

AMENDMENT TO
RULES COMMITTEE PRINT 117-20
OFFERED BY MR. KILMER OF WASHINGTON

Page 157, beginning on line 15, strike “**FOREIGN INTERFERENCE**” and insert “**FOREIGN INTERFERENCE; HONEST ADS**”.

Page 175, insert after line 18 the following (and re-designate the succeeding provisions accordingly):

1 **TITLE XV—HONEST ADS**

2 **SEC. 1501. SHORT TITLE.**

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

4 **SEC. 1502. 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 Supreme Court’s well-established
9 standard that the electorate bears the right to be fully in-
10 formed.

11 **SEC. 1503. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) the dramatic increase in digital political ad-
14 vertisements, and the growing centrality of online

1 platforms in the lives of Americans, requires the
2 Congress and the Federal Election Commission to
3 take meaningful action to ensure that laws and reg-
4 ulations provide the accountability and transparency
5 that is fundamental to our democracy;

6 (2) free and fair elections require both trans-
7 parency and accountability which give the public a
8 right to know the true sources of funding for polit-
9 ical advertisements in order to make informed polit-
10 ical choices and hold elected officials accountable;
11 and

12 (3) transparency of funding for political adver-
13 tisements is essential to enforce other campaign fi-
14 nance laws, including the prohibition on campaign
15 spending by foreign nationals.

16 **SEC. 1504. EXPANSION OF DEFINITION OF PUBLIC COMMU-
17 NICATION.**

18 (a) IN GENERAL.—Paragraph (22) of section 301 of
19 the Federal Election Campaign Act of 1971 (52 U.S.C.
20 30101(22)) is amended by striking “or satellite commu-
21 nication” and inserting “satellite, paid internet, or paid
22 digital communication”.

23 (b) TREATMENT OF CONTRIBUTIONS AND EXPENDI-
24 TURES.—Section 301 of such Act (52 U.S.C. 30101) is
25 amended—

1 (1) in paragraph (8)(B)(v), by striking “on
2 broadcasting stations, or in newspapers, magazines,
3 or similar types of general public political adver-
4 tising” and inserting “in any public communica-
5 tion”; and

6 (2) in paragraph (9)(B)—

7 (A) by amending clause (i) to read as fol-
8 lows:

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

18 (B) in clause (iv), by striking “on broad-
19 casting stations, or in newspapers, magazines,
20 or similar types of general public political ad-
21 vertising” and inserting “in any public commu-
22 nication”.

23 (c) DISCLOSURE AND DISCLAIMER STATEMENTS.—
24 Subsection (a) of section 318 of such Act (52 U.S.C.
25 30120) is amended—

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

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

13 **SEC. 1505. EXPANSION OF DEFINITION OF ELECTION-**
14 **EERING COMMUNICATION.**

15 (a) EXPANSION TO ONLINE COMMUNICATIONS.—

16 (1) APPLICATION TO QUALIFIED INTERNET AND
17 DIGITAL COMMUNICATIONS.—

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

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

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

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

18 (3) NEWS EXEMPTION.—Section
19 304(f)(3)(B)(i) of such Act (52 U.S.C.
20 30104(f)(3)(B)(i)) is amended to read as follows:

21 “(i) a communication appearing in a
22 news story, commentary, or editorial dis-
23 tributed through the facilities of any
24 broadcasting station or any online or dig-
25 ital newspaper, magazine, blog, publica-

1 tion, or periodical, unless such broad-
2 casting, online, or digital facilities are
3 owned or controlled by any political party,
4 political committee, or candidate;”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply with respect to communications
7 made on or after January 1, 2022.

8 **SEC. 1506. APPLICATION OF DISCLAIMER STATEMENTS TO**
9 **ONLINE COMMUNICATIONS.**

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

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

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

23 (b) **SPECIAL RULES FOR QUALIFIED INTERNET OR**
24 **DIGITAL COMMUNICATIONS.**—

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

4 “(e) SPECIAL RULES FOR QUALIFIED INTERNET OR
5 DIGITAL COMMUNICATIONS.—

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

13 “(A) state the name of the person who
14 paid for the communication; and

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

21 “(2) SAFE HARBOR FOR DETERMINING CLEAR
22 AND CONSPICUOUS MANNER.—A statement in quali-
23 fied internet or digital communication (as defined in
24 section 304(f)(3)(D)) shall be considered to be made
25 in a clear and conspicuous manner as provided in

1 subsection (a) if the communication meets the fol-
2 lowing requirements:

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

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

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

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

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

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

21 “(ii) is made both in—

22 “(I) a written format that meets
23 the requirements of subparagraph (A)
24 and appears for at least 4 seconds;
25 and

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

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

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

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

19 (1) in paragraph (1)(A)—

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

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

25 (2) in paragraph (1)(B)—

1 (A) by striking “which is transmitted
2 through television” and inserting “which is in
3 video format”; and

4 (B) by striking “BY TELEVISION” in the
5 heading and inserting “VIDEO FORMAT”; and

6 (3) in paragraph (2)—

7 (A) by striking “transmitted through radio
8 or television” and inserting “made in audio or
9 video format”; and

10 (B) by striking “through television” in the
11 second sentence and inserting “in video for-
12 mat”.

