



University of Pittsburgh

Kenneth P. Dietrich School of Arts and Sciences
Department of Communication

1433 Cathedral of Learning
4200 Fifth Avenue
Pittsburgh, PA 15260
412-624-6567
Fax: 412-624-1878
www.comm.pitt.edu

Federal Election Commissioner Allen Dickerson Undergraduate Class Visit on Deepfake AI

October 5, 2023

Contents

(click to jump to selected content)

Background Slides for October 5 Class Meeting 2

ChatGPT-4 Summary and Analysis of Visit Transcript 6

Dickerson Visit Transcript..... 8

 Welcome and Introduction..... 8

 Opening Remarks 9

 Student Q & A..... 12

Background Slides for October 5 Class Meeting



Evidence

October 5, 2023

3

Deepfake AI Research Timeline

Standard Curriculum

- August 16: FEC announces opening of public comment window
- August 31: Class discussion of Public Citizen petition
- Sept 1-7: Packback Questions online discussion of Public Citizen petition
- Sept 12: Remote visit with Craig Holman
- Sept 14-21: Packback Questions online discussion of Holman visit

Adjacent Curriculum

- October 1: Opportunity to submit draft FEC comments via Deep Dives
- October 5: Commissioner Dickerson class visit
- October 13: Deadline for submission of final FEC comments via Deep Dives for grading (40% of midterm substitution)
- October 16: FEC public comment window closes

Friday, October 6, 2023

Sample Footer Text

Allen Dickerson



Republican
Currently serving

Biog

Allen I
followi
Chair i

Prior to
(IFS), v

Visit Format

- Welcome and introductions (1 min)
- Commissioner Dickerson opening remarks (10-15 min)
- Student Q&A (14-19 min)

Friday, October 6, 2023

Sample Footer Text

ChatGPT-4 Key Point Analysis (Archived in Discussions)

Over the weekend, our students completed first drafts of their public comments, providing more material to help frame Commissioner Dickerson's visit. We asked ChatGPT-4 to generate a key point analysis of the entire set of draft comments, yielding the following summary that may be useful as a snapshot of student thinking at this preliminary stage of our assignment:

- 1. The Critical Period:** The growing influence and integration of AI technologies, notably deepfakes, have made it an imperative period for the Federal Election Commission (FEC) to bolster the defense of the electoral systems. With advanced technological capacities, AI and deepfakes are gradually infiltrating American politics, primarily serving as a vehicle for misinformation.
- 2. Historical Precedence:** Misinformation isn't a novel issue. The 2020 election cycle, heavily influenced by the COVID-19 discourse, was rife with misinformation. For instance, a cited Harvard study indicates that misleading statements about the pandemic significantly affected the electoral results.
- 3. The International Scenario:** Beyond the United States, AI's adoption in politics is evident. The 2022 South Korean election saw candidate Yoon Suk Yeol leveraging AI to rally public support. Such global instances reflect the technology's potential both in terms of its benefits and malicious use.

Friday, October 6, 2023

Sample Footer Text

ChatGPT-4 Key Point Analysis (Archived in Discussions)

4. Risks Associated with AI in Politics: Unregulated use of AI might lead to 'deepfake candidates' whose views are artificially crafted and don't truly represent the politician in question. This scenario risks diminishing the essence of democracy, making elections a mere spectacle.

5. Imperative for Robust Regulations: Given the conceivable threats posed by deepfakes, a pressing need exists for the FEC to institute strong regulations. Concerns arise over the practicality of regulating deepfakes, especially considering the widespread public accessibility to AI tools. However, for the sustenance of democracy, it's paramount to ensure that the electoral system remains uninfluenced by the AI wave.

6. Disinformation & Deepfakes: Generative AI and deepfake technologies can craft persuasive audio, video, and image hoaxes. These, when disseminated, especially through platforms like social media, could disproportionately affect certain demographics, like the older, less technologically-savvy populace. Disinformation, defined as information intentionally designed to cause harm, goes through stages: creation, production, distribution, and possible reproduction. Within a political context, AI can further amplify the reach and believability of such information.

