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## *Evidence-Based Commentary on Federal Election Commission Rulemaking*

### **Individual Student Responses to FEC's Call for Public Comments**

**University of Pittsburgh undergraduate student research collaborative**

#### Abstract

A University of Pittsburgh undergraduate student research collaborative generated evidence-based commentary on the Federal Election Commission's (FEC) rulemaking process. The U.S. FEC had called for public comments on a petition by Public Citizen concerning deliberately deceptive AI campaign advertisements. This report contains individual student responses developed as part of an assignment in the "Evidence" course at the university. The assignment delved into the intricacies of deepfake AI in political campaign advertising. A unique approach was employed using the Instructional AI platform Packback and the OpenAI tool ChatGPT-4, to facilitate discussions and distill student responses. An "adjacent curriculum" option invited students to voluntarily write public comments in lieu of a midterm examination. Some finalized student comments were eventually submitted to the FEC for official consideration and compiled into a report archived in D-Scholarship, the University of Pittsburgh's digital repository.

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## Background

The United States Federal Election Commission (FEC) is a federal government agency with a [mission](#) to "protect the integrity of the federal campaign finance process by providing transparency and fairly enforcing and administering federal campaign finance laws."<sup>1</sup> On August 16, 2023, the Commission [published notification](#) that it sought public comment on a [petition for rulemaking](#) filed by Public Citizen, a nonprofit consumer advocacy organization.<sup>2</sup> Specifically, the FEC called for public comment on how it might address the advent of deliberately deceptive artificial intelligence campaign advertisements (see Fig. 1).



Figure 1. FEC call for public comments on deliberately deceptive AI campaign ads, August 16, 2023.

## Critical Approach

This document carries individual student comments designed in response to the agency's public comment call. Student comments were developed as part of an optional assignment in "Evidence," an undergraduate communication course at the University of Pittsburgh. The following timeline conveys assignment sequencing and details on how a collaborative undergraduate student research effort supported drafting and revision of the comments compiled herein.

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<sup>1</sup> See United States Federal Election Commission, "Mission and History," <https://www.fec.gov/about/mission-and-history/>

<sup>2</sup> United States Federal Election Commission, "Comments sought on amending regulation to include deliberately deceptive Artificial Intelligence in campaign ads," August 16, 2023, <https://www.fec.gov/updates/comments-sought-on-amending-regulation-to-include-deliberately-deceptive-artificial-intelligence-in-campaign-ads/>; Public Citizen, "Petition to regulate 'deepfake' election ads will proceed to public comment period," August 10, 2023, <https://www.citizen.org/news/petition-to-regulate-deepfake-election-ads-will-proceed-to-public-comment-period/>

## Standard Curriculum

As part of the Evidence course's standard aim to explore "different types of evidence, methods for testing and evaluating evidentiary claims, and controversies about the evolving role of evidence in professional and public life," all enrolled students engaged readings and participated in class discussions on the issue of deepfake artificial intelligence in political campaign advertising, as described in the following timeline:

- **August 29, 2023:** Fall term of Evidence begins with 35 students enrolled in the upper-level communication course.
- **August 31, 2023:** A class session is held focusing on neural networks, large language models, and "deep" AI. Students review the Public Citizen petition and history of FEC and congressional action in response to it.
- **September 1-7, 2023:** Students use the Instructional AI platform Packback Questions to organize out-of-class, online discussion of the Public Citizen petition (see Appendix 1).
- **September 8, 2023:** 33 student questions and 64 student responses are distilled into 7 hive mind questions by the OpenAI tool ChatGPT-4. This synthetic communication is shared with senior attorney Craig Holman, co-author of the Public Citizen petition, in advance of his remote class visit (see Appendix 2).
- **Sept 12, 2023:** Students participate in a remote visit with Craig Holman (see Appendix 3).
- **Sept 14-21, 2023:** Students engage in a second round of discussion using Packback Questions (34 student questions and 67 student responses) reflecting on lessons learned from the Holman class visit (see Appendix 4).

## Adjacent Curriculum

In "contract grading," students and teachers collaborate to tailor assignments and assessments. The "adjacent curriculum" is a form of contract grading where students opt into voluntary assignments that replace default syllabus coursework (see Appendix 5). For this particular adjacent curriculum assignment, students were invited to opt into a comment writing project that would substitute for 40% of their pending midterm examination (see Appendix 6), as described in the following timeline:

- **October 1, 2023:** 12 students respond to the opportunity to submit draft FEC public comments via Deep Dives, Packback's Instructional AI writing platform, responding to the prompt, "In considering Public Citizen's petition for rulemaking on AI deepfake technology in elections, what evidence should the Federal Election Commission pay special attention to, and why?" Editorial feedback is

provided in real-time by Packback's AI "Writing Assistant" and asynchronously by a human teacher.

- **October 2, 2023:** Student draft comments are downloaded from Packback, de-identified and fed to ChatGPT, which is then prompted to distill the content by forming seven questions tailored specifically for Federal Election Commissioner Allen Dickerson (see Appendix 7). The resulting "hive minded" questions are shared with Commissioner Dickerson prior to his class visit.
- **October 5, 2023:** Commissioner Dickerson remote class visit (see Appendix 8).
- **October 13, 2023:** Deadline for student submission of final FEC comments via Packback Deep Dives for grading (40% of midterm substitution); students then had an option to submit their final comments to the FEC for official consideration (see Fig. 2).

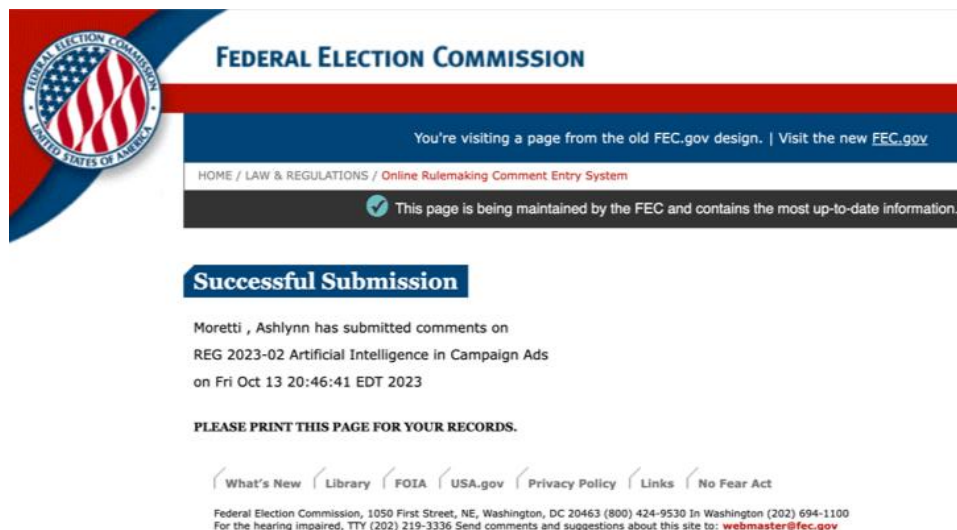


Figure 2. Example of FEC student public comment receipt certificate

- **October 16, 2023:** FEC public comment window closes. Report compiling student comments published on D-Scholarship, the University of Pittsburgh's institutional repository.

# Comment Texts

## Comment by Alex Barbiero

With the rise of deepfakes and AI, it is a critical time for the Federal Election Commission to act in defense of the electoral systems that have been at the foundation of American politics. As technological advancements have been made, AI and deepfakes have entered the American political system to spread misinformation. This issue requires an immediate response as the impact of misinformation on election cycles in the United States is proven to be significant. The core evidence that calls for in-depth review includes the history of misinformation in election cycles, the unknown capabilities of deepfakes and AI, as well as the necessity of creating regulations that will eliminate deepfakes in politics.

