

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 115-81**  
**OFFERED BY MR. KILMER OF WASHINGTON**

At the end of division B (before the short title), insert the following:

**1 TITLE XIII—HONEST ADS**

**2 SEC. 1301. SHORT TITLE.**

**3** This title may be cited as the “Honest Ads Act”.

**4 SEC. 1302. PURPOSE.**

**5** The purpose of this title is to enhance the integrity  
**6** of American democracy and national security by improving  
**7** disclosure requirements for online political advertisements  
**8** in order to uphold the United States Supreme Court’s  
**9** well-established standard that the electorate bears the  
**10** right to be fully informed.

**11 SEC. 1303. FINDINGS.**

**12** Congress makes the following findings:

**13** (1) On January 6, 2017, the Office of the Di-  
**14** rector of National Intelligence published a report ti-  
**15** tled “Assessing Russian Activities and Intentions in  
**16** Recent U.S. Elections”, noting that “Russian Presi-  
**17** dent Vladimir Putin ordered an influence campaign  
**18** in 2016 aimed at the US presidential election . . .”.

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

7 (2) On November 24, 2016, the Washington  
8 Post reported findings from 2 teams of independent  
9 researchers that concluded Russians “exploited  
10 American-made technology platforms to attack U.S.  
11 democracy at a particularly vulnerable moment . . .  
12 as part of a broadly effective strategy of sowing dis-  
13 trust in U.S. democracy and its leaders.”

14 (3) Findings from a 2017 study on the manipu-  
15 lation of public opinion through social media con-  
16 ducted by the Computational Propaganda Research  
17 Project at the Oxford Internet Institute found that  
18 the Kremlin is using pro-Russian bots to manipulate  
19 public discourse to a highly targeted audience. With  
20 a sample of nearly 1,300,000 tweets, researchers  
21 found that in the 2016 election’s 3 decisive states,  
22 propaganda constituted 40 percent of the sampled  
23 election-related tweets that went to Pennsylvanians,  
24 34 percent to Michigan voters, and 30 percent to  
25 those in Wisconsin. In other swing states, the figure

1 reached 42 percent in Missouri, 41 percent in Flor-  
2 ida, 40 percent in North Carolina, 38 percent in  
3 Colorado, and 35 percent in Ohio.

4 (4) On September 6, 2017, the nation’s largest  
5 social media platform disclosed that between June  
6 2015 and May 2017, Russian entities purchased  
7 \$100,000 in political advertisements, publishing  
8 roughly 3,000 ads linked to fake accounts associated  
9 with the Internet Research Agency, a pro-Kremlin  
10 organization. According to the company, the ads  
11 purchased focused “on amplifying divisive social and  
12 political messages . . .”.

13 (5) In 2002, the Bipartisan Campaign Reform  
14 Act became law, establishing disclosure requirements  
15 for political advertisements distributed from a tele-  
16 vision or radio broadcast station or provider of cable  
17 or satellite television. In 2003, the Supreme Court  
18 upheld regulations on electioneering communications  
19 established under the Act, noting that such require-  
20 ments “provide the electorate with information and  
21 insure that the voters are fully informed about the  
22 person or group who is speaking.”.

23 (6) According to a study from Borrell Associ-  
24 ates, in 2016, \$1,415,000,000 was spent on online

1 advertising, more than quadruple the amount in  
2 2012.

3 (7) The reach of a few large Internet plat-  
4 forms—larger than any broadcast, satellite, or cable  
5 provider—has greatly facilitated the scope and effec-  
6 tiveness of disinformation campaigns. For instance,  
7 the largest platform has over 210,000,000 Ameri-  
8 cans users—over 160,000,000 of them on a daily  
9 basis. By contrast, the largest cable television pro-  
10 vider has 22,430,000 subscribers, while the largest  
11 satellite television provider has 21,000,000 sub-  
12 scribers. And the most-watched television broadcast  
13 in U.S. history had 118,000,000 viewers.