13 **SEC. 1507. POLITICAL RECORD REQUIREMENTS FOR ON-**
14 **LINE PLATFORMS.**

15 (a) IN GENERAL.—Section 304 of the Federal Elec-
16 tion Campaign Act of 1971 (52 U.S.C. 30104), as amend-
17 ed by section 1301(a)(1), is further amended by adding
18 at the end the following new subsection:

19 “(k) DISCLOSURE OF CERTAIN ONLINE ADVERTISE-
20 MENTS.—

21 “(1) IN GENERAL.—

22 “(A) REQUIREMENTS FOR ONLINE PLAT-
23 FORMS.—An online platform shall maintain,
24 and make available for online public inspection
25 in machine readable format, a complete record

1 of any request to purchase on such online plat-
2 form a qualified political advertisement which is
3 made by a person whose aggregate requests to
4 purchase qualified political advertisements on
5 such online platform during the calendar year
6 exceeds \$500.

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

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

16 “(A) a digital copy of the qualified political
17 advertisement;

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

23 “(C) information regarding—

24 “(i) the average rate charged for the
25 advertisement;

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

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

13 “(iv) in the case of any request not
14 described in clause (iii), the name of the
15 person purchasing the advertisement, the
16 name and address of a contact person for
17 such person, and a list of the chief execu-
18 tive officers or members of the executive
19 committee or of the board of directors of
20 such person, and, if the person purchasing
21 the advertisement is acting as the agent of
22 a foreign principal under the Foreign
23 Agents Registration Act of 1938, as
24 amended (22 U.S.C. 611 et seq.), a state-
25 ment that the person is acting as the agent

1 of a foreign principal and the identification
2 of the foreign principal involved.

3 “(3) ONLINE PLATFORM.—For purposes of this
4 subsection, the term ‘online platform’ means any
5 public-facing website, web application, or digital ap-
6 plication (including a social network, ad network, or
7 search engine) which—

8 “(A) sells qualified political advertise-
9 ments; and

10 “(B) has 50,000,000 or more unique
11 monthly United States visitors or users for a
12 majority of months during the preceding 12
13 months.

14 “(4) QUALIFIED POLITICAL ADVERTISEMENT.—
15 For purposes of this subsection, the term ‘qualified
16 political advertisement’ means any advertisement
17 (including search engine marketing, display adver-
18 tisements, video advertisements, native advertise-
19 ments, and sponsorships) that—

20 “(A) is made by or on behalf of a can-
21 didate; or

22 “(B) communicates a message relating to
23 any political matter of national importance, in-
24 cluding—

25 “(i) a candidate;

1 “(ii) any election to Federal office; or

2 “(iii) a national legislative issue of
3 public importance.

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

9 “(6) SAFE HARBOR FOR PLATFORMS MAKING
10 BEST EFFORTS TO IDENTIFY REQUESTS WHICH ARE
11 SUBJECT TO RECORD MAINTENANCE REQUIRE-
12 MENTS.—In accordance with rules established by the
13 Commission, if an online platform shows that the
14 platform used best efforts to determine whether or
15 not a request to purchase a qualified political adver-
16 tisement was subject to the requirements of this sub-
17 section, the online platform shall not be considered
18 to be in violation of such requirements.

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

1 (b) RULEMAKING.—Not later than 120 days after the
2 date of the enactment of this Act, the Federal Election
3 Commission shall establish rules—

4 (1) requiring common data formats for the
5 record required to be maintained under section
6 304(k) of the Federal Election Campaign Act of
7 1971 (as added by subsection (a)) so that all online
8 platforms submit and maintain data online in a com-
9 mon, machine-readable and publicly accessible for-
10 mat;

11 (2) establishing search interface requirements
12 relating to such record, including searches by can-
13 didate name, issue, purchaser, and date; and

14 (3) establishing the criteria for the safe harbor
15 exception provided under paragraph (6) of section
16 304(k) of such Act (as added by subsection (a)).

17 (c) REPORTING.—Not later than 2 years after the
18 date of the enactment of this Act, and biannually there-
19 after, the Chairman of the Federal Election Commission
20 shall submit a report to Congress on—

21 (1) matters relating to compliance with and the
22 enforcement of the requirements of section 304(k) of
23 the Federal Election Campaign Act of 1971, as
24 added by subsection (a);

1 (2) recommendations for any modifications to
2 such section to assist in carrying out its purposes;
3 and

4 (3) identifying ways to bring transparency and
5 accountability to political advertisements distributed
6 online for free.