The FEC must take note of the influence of misinformation in prior elections and how this can undermine democracy even further if regulation of deepfakes is not implemented. The most prevalent example of this impact is the recent 2020 election and the misinformation surrounding COVID-19. These two events occurred simultaneously, which led to inequitable and misinformed narratives of COVID-19 that reached voters. The discussion of COVID-19 dominated the 2020 election cycle and misinformation was a major factor in these conversations. Research from a Harvard study reveals that misinformation in statements regarding the pandemic were used as weapons in the 2020 election, immensely impacting electoral results. (Chen, 2021). The spread of misinformation occurred in all political circles in 2020, and these falsehoods reached millions of voters. Furthermore, information in the media holds power in elections regardless of its validity. It is clear that misinformation has been made into a political tactic in previous elections, yet utilizing AI in these ways would have unthinkable repercussions.

The usage of AI deepfakes in politics has already begun worldwide. Politicians have utilized AI to gain public support and respond to pressing issues, specifically in the 2022 South Korean election with candidate Yoon Suk Yeol. AI has already shown the ability to turn election results around positively for a candidate, yet it can be used to attack the opposition as well. Candidates making insensitive claims have the power to entirely ruin their

campaign, yet with the rise of deepfakes this can occur through AI manipulation. The presentation of entirely AI-generated statements from "deepfake candidates" cannot be overlooked by the Federal Election Commission if there is any hope to keep democracy present in the United States. These AI candidates shrink the value of even holding elections, as neither "candidate" accurately reflects the views of the politician they are mimicking. This reality is detrimental to democracy and, without proper regulations, will entirely disrupt the future of this country.

Furthermore, the FEC must focus on making impactful regulations that will prevent the usage of deepfakes in politics. Since the call for regulations has begun, it is clear that speculation regarding the impact of regulating deepfakes is present. There is concern that the spread of deepfakes in politics will not be able to be regulated successfully due to public access to AI tools and the capabilities of the FEC. However, the Federal Election Commission must combat this doubt through vigilance in regulating deepfakes in political spheres to the highest degree. AI has grown into a public tool in many instances, including schools, workplaces, and throughout the media; but our democratic system must ensure independence from the wave of artificial intelligence.

The growth of AI in our society does not mean that democracy has to come to an end through manipulative use of deepfakes to fool the American people. Regulation in this field is required, and the FEC must act in severity when rulemaking on deepfakes in politics. I hope that the public comment period reveals the necessity of making these crucial decisions, and the FEC will carry out justice as requested by the public.

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## Comment by Komal Chranya

Technology has been advancing rapidly in the past few years. Recently, there has been an emergence in the use of Artificial Intelligence and deepfake technology. Technology is part of everyone's life, and it impacts all aspects of one's daily routine. One aspect that AI has been affecting is elections — impacting both voters and campaigns. Public Citizen recently submitted a petition to the FEC pushing to regulate deepfake election ads. As the FEC considers this issue, it may want to pay special attention to key pieces of evidence such as AI skewing social media posts to change people's opinions, AI impersonating political figures to manipulate people's votes, and the lack of awareness people have regarding deepfake technology.

Archon Fung and Lawrence Lessig (2023) discuss how there is a possibility that AI could take over elections and undermine democracy as a whole. The CEO of OpenAI, Sam Altman, says that there is a concern that people may use language models to manipulate or persuade one-on-one interactions with voters. He imagines that political technologists would use automation to drastically increase the effectiveness of behavior manipulation techniques (Fung and Lessig, 2023). It would tailor social media posts to people personally and generate unique messages over the course of the campaign. These technologies also have no regard for the truth and have no way of knowing what is true or false. Since the objective is to change people's votes and not provide accurate information, this is not a problem for the machine (Fung and Lessig, 2023).

Robert Weissman, President of Public Citizen, a national public interest organization, published an article addressing concerns to the President's Council on Advisors on Science and Technology about Generative AI. Essentially, their policy is that all AI-generated content should be labeled as such. One of their main concerns is the deepfakes to persuade voters that a candidate for office acted in a certain way, when that was not true (Weissman, 2023). They discussed that it is difficult for voters to determine that some claims

are fraudulent. A few other concerns expressed include voter manipulation, undermining of social trust, and disinformation and misinformation (Weissman, 2023).

Another piece of evidence to be aware of is the lack of awareness people have when it comes to deepfake technology. People have been able to use Artificial Intelligence to impersonate political figures. In an article published by NPR, an advertisement features a soundbite of what sounds like Donald Trump's voice, and it essentially attacks him. Many people believed this ad to be true because they did not know to look out for signs of deepfake technology. And, by the time these advertisements are fact-checked and analyzed, people on social media have already seen them, and they are already influencing people (Rascoe, 2023).

Overall, it is clear that advances in technology are affecting people's lives daily. In elections specifically, people believe fraudulent advertisements and messages that are being circulated around social media. It is important to regulate the amount of deepfake technology usage in order to keep only true information circulating through social media and in the news.

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## Comment by Alexa Clark

"Generative artificial intelligence (AI) and deep fake technology, a type of artificial intelligence used to create convincing images, audio, and video hoaxes, is evolving very rapidly" (Public Citizen, 2023). When considering rulemaking around AI and deepfake technologies, it is important that the Federal Election Commission takes into account the effects that this type of disinformation could have on specific demographics through the unregulated use on social media. Specifically, older, more technologically inept members of the voting population may be more susceptible to the use of this content in campaigning. These technologies can be put to use for the creation of disinformation, which is defined as "information that is false and deliberately created to harm a person, social group, organization, or country" (Wardle and Derakhshan, 2017). This could end up having a larger influence than expected with the ever-growing use of social media in society.

There are three important phases to consider when looking at the effects that disinformation can have on society, and they are as follows. The creation phase is when the message that is produced is created. The production phase is where the message is turned into a product for the media. The distribution phase is where that product is dispersed or made public. Finally, the process can circle back to a reproduction as different viewers and outlets redistribute the product (Wardle and Derakhshan, 2017). An example of this system could start just with an article conceived by an unidentified person. This article could move to be published by a network of numerous fabricated sites. This could lead to the sharing of the article on social networking by someone working for the fabricated site, which could even be done by the click of a button by a bot. The article could then be reproduced in a number of facets. In the case of a political election, it could be shared by supporters of one or the other party, with no way of telling its legitimacy.

In an article by the American Bar Association, titled "Political Advertising on Social Media Platforms," authors describe the efforts put in place to combat the distribution of misinformation on these platforms. The report notes that in the effort to prevent the surfacing of disinformation, "in the absence of regulation, Facebook and other companies are left to design their own policies" (Nott, 2020). The article goes on to state, "the way

we choose to regulate a new form of communication must take into account the unique characteristics of the technology behind it" (Nott, 2020). This ties perfectly into the way that the Federal Election Commission should look at rule making around AI and deepfake technologies.

When commissioner Allen Dickerson took time to answer questions surrounding this topic with my class, he favored efforts of voluntary industry compliance. He states, "You know the [FEC founding] statute explicitly commands the Commission to take steps to ensure voluntary compliance with the law. 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" (Dickerson, 2023). Yet, he goes on to state that the FEC has yet to think of a plan for this type of public informative action even on the scale of social media networking terms. A possible strategy for this could be the European Commission voluntary code were they are working with private companies to adopt a code for transparency. The trouble, as Commissioner Dickerson mentioned, is when looking at these countries you have to take into consideration their lack of the First Amendment and the red tape that surrounds it.