ChatGPT-4 Key Point Analysis (Archived in Discussions)

7. The Call for Regulation: The challenge with AI and deepfakes isn't just their existence but their seamless integration into platforms like social media. While platforms like Facebook attempt self-regulation, the uniqueness of AI necessitates tailored regulatory solutions from bodies like the FEC. Without proper checks, distinguishing between real and manipulated content becomes challenging, especially for certain demographics.

8. Real-world Examples: As the 2024 presidential election looms, instances of AI-generated content, both by campaigns and opponents, have surfaced. Examples include the Republican National Committee's AI-generated video post-President Biden's reelection announcement and the deepfake audio clip related to a military draft for the war in Ukraine. These instances underscore the potential of AI to distort narratives, leading to misinformation.

9. The Danger of Misrepresentation: A critical concern is the potential for candidates to utilize AI to mask their lack of knowledge or to create misleading narratives. Such actions not only threaten the integrity of the electoral process but also the foundation of democracy by presenting an AI-crafted facade instead of a genuine human reflection.

In Conclusion: The integration of AI, especially deepfakes, into politics has illuminated multifaceted challenges. From historical instances of misinformation to the conceivable future with AI-generated political content, the democratic process stands at a pivotal juncture. For the integrity of elections and the sanctity of democratic values, it's imperative for bodies like the FEC to instate robust regulations, ensuring that while technology advances, the principles of democracy remain inviolate.

ChatGPT-4 Hive Mind Questions (Archived in Discussions)

1. Legal Background and First Amendment Rights: Considering your background in defending First Amendment rights, how do you reconcile the protection of free speech with the dangers posed by AI-manipulated content that could seriously misinform voters? At what point does a political AI deepfake, from a First Amendment perspective, cross the line from protected speech to malicious misinformation?

2. Prior Experience with Nonprofits: With your experience with nonprofits, how do you foresee the role of NGOs and civil society in helping to monitor and counter AI-driven misinformation in politics? How can public-private partnerships be fostered to address the deepfake challenge without infringing on First Amendment rights?

3. Responsibility and Accountability: Given the rapid evolution of AI technology, who do you believe should be held accountable when deepfakes or AI-manipulated content is disseminated during election cycles – the creators, distributors, or the platforms that host them? How can the FEC strike a balance between holding political campaigns accountable for AI-generated content and ensuring the robust debate and discourse essential to our democratic processes?

4. FEC's Role and Regulation: As the landscape of political campaigning evolves, what proactive measures is the FEC considering to stay ahead of AI and deepfake technologies, especially considering their potential misuse in upcoming elections? Given the challenges in detecting advanced deepfakes, is the FEC considering collaborations with tech companies or AI experts to develop detection mechanisms?

5. Public Trust and Education: How can the FEC work to restore and maintain public trust in the electoral process amidst the increasing prevalence of AI and deepfakes? Does the FEC have any plans to launch public awareness campaigns or educational initiatives to help voters critically assess AI-manipulated content?

6. Impact on Vulnerable Populations: Studies suggest that certain demographics, particularly older populations, might be more susceptible to deepfakes and misinformation on social media. How is the FEC considering the potential disparate impacts of AI-generated content on different age groups or communities? With the risk of specific communities being targeted with AI-driven misinformation, how can the FEC ensure equal protection and unbiased information flow to all voters?

7. International Examples: Reflecting on the mentioned 2022 South Korean election and the use of AI in their political landscape, are there any international regulatory models the FEC is studying or considering for guidance? How can the FEC collaborate with international election commissions to share best practices and counter-measures against AI-generated misinformation?

ChatGPT-4 Hive Mind Questions (Archived in Discussions)

ChatGPT-4 Summary and Analysis of Visit Transcript

Visit by Federal Election Commissioner Allen Dickerson to Evidence University of Pittsburgh Undergraduate Course

October 5, 2023

Transcript Summary and Analysis

(synthetic communication generated with closed domain human prompt to ChatGPT-4)

The content provided offers a detailed account of Federal Election Commissioner Allen Dickerson's visit to the University of Pittsburgh's undergraduate course. Based on this transcript, the following analysis can be drawn:

Summary and Analysis:

1. Background and Credentials:

- Allen Dickerson's academic and professional background is highlighted, emphasizing his roles at the Federal Election Commission, his education at Yale and NYU, and his prior legal work with the Institute for Free Speech. This establishes him as an authoritative figure on election law and the First Amendment.

