

Discussion Points for Digital Transparency Task Force Recommendations

I. Campaign Advertisement Archive

Issue: Political campaigns are increasingly using digital media (websites, social media, etc.) as a means of delivering campaign advertisements to voters. Digital campaign advertisements present unique challenges to regulators, such as the FPPC, who are charged with ensuring that voters receive timely and accurate information concerning who is responsible for the content of the advertisement and the payments associated with producing/distributing the advertisement.

Some jurisdictions, including the cities of Los Angeles and New York, have created government-run campaign advertisement archives where members of the public, academics, and the news media can access copies of digital campaign advertisements and quickly locate information about the persons/groups responsible for the advertisements as well as the spending associated with the advertisement. California has not established a similar archive at the State-level. Instead, California currently relies on online platforms to maintain certain information about campaign advertisements that appear on their platform. Testimony presented to the Task Force indicates, however, that the way online platforms maintain information about digital campaign advertisement varies significantly (including in how they define “campaign” advertisements) and a federal appellate court recently struck down portions of a Maryland law that, similar to California, required online platforms to maintain information about campaign advertisements on their platform.

- A. Primary Policy Question: Should the Task Force recommend the creation of a State-run campaign advertisement archive for digital campaign advertisements?
- B. Secondary Policy Questions:
 1. What information should the archive contain?
 - a. Copy of the advertisement
 - i. How do we define “the advertisement”? Is it the advertisement as provided from the committee to the platform? Any/all subsequent “variations” of the advertisement requested or authorized by the payor?
 - b. Who paid for the advertisement?
 - c. On what platform(s) did the advertisement appear and when
 - d. Information concerning the audience the person/committee who paid for the advertisement intended to reach?
 - e. Information concerning the audience the advertisement actually reached?

2. What types of advertisements should be included in the archive?
 - a. State-level candidate and ballot measure advertisements
 - b. Local candidate/ballot measure advertisements
 - c. Issue advertisements
 - d. Digital advertisements only? Digital and non-digital?
3. Who should be responsible for providing information to the State for inclusion in the archive?
 - a. Committees who paid for the ads subject to archive requirement directly file with the State
 - b. If the capability exists, allow committees to have the platforms transmit the required information to the State
4. What searchability functions should the archive include?
 - a. Searches based on date ranges, name of candidate or ballot measure addressed by ad, names of ad purchaser (e.g., the committee that pays for the advertisement)
 - b. Downloadable to excel or other formats?
 - c. Other functions?
5. What, if any, additional elements/features of a State-run archive would the Task Force recommend?

II. Disclaimers on Digital Campaign Advertisements

Issue: Under existing State law, disclaimers on digital political advertisements are generally modeled after the disclaimers that have historically appeared on campaign advertisements appearing in print or on television. Given the continually evolving nature of digital communications, some have questioned whether there may be better or more efficient ways to provide voters with information about who is paying for digital campaign advertisements (e.g., greater use of “links” to relevant information, symbology, etc.)

Policy Question: Should the Task Force recommend that the Legislature commission a study to examine whether there are different styles of disclaimers that could be required for digital campaign advertisements that would more effectively provide voters with information about who is paying for the digital campaign advertisements?

1. Similar to the study recently completed regarding Ballot Pamphlet information, such a study would provide data to determine what types of information are most useful to voters and how that information can be presented in an easily-accessible, user-friendly format.