One is able to make connections to the original idea surrounding the effects of these technologies on different generations by exemplifying the need for a type of regulation or disclaimer on campaign information. Because of the disparate impacts, a deepfake AI's status of whether it is fraudulent may depend on the audience consuming the message. In Commissioner Dickerson's visit he touched on how "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" (Dickerson, 2023).

With information, even without regulation from the FEC, agencies could benefit from being "able to say, well, you know, here are some things that people are doing that you should be aware of. Do with that what you will" (Dickerson, 2023). This could be especially true over social media as users tend to take what they see as more of the truth and are less likely to need validation to create an opinion. By allowing this type of campaigning to

flow with no restrictions or restraints, real images and information impacting candidates may be harder to believe and fake images and information easier to promote.

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## Comment by Natalie Farina

Artificial Intelligence has become increasingly advanced over the past few years and has started to be used in the world of politics. This has become a growing issue as election season approaches. With the 2024 presidential election approaching, there have been AI-generated deepfakes of candidates used in their campaigns. Opponents have also been using AI-generated content to defame others who are running for the election. These generated videos and deepfakes can spread extremely fast, especially with the use of social media. This can affect voters' decisions and increase the spread of false information about candidates.

Earlier this year, in April, President Biden announced he was running for reelection in 2024. His announcement did not use any AI-generated content. However, the Republican National Committee responded to his announcement with an AI-generated video. This video encompassed what they infer the next four years would look like under President Biden's administration. This includes a war with China, open borders, and more. While everything in this video is based on opinion, it introduced the use of AI in this election.

After this video was released, there was another deepfake audio clip made of President Biden supposedly announcing a military draft for the war in Ukraine. It originally had a disclaimer saying it was AI-generated, but after many reposts, this disclaimer became lost, and it became an issue of false information spreading. There have also been false images released from the DeSantis campaign, and others using artificial intelligence.

These examples of AI being used in politics are just some of many that have been circulating through the media. These generated deepfakes can be extremely damaging to the democratic election process and are hard to detect. To the untrained eye, it can be hard to see the difference between AI and reality. Having regulation or a complete ban on AI use in campaigns can stop people from questioning what is real or not and have more trust in the information being released from candidates' campaigns. While this does not stop civilians from making AI-generated content for this high-stakes election, if it is banned from campaigns, people can trust the information coming directly from them.

Candidates in the presidential election are already starting to use AI to create false content about their

opponents. These usually include false information, and can be very misleading. Already, false information has been spread about candidates made by opponents. This will only get worse if AI is not banned from campaigns. Being able to create false audio clips, videos, and images of candidates can be extremely believable, and confusing to voters. If AI-generated false information about a candidate came out right before voting, it can have the ability to sway voters and affect the outcome of the election.

Candidates using AI to misrepresent themselves is one of the biggest issues with AI-generated information. For example, if a candidate does not know enough about a specific topic to speak about it, they can hire someone to create a deepfake of them talking about the topic. This creates a false representation of the candidate and ultimately can sway voters, especially swing voters. This results in false campaign promises. Using AI will make it so that ultimately people are voting for AI generated versions of candidates instead of the raw human versions of themselves.

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## Comment by Morgan Filar

As stated by Robert Weissman, president of Public Citizen, "Deepfakes pose a significant threat to democracy as we know it" (Public Citizen). The Federal Election Commission has a full plate of responsibilities, but in order to publish rules that aid in eliminating deepfakes, the organization can focus on a few details which will assist the Public Citizen's petition for rule making on AI deepfake technology in elections.

Firstly, we can not ignore the fact that deepfakes are very present and are taking over. Ignorance is not bliss in this situation. Dickerson recently characterized generative AI as "the latest buzzword," yet buzzwords are terms that come and go. By informing citizens and especially voters during the elections, confusion can be avoided because people will be aware that deepfakes are present. People can be gullible and believe the first thing they see. By understanding this, it will be better to overcome and address the different problems such as the spread of false information and confusion.

Secondly, with the help of experienced scholars and researchers, information can be spread and taught. University of Virginia Law professor, Danielle Citron, has dedicated her life to researching the impact and background of deep fakes. Citron states, "With significant changeover in leadership at social media companies, I question whether the policy and technical teams are in place to fully assess the proliferation of malinformation across platforms" (McKenzie 2023). With new staff constantly being hired in the government, the importance can get lost in the list of other things that need to be accomplished. Deepfakes are becoming more of a threat, as people are seeing visible damage that is caused by fake items being created. Citron has discovered the troubling reality of deepfakes and how they are set to effect 65 elections in 54 countries throughout 2024. The state legislatures should consider bills and hold hearings and invite witnesses like Citron. Bringing in intellectuals like her to speak to citizens or publish newsletters will help inform the public.

Finally, the FEC should pay close attention to use technology to their advantage. While this might sound crazy because technology is the sole reason behind the damage from deepfakes and AI, it can also help to acknowledge when deepfakes are being utilized. The evidence found by technology can indicate when deepfakes are used, which helps voters detect when things may not be completely reliable or true. While the information found might not be 100% accurate, it is helpful and can help with removing misinformation. It is a step in the right direction.

Public Citizen's petition presents the FEC with a demanding task, yet one that can be surmounted if the agency acknowledges common use of deep fakes, considers evidence from experienced researchers and scholars, and even uses technology, even perhaps AI itself, as part of the remedy. These are many peices of information that would help the FEC come to a decision with the hopes of full integrity, these these three stood out to me in terms of helpfulness after taking class lectures and Holman's visit into consideration. It is a tricky situation, because personally, I do not believe that deepfakes will ever disappear. However, we can take steps to overcome the confusion and misinformation spread by this.

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## Comment by Austin Hendricks

Deepfake AI technology has already embedded itself into various forms of social media and news. I believe the spreading of misinformation will have cascading negative effects on elections, the reputation of targeted individuals, and certainly the mental health of those who consume it.

Philippa Wain (2023), a technology reporter for BBC, noted several quotes from Rachel Dame's report on children viewing pornographic content: "If we find this content, we remove it immediately...we also use machine learning to help us detect it and are working constantly to improve these capabilities."

There are two essential crossovers from this example. Firstly, deepfake AI will share some negative psychological effects that pornography has on not just children but the population as a whole; some of which being "increased misogyny...unrealistic expectations...unreasonable sexual expectations that may change what people expect from 'typical' sex."

AI presents the issue that any lie imaginable can be made believable to any audience desired. Similar to the unrealistic expectations porn can create, AI takes people's expectations by storm with the ability to make whatever information desired believable. Not only does AI have the power to transform lies into facts but malinformation as well; there is no way of telling how far people will go spreading information that is designed to depress and concern others. Alongside the effects of AI, its reach will only grow further and further as the world becomes a more electronic environment. People in first-world countries are essentially cyborgs already which is concerning enough in itself, yet the power of deepfake technology could make the situation far more dire. This power can generate huge shifts in not only polling and ideology but people's health. The world already has enough problems as is, and with AI, people or the machine itself can make an infinite amount more. Issues could consist of anything, whether convincing people there's a resurgence in the COVID-19 pandemic or a recession in the economy.

