American Association of Political Consultants (AAPC)
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1500, McLean, VA 22102

To:

Chairwoman Jessica Rosenworcel
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Subject: Notice of Proposed Rulemaking on First AI-Generated Robocall & Text Rules

Dear Chairwoman Rosenworcel,

We are writing on behalf of the American Association of Political Consultants ("AAPC") to oppose the FCC's proposed rule to impose onerous regulatory requirements on AI-generated robocalls and texts in political campaigns. The AAPC believes that this proposed rule is overly broad and arbitrary, threatens to harm protected speech, and fails to address the true problem of deceptive AI-generated robocalls and texts. The AAPC also expresses strong concerns over privacy and free speech violations with respect to the FCC's Notice of Inquiry related to the "Real-Time Call Detection, Call Alerting, and Call Blocking Technologies."

Founded in 1969, the AAPC is a bipartisan organization of political and public affairs professionals dedicated to improving democracy. The AAPC has more than 1,700 members worldwide. The Board of Directors is comprised of 32 members, evenly divided between Republicans and Democrats. It is the largest association of political and public affairs professionals in the world.

The AAPC staunchly opposes the use of fraudulent and misleading robocalls and texts in political campaigns. In fact, on February 27, 2024, the AAPC issued a public statement denouncing a political operative's use of an allegedly deceptive AI-generated robocall to impersonate President Joe Biden in the New Hampshire Democratic primary. The AAPC's press release stated, "This alleged act, leveraging artificial intelligence to fabricate a misleading communication for political gain, stands in stark opposition to the principles of honesty and integrity that are fundamental to our democratic process." The press release continued, "The claims involved in this incident blatantly contravene the dedication to

integrity that the AAPC upholds, posing a significant threat to the trust inherent in our democratic electoral processes."

The AAPC's position on fraudulent and misleading AI-generated robocalls and texts has not changed. It remains staunchly opposed to the use of such deception in political campaigns.

However, the AAPC opposes the FCC's proposed rule, as detailed further below. At bottom, the AAPC's opposition is grounded in the fact that the FCC's proposed rule fails to address the true problem of deceptive and misleading robocalls and texts in politics. It is axiomatic that AI is not a necessary or sufficient condition for creating a deceptive or fraudulent robocall or text; additionally, there are many beneficial and honest uses of AI in the calling and texting context. Thus, the FCC's broad proposed rule unfairly and improperly regulates AI use, while failing to combat the true underlying issue of deceptive robocalls and texts.

1. **The Proposed Rule is Overly Broad and Imposes Significant Compliance Costs on Political Consultants and Campaigns**

First, the AAPC believes that the FCC's proposed rule is overly broad and imposes significant compliance and financial burdens on political campaigns and consultants.

For purposes of the proposed rule, the FCC proposes defining an "AI-generated call" as "a call that uses any technology or tool to generate an artificial or prerecorded voice or a text using computational technology or other machine learning, including predictive algorithms, and large language models, to process natural language and produce voice or text content to communicate with a called party over an outbound telephone call." More specifically, the FCC's proposed rule:

- Requires callers using AI-generated or prerecorded voice messages to add an additional layer of disclaimers to inform consumers that their consent to receive such calls may also include consent to receive AI-generated calls.

- Instructs callers sending text messages with AI-generated content to add an additional layer of disclaimers that the consumer's consent to receive those messages may extend to AI-generated content.

- Mandates that callers using AI-generated voice technology must clearly disclose at the beginning of each call that the call is utilizing AI-generated technology.

The proposed rule's definition of "AI-generated call" and its requirements are overly broad and impose significant burdens on political campaigns and consultants. For example, the imposition of additional disclaimer requirements—on top of those already required under federal and state laws—will compel campaigns and consultants to expend additional resources on legal advice, data handling, and data management. The imposition of

additional regulatory requirements will also increase the potential for lawsuits. The addition of disclaimers at the beginning of calls will also take up valuable time and diminish the messaging value of a call.

Due to these increased compliance and financial costs, campaigns and political consultants may be forced to forego the use of AI for call and text generation. In such cases, the proposed rule effectively bans the use of AI-generated content for texts and calls by bootstrapped campaigns that cannot afford to comply with additional regulations or defend against alleged regulatory violations.

Moreover, by requiring disclosure of every use of AI-generated content in texts and calls, the rule unfairly penalizes political campaigns for using AI tools to perform tasks that could be completed (less efficiently and less effectively) without them. For example, two political campaigns could run phone call operations to call voters to promote Get-Out-To-Vote ("GOTV") efforts. If the first campaign creates custom AI-generated calls using the candidate's voice with the consent of the candidate, the campaign would be required to disclose that innocuous AI use at the beginning of the call—thereby diminishing the contents of the GOTV messaging and taking up valuable call time. In the time the disclosure is being read out, the voter may have already hung up the call. But if the second campaign uses a non-customized, pre-recorded audio message to call voters (without an AI tool), then the second campaign would not be required to include an AI disclosure. Either way, the calls do not include the candidate's actual live voice—yet the proposed rule creates an arbitrary distinction and simply promotes the inefficient use (and nonuse) of available and common technologies.

