10A.201 ELECTIONEERING COMMUNICATIONS; DEFINITIONS.

Subdivision 1. **Definitions.** The terms defined in this section apply to this section and to section 10A.202.

Subd. 2. **Broadcast, cable, or satellite communication.** "Broadcast, cable, or satellite communication" means a communication that is publicly distributed by a television station, radio station, cable television system, or satellite system.

Subd. 3. **Targeted to the relevant electorate.** (a) "Targeted to the relevant electorate" means that a communication can be received in the district the candidate seeks to represent, in the case of a candidate for representative, senator, or other office represented by district; or in the entire state, if the candidate seeks a statewide office, as follows:

(1) in the case of a communication transmitted by an FM radio broadcast station or network, where the district lies entirely within the station's or network's protected or primary service contour, that the population of the district is 10,000 or more;

(2) in the case of a communication transmitted by an FM radio broadcast station or network, where a portion of the district lies outside of the protected or primary service contour, that the population of the part of the district lying within the station's or network's protected or primary service contour is 10,000 or more;

(3) in the case of a communication transmitted by an AM radio broadcast station or network, where the district lies entirely within the station's or network's most outward service area, that the population of the district is 10,000 or more;

(4) in the case of a communication transmitted by an AM radio broadcast station or network, where a portion of the district lies outside of the station's or network's most outward service area, that the population of the part of the district lying within the station's or network's most outward service area is 10,000 or more;

(5) in the case of a communication appearing on a television broadcast station or network, where the district lies entirely within the station's or network's Grade B broadcast contour, that the population of the district is 10,000 or more;

(6) in the case of a communication appearing on a television broadcast station or network, where a portion of the district lies outside of the Grade B broadcast contour:

(i) that the population of the part of the district lying within the station's or network's Grade B broadcast contour is 10,000 or more; or

(ii) that the population of the part of the district lying within the station's or network's broadcast contour, when combined with the viewership of that television station or network by cable and satellite subscribers within the district lying outside the broadcast contour, is 10,000 or more;

(7) in the case of a communication appearing exclusively on a cable or satellite television system, but not on a broadcast station or network, that the viewership of the cable system or satellite system lying within a district is 10,000 or more;

(8) in the case of a communication appearing on a cable television network, that the total cable and satellite viewership within a district is 10,000 or more; or

(9) in the case of a communication disseminated by telephone, in a digital format online, or by other electronic means that:

(i) the communication is capable of generating 2,500 or more contacts within a district at any time during the electioneering communication period identified in subdivision 6, paragraph (a), clause (2), in which it is disseminated; or

(ii) if multiple communications are disseminated by the same person, the communications:

(A) refer to the same candidate; and

(B) are capable of generating 2,500 or more contacts within a district, in aggregate, at any time during the electioneering communication period identified in subdivision 6, paragraph (a), clause (2), in which they are disseminated.

(b) Cable or satellite television viewership is determined by multiplying the number of subscribers within a district, or a part thereof, as appropriate, by the current average household size for Minnesota, as determined by the Bureau of the Census.

(c) A determination that a communication is targeted to the relevant electorate based on the application of the formula in this section shall create a rebuttable presumption that may be overcome by demonstrating that:

(1) one or more cable or satellite systems did not carry the network on which the communication was publicly distributed at the time the communication was publicly distributed; and

(2) applying the formula to the remaining cable and satellite systems results in a determination that the cable network or systems upon which the communication was publicly distributed could not be received by 10,000 individuals or more.

Subd. 4. **Direct costs of producing or airing electioneering communications.** "Direct costs of producing or airing electioneering communications" means:

(1) costs charged by a vendor, including studio rental time, staff salaries, costs of visual or audio media creation or recording, and talent;

(2) the cost of airtime on broadcast, cable, or satellite radio and television stations, studio time, material costs, and the charges for a broker to purchase the airtime; and

(3) the cost to disseminate messages, to access any platform used to disseminate messages, or to promote messages on any platform used to disseminate messages by telephone, in a digital format online, or by other electronic means.

Subd. 5. **Disclosure date.** "Disclosure date" means:

(1) the first date on which an electioneering communication is publicly distributed, provided that the person making the electioneering communication has made one or more disbursements, or has executed one or more contracts to make disbursements, for the direct costs of producing or airing one or more electioneering communications aggregating in excess of $10,000; or

(2) any other date during the same calendar year on which an electioneering communication is publicly distributed, provided that the person making the electioneering communication has made one or more disbursements, or has executed one or more contracts to make disbursements, for the direct costs of producing or airing one or more electioneering communications aggregating in excess of $10,000 since the most recent disclosure date during that calendar year.

Subd. 6. **Electioneering communication.** (a) "Electioneering communication" means any broadcast, cable, satellite, telephone, or digital communication that:

(1) refers to a clearly identified candidate for state office;

(2) is publicly distributed within 60 days before a general election for the office sought by the candidate, within 30 days before a primary election for the office sought by the candidate, or within 30 days before a convention of a political party unit that has authority to endorse a candidate for the office sought by the candidate; and

(3) is targeted to the relevant electorate.

(b) A communication is not an electioneering communication if it:

(1) is publicly disseminated through a means of communication other than a broadcast, cable, satellite television, or radio station, by telephone, in a digital format online, or by other electronic means;

(2) appears in a news story, commentary, or editorial distributed through the facilities of any broadcast, cable, or satellite television or radio station, unless such facilities are owned or controlled by any political party, political committee, or candidate, provided that a news story distributed through a broadcast, cable, or satellite television or radio station owned or controlled by any political party, political committee, or candidate is not an electioneering communication if the news story meets the requirements described in Code of Federal Regulations, title 11, section 100.132 (a) and (b);

(3) constitutes an expenditure or independent expenditure, provided that the expenditure or independent expenditure is required to be reported under this chapter;

(4) constitutes a candidate debate or forum, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(5) is paid for by a candidate;

(6) is a noncommercial solicitation for the purposes of opinion research, including but not limited to opinion research designed for understanding the impact of exposure to political messages and content, provided that the solicitation is not designed to influence respondents' views by presenting biased or manipulative content under the guise of it being an opinion poll, survey, or other form of scientific data collection; or

(7) is a communication disseminated by telephone, in a digital format online, or by other electronic means that the recipient has affirmatively and voluntarily consented to receive from the sender.

Subd. 7. **Identification.** "Identification" means, in the case of an individual, the individual's full name including first name, middle name or initial if available, and last name; mailing address; occupation; and name of the individual's employer and, in the case of a person who is not an individual, the person's name and principal place of business.

Subd. 8. **Individuals sharing or exercising direction or control.** "Individuals sharing or exercising direction or control" means officers, directors, executive directors or the equivalent, partners, and in the case of unincorporated organizations, owners, of the entity or person making the disbursement for the electioneering communication.

Subd. 9. **Publicly distributed.** "Publicly distributed" means aired, broadcast, cablecast, or otherwise disseminated through the facilities of a television station, radio station, cable television system, or satellite system, or disseminated to a recipient by telephone, in a digital format online, or by other electronic means.

Subd. 10. **Refers to a clearly identified candidate.** "Refers to a clearly identified candidate" means that the candidate's name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as "the governor," "your legislator," or "the incumbent," or through an unambiguous reference to the candidate's status as a candidate such as "the [political party] gubernatorial nominee" or "the [political party] candidate for senate."

Subd. 11. MS 2023 Supp [Repealed, 2024 c 112 art 4 s 28]

History: *2023 c 62 art 5 s 35; 2024 c 112 art 4 s 9-12*