *DIRECTV Launches New Platform For Political Advertisers*, Campaigns & Elections (Nov. 12, 2025), <https://campaignsandelections.com/industry-news/directv-launches-political-advertising-pla/>.

The Commission Has Left Unclear How Its Regulations Apply to Political Ads on Streaming Media Services

Despite the tremendous growth in streaming political ads, the Commission has failed to clarify how its regulations apply to such ads. Even the Commission’s recently revised regulations regarding disclaimers on political ads disseminated on digital devices, internet-powered apps, and social media platforms do not specifically address how the revised rules apply to political ads on streaming services.¹¹ In rulemakings that culminated in January 2024, the Commission revised its definition of “public communication”—a term that governs the scope of rules governing political ad disclaimers, reporting, and coordination—to include all “communications placed *or promoted* for a fee on another person’s website, *digital device, application, or advertising platform*.”¹² The Commission also adopted a new regulatory term, “internet public communication,” similarly defined as “any public communication over the internet that is placed or promoted for a fee on another person’s website, digital device, application, or advertising platform.”¹³

As discussed above, one of the primary ways voters receive campaign advertising today is through streaming media delivered to “digital devices.” Yet the Commission did not explicitly include streaming media services in the definition of “public communication” or elsewhere in its regulations—despite acknowledging “the wide and rapidly expanding array of paid internet advertising options” that are in common use by political advertisers, including “smartphones and tablets, smart TV, interactive gaming dashboards, e-book readers, and wearable network-enabled devices such as smartwatches or headsets.”¹⁴ In fact, in REG 2011-02 (Internet Communication Disclaimers), which concluded in December 2022, the Commission at the last minute omitted the word “service” from its regulatory definitions of “public communication”

¹¹ See Internet Communication Disclaimers and Definition of “Public Communication,” 87 Fed. Reg. 77,467, 77,471 (Dec. 19, 2022) (“The Commission is further revising the definition of ‘public communication’ to clarify that it covers general public political advertising on various types of internet media that may not be captured by the existing definition (*i.e.*, communications on digital devices, applications, or advertising platforms). This is to ensure that the same disclaimer requirements apply to general public political advertising across the internet ecosystem.”).

¹² 11 C.F.R. § 100.26 (emphases added).

¹³ 11 C.F.R. § 110.11(c)(5)(i).

¹⁴ Technological Modernization, 89 Fed. Reg. 196, 210 (Jan. 2, 2024).

and “internet public communication.”¹⁵ The Commission did not explain the intent behind, or implications of, this particular omission.¹⁶

In sum, the Commission has failed to provide explicit regulatory clarity regarding one of the largest segments of campaign ads. This failure, if left unaddressed, will create continued regulatory uncertainty for advertisers and likely leave millions of voters without complete information about the sources and amounts spent on billions of dollars in political ads in the upcoming 2026 elections and beyond.

Clarifying the Regulatory Treatment of Political Ads on Streaming Media Services Would Advance FECA’s Purposes

FECA regulates political ads with the goal of advancing at least two compelling government interests: curtailing corruption and protecting voters’ right to transparency regarding efforts to influence their votes. The government advances these interests by regulating the raising and spending of funds used to pay for political communications targeting voters “through all communications media.”¹⁷ FECA’s regulatory scope is not focused on the specific technological means used to convey political communications. By contrast, for example, the regulatory authority of the Federal Communications Commission (FCC), under its enacting statutes, “varies by electronic platform,” and the FCC has taken the position that it lacks the legal authority to regulate content disseminated online.¹⁸

¹⁵ The initial draft final rule, Draft A, defined “public communication” and “internet public communication” to include “communications placed or promoted for a fee on another person’s website, digital device, application, *service*, or advertising platform,” while the alternative, Draft B—which the Commission adopted—omitted “service” from these definitions. *Compare* REG 2011-02 (Draft Final Rule and Explanation and Justification for Internet Communication Disclaimers), Draft A (Nov. 10, 2022) (“Draft A”) at 45–46 (emphasis added) *with* REG 2011-02 (Draft Final Rule and Explanation and Justification for Internet Communication Disclaimers), Draft B (Nov. 28, 2022) (“Draft B”) at 45–46.

