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November 13, 2017

Neven F. Stipanovic
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: REG 2011-02

Dear Mr. Stipanovic,

On behalf of the Software & Information Industry Association (SIIA), thank you for the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPRM) on internet communication disclaimers. (Federal Register, 82 Fed. Reg. 46937). SIIA is very concerned about the threat of foreign actors using social media platforms to potentially influence U.S. political elections. We appreciate the Federal Election Commission ("FEC" or "Commission") seeking input about whether to begin a rulemaking to revise its regulations on internet disclaimers.

About SIIA

With nearly 700 member companies, SIIA is the principal trade association of the software and digital content industries. Our members are global industry leaders in the development and provision of software and electronic content for business, education, government and consumer markets. They range from start-up firms to some of the largest and most recognizable corporations in the world. SIIA member companies are leading providers of, among other things:

- Data analytics and artificial intelligence,
- business, enterprise and networking software,
- publishing, graphics, and photo editing tools,
- corporate database and data processing software,
- financial trading and investing services, news, and commodities,
- online legal information and legal research tools,
- education software, digital content and online education services,
- specialized business media,
- open source software, and
- many other products and services in the digital content industries.

Introduction

SIIA supports the Commission's exploration of this issue and we look forward to working with the Commission and other policymakers to balance the needs of transparency with online expression and free speech. The growth of the internet has allowed American citizens and communities to express themselves in new and powerful ways, including through online advertising, and any



potential regulatory action should be mindful of the risk to the free speech rights of individual Americans.

SIIA is in favor of the Commission moving to proceed to a new Notice of Proposed Rulemaking (NPRM) that would provide the public and the industry with an opportunity to evaluate the practicality of any proposed new rules, and to compare the alternatives in terms of their impact on the role of digital advertising and consumers, and the benefits to transparency and accountability. At this time, SIIA offers the following considerations as you develop new proposed rules seeking to increase transparency of political advertising across internet platforms and communications.

The online advertising ecosystem involves myriad businesses, not just major internet platforms.

While public discussion has focused on foreign meddling in political advertising on some of the dominant internet and social media platforms such as Google, Facebook and Twitter, there are also a wide range of others beyond the most well-known platforms, such as LinkedIn, Reddit, Snapchat and Yelp, that provide just a few examples of the breadth and diversity of online advertising platforms.

Additionally, as a representative of a wide range of information technology and digital content businesses, SIIA's membership provides an exemplary cross-section of the diverse set of businesses that comprise the digital advertising ecosystem. In addition to the major platforms, digital content publishers rely on hundreds of ad networks and data analytics companies. Although the online advertising experience appears seamless to internet users, it requires cooperation between these various entities. This environment is significantly more complicated than analog media, consisting of an environment where different entities and various technologies work together to create, sell, distribute and measure digital advertising.¹ Therefore, digital content providers and ad networks comprise a substantial portion of ad placements and consumer views and are likely to be affected by any new disclosure requirements as well.

Digital advertising is complex and rapidly evolving.

Over the last 15 years, digital advertising has evolved from a fraction of all advertising, to the leading market for ad growth. This evolution is not surprising, given the amount of time Americans spend online every day. With the ability of digital advertising networks to utilize millions of websites, the volume of ad impressions also greatly outnumbers the volume of advertising in traditional print, television and radio broadcasting. According to ComScore, the average Internet user receives more than 1,707 banner ads monthly.² Beyond the volume, the diversity of ad types creates a greater challenge to create uniform disclaimer practices, compared to those that have been applied quite effectively and uniformly across television and radio broadcasting.

¹ [The Digital Display Advertising Ecosystem Players Explained for Publishers](#). Jasper Jackson. The Media Briefing. April 2013.

² [15 Alarming Stats About Banner Ads](#). Brian Morrissey. Digiday. March 2013.



Digital advertising is inherently more diverse than a simple transition of similar content from print or broadcast television. It comes in many different formats presented across a wide range of technology platforms with screen size ranging from large to very small. What is commonly referred to as “display advertising” refers to the use of ads—from text to video to audio—on a website. Display advertisements serve as a way for digital content producers to monetize their website traffic, as advertisers pay to have their promotion displayed alongside the content on the page. Ad exchanges and real-time bidding have enabled advertisers to choose to bid only on ad space that is relevant to them, based on the targeting criteria of the audience. Pop-ups and banner ads have proven to not be the most highly effective methods, so advertisers demand better options, while users have demanded less intrusive and higher quality of advertising. This has given rise to the recent growth of more seamless advertising techniques such as native advertising and retargeting, which have helped to reshape the way people are seeing and engaging with advertising material online.³

Perhaps the most significant evolution taking place in internet advertising is the shift to mobile ads, particularly those appearing within apps. Users ages 18-24 spend 66% of their total media time in mobile apps, or 3.2 hours per day on mobile apps. Social networks, news apps and games dominate this usage.⁴ As a result, in-app advertising has become the one of the fastest-growing mobile ad mediums.⁵ This environment presents even more unique challenges with respect to advertising disclosures, given the range of format and limited screen space.

Industry efforts are very promising and becoming increasingly widespread.

We are pleased that major social media companies have recently responded with voluntary efforts to increase the transparency and authenticity of online political advertising, such as by introducing steps to strengthen the review process, increasing staff, and working collaboratively with other platforms. In light of recent revelations about foreign meddling, many of the leading U.S. internet platforms have introduced measures such as: requiring additional detail from political advertisers; including identity verification; including the total amounts spent; reporting on the number of impressions delivered; providing additional information about advertising audiences; and creating a searchable archive. It is our hope and expectation that greater transparency will soon become the industry norm.

³ [20 Display Advertising Stats That Demonstrate Digital Advertising's Evolution](#). Carly Stec. HubSpot. November 2017.

⁴ [Axios Media Trends](#). Sara Fischer. Axios. August 2017.

⁵ Ibid.



Conclusion

SIIA applauds the Commission’s goal and objective in the proceeding, but the Commission should consider the reality of crafting a *uniform* set of requirements for online platforms whereby these disclaimers would be “presented in a clear and conspicuous manner, to give the reader, observer or, listener adequate notice of the identity” of the communication’s sponsor. We hope the Commission will be cognizant of many of these factors and avoid proposing prescriptive requirements that will be of limited value and desirability to consumers, while also erecting significant hurdles for online advertising to continue supporting free and low-cost internet content. Ultimately, this diverse ecosystem requires a flexible and diverse set of transparency practices that evolve and innovate as digital content offerings and advertising profiles continue to evolve. SIIA looks forward to working with the FEC, as well as other policymakers, key stakeholders, and to increase transparency for online political advertising, and we look forward to providing more detailed feedback in response to the NPRM.

Sincerely,

A handwritten signature in black ink that reads "Ken Wasch".

Ken Wasch
President & CEO
Software & Information Industry Association