

POLITICAL ADVERTISING ON FACEBOOK AND THE SPREAD OF MISINFORMATION

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INTRODUCTION

When House Speaker Nancy Pelosi (D-Calif.) tore up her copy of President Trump’s State of the Union address on February 4, 2020, it was in many ways a perfect encapsulation of our fractured and polarized political climate. Democrats saw the act as a form of protest against a speech they claimed was filled with lies; Republicans saw it as an act of disrespect towards the President and the various Americans he honored in his address.¹ Either way, it was a moment destined to go viral.

But a video that spread quickly after the State of Union² also highlighted the monumental debate that tech platforms must confront regarding the spread of false and misleading news or misinformation, colloquially known as “fake news”.³ The video, described by The Verge as “provocatively edited,” showed “an altered chronology of that event, with Pelosi tearing up the speech in immediate response to individual stories.”⁴ The video was promoted by President Trump across his social media channels,⁵ while prominent Democrats called for it to be taken down by the various platforms as misinformation.⁶

This was not the first time that the President and his allies have promoted a deceptively edited video of Pelosi. In May of 2019, a video of the House Speaker giving a speech at a Center for American Progress event went viral—the video had been edited so Pelosi appeared intoxicated or medicated.⁷ At the time, Facebook stated that its fact-checkers rated the video as “false,” but declined

¹ Sheryl Gay Stolberg, *As White House Calls Pelosi’s Speech-Ripping a ‘Tantrum,’ She Feels ‘Liberated,’* N.Y. TIMES (Feb. 5, 2020), <https://www.nytimes.com/2020/02/05/us/politics/trump-pelosi.html>.

² Donald J. Trump (@realDonaldTrump), TWITTER (Feb. 6, 2020, 5:53 PM) <https://twitter.com/realDonaldTrump/status/1225553117929988097>.

³ Makena Kelly, *Trump tests disinformation policies with new Pelosi video,* VERGE (Feb. 7, 2020, 2:20 PM), <https://www.theverge.com/2020/2/7/21128317/nancy-pelosi-donald-trump-disinformation-policy-video-state-of-the-union>.

⁴ *Id.*

⁵ *See, e.g.,* Donald J. Trump (@realDonaldTrump), *supra* note 2.

⁶ *See* Kelly, *supra* note 3.

⁷ Drew Harwell, *Faked Pelosi videos, slowed to make her appear drunk, spread across social media,* WASH. POST (May 24, 2019, 4:41 PM), <https://www.washingtonpost.com/technology/2019/05/23/faked-pelosi-videos-slowed-make-her-appear-drunk-spread-across-social-media>

to remove it from the platform, stating that it does not “have a policy that stipulates that the information you post on Facebook must be true.”⁸

As the United States heads into what could be the most divisive and heated Presidential contest in a century, in which campaigns will likely capitalize on a highly fractured media ecosystem, it seems imperative to analyze the way major tech companies handle false information on their social media platforms, and how this misinformation spreads to voters. Two critical steps that tech platforms can take to help prevent the spread of fake news is to limit the ability to microtarget users,⁹ and to take a more aggressive posture against digitally manipulated media.

Social Media and Political Speech

In 2020, no social media platform is under more scrutiny than Facebook. This is due both to the role Facebook is believed to have played in the spread of misinformation (particularly by foreign actors) in 2016,¹⁰ as well as widespread use of Facebook compared to Twitter and other platforms.¹¹

Facebook’s most controversial stance is its stated policy that it will not remove posts by political leaders, including paid political

⁸ Drew Harwell, *Facebook acknowledges Pelosi video is faked but declines to delete it*, WASH. POST (May 24, 2019, 4:48 PM), <https://www.washingtonpost.com/technology/2019/05/24/facebook-acknowledges-pelosi-video-is-faked-declines-delete-it/>. Facebook has taken the step to employ independent fact-checkers to flag fake news as “disputed.” This may, however, further entrench false news. See Mark Wilson, *Study: Facebook’s fake news labels have a fatal flaw*, FAST CO. (Mar. 4, 2020), <https://www.fastcompany.com/90471349/study-facebooks-fake-news-labels-have-a-fatal-flaw>.

⁹ “Microtargeting” refers to advertisers, including political campaigns and politicians, that create custom audiences for their ads by exploiting user data. See Peter Kafka, *Facebook’s political ad problem, explained by an expert*, VOX: RECODE (Dec. 10, 2019, 8:00 AM), <https://www.vox.com/recode/2019/12/10/20996869/facebook-political-ads-targeting-alex-stamos-interview-open-sourced>.