¹⁶ During the rulemaking process, CLC expressed concern that the omission of the word “service” could be read to exclude streaming media services—most of which do not appear to fit naturally within the newly added categories of “digital device, application, or advertising platform”—and would likely generate “future confusion for the regulated community.” Campaign Legal Center, Comment in REG 2011-02 (Final Rule and Explanation and Justification for Internet Communication Disclaimers) – Drafts A and B (Nov. 30, 2022).

¹⁷ Pres. Richard Nixon, *Statement on Signing the Federal Election Campaign Act of 1971*, American Presidency Project (Feb. 7, 1972), <https://www.presidency.ucsb.edu/documents/statement-signing-the-federal-election-campaign-act-1971> (commenting that FECA, in contrast to a previous legislative proposal, aimed at broadly regulating campaign spending “on advertising, not just on radio and television, but through all communications media”).

¹⁸ *The FCC and Speech*, FCC (Aug. 31, 2022), <https://www.fcc.gov/consumers/guides/fcc-and-speech> (“[W]hat power the FCC has to regulate content varies by electronic platform. Over-

Still, because certain FECA and Commission regulations specifically refer to “broadcast,” “broadcasting station,” “radio,” “television,” or “broadcast, cable, or satellite” communications in various contexts,¹⁹ while not explicitly mentioning internet-based or streaming communications, it is unclear to what extent streaming ads are subject to the generally applicable rules for political ads. This ambiguity could foster uncertainty and confusion for the regulated community, and potentially harm voters’ legal rights to transparency about the sources of and spending on ads seeking to influence their votes. This issue is perhaps most pressing in how the regulations define “public communication” and “electioneering communication,”²⁰ which affect both FECA’s transparency requirements and its contribution source prohibitions and limitations.

Neither FECA’s text nor its legislative history appears to explicitly indicate that the law’s scope is limited to particular media technologies or formats. Its references to specific media formats like “television” are best read as an attempt to unequivocally cover the media formats then commonly being used for political communications, which were of foremost concern to the legislators who crafted the law.²¹ This does not preclude interpreting FECA’s legal requirements to cover later-emerging media tools. The fact that Congress did

the-air broadcasts by local TV and radio stations are subject to certain speech restraints, but speech transmitted by cable or satellite TV systems generally is not. *The FCC does not regulate online content.*”) (emphasis added); see John Eggerton, *FCC Chair: Regulatory Authority Over Streaming Must Come From Congress*, Multichannel News (Dec. 1, 2023), <https://www.nexttv.com/news/fcc-chair-regulatory-authority-over-streaming-must-come-from-congress> (“[FCC] chair Jessica Rosenworcel said Thursday (November 30) that those looking for the agency to start regulating video streamers should look to Congress instead. Rosenworcel has said before that she does not think the FCC has the authority under either the Communications Act or Cable Act to regulate virtual multichannel video programming distributors (MVPD) and she doubled down on that opinion at an FCC oversight hearing.”).

¹⁹ See, e.g., 52 U.S.C. §§ 30101(22) (defining public communication), 30104(f)(3)(A) (defining electioneering communication), 30120 (disclaimer requirements); 11 C.F.R. §§ 100.26 (defining public communication), 100.29 (defining electioneering communication), 109.21 (coordination standard), 109.23(a) (republication standard), 110.11(c)(3) (specific requirements for candidate-authorized radio and television communications).

²⁰ See 11 C.F.R. §§ 100.29, 104.20 (requiring the reporting within 24 hours of disbursements aggregating in excess of \$10,000 during a calendar year on electioneering communications, generally defined as any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate, is made within 60 days of a general election or within 30 days of a primary election, and, for congressional candidates, is targeted to the relevant electorate).