2. Context of the Discussion:

- The timing of Commissioner Dickerson's visit coincides with the students' assignment to redraft public comments. This adds relevance and immediacy to the discussion.

3. Topic of Focus - Petition for Rulemaking:

- Commissioner Dickerson alludes to the current petition for rulemaking being considered by the Federal Election Commission.
- He highlights his own constraints in discussing the matter, indicating that he cannot take a fixed stance due to his role and the ongoing nature of the decision process.
- A key point of discussion is the authority and role of administrative agencies. Dickerson emphasizes that agencies can only act within the limits set by Congress and are not simply free to act on "good ideas."

4. Legal Complexity:

- The topic of how and when agencies address petitions for rulemaking is underscored as an under-theorized and complex legal area, hinting at its potential importance for aspiring legal scholars.

5. Specific Case - Fraudulent Misrepresentation of Campaign Authority:

- Commissioner Dickerson delves into the legal intricacies of Section 30124, focusing on the potential interpretations of the word "authority" and the phrase "acting for or on behalf of another candidate."
- The emphasis is on the challenge of interpreting legal texts, particularly in understanding the scope and limitations of terms used.

6. Engagement with Students:

- Throughout the transcript, there's a clear push for student engagement. Dickerson not only provides insights but also encourages students to think critically and present "clever arguments" about the legal topics being discussed.

Implications:

- The visit offers students a unique opportunity to gain insights from a key figure in election law. It also underscores the complexities inherent in legal interpretation and the importance of thorough legal research.
- Commissioner Dickerson's focus on the boundaries of administrative agency authority might be hinting at a conservative approach to regulation, emphasizing a strict adherence to the limits set by Congress.
- The intricate nature of the discussed petition showcases the often multifaceted and complex issues that legal professionals grapple with, emphasizing the importance of precise interpretation and application of the law.

This analysis captures the primary themes and implications of Commissioner Dickerson's visit to the University of Pittsburgh. It underscores the importance of legal precision, the complexities of administrative law, and the role of agencies in interpreting and applying the law.

Dickerson Visit Transcript

Visit by Federal Election Commissioner Allen Dickerson to Evidence University of Pittsburgh Undergraduate Course

October 5, 2023

Transcript edited for accuracy and concision

Welcome and Introduction

Gordon Mitchell (GM): There we have Commissioner Allen Dickerson. Great to see you. Can you hear me?

Allen Dickerson (AD): How are you, Professor?

GM: I'm doing doing wonderfully. Thank you so much for joining us. Welcome to class. We should remind folks that we are recording this just in case students who aren't here right now can review the exchange. The students, Commissioner Dickerson, I think they know already quite a bit about your work, and also the path that you took coming to the Federal Election Commission. You joined in December 2020, confirmed by the US Senate, and you were chair of the commission in 2022, and also vice chair in 2021. An undergraduate degree from Yale and law degree at NYU. You were saying earlier this morning, I think you did take a class called Evidence before—was that at NYU?

AD: It was. It was the Federal Rules. We we went down the list. It was a little less engaging, in my sense, than what you're putting on.

GM: Before you went to the Federal Election Commission, the students were learning that you were legal director at the Institute for Free Speech, where you led a nationwide First Amendment litigation practice. Arguing a lot of appeals. Testifying regularly before Congress, and even if I heard correctly, from our call earlier this morning, in that capacity, you did have a hand in the Citizens United litigation. Is that right?

AD: Yeah. My organization did a lot of the amicus work in that case.

GM: Before that, you were in private practice there at Kirkland and Ellis in New York, and an attorney for the Republican Governor's Association. We are delighted that you could join us. The timing is fascinating, in part, because, of course, you're in the middle of this decision process, right? At the end of it, presumably you're going to take a look at the public comments and deliberate with your colleagues and render a decision. In some ways, I was explaining before you came on to the students, that does complicate your task a little bit because you don't want to get out ahead of that process, obviously. I think the students have that caveat in mind.

As far as the students' timing goes, this couldn't be better, because as you may have seen, the timeline for our course is such that students are right now revising and redrafting their initial public comments. So, the opportunity to hear what you have to say and ask a few questions is excellent for that creative process. We really appreciate that.

