

Maintaining a Level Playing Field

Addressing Misinformation and Disinformation Threats to Electoral Administration in Ontario

OCTOBER 2024



Office of the
Chief Electoral Officer
of Ontario



Bureau du directeur
général des élections
de l'Ontario

October 2024

The Honourable Ted Arnott
Speaker of the Legislative Assembly
Room 180, Legislative Building, Queen's Park
Toronto, Ontario
M7A 1A2

Dear Mr. Speaker,

It is my pleasure to submit a special report on the state of misinformation and disinformation in Canada and their potential impacts on the administration of the electoral process in Ontario.

Elections Ontario has been closely monitoring and studying how Artificial Intelligence (AI) and social media contribute to the spread of false and misleading information. This work has raised several issues that I would like to bring to your attention, along with a list of recommendations for how Elections Ontario can respond.

As we prepare for the next fixed-date general election, I am confident that the recommendations in the enclosed report will provide the necessary tools to continue administering free, fair, and non-partisan elections in the province.

Sincerely,

A handwritten signature in black ink that reads 'Greg Essensa'.

Greg Essensa





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1 Executive Summary

Misinformation and disinformation have the potential to undermine the integrity of Ontario's elections. Artificial Intelligence (AI) and social media algorithms on digital platforms can manipulate data to quickly spread misinformation and disinformation.¹

Elections Ontario has identified limitations and gaps in the law where modern measures need to be enacted to combat current and future digital threats to maintain electoral fairness and transparency.

The current authority of the Chief Electoral Officer (CEO) under the *Election Act* and the *Election Finances Act* to investigate, thwart and punish misconduct is insufficient to address growing threats in a rapidly evolving digital landscape where voter perceptions can be improperly manipulated by fake news and AI-generated content that is amplified by algorithms.

Other jurisdictions are responding to this threat. British Columbia has enacted new laws targeting electoral misinformation and enhancing transparency in political advertising. Federally, there are proposals to address online misinformation, while in the US, the focus is on transparency in social media policies.

Elections Ontario recommends legislative changes, including:

1. Enhanced oversight and enforcement of political advertising standards and increasing reporting requirements for digital political advertising (i.e. use of bots).
2. Content and format requirements for authorization statements in digital political ads, and labeling any ad created entirely or in part by AI.
3. Authority for the CEO to order individuals and entities, including social media and digital platforms, to monitor and correct false election information and to intervene if they fail to do so.
4. Impose penalties against those who spread false information regarding the election and against those who fail to comply with digital political advertising requirements.

Given the rapidly evolving nature of AI and its impact on social media and digital platforms, action is needed to safeguard Ontario's electoral integrity against misinformation and disinformation.

¹ Misinformation is incorrect information shared without malicious intent whereas disinformation is deliberately crafted to deceive.

2 Maintaining a Level Playing Field: Addressing Misinformation and Disinformation Threats to Electoral Administration in Ontario

Artificial Intelligence (AI) and social media algorithms have heightened the threat false and misleading information pose to the integrity of electoral administration. Misinformation refers to incorrect or misleading information shared without harmful intent, often due to a lack of fact-checking. Disinformation, on the other hand, involves the deliberate creation and spread of false information intended to deceive and manipulate. While these issues are not new to the democratic process, they remain a significant challenge that electoral management bodies (EMBs), including Elections Ontario, must carefully monitor and manage.

When used for malicious purposes, these emerging technologies introduce serious challenges that Canadians are worried about. In the 2021 Canadian federal election, for example, a strong majority of Canadians expressed concern that misinformation posed a significant threat to democracy.² Our own research conducted following the 2022 Ontario provincial election found that nearly three quarters of electors believed that false information had an impact on the election outcome to some extent.³

The Chief Electoral Officer (CEO) of Ontario has the legislative authority to investigate contraventions of the *Election Act*, R.S.O. 1990, c. E.6 (the “Election Act”) and the *Election Finances Act*, R.S.O. 1990, c. E.7 (the “Election Finances Act”). These enforcement mechanisms have included administrative financial penalties and, when required, referrals to law enforcement, such as the Ministry of the Attorney General. The CEO also regularly proposes amendments to legislation and policy recommendations to safeguard the electoral process from emerging threats. However, legislation often lags behind the pace of technological change, particularly with the rise of social media, AI tools, and AI-generated content. To ensure fair and transparent elections, the CEO needs modernized tools to safeguard the integrity of the electoral process against the threat of false and misleading information.