14 (8) The public nature of broadcast television,  
15 radio, and satellite ensures a level of publicity for  
16 any political advertisement. These communications  
17 are accessible to the press, fact-checkers, and polit-  
18 ical opponents; this creates strong disincentives for  
19 a candidate to disseminate materially false, inflam-  
20 matory, or contradictory messages to the public. So-  
21 cial media platforms, in contrast, can target portions  
22 of the electorate with direct, ephemeral advertise-  
23 ments often on the basis of private information the  
24 platform has on individuals, enabling political adver-

1       tishments that are contradictory, racially or socially  
2       inflammatory, or materially false.

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

15          (10) In its 2006 rulemaking, the Federal Elec-  
16      tion Commission noted that only 18 percent of all  
17      Americans cited the Internet as their leading source  
18      of news about the 2004 presidential election; by con-  
19      trast, the Pew Research Center found that 65 per-  
20      cent of Americans identified an Internet-based  
21      source as their leading source of information for the  
22      2016 election.

23          (11) The Federal Election Commission, the  
24      independent Federal agency charged with protecting  
25      the integrity of the Federal campaign finance proc-

1       ess by providing transparency and administering  
2       campaign finance laws, has failed to take action to  
3       address online political advertisements.

4           (12) In testimony before the Senate Select  
5       Committee on Intelligence titled, “Disinformation: A  
6       Primer in Russian Active Measures and Influence  
7       Campaigns,” multiple expert witnesses testified that  
8       while the disinformation tactics of foreign adver-  
9       saries have not necessarily changed, social media  
10      services now provide “platform[s] practically pur-  
11      pose-built for active measures[.]” Similarly, as Gen.  
12      (RET) Keith B. Alexander, the former Director of  
13      the National Security Agency, testified, during the  
14      Cold War “if the Soviet Union sought to manipulate  
15      information flow, it would have to do so principally  
16      through its own propaganda outlets or through ac-  
17      tive measures that would generate specific news:  
18      planting of leaflets, inciting of violence, creation of  
19      other false materials and narratives. But the news  
20      itself was hard to manipulate because it would have  
21      required actual control of the organs of media, which  
22      took long-term efforts to penetrate. Today, however,  
23      because the clear majority of the information on so-  
24      cial media sites is uncurated and there is a rapid  
25      proliferation of information sources and other sites

1 that can reinforce information, there is an increasing  
2 likelihood that the information available to average  
3 consumers may be inaccurate (whether intentionally  
4 or otherwise) and may be more easily manipulable  
5 than in prior eras.”.

6 (13) Current regulations on political advertise-  
7 ments do not provide sufficient transparency to up-  
8 hold the public’s right to be fully informed about po-  
9 litical advertisements made online.

10 **SEC. 1304. SENSE OF CONGRESS.**

11 It is the sense of Congress that—

12 (1) the dramatic increase in digital political ad-  
13 vertisements, and the growing centrality of online  
14 platforms in the lives of Americans, requires the  
15 Congress and the Federal Election Commission to  
16 take meaningful action to ensure that laws and reg-  
17 ulations provide the accountability and transparency  
18 that is fundamental to our democracy;

19 (2) free and fair elections require both trans-  
20 parency and accountability which give the public a  
21 right to know the true sources of funding for polit-  
22 ical advertisements in order to make informed polit-  
23 ical choices and hold elected officials accountable;  
24 and



1 (C) by striking “but not including the use  
2 of broadcasting, newspapers, magazines, bill-  
3 boards, direct mail, or similar types of general  
4 public communication or political advertising”  
5 in clause (x) and inserting “but not including  
6 use in any public communication”; and  
7 (2) in paragraph (9)(B)—

8 (A) by striking clause (i) and inserting the  
9 following:

10 “(i) any news story, commentary, or  
11 editorial distributed through the facilities  
12 of any broadcasting station or any print,  
13 online, or digital newspaper, magazine,  
14 blog, publication, or periodical, unless such  
15 broadcasting, print, online, or digital facili-  
16 ties are owned or controlled by any polit-  
17 ical party, political committee, or can-  
18 didate;”; and.

