



January 24, 2021

Washington Public Disclosure Commission  
711 Capitol Way S. #206  
Olympia, WA 98504

*Re: Digital political advertising disclosure rules*

Dear Commissioners:

I am following up on my September 7 letter following the August 26 Public Disclosure Commission (PDC) meeting regarding Washington's digital political advertising disclosure rules. TechNet is the national, bipartisan network of technology companies that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than four million employees in the fields of information technology, e-commerce, clean energy, gig and sharing economy, venture capital, and finance.

First, I want to thank you for taking into consideration Google's suggestion on the 24-hour response time change. As discussed in TechNet's September 7 letter, commercial advertisers should be allowed more time to respond to disclosure requests. Current rules require a wholly unreasonable 24-hour turnaround, which to my knowledge is not found elsewhere in the country in statute or rule. The Washington Public Records Act, for example, requires agencies to make a prompt response to requests for public records. They can meet that promptness obligation by merely acknowledging the request within five days and giving a reasonable estimate for how long it will take to respond. TechNet continues to suggest expanding the current 24-hour requirement to seven days to allow online services adequate time to gather the reportable information for disclosure. If the 24-hour response time is maintained, we will continue to see the unreasonable timeline requirement abused by a small handful of individuals in the state.

Second, we continue to believe the requirements placed on online platforms are inequitable and overly burdensome. The current rules place the onus on the online service to determine whether an advertisement is a political campaign or merely informational. This requires the online service to draw conclusions about the purpose of a particular advertisement under the threat of liability if they get it wrong. This can much more easily be resolved by requiring the entity purchasing the advertisement to disclose whether the order is political campaign advertising. That self-identification would then trigger the additional the online service's need to

collect the information required by the PDC. After all, online advertising is a high-volume, self-service model. While there are automated filters in place to try to identify ads that run afoul of platforms' current prohibitions on political campaign advertising, these filters cannot catch every single ad. This process can be greatly improved by requiring the creators of the advertisements to self-identify as to whether they are placing a political ad.

As TechNet pointed out in a letter to the PDC in 2018, targeting capabilities vary by platform and can include relatively non-transparent options like targeting by an uploaded contact list. Information about who has seen the ad is more transparent than information about the targeted audience, so we recommend making the following change in subsection (6)(g):

(6)(g) For digital communication platforms: A description of the demographic information (e.g., age, gender, race, location, etc.) of the audiences targeted or ~~and~~ reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement of communication.

Additionally, we suggest removing subsection (5)(a)'s requirement that the commercial advertiser disclose whether an advertisement supports or opposes a candidate or ballot measure. Political campaign ads often are not that binary, and it certainly should not be up to the online service to make that determination. If the PDC has a desire to maintain that disclosure requirement, then we recommend that the campaign be required to disclose whether the ad supports or opposes a candidate or ballot measure. This disclosure could be made when purchasing the ad and after the campaign self-identifies as placing a political ad.

Finally, TechNet believes that updated digital political advertising disclosure rules that recognize the inherent distinctions between online advertising and traditional advertising like newspaper, radio, and billboards will better allow online services to comply with the law. Currently, many major online services have banned state and local online advertising in Washington because they simply cannot comply with the current rules. That has very real equity impacts, as it quashes an affordable and accessible avenue for down-ballot candidates with limited campaign resources to reach potential voters.

The end result is that candidates are only left with more costly and cumbersome means of communicating with the public. Online advertising can open new doors to public discourse, and TechNet believes it is in the public's interest to develop a compliance regime that online services are capable of meeting.

Thank you again for the opportunity to weigh in on this important issue. Please reach out to me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'D Edmonson', with a long horizontal flourish extending to the right.

David Edmonson  
Vice President, State Policy and Government Relation