²¹ E.g., Leg. History of the Fed. Election Campaign Act of 1971, S. 382, 92nd Cong., Cong. Rec. at 29,317, statement of Sen. Hartke (Aug. 4, 1971), https://www.fec.gov/resources/legal-resources/legislative-history/legislative_history_1971.pdf (“[D]uring the past decade, the influence of television on American society has grown dramatically. . . . The enormous potential of television is just now being realized by the American viewing public, but it has long been realized by advertisers. Where still pictures and printed words were once required to sell products, now moving pictures and spoken commentary are able to reach millions of potential consumers at almost any given moment of the day. . . . Through this new medium, a candidate could get his message to a larger audience than had ever before been possible.”).

not include specific references to internet-based streaming media tools in FECA reflects only that those technologies had yet to be developed: In 2002, when Congress passed the Bipartisan Campaign Reform Act (“BCRA”)—effectively the last time FECA was significantly overhauled—streaming media services as we know them today simply did not exist; YouTube launched in 2005 and Netflix’s streaming service started operating in 2007. As such, the concept of advertising on “television” and “radio” was, at that time, clearly encompassed by FECA’s references to “broadcast, cable, or satellite” communications.²² There is nothing in the text of the law, moreover, that specifically limits FECA’s reach to ads run only on those media platforms then in existence.²³

The Commission thus has the authority, under FECA, to clarify that the legal requirements for political ads apply not only to ads run on traditional “television,” “radio,” and “broadcast, cable, and satellite” platforms, but also to ads run on streaming media services—the latest incarnation of paid political advertising on a visual and/or auditory media platform to influence voters.²⁴

Enacting such a clarification would be consistent with the numerous instances—many of which were part of the “Technological Modernization” rulemaking concluded in 2024—in which the Commission has adapted FECA’s legal requirements to modern technology and practices. The meaning of several terms found in FECA has changed over time, in ways that have required

²² In comments regarding its 2002 regulations implementing BCRA, the Commission noted that communications otherwise satisfying the legal requirements of an “electioneering communication” would not be exempted simply because they were also disseminated or archived on the internet. Electioneering Commc’ns, 67 Fed. Reg. 65,190, 65,196–65,197 (Oct. 23, 2002). Interestingly, commenters opposing the breadth of the proposed “internet exemption” presciently “argued that as the Internet develops, aspects of it might come to be used in a manner like radio or television”—a concern the Commission failed to heed. *Id.*

²³ See also *Shays v. FEC*, 337 F. Supp. 2d 28, 67 (D.D.C. 2004), *aff’d sub nom. Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005) (noting that although “Congress did not expressly include the term ‘Internet’ in its statutory definition of ‘public communication,’ [] it did include the phrase ‘any other form of general public political advertising,’” such that “it is difficult to argue that [FECA’s] statutory terms evidence Congressional intent for the Internet, or any other forms of communications that constitute ‘general public political advertising,’ to be excluded wholesale from its definition of ‘public communication.’”); *Shays*, 337 F. Supp. 2d at 68 n.38, 70 (“BCRA’s co-sponsors made evident their opposition to a *per se* exclusion of the Internet from the definition [of a ‘public communication’]”).

²⁴ See also Electioneering Commc’ns, 67 Fed. Reg. at 65,192 (“While many would probably agree with the commenter who stated that BCRA was primarily aimed at ‘traditional’ radio and television, most who specifically mentioned Low Power FM Radio, Low Power Television, and citizens band radio believed that BCRA provided no authority to exclude these forms of radio and television. Among those opposed to [exempting those platforms] were the six principal Congressional sponsors of BCRA. Considering BCRA’s unqualified language, particularly in light of the comments, the Commission has decided not to exclude these forms of radio and television from the definition of ‘electioneering communications’ in the final rule.”).

clarifying their meaning,²⁵ while other technological references have gradually become outmoded or obsolete.²⁶