The later crossover is a more positive observation. As Rachel Dame stated, AI can be used to fight against pornographic content appearing on children's search engines. Moreover, there is hope

for restraining deepfake technology if it can be reverse-engineered in a way that detects itself in user-posted media. Say legislation passes that AI must be met with restrictions and limitations, AI can be used to detect and limit this content automatically. Otherwise, there is little people can do in the way of AI corruption as the quantity of AI content being made will keep growing exponentially.

The most important legal aspect ascertaining this issue is one noted by Alex Baiocco (2019) in his article, "If audio or visual content is manipulated in a way that defames, those harmed may sue and can win judgments to have the content removed and obtain monetary awards for damages from perpetrators."

State law can address the spreading of deepfake AI if it can be deemed as defamation. Considering the exponential growth of AI today, surely technology will be developed at some point that can relatively accurately detect defaming deepfakes and make the media a safer place.

Deepfake AI in media must be met with urgency and harsh limitations. The mentioning of defamation and examples of other online cancers such as the black market, criminal websites, and pornography may helpfully sway legislation into place. If other forms of malicious media and internet content can be controlled, why can't deepfake content be as well?

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## Comment by Amber Kahrs

We have evolved into an era of technology where it is becoming easier to fabricate, spread misleading information, politically weaponize, and manipulate other people. Now with the public use of artificial intelligence and deepfakes, it is getting easier to deceive people and create controversial news. With that being said, the Federal Election Commission, FEC, is in a position to form regulations against deepfake and AI in election campaigns, and there is a lot of evidence as to why rulemaking in this area is urgently needed.

The first step to controlling and making people aware of deepfake use is to acknowledge its presence. The president of Public Citizen, Robert Weissman, stated, "Deepfakes pose a significant threat to democracy as we know it" (Public Citizen). By understanding and being able to admit the fact that deepfakes are taking over helps the public become more aware of what is being put online and how to address it. Nowadays, people do not fact-check what they first see online and can be easily deceived. Being able to address the public and let them know that there is false information being spread online through deepfakes and AI is the first step to regulating this issue and understanding its gravity.

Another piece of evidence that the FEC should pay attention to is the use of deepfakes in regard to the First Amendment. The First Amendment allows us to have freedom of expression, something that is not seen in many government systems. With the expansion of deepfakes and AI, it poses a big threat to the integrity of elections and is harder to regulate due to us being allowed to speak and express ourselves. However not all speech is protected by the Constitution, so there are some exceptions within the First Amendment. A *Princeton Legal Review* article states, "these exceptions include libel, written defamation, slander, spoken defamation, and profanity... As these forms of deepfakes would not be protected, it would be completely legal to impose federal bans or restrictions on them" (Quirk 2023). Since deepfakes are normally copyrighted content from another source, the creation of one could be

considered copyright infringement. If the FEC can create more regulations and tell the public about the potential violations of the First Amendment through the use of deepfakes, it can potentially decrease the number of people using them.

This issue of deepfake and AI technology is starting to become a violation to our democracy and ethics. It is extremely important to control this problem as it can be very destructive in elections, to both the candidates and the voters. It has become very easy to depict other candidates in a negative light, and this technology has made it scarily easy to do that. There needs to be regulations put in place by the FEC that includes making the public aware of this issue and enforcing the First Amendment. Although we are given our freedom of speech, falsely depicting someone and politically weaponizing is not protected by it. Unfortunately deepfakes cannot be banned completely, but there needs to be stricter laws in regards to their use.

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## Comment by Peter Kazas

One of the most significant and controversial topics that is extremely prevalent in the upcoming election is the usage of AI and deepfake technology. The side arguing against the use of this new technology seems to bring up the fact that it seems morally wrong and unfair to use AI and deepfakes as an advantage in elections. Due to the rapid increase in the number of deepfake cases, the Public Citizen and the Federal Election Commission has now started to get involved. In terms of rulemaking, there are a few different pieces of evidence and examples that the FEC should take into consideration when they are discussing specific rules and guidelines that need to be implemented into elections.

When it comes to the use of deepfakes in elections, the main thing that is always pointed out is the fact that it may seem unfair. However, not only in some cases is it unfair, but it creates more confusion and adds more questioning to the voters. In the past few elections, voting numbers have already decreased, especially within the younger demographics. According to “Five Thirty-Eight” in any given election, there seems to be anywhere between 35% and 60% of voters who do not cast their votes. In a recent survey, 26% of eligible voters end up not voting because they feel like their vote wouldn't matter (Thomson-DeVeaux, 2020). This is an important piece of evidence that I think the FEC should take into consideration, since it can create more confusion when it comes time to cast their vote. If deepfakes and AI start to run the campaigns, people will soon begin to think that their votes and say will never be able to outweigh the endless capacities and possibilities of deepfakes. Another thing to keep in mind is the fact that the “overall capacity to generate deepfakes is proceeding much faster than the ability to detect them” (Engler et al., 2022). This piece of evidence goes hand in hand with the fact that technology is continuing to evolve quicker than humans. This will lead to more overall confusion and deception when it comes to elections.

Another piece of evidence that the FEC should take into consideration is the overall accessibility, and abilities for individuals to create deepfake videos and images. “I don't think there's a website where you can say 'create me a video of Joe Biden saying X.' That doesn't exist, but it will” (Benson, 2023). “If we start to see a significant number of deepfakes spreading during the election, it's easy to

imagine someone like Donald Trump sharing this kind of content on social media claiming its real” (Benson, 2023). These quotes from “Wired” are something that the FEC needs to pay special mind to. It can lead to a lot of misinformation and deception if we continue to allow deepfakes to control elections.

The FEC should also consider the idea that people will often be so confused in thinking that this information is real, they will begin to run with it and start to generate more buzz around it. “An additional study illustrates that those who have controversial views that align with the content of a deepfake are more likely to share the content online. The researchers found that a single brief exposure to a deepfake can influence implicit attitudes, explicit attitudes, and sharing intentions” (Cook, 2022). This is something that should alarm the FEC. The more cases of deepfakes creating inaccurate news and stories, the higher risks of disputes between political parties. It will almost become a neverending cycle of both sides claiming that the other side is using or referencing an incorrect AI generated story, especially when it comes to high profile controversial political topics.

These are just a few pieces of evidence that showcase the dangers of deepfakes. The FEC should take these into consideration and try to implement an action plan that will not only limit deepfakes but regulate them as well. If we can increase the regulation of deepfakes, then I think there will be an increase in the overall credibility of elections.

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## Comment by Lily Kramer

The petition by Public Citizen calls on the Federal Election Commission to clarify that deceptive deepfakes made through artificial intelligence should not be allowed by candidates or their employees or agents under the federal law that prohibits fraudulent misrepresentation (Weissman and Holman, 2023). The FEC should consider this petition due to the harmful effects of deepfakes on U.S. culture and society. Commissioner Dickerson expressed concern over the FEC's role in defining AI (Dickerson, 2023). However, the petition is not calling for the FEC to make any actions towards AI use in general. Specifically, clarification is called for "deliberately deceptive deepfakes" (Weissman and Holman, 2023). Though there may be some issues in identifying when exactly this type of technology is in use, there is general agreement over what a deepfake of this nature is. The law would only apply to situations in which AI is used to create a false image or video of a candidate. The overall prevalence of deepfakes may lead to more widespread societal issues of trust in the media and electoral process. The FEC should take note of this effect of deepfakes and consider the potentially negative impact.