We talked about maybe just a simple format here where you would start us off with some opening remarks, and then we can turn to student questions. Some of the questions we shared ahead of time, they came from the student public comment project. Perhaps, after your remarks, we can take a look at those more closely, and maybe have some more discussion. Does that sound like a good format?

Opening Remarks

AD: It sounds wonderful. I can. Let me let me start where you very kindly hinted, which is, you know, obviously there's a petition for rulemaking in front of the Commission. I am a little bit more restrained in what I can say than than say, Craig [Holman, previous class visitor]. It's a very small bar. Even those of us who disagree on the law are on a first name basis. So, it's a matter of, you know, I have some thoughts about this, and I've said some of them publicly, but those thoughts are an invitation to discussion, not a not a hard and fast position, if that distinction makes sense.

So, as you mentioned, I had a little bit of a non-traditional path to to entering the government. I did spend about a decade, as you mentioned, doing First Amendment litigation. And that's just because, you know, it's the old joke, if someone offers you a job doing First Amendment litigation, you say, 'yes.' That's more or less essentially what happened. But prior to that, the first several years of my practice were not in political law at all, or even constitutional law. I spent five years at big firms in New York City, doing, you know, securities, defense, white collar criminal work and things that might have more in common with election law than one might immediately think, but which are not, you know, really within the four corners of of this particular discussion. I also have a longstanding interest in military law. I actually went to law school, hoping to be a Navy JAG, and in my thirties, having, you know, lost my full head of hair and gotten slow with age, I ended up as an Army JAG well into middle age. So, for any of you in the class who are thinking about that, I'm easy to find, and I'd be happy to talk to you about it.

I kind of come at these questions with a little bit of a different perspective, partially. That's the First Amendment litigation background, and having pretty robust opinions on First Amendment doctrine, but part of it is the sort of practical part of private practice, you know, having represented companies and individuals who were dealing with complex areas of the law that have nothing to do with elections and nothing to do with First Amendment liberties.

Enough about me, let's talk about the law, which is a lot more interesting. I have a couple places to start that, you know, are of interest to me, and comments we receive and and are just sort of general thoughts about. You know what it is to have an administrative agency. You know, one of the first is just, and this is basic review, but it surprises me how often people forget it. You know it's not the authority of any administrative agency, including mine, to 'do things that are good ideas.' Necessarily, you know we are creatures of statutes. No one elected me. None of my colleagues have run for office, either. We don't really represent anyone in a democratic accountability kind of sense. And so, you know, our authority has been very carefully circumscribed by Congress, which does represent people in a democratic accountability sense. There's always that question of even if something is a great idea, has Congress, the people's representatives, actually given us authority to to do it? That's one of the issues I've raised, you know, several times in this rule. Where does our authority come from? How

robust is it? How should we think about our ability to regulate in this space as we're being asked to do? That, I think, has taken two forms here.

One, of course, and I suspect this has been of interest to the the class, if you've been studying this, you know there were two petitions for rulemaking. The first was not put out for comments, and I think that that raised some eyebrows. But the reason is really very simple. It's that the law on when an agency moves on a petition is generally pretty unsettled in the large sense. If any of you are looking for interesting writing projects, I did a fair amount of research on this when I was thinking through what we should do. And it's a badly under theorized question in terms of what is the status of a petition for rulemaking in front of an agency? When do agencies have to act on that? What's the standard for getting rid of clearly extraneous petitions that lack merit? What's the standard for dealing with petitions that do have merit? What's the scope of discretion in how we deal with these things? It's a very messy law which I think could really use some intellectual work.

But the Commission kind of took that out of my hands because years ago we passed a regulation which, of course, has the force of law and says that no, we have certain minimal standards for when something goes out. It's technical. But as an old judge said, a technicality is just something where you don't like the rule. It says that you have to say which portion of the regulations you're trying to amend, you can't just throw a good idea against the wall and see what happens. And you know that again, that sounds like a technicality. But I'd argue, it's important and substantive in that sense, again, because we have limited authority, because we're operating with the delegated powers of Congress subject to Congress's direction and will. It's important to tell us where these things should go in our regulations, and what the basis is because that's shorthand, for you have a theory of our authority that we can actually engage with. The first time the [Public Citizen] petition technically, you know it did not meet the very low standard that we've set in our regulations. It was a split vote, but the first petition did not go out for comment.

