

S.23 Testimony

For House Government Operations & Military Affairs Committee

April 3, 2025

Wendy Mays

Executive Director, Vermont Association of Broadcasters

Chair Birong and members of the committee,

Thank you for giving the Vermont Association of Broadcasters (VAB) an opportunity to provide comment on behalf of our 100 Vermont television and radio station members who produce local newscasts and air political advertisements.

Even though S.23 will impact broadcasters and will need to be educated on production procedures that will need to change, we support S.23 as passed by the Senate.

We appreciate the amendments that make it clear the responsibility to include a synthetic media disclosure lies with the media creator and/or political candidate rather than the media distribution platform. A position we understand is shared with the Secretary of State.

Broadcasters are heavily regulated by the Federal Communications Commission (FCC) and are obligated to adhere to the FCC's no censorship rule as well as the FCC's equal time rule, which, in combination with each other, tie the hands of a station from doing anything about an ad that contains synthetic media.

The FCC's "No Censorship Rule" prohibits broadcasters from altering a political ad provided to them by the candidate and the FCC rule of equal opportunities (sometimes called "equal time") ensures that no legally qualified candidate is unfairly given less access to the airwaves - outside of a bonafide news exemption - than their opponent.

So, for example, if candidate A purchases an advertising schedule on a station, then candidate B says they also want to purchase an equal amount of advertising on that station because their opponent did, the station is obligated to sell it to them at the same lowest unit rate. And if candidate B's ad contains deceptive or fraudulent synthetic media, the station is obligated to air it unaltered under the FCC's "No censorship rule".

It is for these reasons that we appreciate the exception to liability included in S.23 so broadcast stations are not put into a position where they have to choose between Federal and state laws that conflict with one another and both of which could result in a costly penalty.

But, there is one more change we would ask your committee to consider making and that is to add the term "commentary of general interest" to the bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events exception on page 3 lines 7-12.

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“Commentary of general interest” refers to legitimate analysis of news events that provides context to help the public understand complex issues. Including "commentary of general interest" in the exemption doesn't give broadcasters a free pass to use deceptive synthetic media without disclosure. The exception only means that commentary programming follows the same rules as news programming - which still requires clear acknowledgment "through content or a disclosure" that there are questions about the authenticity of any synthetic media.

Broadcast organizations already follow strict editorial guidelines requiring transparency about manipulated content. The bill only penalizes knowing deception without disclosure - a standard responsible broadcasters already meet. Adding "commentary" to the exemption simply acknowledges these existing protections apply consistently across program formats.

We understand concerns about controversial commentators, but the solution isn't to remove protections for all commentary. Instead, the focus should remain on the bill's core purpose: requiring proper disclosure of manipulated content. This approach addresses the harm without restricting protected speech or creating different standards for different media types.

So, if adopted, the amendment would read:

(b) Exceptions. Subsection (a) of this section shall not apply to:

(1) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, or to a website, streaming platform, or mobile application, that:

(A) broadcasts deceptive and fraudulent synthetic media as part of a bona fide newscast, news interview, news documentary, **commentary of general interest**, or on-the-spot coverage of bona fide news events, so long as the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the deceptive and fraudulent synthetic media;

Thank you for giving the Vermont Association of Broadcasters an opportunity to provide comment on S.23. I appreciate your time in discussing this important matter.