¹⁰ Special Counsel Robert Mueller reported that Russian-backed Internet Research Agency operated at least 470 different Facebook accounts which collectively made 80,000 posts between January 2015 and August 2017, and that the accounts and groups had hundreds of thousands of U.S. participants. See Robert S. Mueller III, U.S. Dep’t of Justice, Report On The Investigation Into Russian Interference In the 2016 Presidential Election, Vol. I 14-15 (2019).

¹¹ Based on company reports and other reported data, Facebook has nearly 2.45 billion monthly active users. Twitter has around 340 million monthly active users. *Most popular social networks worldwide as of January 2020, ranked by number of active users*, STATISTA, <https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>.

advertising, that includes false or misleading information.¹² Facebook openly states that politicians are not subject to the same fact-checking process that other publishers and advertisers face.¹³ At the beginning of 2020, Facebook reaffirmed the policy as an effort to promote free speech on its platforms.¹⁴ Facebook also continues to allow campaigns and organizations to microtarget users. In response, Ellen L. Weintraub, a Commissioner on the Federal Election Commission, tweeted that Facebook’s “weak plan suggests the company has no idea how seriously it is hurting democracy.”¹⁵

There are legitimate concerns over Facebook employees being the arbiters of what is and is not misinformation. Political and personal biases are an obvious potential source of controversy in evaluating which advertisements are false or misleading. In this spirit, Facebook says:

Our approach is grounded in Facebook's fundamental belief in free expression, respect for the democratic process, and the belief that, especially in mature democracies with a free press, political speech is the most scrutinized speech there is. Just as critically, by limiting political speech we would leave people less informed about what their elected officials are saying and leave politicians less accountable for their words.¹⁶

¹² *Fact-Checking on Facebook: What Publishers Should Know*, FACEBOOK, <https://www.facebook.com/help/publisher/182222309230722?ref=MisinfomrationPolicyPage> (last visited April 4, 2020).

¹³ *Id.*

¹⁴ Emily Birnbaum, *Facebook will still allow misinformation, microtargeting under new ad rules*, THE HILL (Jan. 9, 2020 8:25 AM), <https://thehill.com/policy/technology/477486-facebook-will-still-allow-misinformation-micro-targeting-under-new-ad-rules>.

¹⁵ Ellen L. Weintraub (@EllenLWeintraub), TWITTER (Jan. 9, 2020, 9:20 AM), <https://twitter.com/EllenLWeintraub/status/1215277203249860608>

¹⁶ *Fact-Checking on Facebook: What Publishers Should Know*, FACEBOOK, <https://www.facebook.com/help/publisher/182222309230722?ref=MisinfomrationPolicyPage> (last visited April 4, 2020). It is important to note that private companies are not beholden to First Amendment free speech requirements; they can limit who and what they want. Does Facebook’s emphasis on protecting free speech rights make it lean more toward viewing the social media platform as a public forum? The Ninth Circuit would say no. *See Prager University v. Google*, 951 F.3d 991 (9th Cir. 2020). But social media platforms have been considered public forums in certain circumstances, particularly in cases where politicians “block” users from engaging with their social media accounts. *See Knight First Amendment Inst. Columbia Univ. v. Trump*, 928 F.3d 226 (2nd Cir. 2019).

Google uses a “demonstrably false” standard when evaluating all advertisements on its platforms.¹⁷ Facebook has resisted taking a similar course, and in the platform’s defense it would appear that such a stance can further muddy the waters, especially given the nature of political ads. Consider some *hypothetical* examples of ads that would be nearly impossible to fact check. Facebook would have a difficult time determining the validity of a Trump campaign ad that says the U.S. economy has “never been better,” or a Joe Biden campaign ad stating “Donald Trump is the most dangerous president in American history,” for example. When dealing with a field as prone to puffery, exaggeration, and misrepresentation as politics, perhaps Facebook employees are not the best judges of what is and is not “true.”