The second petition fixed that error and went through unanimously. Because you know my colleagues and I are bound by our regulations. And that's what happened there, and I think you know, to the to the extent it looked like anything else happened, it didn't. That was the whole conversation, which brings us to where we are now, and you know I wanted to raise, you know, some food for thought. And then I'm actually much more interested in your questions.

The first is just the the statutory language is very tricky, and I'm sure some of you have pulled it, but if you haven't, I'm going to read it to you because I don't think this is easy legislative text. The provision that this rulemaking is premised upon is section 30124 of our statute, on fraudulent misrepresentation of campaign authority, and I emphasize the word authority because I think it's what makes this tricky. What it says is, "No person who is a candidate for Federal office, or an employee or agent of such a candidate." So this is limited to candidates, and their agents, shall not "fraudulently misrepresent himself, or any committee or organization under his control as speaking or writing, or otherwise acting for or on behalf of any other candidate or political party or employer agent on a matter which is damaging to such other candidate or political party, or willfully and knowingly participate to conspire to participate in such a scheme."

So, the first thing I would draw everyone's attention to, and I said this in the [FEC] open meeting is, you know, this can be read in a number of ways and the tricky question

is, what do we do with the word authority in the beginning? And what do we do with the words acting for or on behalf of another candidate? My instinct, and again I'm looking for clever arguments on this, but my instinct is that this is directed towards a fraudulent misrepresentation of agency. Saying that you are representing someone, you are not, in fact representing. If I were to call you and say, "Hey, it's Allen Dickerson on behalf of the Biden for President campaign, I'd like you to do X or Y," okay, you know, assuming that the elements of fraud are met, that is a statement about my agency, who I'm representing. The claim in the in the rulemaking, and I think a very tricky question of law is, what do you do about things that maybe misrepresentations, but which may not go into your agency relationship with the person that you're misrepresenting? And you know, as is often the case, as I'm sure you all will recognize in law school, and will definitely recognize when you start having clients, Congress does not always speak with, you know, explicit clarity on these sort of questions. So that's the first thing I wanted to raise is just that there's a threshold question of authority before we get to what is or is not a good idea, or good policy, or good for the Republic.

The second thing I wanted to mention is just, and this this also is a bit of a theory of the administrative state. Why is it that we have a Federal Election Commission as opposed to just, you know, a statute that's prosecuted by US attorneys and various district offices, as we do for a number of other things? I think the answer is the same as it is for the Securities Exchange Commission, or the FCC. Or several of the other more well-known agencies. It's that Congress thought it made sense to have expertise lodged in a particular entity. You know, Congress is sort of a generalist institution. It's it's more democratically accountable, but its members generally do not have a level of detailed experience in some of these really technical areas of law.

I think the second question is, why the FEC? What is it about the FEC that has expertise in the area of AI such that we're in a position to do some very difficult things like define AI? There are a bunch of competing bills right now in the Congress that are really sincerely struggling with, how do you define AI so that it's hitting what you want to hit in the case of this petition so called deepfakes. It's not just hitting anything that's got an algorithm behind it or a computer program, because you know, your digital cameras use AI in a sense, to smooth out features and adjust lighting and do other things like that. It's virtually impossible to develop a digital ad, which is all ads now, that doesn't take advantage of what you might think of as AI in in the context of, you know Photoshop and the sort of post-production process. How how do you go about defining things narrowly enough that you're getting at what you need to get at? And here, of course, there's a First Amendment problem in the background, because if you don't regulate with enough precision, you're going to end up chilling things that you're not entitled to chill. And there's a regulatory authority problem. Because if you go outside of what Congress has given you, you've now violated the Administrative Procedure Act. So, there's that problem of sort of frontline definition.