Nearly **three quarters** of electors believed that false information had an impact on the election outcome to some extent.³

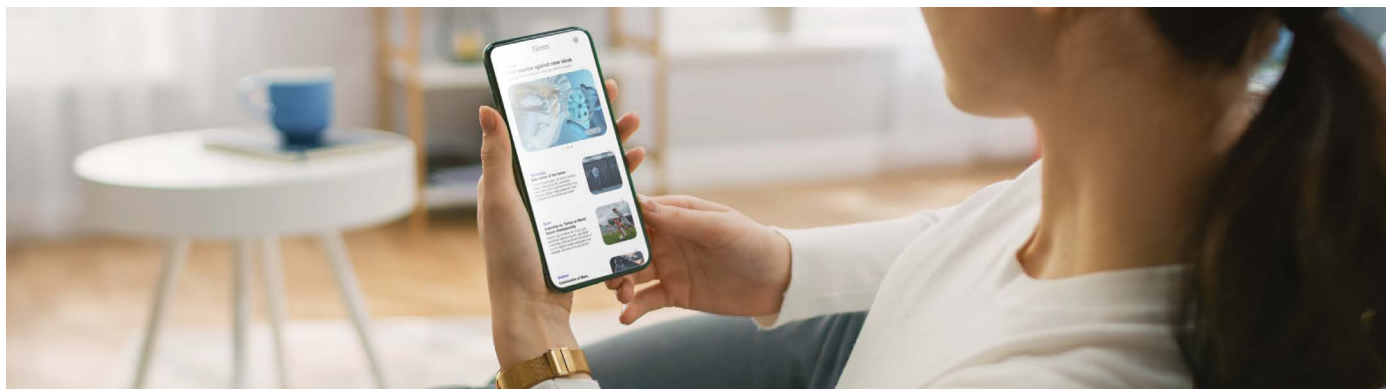
2 “Mis- and Disinformation During the 2021 Canadian Federal Election.” Media Ecosystem Observatory, 2022. https://www.mcgill.ca/maxbellschool/files/maxbellschool/meo_election_2021_report.pdf.

3 “Elections Ontario: Post-Election Research Provincial Election 2022.” Leger, 2022.

2.1 The Role of AI and Social Media in the Spread of False and Misleading Information

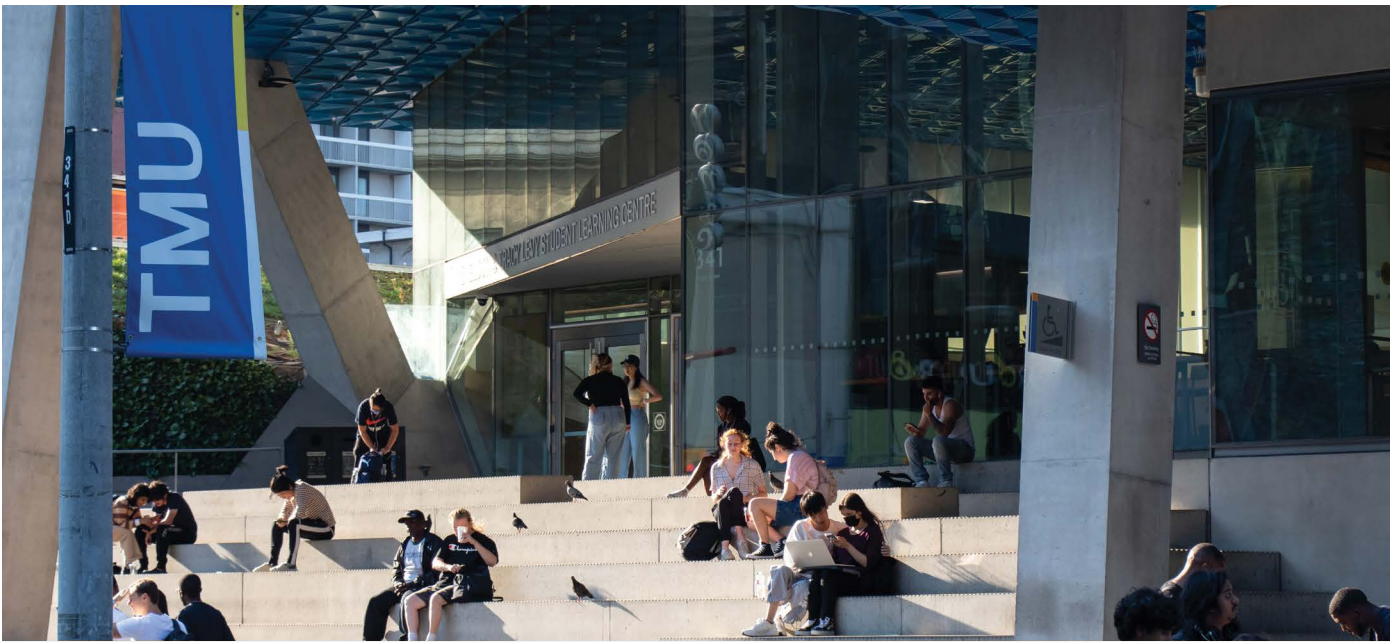
More and more Canadians rely less on traditional media for news. An Abacus poll commissioned by CPAC, found that 22% of Canadians do not access news from any of the traditional news media sources (i.e., TV news, radio, newspapers or newspaper online sites). This rises to 39% among young adults, who are more likely to access news through social media, search engines or friends.⁴ During Alberta's 2021 civic elections and provincial referendum, false social media posts impersonated Elections Alberta undermining its credibility,⁵ highlighting Canadians' increasing vulnerability to misleading or false content. This challenge is amplified by digital platforms using personal data to segment audiences and tailor ads, influencing opinions while making it harder for regulators and whistleblowers to detect content that violates local laws or regulations.