19 (B) by striking “on broadcasting stations,  
20 or in newspapers, magazines, or similar types of  
21 general public political advertising” in clause  
22 (iv) and inserting “in any public communica-  
23 tion”.

1 (c) DISCLOSURE AND DISCLAIMER STATEMENTS.—  
2 Subsection (a) of section 318 of such Act (52 U.S.C.  
3 30120) is amended—

4 (1) by striking “financing any communication  
5 through any broadcasting station, newspaper, maga-  
6 zine, outdoor advertising facility, mailing, or any  
7 other type of general public political advertising”  
8 and inserting “financing any public communication”;  
9 and

10 (2) by striking “solicits any contribution  
11 through any broadcasting station, newspaper, maga-  
12 zine, outdoor advertising facility, mailing, or any  
13 other type of general public political advertising”  
14 and inserting “solicits any contribution through any  
15 public communication”.

16 **SEC. 1306. EXPANSION OF DEFINITION OF ELECTION-**  
17 **EERING COMMUNICATION.**

18 (a) EXPANSION TO ONLINE COMMUNICATIONS.—

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

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

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

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

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

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

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

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

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

7           (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply with respect to communications  
9 made on or after the date of the enactment of this Act.

10 **SEC. 1307. APPLICATION OF DISCLAIMER STATEMENTS TO**  
11 **ONLINE COMMUNICATIONS.**

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

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

20           (2) by adding at the end the following flush  
21 sentence: “For purposes of this subsection, a com-  
22 munication does not make a statement in a clear  
23 and conspicuous manner if it is difficult to read or  
24 hear or if the placement is easily overlooked.”.

1 (b) SPECIAL RULES FOR QUALIFIED INTERNET OR  
2 DIGITAL COMMUNICATIONS.—

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

6 “(e) SPECIAL RULES QUALIFIED INTERNET OR DIG-  
7 ITAL COMMUNICATIONS.—

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

15 “(A) state the name of the person who  
16 paid for the communication; and

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

23 “(2) SAFE HARBOR FOR DETERMINING CLEAR  
24 AND CONSPICUOUS MANNER.—A statement in quali-  
25 fied Internet or digital communication (as defined in

1 section 304(f)(3)(D)) shall be considered to be made  
2 in a clear and conspicuous manner as provided in  
3 subsection (a) if the communication meets the fol-  
4 lowing requirements:

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

8 “(i) appears in letters at least as large  
9 as the majority of the text in the commu-  
10 nication; and

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

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

18 “(C) VIDEO COMMUNICATIONS.—In the  
19 case of a video communication which also in-  
20 cludes audio, the statement—

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

23 “(ii) is made both in—

24 “(I) a written format that meets  
25 the requirements of subparagraph (A)

1 and appears for at least 4 seconds;

2 and

3 “(II) an audible format that  
4 meets the requirements of subpara-  
5 graph (B).

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

11 (2) NONAPPLICATION OF CERTAIN EXCEP-  
12 TIONS.—The exceptions provided in section  
13 110.11(f)(1)(i) and (ii) of title 11, Code of Federal  
14 Regulations, or any successor to such rules, shall  
15 have no application to qualified Internet or digital  
16 communications (as defined in section 304(f)(3)(D)  
17 of the Federal Election Campaign Act of 1971).

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

21 (1) in paragraph (1)(A)—

22 (A) by striking “which is transmitted  
23 through radio” and inserting “which is in an  
24 audio format”; and

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

3 (2) in paragraph (1)(B)—

4 (A) by striking “which is transmitted  
5 through television” and inserting “which is in  
6 video format”; and

7 (B) by striking “BY TELEVISION” in the  
8 heading and inserting “VIDEO FORMAT”; and  
9 (3) in paragraph (2)—

10 (A) by striking “transmitted through radio  
11 or television” and inserting “made in audio or  
12 video format”; and

13 (B) by striking “through television” in the  
14 second sentence and inserting “in video for-  
15 mat”.