7 **SEC. 1508. PREVENTING CONTRIBUTIONS, EXPENDITURES,**
8 **INDEPENDENT EXPENDITURES, AND DIS-**
9 **BURSEMENTS FOR ELECTIONEERING COM-**
10 **MUNICATIONS BY FOREIGN NATIONALS IN**
11 **THE FORM OF ONLINE ADVERTISING.**

12 Section 319 of the Federal Election Campaign Act
13 of 1971 (52 U.S.C. 30121), as amended by section
14 1401(a), is further amended by adding at the end the fol-
15 lowing new subsection:

16 “(d) RESPONSIBILITIES OF BROADCAST STATIONS,
17 PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND
18 ONLINE PLATFORMS.—

19 “(1) RESPONSIBILITIES DESCRIBED.—Each tel-
20 evision or radio broadcast station, provider of cable
21 or satellite television, or online platform (as defined
22 in section 304(k)(3)) shall make reasonable efforts
23 to ensure that communications described in section
24 318(a) and made available by such station, provider,
25 or platform are not purchased by a foreign national,

1 directly or indirectly. For purposes of the previous
2 sentence, a station, provider, or online platform shall
3 not be considered to have made reasonable efforts
4 under this paragraph in the case of the availability
5 of a communication unless the station, provider, or
6 online platform directly inquires from the individual
7 or entity making such purchase whether the pur-
8 chase is to be made by a foreign national, directly
9 or indirectly.

10 “(2) SPECIAL RULES FOR DISBURSEMENT PAID
11 WITH CREDIT CARD.—For purposes of paragraph
12 (1), a television or radio broadcast station, provider
13 of cable or satellite television, or online platform
14 shall be considered to have made reasonable efforts
15 under such paragraph in the case of a purchase of
16 the availability of a communication which is made
17 with a credit card if—

18 “(A) the individual or entity making such
19 purchase is required, at the time of making
20 such purchase, to disclose the credit verification
21 value of such credit card; and

22 “(B) the billing address associated with
23 such credit card is located in the United States
24 or, in the case of a purchase made by an indi-
25 vidual who is a United States citizen living out-

1 side of the United States, the individual pro-
2 vides the television or radio broadcast station,
3 provider of cable or satellite television, or online
4 platform with the United States mailing ad-
5 dress the individual uses for voter registration
6 purposes.”.

7 **SEC. 1509. INDEPENDENT STUDY ON MEDIA LITERACY AND**
8 **ONLINE POLITICAL CONTENT CONSUMPTION.**

9 (a) INDEPENDENT STUDY.—Not later than 30 days
10 after the date of enactment of this Act, the Federal Elec-
11 tion Commission shall commission an independent study
12 and report on media literacy with respect to online polit-
13 ical content consumption among voting-age Americans.

14 (b) ELEMENTS.—The study and report under sub-
15 section (a) shall include the following:

16 (1) An evaluation of media literacy skills, such
17 as the ability to evaluate sources, synthesize multiple
18 accounts into a coherent understanding of an issue,
19 understand the context of communications, and re-
20 sponsibly create and share information, among vot-
21 ing-age Americans.

22 (2) An analysis of the effects of media literacy
23 education and particular media literacy skills on the
24 ability to critically consume online political content,
25 including political advertising.

1 (3) Recommendations for improving voting-age
2 Americans' ability to critically consume online polit-
3 ical content, including political advertising.

4 (c) DEADLINE.—Not later than 270 days after the
5 date of enactment of this Act, the entity conducting the
6 study and report under subsection (a) shall submit the re-
7 port to the Commission.

8 (d) SUBMISSION TO CONGRESS.—Not later than 30
9 days after receiving the report under subsection (c), the
10 Commission shall submit the report to the Committee on
11 House Administration of the House of Representatives
12 and the Committee on Rules and Administration of the
13 Senate, together with such comments on the report as the
14 Commission considers appropriate.

15 (e) DEFINITION OF MEDIA LITERACY.—The term
16 “media literacy” means the ability to—

17 (1) access relevant and accurate information
18 through media;

19 (2) critically analyze media content and the in-
20 fluences of media;

21 (3) evaluate the comprehensiveness, relevance,
22 credibility, authority, and accuracy of information;

23 (4) make educated decisions based on informa-
24 tion obtained from media and digital sources;

- 1 (5) operate various forms of technology and
- 2 digital tools; and
- 3 (6) reflect on how the use of media and tech-
- 4 nology may affect private and public life.