And then there's the problem of what activity are we going to end up talking about? I mean one of the points I've raised, and I'd love to see a response to in comments is if it is true that the Commission has always had the authority to say, "No, your political ad misrepresents what your opponent did," what is special about AI? If if we have general authority to say you fraudulently misrepresented what your opponent has said, I would suspect that that authority would have been used prior to today, just in the context of old school, non-digital, analog [advertising]. You know, you put your red filter behind

something. You misquote someone. You characterize a position in a way that's unfair. And no one's really ever thought the Commission had that kind of authority. So where are we, drawing the line between the narrow request in a petition for rulemaking on one hand, and these larger questions of, Where? Where's your dividing line between that and just going out there and saying what speech is true or false, which everyone agrees the government can't do? So, I think there's some very tricky line drawing questions that are raised here that are not necessarily unique to this petition, but bedevil administrative agencies generally. So, I'll pause there.

I hope that's a reasonable frame. I haven't read, you know, obviously, comments are coming through. I read them all; my colleagues read them. When yours come in they will be read. I guess I'll conclude with a pitch, which is, you know that the administrative agencies exist because of their expertise. But my agency's expertise is the Federal Election Campaign Act. And you know, a lot of these technical questions really do require administrative agencies to reach outside of themselves and avail themselves of the expertise of the public. So, it's a very real set of problems, and it's one where we are sincerely looking for help.

Student Q & A

GM: All right. Thank you very much for those opening remarks. Very insightful, and I think useful, really, for our study. Let's open the floor now for students. If you heard something in those opening remarks that prompted a question you haven't thought of before, and you want to pitch it right here at the outset, let's see a hand. Is there anyone who had a new question pop up? No? Okay so let's try this. Commissioner Dickerson, I'm going to put into chat a question that, as I was explaining to you before, was generated by a ChatGPT key point analysis of the students' draft comments. [In a follow-on prompt] then we asked it adapt questions specifically for you. We told ChatGPT that we would be talking to you. And so this is one that came out, which might be a good entry point to broaden out the conversation about the FEC's role:

As the landscape of political campaigning evolves, what proactive measures is the FEC considering to stay ahead of AI and deepfake technologies, especially considering their potential misuse in upcoming elections? Given the challenges in detecting advanced deepfakes, is the FEC considering collaborations with tech companies or AI experts to develop detection mechanisms?

You know it might be useful to actually further inflect that question in light of what you just said. If we take your point seriously about the agency narrowness, that's the only thing that the statute on fraudulent misrepresentation is actually covering. Yet, it still is an area that can be regulated, right? The FEC could pass a very narrow rule that would say specifically for campaigns, specifically with the agency relationship, we are regulating deepfake AI in that narrow context. And if that's true, then these series of questions from the student hive mind might make more sense. So, what about that?

AD: So well, objection, compound question.

GM: Objection sustained!

AD: But let me try to to untangle that, because I think it's fair. You know, in some sense the answer is yes, because that's what notice and comment is. I would expect and hope that if people, you know I'll be very frank, I've done notice and comment on the outside as an attorney with clients. I've done it as someone at a nonprofit, kind of carrying water for particular viewpoint. I've done it inside an agency bound by law, and they're very different roles. But one of the things you notice is how few comments are helpful. I think there is a tendency to think that you know this is kind of a popularity contest, and it's not right. You can have a million amicus briefs on one side of a case. But that's not the law, right? That's people's opinions. So, things like collaborations in the sense of comments that come in or testimony that comes in, there's a hearing from experts to try to make us walk through this. But that's kind of the point of the notice and comment process. So I'd say, and it's, you know, asymptotic, maybe, to your question.

But I'd say that's what we're doing in putting this out for comment is, we we are trying to collaborate with experts to reach the right rule on this. So I'd say that, in terms of you know, getting ahead of it, you know that gets that gets tricky right, to get ahead, subject to what authority, right? I think it's pretty clear that the the FEC doesn't have general authority to set regulatory standards for AI, the way that you know, certain other agencies would, or, more properly, Congress, or even international bodies, could. I always have to have a statute that I'm hanging these projects on right?

GM: But if I heard you correctly in your opening remarks, you did provide a roadmap for that, when you said there is a statute, it is narrowly constructed. It would only apply in the case of a campaign, saying, 'I'm speaking for the candidate,' using deepfake AI in a fraudulently misrepresentational way. When you narrow it down to that, doesn't the FEC have authority to regulate that?

AD: I mean, maybe, but conflict of laws is also one of the things that I would worry about. And again, this is something where broader comments are really useful because the election law bar is small and a little insular, as you notice, because you know, [we are one a] first name basis. I think it would be a real problem if one agency of the government adopted a definition of AI or a set of standards on detection that conflicted with those of another agency. You know that the FEC's role may or may not be there.