16 **SEC. 1308. POLITICAL RECORD REQUIREMENTS FOR ON-**  
17 **LINE PLATFORMS.**

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

21 “(j) DISCLOSURE OF CERTAIN ONLINE ADVERTISE-  
22 MENTS.—

23 “(1) IN GENERAL.—

24 “(A) REQUIREMENTS FOR ONLINE PLAT-  
25 FORMS.—An online platform shall maintain,

1 and make available for online public inspection  
2 in machine readable format, a complete record  
3 of any request to purchase on such online plat-  
4 form a qualified political advertisement which is  
5 made by a person whose aggregate requests to  
6 purchase qualified political advertisements on  
7 such online platform during the calendar year  
8 exceeds \$500.

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

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

18 “(A) a digital copy of the qualified political  
19 advertisement;

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

25 “(C) information regarding—

1           “(i) the average rate charged for the  
2           advertisement;

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

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

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

23          “(3) ONLINE PLATFORM.—For purposes of this  
24          subsection, the term ‘online platform’ means any  
25          public-facing website, Web application, or digital ap-

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

3 “(A) sells qualified political advertise-  
4 ments; and

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

9 “(4) QUALIFIED POLITICAL ADVERTISEMENT.—

10 “(A) IN GENERAL.—For purposes of this  
11 subsection, the term ‘qualified political adver-  
12 tisement’ means any advertisement (including  
13 search engine marketing, display advertise-  
14 ments, video advertisements, native advertise-  
15 ments, and sponsorships) that—

16 “(i) is made by or on behalf of a can-  
17 didate; or

18 “(ii) communicates a message relating  
19 to any political matter of national impor-  
20 tance, including—

21 “(I) a candidate;

22 “(II) any election to Federal of-  
23 fice; or

24 “(III) a national legislative issue  
25 of public importance

1           “(5) TIME TO MAINTAIN FILE.—The informa-  
2           tion required under this subsection shall be made  
3           available as soon as possible and shall be retained by  
4           the online platform for a period of not less than 4  
5           years.

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

11          (b) RULEMAKING.—Not later than 90 days after the  
12          date of the enactment of this Act, the Federal Election  
13          Commission shall establish rules—

14                (1) requiring common data formats for the  
15                record required to be maintained under section  
16                304(j) of the Federal Election Campaign Act of  
17                1971 (as added by subsection (a)) so that all online  
18                platforms submit and maintain data online in a com-  
19                mon, machine-readable and publicly accessible for-  
20                mat; and

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

24          (c) REPORTING.—Not later than 2 years after the  
25          date of the enactment of this Act, and biannually there-

1 after, the Chairman of the Federal Election Commission  
2 shall submit a report to Congress on—

3 (1) matters relating to compliance with and the  
4 enforcement of the requirements of section 304(j) of  
5 the Federal Election Campaign Act of 1971, as  
6 added by subsection (a);

7 (2) recommendations for any modifications to  
8 such section to assist in carrying out its purposes;  
9 and

10 (3) identifying ways to bring transparency and  
11 accountability to political advertisements distributed  
12 online for free.

13 **SEC. 1309. PREVENTING CONTRIBUTIONS, EXPENDITURES,**  
14 **INDEPENDENT EXPENDITURES, AND DIS-**  
15 **BURSEMENTS FOR ELECTIONEERING COM-**  
16 **MUNICATIONS BY FOREIGN NATIONALS IN**  
17 **THE FORM OF ONLINE ADVERTISING.**

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

21 “(c) Each television or radio broadcast station, pro-  
22 vider of cable or satellite television, or online platform (as  
23 defined in section 304(j)(3)) shall make reasonable efforts  
24 to ensure that communications described in section 318(a)  
25 and made available by such station, provider, or platform

1 are not purchased by a foreign national, directly or indi-  
2 rectly.”.