For example, FECA requires that every political committee establish and maintain one or more depository accounts from which all of its disbursements are made, and mandates that all disbursements be made only “by check drawn on such accounts.”²⁷ Congress has never revised or updated this requirement, which means that if it were not adapted to technological changes, FECA could be read to prohibit making any disbursement via other means—including, *e.g.*, electronic checks (ACH), wire transfers, or credit card transactions. Of course, such a stringent, formalistic reading would not meaningfully advance the recordkeeping and reporting purposes of the requirement. Instead, the Commission prudently implemented a regulation that permits committees to make disbursements using a variety of technologically current payment methods that are functionally equivalent to a written paper check, adapting the legal requirement to the times without compromising—and in fact advancing—FECA’s goals.²⁸

Similarly, through its implementation of FECA, the Commission has for decades permitted donors to make contributions using credit or debit cards, a payment format that (unlike writing a check) not only involves additional technological tools but also the involvement of an intermediary credit institution. Although FECA makes no mention of using credit or debit cards—technology that *did*, in fact, already exist and was in fairly common use (unlike streaming media services) when Congress enacted FECA in 1971—to make contributions, the Commission first approved using credit cards to make contributions in a 1978 advisory opinion. Focusing on FECA’s legal requirements for a “contribution” and the nature of the transaction rather than the tools used to effectuate it, the Commission reasoned that because “a contribution includes a written agreement to make a contribution and [] the agreement shall be reported as a debt owed to the candidate or committee until

²⁵ *E.g.*, 11 C.F.R. § 100.36 (adding a definition of “signature” to Commission regulations, which provides for the use of electronic signatures); *see* Technological Modernization, 89 Fed. Reg. 196, 199–200 (Jan. 2, 2024), <https://sers.fec.gov/fosers/showpdf.htm?docid=424497>. (noting that FECA requires “certain documents to be signed, sworn, notarized, submitted under oath, or certified under penalty of perjury” and that the new general definition of “signature” clarifies “that the regulatory signature requirements may generally be met electronically”).

²⁶ *See, e.g.*, Technological Modernization, 89 Fed. Reg. at 209–210 (removing references in Commission regulations to “telegram,” “typewriter,” “microfilm,” and most references to “facsimile”).

²⁷ 52 U.S.C. § 30102(h).

²⁸ *See* 11 C.F.R. § 102.10 (requiring that disbursements “be made by check or similar draft, including electronic transfer, from account(s) established at the committee’s campaign depository or depositories”) (emphasis added); *id.* § 110.1(b)(3)(i)(A) (same for refunds); *id.* § 110.6(c)(1)(iv)(C) (same for conduit contribution reporting).

it is honored . . . contributions authorized to be made by telephone, and using a written form to record pertinent contributor and credit card information, would be regarded by the Commission as contributions under [FECA].”²⁹

In response to technological developments, the Commission has previously interpreted FECA to best give effect to the statutory language and underlying legislative purposes—preserving transparency and accountability, and curtailing corruption. It should do the same here.

Clarifying that FEC Regulations Apply to Political Ads on Streaming Media Services is Necessary to Protect Voters

From a voter’s perspective, a political ad they might view on a streaming media service is indistinguishable from the same ad viewed on a broadcast, cable, or satellite media service—which confirms that these ads should be subject to the same legal requirements under Commission regulations. Consistent regulatory treatment of political ads across linear and streaming media simply makes sense in the current media ecosystem, where voters might watch the same ad during the same programs through broadcast, cable, satellite, and/or streaming channels. For instance, two people watching “Dancing with the Stars” at the same time—with one watching on ABC and the other watching on Disney+ or Hulu—might see the same political ad during the program, yet be provided with different levels of information about that ad. If a political ad on a broadcast network like ABC requires a disclaimer or triggers the filing of an electioneering communication report, there is no principled reason to exempt the same ad seen on a streaming media service like Disney+ or Hulu from those requirements. The absence of explicit parity in these circumstances is not only illogical, it risks creating confusion and loopholes.