You know again, I have an open mind on that question. But there are other agencies that clearly this is closer to. You know the FTC, in the context of fraudulent or unfair trade practices. The FCC, in context of some of their authorities under the act that. In my experience, you don't want conflict between especially FCC or the IRS and the FEC, because a lot of the [private] entities we're talking about are, you know, regulated by all 3 entities, and if you create a conflict of law, no one can follow it, for one thing, and for another, you're just asking for litigation, and I generally think throwing things to the court is not a responsible approach to governing. I also appreciate you putting the the statute up here in text in the chat. That's very helpful.

GM: Let's try this one, this might be linked. The students might be curious to hear your response to this. They're curious about the role of the FEC, in this broader question:

How can the FEC work to restore and maintain public trust in the electoral process amidst the increasing prevalence of AI and deepfakes?

Actually, in the draft comments that the students are working on, they do have a lot of original research on this. I think it's great. You'll be impressed at how they're able to document this. In some ways it speaks to the issue of what's so new and different about deepfake AI technology. A lot of the scholarly research does suggest that one of the new dimensions of it is the impact on trust. So, the students want to know:

Does the FEC have any plans to launch public awareness campaigns or educational initiatives to help voters critically assess AI-manipulated content?

It's an interesting question that says, let's get outside of the strict regulatory rulemaking. You know, the Commission has a press office. Presumably there is some kind of commitment to education and outreach. So, what do you think about that question?

AD: Well, I mean I'll go farther than that. If any of you worked here, you'd be used to me pounding this particular table. You know the [FEC founding] statute explicitly commands the Commission to take steps to ensure voluntary compliance with law. The the stick is not the only tool that's very available, like, trying outreach, trying education. That's something Congress has specifically directed us to do. I appreciate the question and kind of going back to my concern that there is a statute that you can maybe hang that on. I think the short answer is, we haven't. We haven't gotten there yet. I mean, I don't want to put too fine a point on it, but it's not clear that the FCC's action or inaction on AI is what's driving trust or distrust in American elections right now. But you know that that's probably a concern for larger bodies.

Again, I'm going to look at Congress on this. But within within the four corners of our world, you know, the political committees, the candidates, the people who do take what we do seriously, I think there probably is a role, for, you know, that that sort of outreach. I don't know if it necessarily hits the larger public. But I'm a big believer in trying to create and sustain norms, and that may be a way that you do it, even if you don't have the regulatory authority to hit people over it. You may be able to say, well, you know, here's some things that people are doing that you should be aware of. Do with that what you will. But it might be well received.

GM: Yeah, that's very interesting. It does seem like this might be a bridge to this next question, this is question 7 from the hive. We started off this semester looking at South Korea and the recent presidential election there where Yoon Suk Yeol won, in part by using deepfake AI. They built an avatar for Yoon that was adept at addressing especially questions from the youth about pop culture. So that did lead to some interest by the students in these international examples, as in this question:

Reflecting on the 2022 South Korean election and the use of AI in their political landscape, are there any international regulatory models the FEC is studying or considering for guidance? How can the FEC collaborate with international election commissions to share best practices and countermeasures against AI-generated misinformation?

Specifically, I was thinking about, If I read this correctly, The European Commission is understanding that their ability to do the same thing that you're [the FEC is] trying to do or considering. They're not going to have really much in place before the next election cycle, but they are working with private companies to adopt a code for transparency. So, you have the AI corporations that are producing the the content potentially doing this. I'm not sure, would that fall into the category of voluntary compliance with the law, I guess it's ahead of the law because the law hasn't actually been passed yet, but it is working through the private sector not through the traditional regulatory process, if that makes sense?

AD: It does. I'm torn on this, because, on one hand, you know, early in my career, I was a reasonably serious student of international law, and I still deal with it sometimes on the military side. I'm probably unusually open to international examples for a Republican. But that said, the trouble in this area of looking at international models is that South Korea doesn't have the First Amendment. You know, and neither do the Europeans. And yeah, it's a very longstanding kind of problem. You know, I'm thinking of social media regulation where obviously the Europeans did certain things, and the Koreans, the Japanese, and other friends of ours did certain things that we just I think it's pretty widely accepted, can't do as a matter of constitutional law. What happened was exactly what you're saying. A lot of groups got together and came up with non-binding sort of guidelines that became very influential because serious people were behind them that were broadly adopted voluntarily.