Conversely, last year Twitter issued a policy banning all paid political advertising on the platform. Obviously, politicians including President Trump, former Vice President Biden, and other politicians can still tweet in support of their campaigns. However, they (and their campaigns) are unable to pay to promote their tweets. Their messages must spread “organically” across the platform through retweets and likes—or as organically as possible on a platform notorious for its bots and troll accounts.¹⁸

Many were quick to applaud Twitter’s new policy, but it raises additional issues. Mainly, we must ask who decides what is “political.” Naturally, a campaign ad falls under the umbrella of political. It is important to ask, however, how far this extends. For example, does a tweet from Planned Parenthood raising awareness about women’s health issues, or a tweet from the NRA promoting a gun safety course for kids, count as political? Justice Potter Stewart famously wrote that in determining what is or is not obscenity, “I

¹⁷ Google clarified its ad policies in 2019, applying the same standards to all ads “whether you’re running for office or selling office furniture.” Google’s standard is that ads that include provably false claims (i.e. that voters can cast their ballot via text message, or an ad misrepresenting the price of a piece of furniture) will be removed. See Scott Spencer, *An update on our political ads policy*, GOOGLE (Nov. 20, 2019), <https://www.blog.google/technology/ads/update-our-political-ads-policy/>.

¹⁸ Andy Greenberg, *Twitter Still Can’t Keep Up With Its Flood of Junk Accounts, Study Finds*, WIRED (Feb. 2, 2019, 7:00 AM), <https://www.wired.com/story/twitter-abusive-apps-machine-learning/>. Twitter has taken steps to crack down on bots, which typically use automated technology to spread spam or retweet thousands of links a day, and trolls, which are typically defined as accounts that purposefully spread inflammatory rhetoric and often target other users with abuse. See Louise Matsakis, *Twitter Continues Cleanup and Cracks Down on Malicious Apps*, WIRED (July 24, 2018, 2:31 PM), <https://www.wired.com/story/twitter-continues-cleanup-cracks-down-on-malicious-apps/>.

know it when I see it.”¹⁹ But that standard is considerably more difficult to apply to political speech.

A Better Way to Combat the Spread of Misinformation

There may be a more effective way to prevent the spread of misinformation on Facebook, one that does not require the platform to censor free speech. Commissioner Weintraub published an op-ed in the Washington Post in November 2019, saying that the real danger is the ability of campaigns to microtarget specific groups of potential voters.²⁰ This has been a massive moneymaker for Facebook, as brands ranging from Nike and Maybelline to locally-owned businesses can pinpoint the users they want to reach.²¹ Attributes can include gender, age, location, “likes” (i.e. whether a Facebook user likes the New York Yankees or “The Good Place”), occupation, alma mater, and more.²² But Weintraub writes: “[J]ust because microtargeted ads can be a good way to sell deodorant does not make them a safe way to sell candidates. It is easy to single out susceptible groups and direct political misinformation to them with little accountability, because the public at large never sees the ad.”²³

For example, conservative campaigns can easily identify men between the ages of 30 and 40 who live in swing states and follow the NFL, then target that audience with ads about Colin Kaepernick and other NFL players kneeling as a form of protest during the National Anthem. Under Facebook’s current regulations, these targeted ads could contain false quotes or information specifically intended to stir up resentment or enthusiasm in that specifically targeted audience. Furthermore, there is evidence that Facebook’s algorithm makes it considerably more difficult to message to voters who are not already aligned with a particular party or candidate, due to the algorithm’s reliance on “relevance.”²⁴ This essentially means that Facebook pushes ads towards users who are predisposed to agree with the content, and when applied to political ads this can enhance polarization.²⁵ WIRED explains how this is a primarily a business decision and a way for Facebook to get more

¹⁹ *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

²⁰ Ellen L. Weintraub, Opinion, *Don’t abolish political ads on social media. Stop microtargeting.*, WASH. POST (Nov. 1, 2019, 6:51 PM), <https://www.washingtonpost.com/opinions/2019/11/01/dont-abolish-political-ads-social-media-stop-microtargeting/>.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Gilad Edelman, *How Facebook’s Political Ad System is Designed to Polarize*, WIRED (Dec. 13, 2019, 7:00 AM), <https://www.wired.com/story/facebook-political-ad-system-designed-polarize/>.

²⁵ *Id.*

money out of advertising.²⁶ One study found that it cost 50 percent more to get a conservative voter to see content from former Democratic presidential candidate Bernie Sanders than content from the Trump campaign.²⁷

Weintraub says this is particularly dangerous, because it neutralizes “counterspeech”—the key remedy that the Supreme Court has identified to combat false attacks or statements in politics. As Justice Louis Brandeis wrote in *Whitney v. California*, “[i]f there be time to expose through discussion, the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”²⁸ In other words, counterspeech sits at the core of democracy as it enables voters to hear all sides to make up their electoral choice.