Clarifying that political ads disseminated on streaming media services are subject to existing campaign finance rules would directly advance at least three of FECA’s core purposes: ensuring that electoral ads (1) feature disclaimers indicating who paid for them; (2) are reported to the Commission within 24 hours if they are electioneering communications, and (3) remain independent from (*i.e.*, not coordinated with) a candidate’s campaign or political party committee, if paid for by an outside spending group. In the absence of such clarity, political groups, including groups financed by major corporations and ultrawealthy individuals, will inevitably exploit the current regulatory ambiguity to spend massive amounts of money, potentially in coordination with candidates and political parties, on streaming political ads while denying voters information—and even affirmatively misleading them—about who paid for these messages.

²⁹ Advisory Op. 1978-68 (Seith for Senate) at 1–2 (Sept. 19, 1978), <https://www.fec.gov/files/legal/aos/1978-68/1978-68.pdf>.

Transparency is one of the bedrock principles of our democracy; voters have a right to know who is spending money to influence their vote. FECA’s disclosure framework—including the periodic public reporting of funds raised and spent by political candidates and committees, on-ad disclaimers identifying who paid for a specific political communication, and the prompt reporting of independent expenditures and electioneering communications—is designed to protect that right. Yet the Commission’s failure to clarify when and how existing rules apply to streaming media services in its regulations creates ambiguity as to the legal requirements for ads on these services, including the extent to which such ads are subject to the rules governing ads disseminated via “broadcast, cable, or satellite” communication services. That ambiguity could undermine the transparency to which voters are legally entitled.

The current regulatory ambiguity also creates an opportunity for unlawful coordination to go unchecked: outside spending groups—including super PACs and dark money groups—may exploit the lack of regulatory clarity to conceal unlawful coordination of their election spending with candidates’ campaigns and political party committees, despite being legally required to remain “independent” as a condition of raising unlimited sums of money and accepting corporate contributions. Although FECA generally regards any expenditures made “in cooperation, consultation, or concert with, or at the request or suggestion of” another person as coordinated,³⁰ Commission regulations defining “coordinated communications” only apply to electioneering communications and several types of public communications.³¹ As long as there is ambiguity as to whether political ads on streaming media services are covered by the coordinated communication standard, some outside spending groups are likely to exploit that ambiguity to coordinate their spending on streaming political ads with candidates and political parties. That would ultimately harm voters by empowering these outside groups, which are often financed by ultrawealthy individuals, major corporations, and special interest groups, to directly underwrite candidates’ political advertising expenses—fostering an unacceptable corruption risk.

The risk of leaving the rules for streaming political ads unclear must be viewed in the context of how common these ads have become: as discussed above, political ad spending has reached billions of dollars each election. The sheer volume of spending on streaming political ads highlights the need to make explicit that they are subject to Commission regulations. If even a relatively small proportion of political ads fail to abide by FECA’s disclaimer and reporting requirements, that would have a major adverse impact on overall electoral transparency; streaming political ads could become the next pathway

³⁰ 52 U.S.C. § 30116(a)(7) (statutory definition of coordinated expenditures).

³¹ 11 C.F.R. § 109.21(c) (limiting application of coordination rules to any “electioneering communication” and several types of “public communication”).

for an explosive growth in “dark” money spending on elections. Unregulated streaming ads could also become a prime target for ultrawealthy donors and corporations to spend massive sums directly financing candidates’ advertising expenses—the practical effect of super PACs and dark money groups coordinating streaming ad spending with candidates’ campaigns. Indeed, especially when combined with the FEC’s 2024 advisory opinion permitting outside spending groups to coordinate with campaigns on paid canvassing operations,³² allowing widespread coordination with regard to streaming ads would destroy any semblance of outside spending groups’ “independence.”

