



minnesota broadcasters association

May 6, 2024

Dear Sen. Erin Maye Quade, Rep. Zack Stephenson and Members of the Elections Conference Committee:

I write today to express the Minnesota Broadcasters Association (MBA) ongoing concern that provisions contained in the Elections Omnibus Bill do not adequately clarify liability for dissemination of a deep fake political advertisement.

As an industry committed to providing accurate news and information to the public, broadcasters across Minnesota share the concern of legislators regarding the potential proliferation of artificial intelligence (AI) generated false information, including deep fakes. However, it is important to note that broadcasters, like others, may inadvertently disseminate deep fakes, despite taking every precaution to avoid this.

Further, for all candidate advertising, broadcasters are forbidden by federal law from rejecting or editing a political ad, even if it does not comply with state laws. Moreover, a broadcaster has no way to determine if AI has been used in creating an ad, nor should the broadcaster be put in a position of having to judge whether the ad is violative of the prohibitions of state law.

The MBA supports the change to a stricter standard of liability found in both the House and Senate bills (House line 44.26), moving from “reasonably should know” to “acts with reckless disregard.”

Further, **the MBA also supports** the addition of clause (b) included in both bills (House lines 45.1-45.2), however we recommend that additional entities (notably cable companies) be included in this exclusion. Further, it is important to note that this provision only applies to candidate ads, not those created by other entities (political actions committees, issue advocacy organizations, etc.).

Finally, **we also support** and encourage the committee to adopt clause (c), included in Senate lines 58.20-58.27, regarding news coverage.

While the above changes provide more clarity in liability than currently exists in law, gaps remain and broadcasters continue to have concerns that they will be drawn into lawsuits. They expect that they will ultimately be found not liable following legal action but will likely have to spend thousands of dollars in legal fees.

Additionally, broadcasters have significant concerns that they will be caught in a no-win situation when an individual claims an advertisement contains a deep fake. What is a small radio station with three employees to do if they get an anonymous call claiming an advertisement currently airing contains a deep fake? If they continue to air it, are they acting in reckless disregard? If they pull it, does it become a campaign tactic to cry deep fake?



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In order to address these concerns, MBA urges the conference committee to replace the current clause (b), House line 45.1-45.2, with the following language:

(b) this subdivision does not apply to a website; social media platform; regularly published newspaper, magazine, or other periodical, including an Internet or electronic publication; a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer; or a streaming service; if the entity is paid to distribute political advertisements containing a deep fake prohibited by this section, provided that the entity has a policy that prohibits the use of misleading deep fakes.

The MBA thanks lawmakers for taking the time to consider this issue and urges conferees to fully clarify liability on this important issue.

Sincerely,

A handwritten signature in black ink that reads 'Wendy Paulson'. The signature is written in a cursive, flowing style.

Wendy Paulson
President