AI technologies amplify the spread of false and misleading information by enabling personalized and far-reaching disinformation campaigns. From setting alarms to analyzing data, AI programs mimic human thinking to make tasks easier, like creating text or videos. The challenge is that content generated wholly by AI — known as synthetic content — is nearly impossible to discern from images and texts generated by human beings. The European Parliament predicts that by 2026 up to 90% of online content could be AI-generated.⁶ The sheer volume of synthetic content on social media increases the probability that electors in Canada, and around the world, will be exposed to information that is false or misleading that could affect their electoral decisions.⁷



A woman reads the news online using her mobile device.

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- 4 "Disinformation, Democracy and Culture." CPAC, 2024.
<https://www.cpac.ca/static-assets/files/doc/CPAC-Disinformation-Democracy-and-Culture-Apr2024-FINAL.pdf>.
- 5 French, Janet. "Elections Alberta Says Fraudulent Social Media Posts Sought to Damage Agency's Reputation." CBC News, December 8, 2021.
<https://www.cbc.ca/news/canada/edmonton/elections-alberta-says-fraudulent-social-media-posts-sought-to-damage-agency-s-reputation-1.6277094>.
- 6 Adam, Michael, and Clotilde Hocquard. "Artificial Intelligence, Democracy and Elections." European Parliamentary Research Service, 2023.
[https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/751478/EPRS_BRI\(2023\)751478_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/751478/EPRS_BRI(2023)751478_EN.pdf).
- 7 Aimeur, Esma, Sabrine Amri, and Gilles Brassard. "Fake News, Disinformation and Misinformation in Social Media: A Review." *Social Network Analysis and Mining* 13, no. 1 (February 9, 2023): 30.
<https://doi.org/10.1007/s13278-023-01028-5>.



Students sitting on steps at the entrance of Toronto Metropolitan University's Sheldon & Tracy Levy Student Learning Centre.

For EMBs, the spread of synthetic content on social media has become a significant problem, with false and misleading information now being generated at unprecedented speeds. For example, this can include convincing text messages from candidates, false announcements in different languages about voting processes, or fake websites that look like official government ones. During the 2021 Canadian federal election, researchers identified bot accounts — automated digital profiles programmed to interact with platforms or users — spreading political content and disinformation on social media.⁸ According

to a report by the Media Ecosystem Observatory, misinformation related to the election was detected on all social media platforms they examined, despite more assertive moderation and election integrity policies.⁹ This is supported by a recent survey conducted by the Dais, a think tank at Toronto Metropolitan University, that found 75% of Canadian respondents had encountered information or news that they suspected was false, while 68% initially believed information about current events was true, only to later discover it was false.¹⁰

⁸ Desrosiers-Brisebois, Gabrielle. "Twitter and Social Bots: An Analysis of the 2021 Canadian Election," 2022. <https://papyrus.bib.umontreal.ca/xmlui/handle/1866/28515>.

⁹ Media Ecosystem Observatory, "Mis- and Disinformation," 2022.

¹⁰ Lockhart, Angus, Mahtab Laghaei, and Sam Andrey. "Survey of Online Harms in Canada 2024." The Dais, 2024. <https://dais.ca/wp-content/uploads/2024/08/Survey-of-Online-Harms-in-Canada-2024.pdf>.