In fact, regulating streaming political ads is particularly important because of their unique ability to target advertising: streaming ads can be customized to deliver different, precisely tailored messages that their intended viewers are more likely to find compelling.³³ This is not a new phenomenon; in 2022, the *New York Times* reported that digital ad targeting had already “become so precise that next door neighbors streaming the same true crime show on the same streaming service may now be shown different political ads—based on data about their voting record, party affiliation, age, gender, race or ethnicity, estimated home value, shopping habits or views on gun control.”³⁴ The introduction of artificial intelligence (AI) tools in political advertising has only further refined these targeting tactics.³⁵ And some streaming media services—

³² See Advisory Op. 2024-01 (Texas Majority PAC) (Mar. 20, 2024), <https://www.fec.gov/data/legal/advisory-opinions/2024-01/> (concluding that paid canvassing operations are not covered by coordination communication standard because they are not “public communications”); Theodore Schleifer, *Trump Gambles on Outside Groups to Finance Voter Outreach Efforts*, N.Y. Times (Aug. 14, 2024), <https://www.nytimes.com/2024/08/14/us/politics/trump-voter-outreach-super-pacs.html> (“A few weeks after the F.E.C. issued its advisory opinion, the Trump team and its lawyers invited outside groups to Mar-a-Lago to begin talks about how to coordinate responsibility for get-out-the-vote efforts[.] . . . The new guidance was especially valuable for Mr. Trump, who ended the Republican primary season at a serious cash disadvantage relative to the Democrats. Outside entities could take the lead on door knocking, allowing the campaign to focus on areas where it could be more cost effective, such as television and mail.”).

³³ *How CTV is Revolutionizing Political Campaign Strategies*, JamLoop (Sept. 9, 2025), <https://jamloop.com/ctv-the-political-campaign-battleground/> (“Instead of broadcasting the same message to entire geographic regions, campaigns can customize content based on viewer demographics, interests, and voting history. OTT TV platforms enable campaigns to create different ad versions addressing specific issues that matter to different voter segments. For example, a candidate might highlight healthcare policy to one household while emphasizing economic initiatives to another, all within the same zip code.”).

³⁴ Natasha Singer, *This Ad’s for You (Not Your Neighbor)*, N.Y. Times (Sept. 15, 2022), <https://www.nytimes.com/2022/09/15/business/custom-political-ads.html>.

³⁵ See Asma Sifaoui, *The Mad Men Are Now Math Men: A New Playbook for Political Marketing in the Age of AI*, TechPolicy Press (Jan. 5, 2025), <https://www.techpolicy.press/the-mad-men-are-now-math-men-a-new-playbook-for-political-marketing-in-the-age-of-ai/>; Almog Simchon, et al., *The Persuasive Effects of Political Microtargeting in the Age of Generative Artificial Intelligence*, PNAS NEXUS (Jan. 29, 2024),

in particular, internet-connected smart TVs—are even facilitating ad targeting by tracking what their users are watching to provide valuable data for political groups trying to optimally target their ads.³⁶ Because streaming ads can be targeted to reach specific voters based on publicly available data about them, information about who is paying for these ads is especially important to enable voters to evaluate the ads’ credibility and make informed electoral decisions.

Moreover, in the absence of clear and consistent FEC guidance, the media corporations that own and operate most streaming media services are setting their own rules, creating a fractured compliance landscape. Some streaming platforms don’t clearly delineate requirements for political ads, while those that do could alter or weaken those requirements at any time, based on the commercial interests of the corporation that owns the platform. This forces advertisers to adjust their content and operations from platform to platform, increasing burdens on candidates and committees due to the lack of a nationwide standard. Clear and consistent rules for political ads are essential to prevent the service-by-service approach to political ad policy that has already begun emerging.³⁷ Voters should not be provided with less information about the funding and provenance of political ads they encounter based on the subjective policy choices of their preferred media service providers.

<https://pmc.ncbi.nlm.nih.gov/articles/PMC10849795/pdf/pgae035.pdf> (concluding that “a recent set of studies has repeatedly shown the efficacy of microtargeting in a variety of circumstances” and that with the introduction of generative AI tools and machine-learning models that can “infer[] the personality of readers from the text they consume,” the “technology thus exists to take any political message and derive versions that target people of different personalities in an automated manner and at scale”).