Thus, the truly coercive danger of microtargeting lies in the fact that if competing campaigns, media outlets, and watchdogs are unaware of misleading ads that have targeted small groups of voters, they have no way in which to respond. Weintraub proposes limiting political campaigns to targeting the areas in which they are running.²⁹ For example, a candidate running for Governor of Virginia would be able to target voters in Virginia; a candidate for Pennsylvania’s 2nd Congressional District would be able to target voters in northwest Philadelphia. This is a relatively straightforward approach that would continue to allow campaigns to efficiently and effectively target potential voters, continue to allow Facebook to profit off political advertising, and continue to protect free speech rights, all while avoiding the dangers that come with microtargeting.

Some politicians are already finding ways to circumvent the regulations Facebook does have in place for political ads. As recently as February 2020, Facebook has been forced to clarify its policies.³⁰ This clarification came after then-Democratic presidential candidate Mike Bloomberg ran paid “branded content” messages on Instagram,³¹ which is owned by Facebook. Ads on Instagram are typically subject to the same rules and regulations as Facebook; however, these messages were spread as humorous

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Whitney v. Cal.*, 374 U.S. 357, 377 (1927) (Brandeis, J., concurring).

²⁹ Ellen L. Weintraub, Opinion, *Don’t abolish political ads on social media. Stop microtargeting.*, WASH. POST (Nov. 1, 2019, 6:51 PM), <https://www.washingtonpost.com/opinions/2019/11/01/dont-abolish-political-ads-social-media-stop-microtargeting/>.

³⁰ Barbara Ortutay & Amanda Seitz, *Facebook’s influencers nod shows murky side of campaign ads*, ASSOCIATED PRESS (Feb. 14, 2020), <https://apnews.com/86f306176a5e1043d2f825483e75f70d>

³¹ *Id.*

memes on a number of popular “influencer” accounts.³² According to the Associated Press, this means the Bloomberg campaign simply paid the “meme accounts” directly and Facebook does not see any revenue from the ads.³³

“After hearing from multiple campaigns, we agree that there's a place for branded content in political discussion on our platforms,” Facebook said in a statement to the Associated Press. “We're allowing U.S.-based political candidates to work with creators to run this content.”³⁴

Deepfakes: A Nightmare Scenario?

Another issue top tech platforms are forced to address are “deepfakes”—videos generated or doctored by artificial intelligence to create a remarkably accurate and convincing simulation of a celebrity or public figure.³⁵ For a rather unsettling example, filmmaker Jordan Peele partnered with BuzzFeed and posed as former President Barack Obama in 2018 to help spread awareness of deepfakes and the danger of relying on information found online.³⁶

Vox reports that the technology became prominent on Reddit threads, where users would attempt to make fake celebrity sex tapes. But an increasingly frightening possibility is that campaigns, foreign actors, or other potentially malicious groups could make deepfakes of candidates and politicians making wild or controversial statements in the run-up to an election.³⁷ These messages could spread like wildfire online, and it would be difficult to disprove if tech platforms are unwilling to remove them.

³² “Influencer” is a broadly applied term, which typically means a popular social media figure or account who uploads content (which is often sponsored) to affect the buying habits or quantifiable actions of its followers. See Paris Martineau, *The WIRED Guide to Influencers*, WIRED (Dec. 6, 2019, 10:00 AM), <https://www.wired.com/story/what-is-an-influencer/>.

³³ Ortutay & Seitz, *supra* note 30.

³⁴ *Id.*

³⁵ David Mack, *The PSA About Fake News From Barack Obama Is Not What It Appears*, BUZZFEED (Apr. 17, 2018, 11:26 AM), <https://www.buzzfeednews.com/article/davidmack/obama-fake-news-jordan-peepe-psy-video-buzzfeed#.ugOXGqvAn3>.

³⁶ *Id.* Using a combination of facial landmark detection algorithm, generative adversarial network, and video editing software, anyone can create deepfakes akin to the deepfake video of President Obama. See, e.g., Aliaksandr Siarohim et al., *First Order Motion Model for Image Animation*, in *Conference on Neural Information Processing Systems (NeurIPS)* (2019), <https://aliaksandrsiarohin.github.io/first-order-model-website/>.