2.2 Addressing Electoral Misconduct: Approaches from Other Jurisdictions

EMBs are proactively monitoring potential threats posed by AI in the spread of false and misleading information.

Jurisdictions across North America have introduced or passed legislative reforms to better address these issues, each offering important precedents that Ontario can draw from.

In 2023, Elections B.C. amended the B.C. *Election Act* to specifically tackle election misinformation and disinformation. British Columbia's *Election Amendment Act, 2023*, amended the B.C. Act to prohibit the deliberate spread of false information about the electoral process, including impersonation and false statements about the EMB, political parties, and candidates. The B.C. Act, as amended, applies to all forms of communication, both traditional and digital media.

The B.C. Act also enhances transparency in political advertising by expanding contact information requirements for sponsors and granting B.C.'s Chief Electoral Officer the authority to set standards for the authorization requirements of election advertising. These

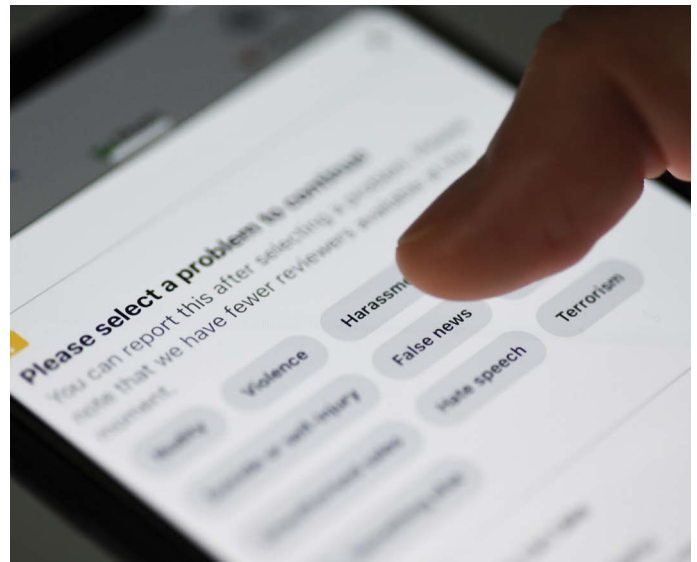
provisions improve access to information about political advertising sponsors and allow for better adaptation to changing advertising practices. According to their latest Service Plan, Elections B.C. is implementing these legislative changes, which include the authority for the Chief Electoral Officer to issue takedown notices to platforms hosting non-compliant content and to impose administrative monetary penalties on individuals and organizations that do not comply.¹¹ The effectiveness of these amendments will be evaluated following the 2024 British Columbia general election.

Federally, Canada's *Elections Modernization Act*, Bill C-76, introduced platform-based registries for digital political ads. This Bill requires all political digital ads to be made publicly accessible in a registry by using the existing digital infrastructure of social media platforms.¹² These transparency requirements extend to the digital sphere, placing responsibility on platforms to maintain records of political ads and adapting traditional rules to online environments, involving tech platforms in ensuring electoral transparency.

11 "Delivering Modernized Elections 2022/23 Annual Report & 2023/24-2025/26 Service Plan." Elections BC, 2023. <https://elections.bc.ca/docs/Report-202223ARSP-October2023.pdf>.

12 "Meeting New Challenges Recommendations from the Chief Electoral Officer of Canada Following the 43rd and 44th General Elections." Elections Canada, 2022. https://www.elections.ca/res/rep/off/rec_2022/rec2022_e.pdf.

Earlier this year the federal government introduced the *Online Harms Act* (Bill C-63). The bill proposes significant changes to address the spread of misinformation and disinformation on social media platforms. It would impose new responsibilities on platforms to take proactive measures against election-related misinformation and improve the moderation of harmful online content.¹³ If passed, Bill C-63 will require platforms to identify and flag harmful content generated by bots, notify users when content is bot-generated, and label content repeatedly communicated by automated systems, such as spambots. Elections Ontario is closely monitoring the outcome of this process.



A mobile screen displaying options for flagging content.