In terms of trust as it relates to deepfakes, the FEC should specifically consider a 2020 study by Cristian Vaccari and Andrew Chadwick, "Deepfakes and Disinformation: Exploring the Impact of Synthetic Political Video on Deception, Uncertainty, and Trust in News." The authors investigated how the inclusion of a disclosure on a deepfake impacts viewers' perceptions and found that "Exposure to one of the deceptive deepfakes decreased trust in news on social media indirectly by eliciting higher levels of uncertainty" (Vaccari and Chadwick 2020, p. 7). In other words, when a deepfake was shown without a disclosure that there was deepfake technology in use, there was an increase in uncertainty and a decrease in trust in news on social media from those who viewed it. This is significant in terms of the potential clarification by the FEC, because Public Citizen's petition is specifically calling for deepfakes without disclosures to be prohibited. If the FEC does clarify that existing laws should apply to deepfakes that are unlabeled, the study suggests there may be greater certainty and trust in the information shared online.

The FEC should consider this study because of the implications of a lack of trust in information. While it is good for people to think critically about the media they consume, problems may arise if people feel they cannot depend upon any source for information. The study focused on trust involving social media news specifically, which is of concern as these platforms become increasingly influential in the sharing of information. A decrease in uncertainty which can foster distrust has the potential to disrupt the way in which we communicate. For example, issues of trust can be significant in terms of the way in which people evaluate information. According to Van Duyn and Collier (2019) one's ability to correctly evaluate the truth of information can be hindered by skepticism (p. 42). Labeling may decrease skepticism about content from candidates because individuals will be able to have more certainty that their non-deepfake content is genuine. If members of the public are less skeptical about information coming from these sources, then they may be better able to assess that information. As a result, voters will be able to make better informed decisions in terms of evaluating candidates overall.

Notably, the FEC's ruling will only address deepfakes coming directly from candidates or their agents. This limitation means that it will still be possible for other sources to publish deceptive deepfakes, which may have a negative impact on potential voter trust. However, focusing on candidates directly is significant. According to Wardle and Derakshan (2017), information disorder consists of an agent, a message, and an interpreter. They clarify that when a message comes from an agent who is an official actor, as would be the case in candidates, it is more likely to have a larger impact (Wardle and Derakshan 2017). The harmful effects of deceptive deepfakes will be more significant if they come from official campaign sources, so the FEC's ruling to prohibit this will diminish these effects. Also, though trust in general may still be at risk due to other sources publishing deepfakes, this ruling will allow for individuals to be more certain in the information they receive directly from candidates and their agents.

Additionally, there can be other methods used in connection with the potential FEC ruling to further

foster a sense of trust. For example, the implementation of media literacy education can be successful in reducing the harm that may be caused by deepfakes (Hwang et al. 2021). If individuals can be confident about the content they receive from official campaign sources and learn tools to navigate the content from other sources, they will be better off in terms of the negative impact of deepfakes. So, though the ruling may not completely eliminate all potential negative impacts of deepfakes, it will be helpful. The FEC's founding statute does indicate that the commission should take steps to encourage people to cooperate with the law (Dickerson 2023). So, regardless of this specific regulation, the FEC can still take other steps to ensure trust in elections with respect to deepfakes.

If candidates are able to freely create and share deceptive deepfakes, then this opens the door for potential voters to experience confusion about whom they can trust. To avoid this and the negative effects that will come with it, the FEC should clarify that existing legislation prohibits candidates from using deepfake technology in this way. The issues surrounding deepfakes and elections will expand beyond this clarification, so regardless of this situation, other steps should be taken to address them in the future.

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## Comment by Marisa Lucente

Voter turnout remains at the forefront of problems in the United States. Compared to other countries, the United States voter turnout trails, ranking 31st out of 50 in turnout according to a survey from Pew Research Center (2022). The United States' low turnout is accredited to nearly two-thirds of Americans who say, "they always or often feel exhausted when thinking about politics" (Pew Research Center, 2023). If Americans were exhausted then, they will soon be even more exhausted thanks to new advancements in technology.

It is apparent that many Americans who feel exhausted by politics have a distrust of our electoral process as well. One report found that the root of this increasing distrust in our democracy comes from the "explosion of misinformation deliberately aimed at disrupting the democratic process, [which] confuses and overwhelms voters" (Sanchez & Middlemass, 2022). In the 2024 presidential election, the main source of this explosion of misinformation is the unregulated use of deepfake technology.

In the context of political campaigns, deepfake technology has been and will continue to bend reality, making it appear that political figures are saying and doing things they are not through fabricated images, videos, and audio clips. As this technology becomes more advanced and accessible, false information produced by AI will spread like wildfire, misleading the nation. According to the Pew Research Center, "Nearly two-thirds of Americans (63%) say made-up or altered videos and images create a great deal of confusion about the facts of current issues and events" (Gottfried, 2019). Fake images and videos paired with AI-generated audio claiming to be from a trusted source will make it extremely difficult for Americans to identify and discern what is real. Thus, deepfake technology has the overarching ability and motive to confuse and manipulate public perception of these political figures. We are already in a climate of political polarization and distrust of one another. Deepfake technology will only make it worse.

Now, citizens who were already skeptical of the electoral process must maneuver through an electoral process based on deepfake technology. A 2022 survey conducted by National Public Radio (NPR) found that "64% of the American population believes that U.S. democracy is in crisis and is at risk of failing" (Sanchez & Middlemass, 2022). If the use of deepfake technology remains unregulated as we inch closer to the 2024 presidential election, skeptical Americans, who cannot differentiate between fact and fiction, will lose more trust in the electoral process and decide to stay away from politics altogether. This will translate into a major decrease in the participation rate of an election. As a result, our democracy will lose its legitimacy and the value of free and fair elections in which we as voters make informed decisions. We, citizens, rely on the integrity of political elections to guarantee our voices and concerns are heard and our rights are protected. That will soon mean nothing if action is not taken to regulate deepfake technology in political campaigns. The future of democracy is at stake.

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## Comment by Ashlynn Moretti

We find ourselves in the digital age today, a period marked by the advancement of technology and its intertwining within our everyday lives. Technology has been seamlessly integrated into every part of our existence, making it nearly impossible to separate ourselves from it completely. Undeniably, technology has brought many benefits with its continuous advancements, but in addition to the benefits, challenges followed. Artificial intelligence (AI) is one of humanity's most significant challenges. Its development is advancing quickly, and many believe it can threaten our democracy more than any other technology has before. We are in the first-ever election period in which AI-generated content is prevalent, and many are unaware of what lies ahead of this novel challenge (Hsu & Myers, 2023). However, after reviewing the Public Citizen's recommendations, I question what the true threat is: Is it the technology itself or the public's lack of awareness and knowledge of the technology?

Therefore, the core dilemma I bring is, will the Public Citizen's recommendations of banning or implementing transparency regulations, such as disclosure of all AI-generated content alone, "save democracy" and prevent further threats? Or is the answer much more than that? In my opinion, the Public Citizen's recommendations miss critical factors in this race and do not acknowledge the period we live in today, the digital age. Before pursuing these recommendations, the Federal Election Commission (FEC) must consider our current era and acknowledge that banning and regulating AI-generated content is not a sustainable solution, nor is it entirely possible in the time we live. Additionally, banning and regulating AI-generated content, as the Public Citizen's organization described it, may cause more harm than good and could create an even larger threat than now.