³⁷ Aja Romano, *Jordan Peele's simulated Obama PSA is a double-edged warning against fake news*, VOX (Apr. 18, 2018, 3:00 PM), <https://www.vox.com/2018/4/18/17252410/jordan-peepe-obama-deepfake-buzzfeed>.

At the beginning of 2020, Facebook announced a new policy regarding deepfakes, saying it would remove videos that meet the following criteria:

- [The video] has been edited or synthesized – beyond adjustments for clarity or quality – in ways that are not apparent to an average person and would likely mislead someone into thinking that a subject of the video said words that they did not actually say; and
- It is the product of artificial intelligence or machine learning³⁸ that merges, replaces or superimposes content onto a video, making it appear to be authentic.³⁹

This is an encouraging step; however, it does not appear that the manipulated videos of Nancy Pelosi mentioned earlier would fall under these criteria, as neither video falsely attributed words to Speaker of the House. Both were likely edited without the use of artificial intelligence or machine learning. Altering a subject’s speech and splicing clips are fairly simple video editing techniques that simply require basic software, not technology as sophisticated as AI.

Twitter announced new guidelines for synthetic and manipulated media that took effect on March 5, 2020.⁴⁰ Its guidelines appear to take more of a “case-by-case” approach than a blanket rule regarding misinformation. Fact checkers will use three questions⁴¹ to determine whether content should be removed, namely:

³⁸ Artificial Intelligence (AI) is a branch of computer science that aims to create machines that can replicate or perform human-like cognitive actions. *An Executive’s Guide to AI*, MCKINSEY & Co., <https://www.mckinsey.com/businessfunctions/mckinsey-analytics/our-insights/an-executives-guide-to-ai> (last visited Apr. 27, 2020). These machines run on algorithms, which are sets of mathematical instructions or guidelines, through which computers perform sophisticated tasks. Jacob Brogan, *What’s the Deal with Algorithms?*, SLATE (Feb. 2, 2016, 10:29 A.M.), <https://slate.com/technology/2016/02/whats-the-deal-with-algorithms.html>. Through machine learning algorithms statistically learn from the data that they have processed, giving the machine the ability to modify its own guidelines without additional assistance from the human coder. *See An Executive’s Guide to AI, supra*.

³⁹ Monika Bickert, *Enforcing Against Manipulated Media*, FACEBOOK (Jan. 6, 2020), <https://about.fb.com/news/2020/01/enforcing-against-manipulated-media/>.

⁴⁰ Yoel Roth & Ashita Achuthan, *Building Rules in Public: Our approach to synthetic & manipulated media*, TWITTER (Feb. 4, 2020), https://blog.twitter.com/en_us/topics/company/2020/new-approach-to-synthetic-and-manipulated-media.html.

⁴¹ *Id.*

- Are the media synthetic or manipulated?
- Are the media shared in a deceptive manner?
- Is the content likely to impact public safety or cause serious harm?

Twitter says that media which checks “yes” for all three questions is “very likely” to be removed.⁴² It is unclear whether the Pelosi videos fall under the qualifier of “to cause harm.”⁴³ However, this would appear to cover videos that could directly impact an election if they were clearly manipulated or deceptive.

The Legislative Landscape

In addition to platforms starting to self-police content, several lawmakers have introduced legislation in an attempt to modernize campaign finance laws for the Internet age. In 2019, a bipartisan trio of Senators Amy Klobuchar (D-Minn.), Lindsey Graham (R-S.C.), and Mark Warner (D-Va.) introduced the “Honest Ads Act.”⁴⁴ The bill would:

- Apply the requirements, limitations, and protections regarding political advertising in print or broadcast media to internet or digital political advertising.⁴⁵
- Establish special rules for disclosure statements for certain internet or digital ads.⁴⁶
- Require online platforms to verify the political advertising it hosts is not directly or indirectly purchased by a foreign national.⁴⁷
- Require online platforms to publish a record of requests to purchase political advertising.⁴⁸

A companion bill has also been introduced in the House by Congressman Derek Kilmer of Washington and a bipartisan group of 35 cosponsors,⁴⁹ and the legislation has the backing of both

⁴² *Id.*

⁴³ The answer is presumably that the State of the Union video does not fall under the category of “likely to cause harm,” as President Trump’s remains on the platform and has not been removed at the time of writing. *See* Trump, *supra* note 2.

⁴⁴ Honest Ads Act, S. 1356, 116th Cong. (2019).

⁴⁵ *Id.* § 5.

⁴⁶ *Id.*

⁴⁷ *Id.* § 9.