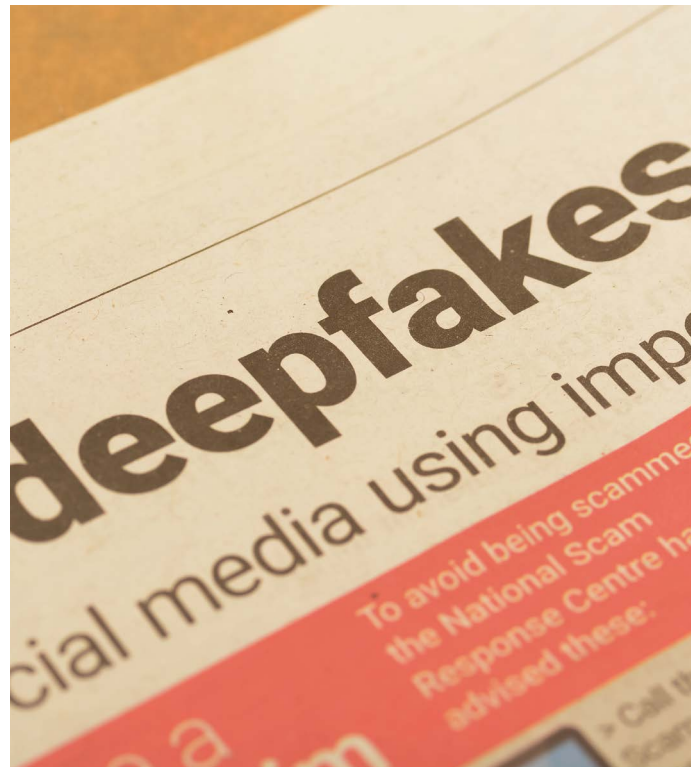
In the United States, constitutional limitations on content moderation result in a regulatory approach that differs from those of other countries. California has enacted laws to enhance transparency around election-related content on social media. AB 2188 (*Social Media DISCLOSE Act*) requires social media platforms to maintain a public, online record of political campaign advertisements, including details on the sources and spending associated with those ads.¹⁴ This aims to improve accountability and provide voters with clearer information about the origins of political content.

¹³ Baldrige, David, Michael Beauvais, Alicia Demanuele, and Leslie Regan Shade. "Five Key Elements of Canada's New Online Harms Act." Schwartz Reisman Institute, March 1, 2024. <https://srinstitute.utoronto.ca/news/canada-online-harms-five-key-aspects>.

¹⁴ AB-2188 Political Reform Act of 1974: campaign disclosures: advertisements., Pub. L. No. 2188 (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2188.

Another bill of note comes from Washington State. In 2023, the state government passed Senate Bill 5152 to address the use of deepfakes in political campaigns. The law mandates the disclosure of manipulated media and grants candidates targeted by undisclosed deepfakes the right to seek damages, protecting candidates from deceptive practices to maintain election integrity.¹⁵

Each of these examples highlights the efforts of EMBs and governments across North America to create flexible legislative and regulatory frameworks that address the challenges of digital disinformation and misinformation. Elections Ontario will continue to take a balanced, measured approach in exercising its legislative authority, and when proposing new reforms to protect Ontarians from the threats posed by false and misleading information.



A newspaper article on deepfakes on social media.

¹⁵ Center for an Informed Public. "New WA Law Requires Clear Disclosures for 'Deepfakes' Used in Election Media," June 9, 2023. <https://www.cip.uw.edu/2023/06/09/new-wa-law-deepfake-disclosure-election-media/>.

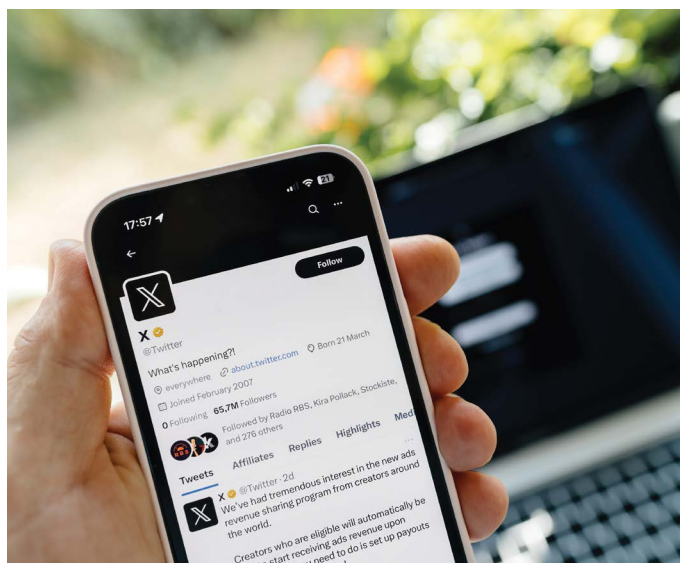
2.3 Combating Misinformation on Social Media Platforms