In this process, the FEC should pay special attention to what AI-generated content is and how it is used. Some individuals use AI as a way to spread their message, whether it is positive or negative. These messages sent through these AI technologies can be used to easily manipulate, persuade, and engage each other on different topics (Fung & Lessig, 2023). The power of manipulation and persuasion these AI-generated messages hold are strong and must be dealt with using education

rather than censorship (Wardle & Derakhshan, 2017). The creation of AI has done much good in our time and continues to advance as we grow as a society. In no time, it is predicted to reach AGI (Artificial General Intelligence), which resembles all aspects of a human, such as cognitive, emotional, and social intelligence (Haenlein & Kaplan, 2019). This advancement is inevitable with or without regulations or banning AI-generated content in electoral campaigns. This advancement does not care and will not wait for people to decide to try and understand its former, less-developed self.

Therefore, with this advancement, even more concern is raised, and the issue of how one will know what is AI and what is not AI becomes more complex. This is one of the current problems trying to be solved with transparency using disclosure marks and messages or banning. However, this issue's root is way deeper than transparency or banning; it stems down to education and people's awareness of it. If the government were to pursue the first and third recommendations, "ban all deepfakes in electoral politics" and "require disclosure of all AI-generated content, including text," a massive loophole would remain and allow citizens and independent organizations to continue producing unregulated AI-generated content (Weissman, 2023). Individuals' content could contain disinformation and spread fraudulent misrepresentations of candidates, and with the lack of awareness surrounding this topic, many could continue to believe it. Furthermore, suppose the government pursues the first and third recommendations, and AI advances into AGI. In that case, there will continue to be no technology awareness and education, creating a more significant knowledge gap between the generations willing to understand AI and those not than ever before. This is known as the technological generational gap, encompassing generational differences and how they interact with technology. Older generations are commonly understood to be slower to leverage newer technologies, while younger generations are quicker to engage and understand new technologies. These gaps also speak of the willingness of the generation to attempt to adopt or accept these technologies into their lives (Norton, 2021). Therefore, if these technologies continue to advance and are censored in some instances but not in others, a mass

miscommunication is possible, and distrust in the election process would grow, threatening democracy even more.

The creation of AI goes back to the early 1950s, but the AI system that has raised concern in this election period is "Deepfake." Deepfake is not a new technology; it was invented in 2017 and has been used thousands of times in the past few years (Payne, 2023). However, with its rising relevance in the 2024 election campaigns, more attention is being raised. Its "magic" (meaning manipulation and persuasion) is stronger than ever before due to many seeing it as novel technology (Haenlein & Kaplan, 2019). This is another factor that the FEC must pay special attention to. If the government is not careful and ignorantly censors AI-generated content only in electoral campaigns, mis- and disinformation will continue to spread; possibly even worse than before. The "magic" would continue to grow stronger, further developing its film of deception due to the lack of understanding of the technology. This type of censorship could also add to another threat to democracy, the threat of infiltration of global input into the American election system without knowing.

To draw back to the two questions I asked at the beginning of this comment, 1) Will the Public Citizen's recommendations of banning or implementing transparency regulations, such as disclosure of all AI-generated content alone, "save democracy" and prevent further threats? 2) Or is the answer much more than that? I would say that it is much more than that and that the threat lies between two things, one more than the other: the technology itself and the public's lack of awareness and knowledge. The FEC must focus on bridging the generational gap because it is equally, if not more, pivotal than altogether banning or regulating AI-generated content. Bridging the generational gap would help prevent future threats using technology and solve many current threats, such as mis- and disinformation within media; it has the

ability to save democracy. The bridge would prompt an understanding of this technology's magic, further making the magic disappear due to understanding (Haenlein & Kaplan, 2019).

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## Comment by Catherine Scioscia

Dear Commissioners, as you consider possible executive action regarding the petition for rulemaking by Public Citizen, I raise concern for the safety of citizens and the integrity of a sovereign representative democracy. If the government is to turn a blind eye to this matter, you are running the risk of mass hysteria and distrust of the government and all candidates. The very core of our democracy could fracture. As Craig Holman (2023) attested while speaking to our class about this issue,

Many, many Americans already distrust the entire electoral process and this is a pillar to keeping democracy... If Americans don't trust elections and election results, we are gonna lose democracy.

From Commissioner Dickerson's (2023) visit to our class, we learned that the ability of the Federal Election Commission (FEC) to "just do good things" is limited by the narrowness of laws that authorize executive action. Yet Commissioner Dickerson (2023) also acknowledged that the FEC does have authority to regulate political campaigns when they make "fraudulent misrepresentations of agency."

Why not pass narrow rules that limit candidates to certain use of AI? The campaigns themselves should uphold a standard of truth and trustworthiness, as the foremost producers and distributors of campaign advertisements. The FEC does have authority, granted in the Federal Election Campaign Act of 1971, to adopt narrow rules in this area and to encourage voluntary compliance.

The First Amendment protects our individual right to freedom of speech and press, which should not be limited or censored by the government. FEC executive rulemaking surrounding generative AI would not censor speech, but merely regulate the "time, place, and manner" of campaign communications, which the Supreme Court (*Cox v. New Hampshire*, 312 U.S. 569) said in 1941 was appropriate to further a compelling state interest. A rule requiring transparent disclosure of generative AI use in campaign materials would be such a constitutional regulation on the "manner" of speech. Candidates are the ones who should be held to the highest standard of truth and transparency, for they are the ones serving the nation. Trust in our elected representatives is the only way we can maintain this fragile system of representative

democracy. If we cannot trust our elected officials, there is no reason to adhere to government policies. We need to address this risk of distrust before it sweeps the nation.

I would like to remind the FEC of the potential risks posed by this technology to older generations of Republican voters when considering the question: What can we do to further ensure that deepfakes pose little threat to the majority of citizens, regardless of background, education, or personal convictions?

During his class visit, Commissioner Dickerson (2023) also raised a concern about "conflict of laws," pointing out that "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." Yet, to me, such potential conflicts seem to call less for inaction, and instead for more interagency collaboration between the FEC, the FCC, the FTC, and the U.S. Copyright Office. All of these agencies are conducting ongoing investigations into the field of Artificial Intelligence, but none have definitive authority to speak on it. Section 312(f) of the Federal Election Campaign Act of 1971 says these agencies are given the authority to collaborate and create shared definitions that are mutually consistent, forming a consensus on what executive rules must be created in order to ensure voluntary compliance across the board.

I would also strongly urge the commission to consult AI programmers for a comprehensive analysis in order to best understand the topic. Other bodies such as the European Commission are in the midst of developing a voluntary framework for programmers to use in helping content creators achieve transparency. Therefore, the FEC should respond affirmatively, yet judiciously, to the Public Citizen petition in order to safeguard our democratic republic and protect citizen's trust in government and elected officials.

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## Appendices

### Appendix 1: Public Citizen Petition Discussion Assignment (Packback Questions)

[Packback Questions](#) is an inquiry-driven discussion platform, integrated with the Canvas Learning System used for this Evidence course. Using the tool, "students ask the discussion questions, giving [them] a space to develop their ideas, take an active role in learning, and practice writing. Packback's A.I. Instant Feedback and Moderation ensure that the discussion stays on track, helping educators spend less time managing the discussion and more time engaging with students."<sup>3</sup> For this assignment, student discussion was seeded with an instructor "guide post" that established parameters and suggested possible question angles (see Fig. 3). Packback's instructional AI rated each student question and answer on a "[curiosity score](#)" scale, with higher ratings awarded to contributions that scored well in "legibility and presentation . . . inclusion of reliable sources to defend ideas and arguments . . . and effort that the writer put into each post."<sup>4</sup> Tailored teacher feedback on featured posts (see Fig. 4) highlighted especially insightful student contributions and steered discussion.



