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June 12, 2024

Senate Committee on Elections and Constitutional Amendments
Room 533, Legislative Office Building
1020 N Street
Sacramento, CA 95814

RE: AB 2839 – "Elections: deceptive media in advertisements." (Support, if amended)

Dear Chair Blakespear and Members of the Senate Committee on Elections and Constitutional Amendments:

The above four co-signed organizations commend California lawmakers' commitment to ensuring that California's elections remain free and fair. The advent of generative artificial intelligence (AI) carries great potential for beneficial uses and impacts to society, however, it is also important to identify and mitigate specific risks. We collectively understand California lawmakers' and residents' rightful concerns about how content, including media created with AI, might be used by bad actors for nefarious purposes, such as to spread mis- and dis-information about elections or otherwise influence election outcomes.

AB 2839 would prohibit a "person, committee, or other entity" from knowingly distributing an advertisement or certain "other election communication containing materially deceptive and digitally altered or created" content with the intent to influence an election or solicit funds for a campaign or candidate. This prohibition would be limited to a certain number of days of an election occurring. AB 2839 also includes certain exemptions that would not be subject to this prohibition, such as if a candidate portrays themself doing or saying something that did not actually occur, if the content includes a disclosure statement indicating it has been manipulated.

This approach will ensure that the party who knows *how* and *for what purpose* the content was created appropriately discloses whether the content has been manipulated. While digital services may employ tools to identify and detect these materials with some degree of certainty, it is an evolving and imperfect science in its current form. It is therefore critical to ensure that liability for disclosures is appropriately targeted to the party who is responsible for originally publishing content for wider dissemination, as is the case under AB 2839.

Nevertheless we request clarification under Sec. 3, subparagraph (1) of subdivision (e), to specify that this section does not apply to:

(4) An internet service provider, cloud provider, interactive computer service, or online service, an internet website, radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, when it is paid to broadcast a qualified political advertisement.

By requiring those directly and originally responsible for the creation and dissemination to adhere to the bill's requirements and prohibitions, this will assist responsible digital platforms in being able to more easily discern between lawful, well-intended election-related speech and deceptive speech intended to nefariously influence elections.

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We appreciate the Committee and Assemblymember Pellerin's commitment to protecting California's election integrity while mitigating the potential risks of generative AI with a targeted approach.

Respectfully submitted,

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        On behalf of:

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