Social media platforms are under pressure to respond. Some have taken proactive steps to fact-check and combat the spread of misinformation and disinformation. Meanwhile 71% of Canadians report finding it increasingly difficult to distinguish between accurate and inaccurate information on social media.¹⁶ Despite this, Canadians believe social media platforms are key to addressing the issue.¹⁷

Social media platforms like Meta and X (formerly Twitter) have implemented measures to combat misinformation and disinformation in elections although platform-specific policies may be enforced differently across jurisdictions.¹⁸ Recent initiatives include:

- **Content Moderation Policies:** Both Meta and X prohibit false claims about voting processes and election outcomes. Meta has an Oversight Board to review moderation decisions,¹⁹ but enforcement can be inconsistent, especially for high-profile accounts.
- **Labeling False Information:** X's Birdwatch (now Community Notes) and Meta's collaboration with third-party fact-checkers aim to label misleading content.²⁰ However, labeling often trails the rapid spread of misinformation.

71% of Canadians report finding it increasingly difficult to distinguish between accurate and inaccurate information on social media.¹⁶



A mobile screen displaying the social media platform, X (formerly Twitter).

16 "Young Canadians More Trusting of Information on Social Media Than Other Generations." IPSOS, 2022. <https://www.ipsos.com/en-ca/news-polls/Young-Canadians-More-Trusting-of-Information-on-Social-Media-Than-Other-Generations>.

17 CPAC, "Disinformation, Democracy and Culture," 2024.

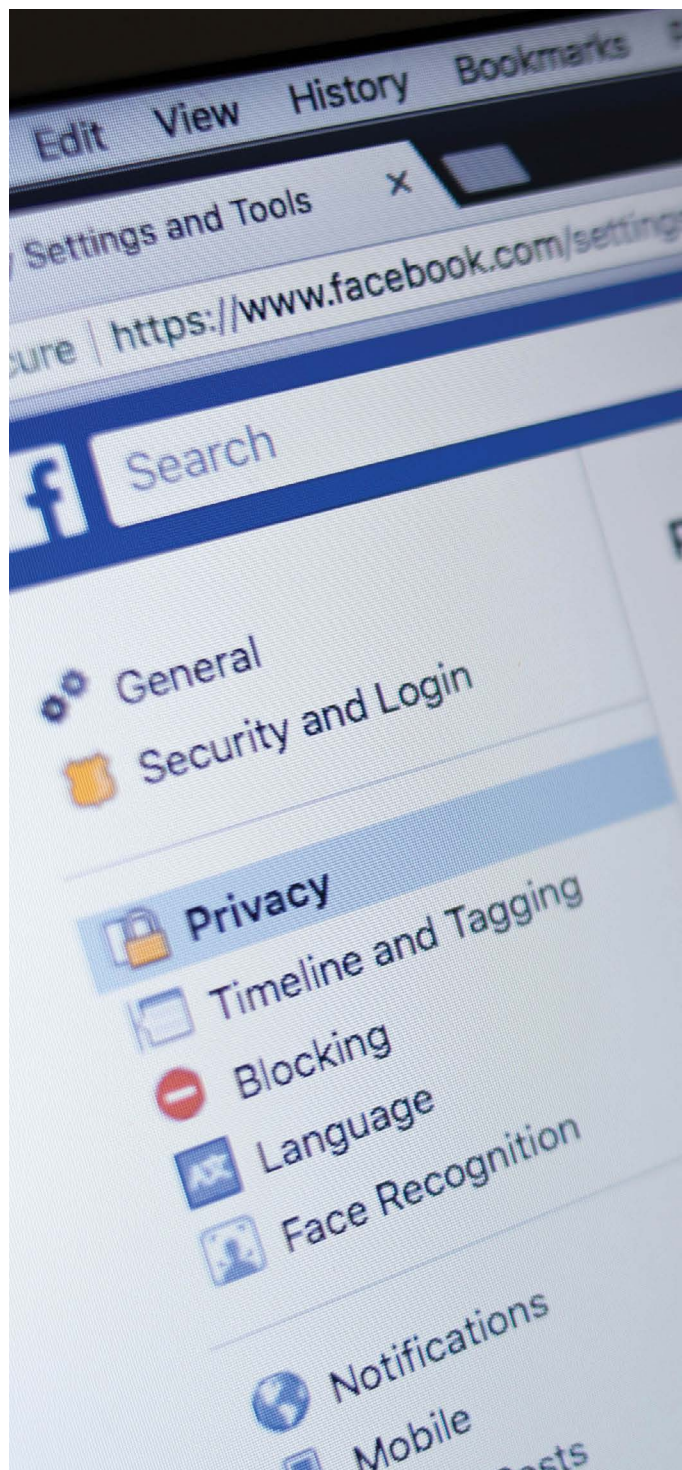
18 Transparency Center. "Ads about Social Issues, Elections or Politics." Meta, n.d. <https://transparency.meta.com/policies/ad-standards/siep-advertising/siep>.