Guide Post from [Gordon Mitchell](#)  
Instructor at University of Pittsburgh-Pittsburgh Campus

### Public Citizen petition

After reading Public Citizen's "Petition for Rulemaking to Clarify that the Law Against 'Fraudulent Misrepresentation' (U.S.C. 30124) Applies to Deceptive Campaign Ads," what question do you have? Think broadly about the possible parameters of an open-ended question: It could be about the overall issue of deepfake campaign ads, a point of logic or evidence in the petition, or even something you would like to ask Craig Holman, co-author of the petition. Note: we will be visiting with Holman during the Sept. 12 class, and the anonymized discussion content posted here will be shared with him in advance of the meeting, in order to help drive the conversation.

*Figure 3. Instructor guide post for Packback Questions Assignment #1.*

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<sup>3</sup> See Packback, "Packback Questions," <https://www.packback.co/product/questions/>

<sup>4</sup> Packback, "How are Curiosity Scores Calculated?," <https://www.packback.co/resources/the-packback-curiosity-scoring-system/>



 **Gordon Mitchell praised this post!** 

This points our attention to the insidious mechanisms through which deepfake AI proliferation has effects beyond the semantic content of particular messages.

Identified a cutting-edge dimension of the question, explained it concisely, and cited a credible source for support.

*Figure 4. Example of instructor praise for a specific Packback Questions student post featured to the group for its excellence.*

## Appendix 2: Holman Visit Preparation

Student work from first Packback Questions discussion assignment helped the class prepare for a remote Zoom visit by Craig Holman, senior attorney for Public Citizen and co-author of the petition driving the FEC rulemaking process. An omnibus text file of all the student questions and answers for this assignment was fed into ChatGPT-4, with a prompt, "summarize content into questions" (see [prompt engineering record](#)).<sup>5</sup> The resulting list of questions (see below), provided Holman a sense of the student "hive mind" prior to his class visit (see Fig. 5), highlighting avenues of discussion that could connect student discussions to real-world-real-time (RWRT) engagement with a key advocate.

ChatGPT-4: Certainly! Here's a synthesized list of seven questions based on the content provided:

- 1. How is the rapid evolution of AI and deepfake technology reshaping the current political landscape, particularly in political commercials?**
  - With political campaigns seemingly more aggressive in their approach, there's a potential for AI-driven tools to exaggerate these tendencies, potentially leading to misinformation.
- 2. What ethical safeguards and legislation can be put in place to ensure the responsible use of AI in political campaigns, preventing potential voter manipulation?**
  - As AI becomes more prevalent, there's an urgent need to establish regulations that prevent its misuse, ensuring that voters are not deceived or influenced under false pretenses.
- 3. Considering the generational gaps in technological literacy, how will deepfakes impact different demographic groups, and what educational measures can be taken?**
  - As younger generations become more technologically savvy and older generations potentially remain unaware of deepfake capabilities, there's a risk of disproportionate misinformation that needs addressing.
- 4. Given the inherent mistrust associated with deepfakes, how do they challenge traditional notions of authenticity in politics?**
  - Deepfakes blur the line between reality and fabrication, leading to a more complex landscape where voters may struggle to discern truth from fabrication in political content.
- 5. How can voters be empowered to discern between genuine information and deepfakes, especially in the age of widespread social media consumption?**
  - With the rise of social media as a primary source of information, voters need tools and education to critically assess content, ensuring they aren't misled by sophisticated AI manipulations.

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<sup>5</sup> Gordon R. Mitchell, synthetic communication with ChatGPT-4, September 11, 2023, <https://chat.openai.com/share/4d2dad83-822f-4631-aa50-717e0f825008>

6. **Are there potential positive applications of AI and deepfakes in political campaigns, and if so, how can they be ethically integrated?**
  - While deepfakes have been associated with deception, there's potential for AI to provide informative and educational content; the challenge lies in ensuring transparent and ethical application.
7. **Considering that current laws might not directly address the use of deepfakes, how can campaigns be held accountable for disseminating manipulated content, even if they didn't create it?**
  - The ethical dilemma intensifies when campaigns spread deepfakes without creating them, highlighting the need for comprehensive legislation that addresses both creation and distribution of such content.

**From:** Mitchell, Gordon Roger <gordonm@pitt.edu>  
**Date:** Monday, September 11, 2023 at 11:00 AM  
**To:** Craig Holman <cholman@citizen.org>, Emily Leach <ELeach@citizen.org>  
**Cc:** Omar Baddar <obaddar@citizen.org>  
**Subject:** Re: FEC AI rulemaking

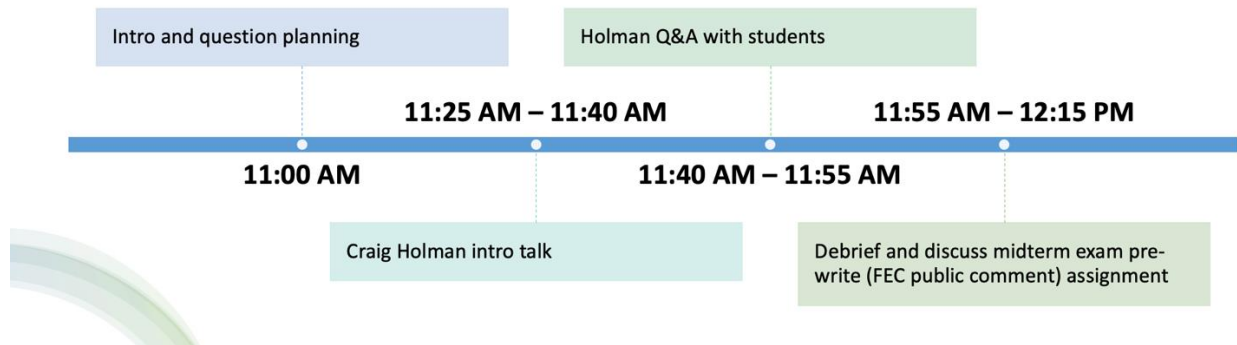
Hello again Craig,

That omnibus Excel file containing all the student text generated for this assignment could be a bear to navigate before class, so I ran it through ChatGPT-4 to synthesize seven major questions below (see link [here](#) for synthesis methodology):

*Figure 5. E-mail communication from Gordon Mitchell to Craig Holman regarding synthesis of Packback Questions content, September 11, 2023.*

## Appendix 3: Holman Visit Logistics

### Class Timeline



*Figure 6. Timeline of Craig Holman's remote visit to Evidence class, September 12, 2023 (source: PowerPoint slide displayed by instructor).*

## Appendix 4: Holman Visit Reflection Discussion Assignment (Packback Questions)

Students were invited to contribute questions and answers to a class discussion using Packback Questions, focused on reflections and lessons learned from Holman.

### **Holman visit reflections**

What new question was raised for you after visiting with Craig Holman? Was there something he said that made you curious to learn more about? How about a question stemming from how Holman was answering your student questions? Perhaps you have a question about something he *didn't* say. See the link below to review the visit, and bear in mind you can access a written transcript of the exchange in Panopto, enabling you to search for key words or moments that you recall as especially intriguing. If you plan to opt into the adjacent curriculum assignment (midterm pre-write FEC public comment), you can write a question designed to spur research and reflection on a topic relevant to your draft FEC public comment.

