

S.23 Testimony  
For Senate Government Operations Committee  
February 4, 2025  
Wendy Mays  
Executive Director, Vermont Association of Broadcasters

Chairman Collamore and members of the committee,

Thank you for the work you have done so far on S.23 and thank you for giving the Vermont Association of Broadcasters (VAB) an opportunity to provide feedback on behalf of our 100 Vermont television and radio station members.

Starting at the beginning of the draft as introduced and working our way down, the first suggestion is in the *Definitions* section on Page 2 Line 1. In the current definition of deceptive media, the phrase reads, "appears to a reasonable person to represent an individual". We suggest changing it to "appears to a reasonable person to be an authentic recording." This subtle difference could theoretically impact news reenactments or docudramas where viewers understand they're watching a recreation rather than actual footage. "Authentic recording" clarifies that the law targets deep fakes pretending to be real footage, not content where viewers understand they're watching a performance or recreation.

---

In the *Disclosure* section, Page 2, line 18, we ask that you consider re-wording it to read: "unless the person includes a disclosure in the synthetic media stating..." Re-wording that sentence makes it clear "the person" is responsible for adding the disclosure, not the platform.

Also in the *Disclosure* section, Page 3 Line 10, we recommend replacing "in a pitch" with "at a pace" that can be easily heard by the average listener.

---

Still in the *Disclosures* section, but now looking at exemptions 1 and 2, which start on page 3 line 15 and go through Page 4 line 10...

On page 4 lines 9 & 10, broadcasters appreciate the exemption that states "*or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates*". We appreciate this being included because the Federal Communications Commission (FCC) prohibits broadcast stations from modifying political ads submitted by candidates. Referred to as the "No Censorship Rule", this federal law obligates broadcast stations to air unaltered political ads. Unaltered means a broadcast station is prohibited from adding text or audio disclosure statements as much as they are prohibited from editing or deleting deceptive or fraudulent synthetic media.

But there is another relevant FCC rule I want to make you aware of that presents a conflict to the provision "*after making a good faith effort to establish that the representation is not deceptive and fraudulent synthetic media*" located on page 4 lines 7 & 8. And that is the FCC rule of equal S.23

Testimony  
For Senate Government Operations Committee  
February 4, 2025  
Wendy Mays  
Executive Director, Vermont Association of Broadcasters

opportunities, which is sometimes called “equal time”. This FCC rule 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 indicates 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. If candidate B’s political ad contains deceptive or fraudulent synthetic media, the station is obligated under the FCC’s “No censorship rule” to air the ad unaltered, even if it contains deceptive or fraudulent synthetic media.

It is for these reasons that we recommend your committee strike the provision “*after making a good faith effort to establish that the representation is not deceptive and fraudulent synthetic media*” located on page 4 lines 7 & 8. Not only is the term “good faith effort” ambiguous, in a situation like the one I just described, it puts the broadcast station in 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.

Another suggestion for both exemptions 1 and 2, appears in two places, Page 3 lines 15-17 and Page 4 lines 4-6, where the bill says “*this section shall not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer*” . Our suggestion is to add “*or to an internet website, streaming platform or mobile application*” since all the content that is broadcast may also appear on a station’s website, stream or mobile app.

And our last suggestion in the exemptions section is to remove what we think is an accidental duplication of the sentence “*or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates*” from exemption 1 on page 4 lines 1-3. Whereas this sentence is crucial in exemption 2, it doesn’t belong in exemption 1 because exemption 1 is all about newscasts and in broadcasting, the news department and sales department operate independently from each other by design and never the two shall mix.

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

## S.23 CHANGES AS PROPOSED BY THE VERMONT ASSOCIATION OF BROADCASTERS 2.4.25

### DEFINITIONS (Page 2 Line 1):

(1) "Deceptive and fraudulent synthetic media" means synthetic media that creates a representation of an individual or individuals with the intent to injure the reputation of a candidate, to influence the outcome of an election, or to otherwise deceive a voter, in a manner that:

(A) appears to a reasonable person to **be an authentic recording of** ~~represent~~ an individual saying or doing something that did not occur;

### DISCLOSURE:

#### Page 2 Line 18:

(a) Disclosure. A person shall not, within 90 days of an election at which a candidate for elective office will appear on the ballot, publish, communicate, or otherwise distribute a synthetic media message that the person knows or should have known is a deceptive and fraudulent synthetic media of a candidate on the ballot, unless the **person includes a disclosure in the** synthetic media ~~includes a disclosure~~ stating: "This media has been created or intentionally manipulated by digital technology or artificial intelligence."

#### Page 3 Line 10:

(2) For deceptive and fraudulent synthetic media consisting of audio recordings only, the disclosure shall be read in a clearly spoken manner and **at a pace** ~~in a pitch~~ that can be easily heard by the average listener

### EXEMPTIONS (Page 3 Line 15 through Page 4 Line 10):

(1) Subsection (a) of this section shall not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, **or to an internet website, streaming platform, or mobile application** that 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, if 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, ~~or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates.~~

(2) Subsection (a) of this section shall not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, **or to an internet website, streaming platform, or mobile application** when it is paid to broadcast deceptive and fraudulent synthetic media ~~after making a good faith effort to establish that the representation is not deceptive and fraudulent synthetic media~~, or in cases where federal law requires broadcasters to air advertisements from legally qualified candidates.