19 Transparency Center. "Ads about Social Issues, Elections or Politics." Meta, n.d. <https://transparency.meta.com/policies/ad-standards/siep-advertising/siep>.

20 X Help. "About Community Notes on X." X, n.d. <https://help.x.com/en/using-x/community-notes>.

- **Fact-Checker Collaboration:** Meta and X have partnered with independent fact-checkers to assess content, but the volume of posts often delays the correction of misinformation. This requires continued investment in those trained in being able to decipher truth and falsehood.²¹
- **Removal of Coordinated Inauthentic Behaviour:** Both platforms remove accounts involved in coordinated disinformation efforts.²² Nonetheless, sophisticated actors continually adapt to evade detection.
- **Advertising Policies:** Stricter rules for political ads, including verification and transparency requirements, have been implemented (e.g., Meta’s Ad Library).²³ Still, gaps remain, particularly with issue-based ads that do not explicitly mention candidates.

The voluntary efforts of social media platforms alone will not effectively stop the spread of misinformation and disinformation. Elections Ontario needs modern tools to ensure platforms have a duty of care to monitor and correct falsehoods about the electoral process, including event details, officials, and outcomes. The CEO requires authority to intervene and correct misinformation and disinformation available to the public.



A desktop screen displaying Facebook privacy settings.

²¹ Paul, Kari. “Reversal of Content Policies at Alphabet, Meta and X Threaten Democracy, Warn Experts.” The Guardian, December 7, 2023, sec. Media. <https://www.theguardian.com/media/2023/dec/07/2024-elections-social-media-content-safety-policies-moderation>.

²² X Help. “Platform Manipulation and Spam Policy.” X, 2023. <https://help.x.com/en/rules-and-policies/platform-manipulation>.

²³ “Ad Library.” Facebook, n.d. https://www.facebook.com/ads/library/?active_status=active&ad_type=political_and_issue_ads&country=CA&media_type=all.

3 Recommendations

Elections Ontario is proactively preparing for the administration of elections in a world with AI. We partner with both national and international EMBs to share practices and strategies for combating misinformation and disinformation. These efforts include continued investment in research on the effects of misinformation on democracy, AI applications in electoral management, and evolving voter behaviour.

We also collaborate with provincial and federal governments to learn from their legislative initiatives. In fact, the following recommendations draw heavily from laws recently passed by the Government of British Columbia and pending federal legislation.

Ontario needs modernized legislation to address the harms of misinformation and disinformation in the electoral process.

We propose three targeted recommendations with ten actions to empower Elections Ontario and authorize the CEO to prevent the spread of false information, respond swiftly to threats, and correct the public record when warranted to restore trust in election outcomes. These recommendations aim to protect free speech while safeguarding voters from misinformation that erodes confidence in elections.

RECOMMENDATION 1

Enhance Oversight and Enforcement of Political Advertising Standards to Address the Spread of Misinformation and Disinformation Transmitted through Digital Channels.

- Authorize the CEO to establish content and format requirements for authorization statements in digital political ads, including those created wholly or partially using AI, to better inform electors.
- Require clear labeling of automated election advertisements (i.e., bots) so users of social media platforms can easily recognize when they are interacting with content that has been generated in whole or partially by AI.
- Introduce protection mechanisms to prevent the dissemination of false or misleading information about the administration of the electoral process across both traditional and digital media.
- Expand the authority of the CEO to make an order requiring a person or entity to pay administrative penalties, up to \$20,000 in the case of an individual and up to \$100,000 in the case of a corporation or other entity, inclusive of digital platforms and social media, for violating misinformation or disinformation political advertising regulations.

The current oversight of political advertising presents significant challenges. Authorization requirements for digital advertisements are applied inconsistently, making it difficult for voters to identify the sponsors and a lack of sufficient information to ensure transparency and accountability. The *Election Finances Act* also lacks provisions requiring disclosure of whether ads are generated or disseminated by bots, making it challenging for voters to discern whether an advertisement originates from a human or AI. Bots often imitate real users, lending credibility to misleading advertisements. The *Election Act* also does not regulate false or misleading content related to the administration of the electoral process, potentially allowing false information to spread unchecked.