³⁶ Maggie Severns, *Campaigns Can Now See What You Watch on TV. It’s Changing Everything*, NOTUS (June 13, 2024), <https://www.notus.org/2024-election/streaming-tv-campaign-ads> (“[Data firm] MiQ specializes in harvesting data, including for political campaigns, and it increasingly is pulling data from streaming TV to help campaigns hit viewers with the right messages at the right times. . . . Sometimes, data firms can connect [streaming TV] viewing habits to a voter’s phone or laptop via their IP address, promising a trove of information about an individual and the ability to track them across screens. Other times, firms focus on dividing households into groups based on what they’re watching, how they use their TVs and how many campaign ads they’re seeing, which is a boon to political campaigns eager to target specific groups of voters.”).

³⁷ For instance, some streaming media services currently prohibit political ads (e.g., Netflix, Amazon Prime Video, Disney+), although that could change at any time, while many services allow them (e.g., Hulu, HBO Max, Roku, Peacock, Tubi). See Max Greenwood, *The Streaming Services on Political Advertisers’ Wishlists*, Campaigns & Elections (Feb. 21, 2025), <https://campaignsandelections.com/industry-news/the-streaming-services-on-political-advertisers-wishlists/>.

The FEC Should Clarify that Federal Campaign Finance Rules For “Television,” “Radio,” and “Broadcast, Cable, or Satellite” Also Apply to Streaming Media Services

In light of the foregoing, the Commission should update its regulations to include explicit references to communications disseminated on streaming media services wherever the rules refer to “television,” “radio,” or to “broadcast, cable, or satellite” communications. In particular, it is vital that the Commission add “streaming television,” “streaming radio,” or “streaming media service” (or similar words to that effect) in its regulations defining “public communication” and “electioneering communication,”³⁸ and explain clearly that streaming services and platforms are included under the regulatory standards that explicitly apply to “television,” “radio,” or “broadcast, cable, or satellite” communications. That update would ensure that political ads appearing on streaming media services are subject to on-ad disclaimer requirements and, as applicable, the 24-hour reporting requirement for electioneering communications, just as they already are for “broadcast, cable, or satellite” communications. It would also foreclose efforts by outside spending groups like super PACs to illegally coordinate with candidates’ campaigns or political party committees with regard to such ads.

These regulatory clarifications would help ensure that FECA’s disclaimer and reporting requirements continue to have their full intended effect, including on streaming television and radio channels, through which billions of dollars in political ad spending are projected to flow each election cycle going forward. The Commission would thus reinforce FECA’s requirements and prohibitions, foreclosing the possibility that streaming political ads become a common path for unlawfully coordinated communications, or that such ads will be used to influence elections while denying voters basic, timely information about who paid for political messages aimed at influencing their vote.

There is ample evidence that ad-makers and the political groups that hire them—candidates, political parties, and outside spending groups like super PACs—are spending serious money on streaming political ads, and all signs point to that trend continuing in the future. Without explicit regulatory references to streaming media services in the Commission’s regulations, political actors will be burdened by the lack of clear guidance. Ultimately, voters will suffer the consequences—left without clear and timely information as to who paid for the political ads they are seeing on Netflix, Disney+, or other streaming media services—even though identical ads viewed via other media showing the same programming must include disclaimers providing such information and be promptly reported. Allowing political ads on streaming media services to become fertile ground for coordination between candidates,

³⁸ 11 C.F.R. §§ 100.26, 100.29.

political parties, and special interest-backed outside spending groups also magnifies the corruption risks that FECA specifically seeks to curtail.

We respectfully urge the Commission to proactively rectify these problems and help FEC regulations keep pace with advertising technology by explicitly incorporating streaming media services.

Sincerely,

/s/ Saurav Ghosh

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