I kind of have to take off my commissioner hat for that, because you know that that's kind of the way we're differently structured is that there's both much more room for that sort of voluntary industry led, nonprofit led, you know, kind of advocacy work than in many other countries that are a little more top down just as a matter of culture and less room for the the government to come in and mandate that sort of thing in the context of of political speech and association, which is what we're talking about. You know, again sort of speaking, not as a member of the government, I think that sort of thing is very helpful. In part, because kind of going back to your earlier question about collaboration, it's oftentimes been my experience, both on the outside and the inside, that when you have the adults sit down and come up with a plan, especially when there's, you know, bipartisan agreement on it, especially when you know the people have some credibility personally in vouching for something, that it's much easier for the government to sort of take that off the shelf and try to run with it than it is to sort of try to impose top-down rules through the notes and comment process.

It's a little bit of chicken in the egg, right, you know. Do you get the comments and the rulemaking comes as a result of that? Or does the comment and the rulemaking drive a cultural moment or an opening for people to engage in that kind of private activity? I'm not sure but I would agree that this is an area where, even if the FEC is not capable for legal reasons, whether constitutional or otherwise, I do think there's a real market need for some sort of agreement on how we're going to do this, and if I were on the outside advising clients, I would say, the sooner you can get into a room with the other adults and give some guidance, the less conflict of laws problems you're going to have, the better the regulation will eventually look.

GM: So, what about the idea, then, that the FEC could play a role in kind of pushing that process along with very narrowly tailored rulemaking like we were talking about before?

AD: I'd I'd be curious to see a roadmap that suggested that. It's not something I thought of quite frankly.

GM: Interesting. Okay, so students, any follow up questions from the floor? Anyone want to hop in and pitch a follow up question? I think we have time for one more. Let's try this one. This is impact on vulnerable populations now in chat:

Studies suggest that certain demographics, particularly older populations, might be more susceptible to deepfakes and misinformation on social media. How is the FEC considering the potential disparate impacts of AI-generated content on different age groups or communities? With the risk of specific communities being targeted with AI-driven misinformation, how can the FEC ensure equal protection and unbiased information flow to all voters?

AD: That is a tricky question. I think it's something that we will be curious about. Part of the issue is just that again, part of the problem is that you know most agencies have a lot more room to address these sort of questions, but there's binding Supreme Court precedent that tells us that we're not permitted to elevate certain voices over others or to otherwise, you know, kind of engage in a fairness analysis, the difference between that line of cases and sort of an equal protection arguments.

It's a very sophisticated question that I don't think I've ever seen really addressed. Obviously, you see, that in sort of election administration contexts, you know questions about voter ID, questions about precincts, questions about voting rules. But in the context of political advertisements or the spending of money by campaigns, it's usually been assumed that campaigns can direct their speech to whoever they wish, even if that has a disparate impact on who receives the message. You know, to take the most obvious example, Democrats are going to talk to likely Democratic voters and Republicans are going to talk to Republican voters, likely. And that's kind of unremarkable, so I'd be curious to see someone write up, you know. How do you get past the Supreme Court's opinions on this? And is there a way to read an equal protection analysis into the act because I don't know the answer to that question. It's a very sophisticated one.

GM: You are talking about the jurisprudence that would say there is no federal regulatory authority to do a kind of fairness analysis?

AD: Well, broadly, that, but also the fact that specifically in the context of political speech, the Supreme Court has been pretty clear in saying you're not really permitted to have rules with either the intent or the effect of equalizing the flow of information, or, you know, in influencing who is speaking and who isn't. And you know, reconciling that that line of precedence with with an equal protection analysis, I think, is very interesting life's work.

GM: We should let you go. We really appreciate your time. Students, can you put your virtual hands together and give Commissioner Dickerson a hand? Can we get some claps? How about some pyrotechnics? Can we get some confetti out there? Very nice, alright?

AD: Well, thank you. I'll I will sincerely look forward to reading these comments and this, this was a privilege. Thank you.