To address these issues, the CEO requires additional authority to enforce digital political advertising standards with appropriate mechanisms to improve administrative penalties for non-compliance.

RECOMMENDATION 2

Increase the Reporting Requirements of Political Advertising Circulated on Digital Platforms to Enhance Public Accountability.

- Require all election advertisers to post their digital ads in a public registry during a by-election and for general elections. A record of each ad must be kept in the registry from the date it appears on a digital platform and for two years after a by-election or general election.
- Specify that the following details must be provided for each digital ad in the registry and made public:
 - o A copy of each advertisement
 - o The name of the individual or organization sponsoring the advertisement
 - o The cost of sponsoring the advertisement
 - o The publication dates of the advertisement
 - o The viewership count of the advertisement
 - o The source of funding for the advertisement
 - o The targeting criteria of the advertisement
 - o The number of individuals targeted
 - o Whether generative AI has been used partially or wholly in the creation of the advertisement
- Impose administrative penalties for failure to disclose or provide false information to the digital registries, with penalties up to \$30,000 depending on the severity of the non-compliance.

Online advertisements are often narrowly targeted to specific audiences, making them difficult to uncover. Implementing formal registration requirements for digital political ads would create a public record of ads that might otherwise go unchecked and that could contain false or misleading information about the administration of the electoral process. This includes ads generated partially or entirely by AI. Election advertisers must fully disclose digital political advertising details in public registries. These updated standards will enhance transparency for electors before, during, and after election periods.

RECOMMENDATION 3

Define Targeted Protections on the Circulation of Misinformation and Disinformation Content that Undermines the Integrity of the Electoral Process.

- Introduce targeted restrictions on content generated by individuals or organizations that spreads false or misleading information related to the administration of the electoral process, including voting eligibility requirements, official election dates and times, official processes and procedures for election administration, official voting locations, and official election results.
- Establish a Duty of Care for platforms to monitor and remove harmful or non-compliant content within 12 hours of notice.
- Authorize the CEO to compel individuals or organizations to remove or cease transmitting false or misleading content about the administration of the electoral process, with administrative penalties of up to \$50,000 per day for non-compliance by organizations and up to \$20,000 per infraction for individuals.

The *Election Act* has offence provisions that include fines of up to \$25,000 and two years less a day of imprisonment, upon conviction following a trial. However, the *Election Act* lacks provisions for the removal of advertisements from digital platforms and does not impose specific restrictions on false or misleading content related to the administration of the electoral process. Given the brief duration of election campaigns and widespread usage of social media as source of news by the public, additional tools are necessary, including administrative penalties and orders to comply.

These recommendations are designed to be fair and balanced. Elections Ontario will focus on its legislative mandate to administer a free, fair, and non-partisan election without restricting free speech or expression. If penalties are required, the CEO will take a measured, principled approach, assessing the infraction's severity and ensuring a proportional response, concentrating on the most harmful falsehoods that cause undue harm to candidates or electors and undermine the integrity of the electoral process.

4 Conclusion

The spread of misinformation and disinformation is not new to democracy. However, the widespread use of social media by Canadians, coupled with AI's ability to generate and narrowly target content, makes correcting falsehoods even more challenging. EMBs and governments across North America are taking steps to address this issue.

The likelihood that Ontarians will encounter false or misleading information in the upcoming election is almost certain. Proactive measures are essential to protect the integrity of our elections, uphold democratic principles, and maintain a level playing field.



5 Definitions

Artificial Intelligence (AI), or AI technology, is technology that enables computers and machines to stimulate human learning, comprehension, problem-solving, decision making, creativity and autonomy.

Bots are automated programs that interact with social media users. They can be used to amplify content (i.e., make it more visible and distribute it to a wider audience).

Digital platform includes any website or application where political advertising or election advertising is displayed.

Disinformation involves the deliberate creation and distribution of false information designed to deceive and manipulate.

Election advertising is political advertising conducted during both the election period and pre-election period.

Misinformation refers to incorrect or misleading information shared without harmful intent, often due to a lack of fact-checking.

Political advertising is defined as advertising in any broadcast, print, electronic, or other medium with the purpose of promoting or opposing any registered political party or its leader or the election of a registered candidate. Political advertising also includes advertising about an issue that one or more registered political parties or candidates has taken a position on.

Synthetic content (also known as AI-generated content, content produced by AI, and personalized content) is a catch-all term for the artificial production, manipulation, and modification of data and media by automated means, especially through the use of artificial intelligence algorithms, such as for the purpose of misleading people or changing an original meaning.



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