And finally, the definition of "AI-generated call" is also overbroad. This expansive definition—as written—would apply to cases in which a campaign uses ChatGPT, or another LLM, to draft text scripts for its volunteers to, in turn, *manually* text to voters. This example constitutes "us[ing] any technology or tool to generate . . . a text using computational technology or other machine learning, including . . . large language models . . . produce . . . text content to communicate with a called party over an outbound telephone call." There is no distinction between the use of AI to merely prepare texts or call scripts and the use of AI to effectuate the final text or call; and thus, the volunteer who uses AI as an aid to then manually send texts is still subject to the proposed rule. This broad definition could even apply to scenarios in which a campaign prepares a calling script for their volunteers using ChatGPT or another LLM, and the volunteers, in turn, make live calls (person-to-person) using that AI-generated script. In light of these examples, the proposed rule's definition of "AI-generated call" is clearly overbroad.

While the AAPC remains strongly opposed to deceptive AI-generated communications, the FCC's proposed rule fails to adequately distinguish between legitimate, honest AI usage and fraudulent communications. The true problem lies in the content of fraudulent messages, not the technology used to create them. AI is not a necessary or sufficient condition for deception; honest campaigns rely on AI to enhance their outreach. Instead of

addressing the specific issue of fraudulent robocalls and texts, the proposed rule unfairly regulates all AI use, penalizing legitimate political speech.

2. **The Proposed Rule Will Harm Protected Political Speech**

The FCC's proposed rule is also likely to significantly impair and suppress political communications which are protected by the First Amendment as central to the functioning of our free society and the democratic process. Robocalls and texts are vital tools for campaigns, particularly for GOTV efforts, voter education, and political outreach.

In particular, the FCC's proposed rule will severely hinder and impair GOTV operations, which heavily involve robocalls and texts to encourage voters to vote and provide voters with voting information. The use of AI-generated content is a low-cost method for customizing and generating GOTV messages via text and call. In fact, texting is one of the most important methods for promoting voter turnout in elections. As demonstrated above, the FCC's proposed rule hinders and dissuades political campaigns from using this technology, thereby discouraging the use and reach of GOTV operations and protected political messaging.

Even if AI is used for GOTV calls, the proposed rule then requires disclosures at the beginning of each call that states that the caller is utilizing AI-generated technology. This additional disclosure will severely impair the efficacy of GOTV calls because voters will be more likely to hangup after hearing a disclaimer, instead of important voter information. The additional time needed to convey an additional disclaimer will also increase the costs and decrease the number of GOTV calls that a political campaign can make. The proposed rule would effectively hamper protected political speech in myriad ways.

3. **The AAPC Expresses Strong Concerns Over Privacy & Free Speech Violations With Respect to the Notice of Inquiry on Real-Time Call Detection, Call Alerting, and Call Blocking Technologies**

The AAPC also expresses strong concerns with respect to the FCC's Notice of Inquiry related to the "Real-Time Call Detection, Call Alerting, and Call Blocking Technologies."

While the protection of consumers from robocalls and fraudulent AI-generated calls is a valid objective, the means by which this is achieved must not infringe on individuals' fundamental privacy rights and free speech. First and foremost, the real-time analysis of call content poses a direct threat to personal privacy and free speech. Such monitoring of voice communications—without adequate safeguards—creates an unacceptable risk of mass surveillance, even if the stated intention is to detect fraudulent calls. Call content represents highly sensitive data, and consumers should not be subject to routine analysis by third parties who could use or share that data for purposes beyond preventing fraud.

This opens the door to potential misuse, especially in the absence of robust legal limitations on how call data can be stored, processed, or shared. In the political context, these concerns are heightened. For example, an incumbent administration could use this broad and ambiguous regulatory power to monitor and silence the political speech of an opponent.

Moreover, the Notice of Inquiry does not provide adequate clarity on the mechanisms that would govern the collection, storage, and potential retention of call content. There is no assurance that anonymization or data minimization practices will be consistently applied, nor is there a clear articulation of what rights consumers have over their data. How long will data be retained, and will it be accessible to third-party developers or companies for further commercial use? These are crucial questions that remain unanswered and reflect a broader lack of oversight in the proposal.

Equally concerning is the risk of inadvertent blocking or interference with legitimate communications. AI technologies, while improving, are still prone to errors, and the potential for legitimate AI-generated calls (such as those from individuals using assistive technologies) to be blocked cannot be overlooked. Additionally, calls related to public safety, voting information, or other critical communications could be mistakenly flagged or blocked, undermining the effectiveness of the very systems designed to protect consumers.

The FCC's role is to balance consumer protection with the preservation of privacy rights, and these proposals do not sufficiently address the latter. To protect consumers' privacy and free speech rights, any rulemaking should focus on minimizing data collection, ensuring transparent data handling practices, and limiting the use of voice call content strictly for the purpose of fraud detection. More robust privacy safeguards, not just notice-and-consent, should be instituted, and the FCC must prioritize limiting the amount of personal data collected and analyzed.

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For these reasons, the AAPC opposes the FCC's proposed rule to impose onerous regulatory requirements on AI-generated robocalls and texts in political campaigns. The AAPC also expresses strong concerns over privacy and free speech violations with respect to the FCC's Notice of Inquiry on "Real-Time Call Detection, Call Alerting, and Call Blocking Technologies."

Respectfully,

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