*Figure 7. Packback Questions Assignment #2 prompt.*

## Appendix 5: Adjacent Curriculum Concept

### ADJACENT CURRICULUM

Gordon R. Mitchell, PhD, University of Pittsburgh Department of Communication

#### Background

In "contract grading," students and teachers collaborate to tailor assignments and assessments. The adjacent curriculum is a form of contract grading where students opt into voluntary assignments that replace default syllabus coursework. Adjacent curriculum approaches may be especially useful in courses seeking to explore contentious topics via scholarly public engagement. This poster visualizes efforts to implement adjacent curriculum assignments in selected Dietrich School of Arts & Sciences (DSAS) Communication courses, 2021-2022. Poster content includes description of optional assignments prompting students to invent, hone, and disseminate public comments regarding possible U.S. federal government action to address facial recognition technology, new Alzheimer's disease treatments, and commercial surveillance and data security.

#### Assignment Sequencing and Workflow

- Illustrative example of adjacent curriculum implementation: Fall 2022 section of CommRC 1101 "Evidence," a DSAS class of 35 undergraduate students.
- Students were invited to compose a 300-word essay on the prompt: "Choose one or more questions from a Federal Trade Commission (FTC) call for public comment on commercial surveillance rulemaking and contribute an evidence-based response."
- 19/35 stuck with the standard curriculum workflow set in the syllabus (see figure below).
- 16/35 opted into the adjacent curriculum workflow (see figure below).
- 9/16 students opting in subsequently decided to formally submit their essays to the FTC for publication in *The Federal Register*, the official U.S. government repository for public comments on pending executive agency action (see Results – Summary to right).

#### Results - Summary

- Nine individual student public comments published in *The Federal Register* (see figure below, left).
- Student authored summary report published in Pitt's D-Scholarship repository (see figure below): <https://d-scholarship.pitt.edu/43943/>

#### Alpha and Beta Iterations

- Alpha:** Research from an interdisciplinary undergraduate student collaborative formed in Evidence responded to the White House Request for Information on biometrics (Fall 2021).
- Beta:** Seven students submitted comments (Spring 2022) to the U.S. Centers for Medicare and Medicaid Services regarding its pending Draft National Coverage Determination for aducanumab, a controversial monoclonal antibody treatment for Alzheimer's disease (see figures below).
- Student recognition:** DSAS SURA research award (\$4,000); Dept Comm Spiegel book award (\$500).

#### Standard Curriculum

- Set by syllabus at course outset.
- Includes all-class study of commercial surveillance topic.

#### Adjacent Curriculum

- Students opt into assignment that "pre-writes" 60% of their midterm exam grade.
- Choice to publicly submit comment purely up to students, no grade implications.

(No extra graded work beyond standard midterm exam)

#### Conclusion and Discussion

- Three implementation iterations yield evidence that adjacent curricula provide students with meaningful opportunities to translate coursework into real-world, real-time (RWRT) scholarly public engagement.
- Limitation:** Effectiveness and scaling may hinge on availability of RWRT engagement opportunities.
- Limitation:** Labor intensive, as implementation requires teacher to support parallel curricular tracks simultaneously.
- Question:** Do optional dimensions finesse potential compelled public speech concerns?
- Question:** Do students sticking with the standard curriculum receive an "undergraduate research experience"?

Figure 8. "Adjacent Curriculum," poster presentation by Gordon R. Mitchell at the University of Pittsburgh Innovation in Teaching Conference, Pittsburgh, PA, 2022.

## Appendix 6: FEC Public Comment Writing Assignment (Packback Deep Dives)

Packback Deep dives is an instructional AI tool that gives students instant AI writing feedback on grammar and mechanics, depth, and prose flow. The tool also provides students with instant feedback on source citation credibility and reference list generation support.<sup>6</sup>

### Deep Dive Prompt



A few words from your instructor  
**Gordon Mitchell**

This is a purely optional assignment. Students wishing to take the full regular mid-term exam can pass on this option, with no grade penalty. However, students opting in to write an FEC public comment can earn up to 20 points (40% of the midterm exam points - substituting for the conceptual mastery component) by:

- Submitting a draft of their FEC public comment to a previous Deep Dive assignment by **October 1, 2023, 10:00 p.m.** This will facilitate peer and editorial review.
- Submitting a revised, final version of their FEC public comment here by **October 13, 2023, 10:00 p.m.** Your final comment will then be graded, and it will be purely up to you whether you choose to submit the comment to the FEC (note their Oct 16 deadline, when the public comment window closes).

Comment guidelines:

- Prompt: In considering Public Citizen's petition for rulemaking on AI deepfake technology in elections, what evidence should the Federal Election Commission pay special attention to, and why?
- Minimum 500 words, no maximum.
- Provide citations for all source references, consistently applying APA citation style.

### Details

#### Deadline

10/17/2023 at 11:00 PM EDT

Note for Instructors: Late submissions **are allowed**

#### Requirements

**Wordcount & Depth** (2 points)

500 + Words

**Research & Citations** (2 points)

3 + Sources

Points docked if outside of source range

**Formatting & Presentation** (1 points)

**Grammar & Mechanics** (2 points)

**Flow & Structure** (2 points)

**Prompt responsiveness** (6 points)

**Evidence-based approach** (5 points)

*Figure 9. Adjacent curriculum Packback Deep Dive assignment prompt.*

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<sup>6</sup> Packback, "Deep Dives," <https://www.packback.co/product/deep-dives/>

## Appendix 7: Adjacent Curriculum Grading Rubric (Packback Deep Dives)

The optional Deep Dives writing assignment was worth 20 points, replacing fully the 20-point "conceptual mastery" portion of the course's pending midterm examination. Nine of the 20 points were assigned using AI grading support on instant feedback criteria focusing on writing mechanics (see Fig. 10). The remaining 11 points were evaluated by hand using a tailored rubric with 6 points allocated for "prompt responsiveness" (see Fig 11) and 5 points allocated for "evidence-based approach" (see Fig. 12).

<b>Word Count &amp; Depth</b> Requirement: 500+ Words	2 points
<b>Research Quality</b> Requirement: 3 Sources	2 points
<b>Formatting</b> Requirement: APA Style	1 points
<b>Grammar &amp; Mechanics</b>	2 points
<b>Flow &amp; Structure</b>	2 points

Figure 10. Packback Deep Dives AI assisted grading rubric

**Prompt responsiveness and timeliness** 6 points

### 6 Exemplary

[Toggle Criteria ▾](#)

The comment responds cogently to Public Citizen's call for FEC rulemaking on deepfake AI election campaigning, with all assignment deadlines met.

Figure 11. Prompt responsiveness grading rubric element.

**Evidence-based approach** 5 points

### 5 Exemplary

[Toggle Criteria ▾](#)

The comment shows an evidence-based approach by 1) drawing from, and citing properly, at least one concept from the Evidence course reading list; 2) isolating a specific piece of evidence that the FEC should consider, and 3) incorporating and citing other evidence to support your position.

Figure 12. Evidence-based approach grading rubric element.



## Appendix 8: Dickerson Visit Preparation

Draft student comments were downloaded from Deep Dives and fed to ChatGPT-4, with a prompt to generate "hive mind" questions flowing from the comments and tailored for Dickerson (see full [prompt engineering](#)).

ChatGPT-4: Given the deep concerns raised by the use of deepfakes and AI in politics, and taking into account Commissioner Allen Dickerson's background and expertise, here are probing questions tailored for him:

### 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?

These questions are designed to drive meaningful discussions and bring to the forefront the challenges, nuances, and potential strategies to address the impact of AI and deepfakes on the American electoral system.

## Appendix 9: Dickerson Visit Transcript

Zoom class session recorded October 12, 2023. Transcript generated automatically by Panopto and edited for concision and clarity.

- - -

**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 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 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?

**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 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.

**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.