⁴⁸ *Id.* § 8(a).

⁴⁹ Honest Ads Act, H.R. 2592, 116th Cong. (2019).

Facebook and Twitter.⁵⁰ The bill does not include any restrictions on the use of microtargeting; however, it does require online platforms to disclose a description of the audience or audiences that are targeted by an ad and number of views generated by the ad.⁵¹

The Honest Ads Act appears to be an important first step in both improving transparency in digital ads and rooting out foreign influence in U.S. elections. What remains to be established is whether simply requiring platforms to disclose the audiences that are being microtargeted will effectively curb the practice's corrosive influence.

Regarding deepfakes, Congressman Stephen Lynch of Massachusetts has introduced a bill to prohibit the intentional use of such videos prior to an election.⁵² The Deepfakes in Federal Elections Prohibition Act states:

[A] person, political committee, or other entity shall not, within 60 days of a election for Federal office at which a candidate for elective office will appear on the ballot, distribute, with actual malice, materially deceptive audio or visual media of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate.⁵³

The bill appears to go out of its way to avoid First Amendment concerns by limiting the window in which the law could be enforced to two months before a federal election⁵⁴ and carving out exceptions for media outlets covering elections and campaigns,⁵⁵ as well as an exception for satire and parody.⁵⁶ Additionally, the bill's language clearly acknowledges the "actual malice" standard for libel of a public figure, established by the Supreme Court as "knowledge that [a statement] was false or with reckless disregard of whether it was false or not."⁵⁷

The bill seems to be a straightforward solution to prevent candidates, campaigns, and political action committees from

⁵⁰ Tim Lau, *The Honest Ads Act Explained*, BRENNAN CTR. (Jan. 17, 2020), <https://www.brennancenter.org/our-work/research-reports/honest-ads-act-explained>.

⁵¹ Honest Ads Act, S. 1356, 116th Cong. § 8(a) (2019).

⁵² Deepfakes in Federal Elections Prohibition Act, H.R. 6088, 116th Cong. (2020).

⁵³ *Id.* § 325(a).

⁵⁴ Laws limiting free speech in the context of elections have survived strict scrutiny, including laws prohibiting campaigning or electioneering within a fixed area of a polling place. See *Burson v. Freeman*, 504 U.S. 191 (1992).

⁵⁵ *Id.* § 325(c)(1)–(3).

⁵⁶ *Id.* § 325(c)(4).

⁵⁷ *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964).

disseminating deepfakes, and it appears that it could withstand judicial scrutiny. However, the bill does not seem to place the onus fully on the tech platforms to find and remove such content, especially when one considers that this media could originate with troll accounts, foreign nationals, and other deceptively labeled accounts.⁵⁸

This is certainly not an exhaustive list of the proposed laws and regulations governing tech platforms on Capitol Hill, but it is a promising indication that lawmakers are taking seriously the threat posed by misinformation and the unchecked power and influence of large tech platforms.

CONCLUSION

In a political climate that is so polarized, and where Americans obtain their news from such a vast variety of sources (both legitimate and not), it is imperative for social media platforms to take more responsibility for the content they host. Facebook may not want to be an arbiter of truth, but given its immense power and influence, it should not be allowed to shelter behind its commercial interest and misguided notions of free speech so as to not interfere with the spread of false and misleading political ads. Facebook can take the comparatively simple step of limiting the microtargeting of users with political advertising—an action that would curry good favor from lawmakers and the public, address the real policy concerns that stem from microtargeting, and likely have a relatively small impact on Facebook’s bottom line.

Furthermore, all tech platforms need to stay vigilant in looking for and weeding out deepfake videos, and the use of other emerging technology that could have catastrophic results in influencing an election, irreparably shaking Americans’ confidence in the integrity of our political process.

Finally, if tech platforms are unwilling to take these critical steps on their own, it is up to lawmakers to hold these companies accountable.

⁵⁸ Special Counsel Mueller identified Russian-controlled troll accounts such as @TEN_GOP on Twitter, which from 2015 to 2017 posed as the “Unofficial Twitter of Tennessee Republicans” and appeared to endorse the state’s Republican Party and the Trump campaign. Tweets from @TEN_GOP were cited or retweeted by Trump campaign officials including Donald J. Trump Jr., Eric Trump, Kellyanne Conway, Brad Parscale, and Michael T. Flynn. *See* Robert S. Mueller III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION, VOL. I 22 n.46, 33–34 (2019).