

States weigh campaign rules for the Internet age

October 18 2009, By RYAN J. FOLEY , Associated Press Writer



In this 2009 photo released by the Scott Wagman campaign, Scott Wagman poses for a photo during his unsuccessful candidate for mayor in St. Petersburg, Fla. When the Florida mayoral candidate wanted to promote his campaign, he did what other successful politicians have done: He took out an ad that popped up on Google when anyone searched for his opponents' names. But after a rival campaign complained that the ad did not have the required "paid for by" disclaimer, the Florida Elections Commission told Wagman to remove it and pay a \$250 fine. (AP Photo/Scott Wagman Campaign)

(AP) -- To promote his recent campaign for mayor of St. Petersburg, Fla., Scott Wagman bought an ad that popped up online when anyone ran a Google search for his opponents' names.

He was hardly the first to employ the tactic, which didn't stop a rival campaign from complaining the ad did not have a "paid for by"

disclaimer. The Florida Elections Commission ordered Wagman to remove it and pay a \$250 fine, even though the required disclaimer was longer than the 68 characters allowed in the text of the ad, which wasn't "paid for" until someone clicked on it.

Wagman is fighting the complaint, and his case adds to an ongoing debate about how "old media" rules governing campaign spending should apply to the "new media" of the Internet age. When does a blog connected to a campaign need to disclose its allegiance? Does a candidate's personal Facebook page need a disclaimer if it is updated by a staffer? Can a campaign-related tweet - a message posted on social media site Twitter - even be regulated?

"Policing this is going to be a tremendously difficult thing, let alone writing the rules," said Edwin Bender, executive director of the National Institute on Money in State [Politics](#), a nonprofit group in Helena, Mont.

Citing the Wagman case, Wisconsin's Government Accountability Board this month ordered staff to draft guidelines outlining the circumstances under which the public needs to know who is paying for an online ad or Web site. Several political experts said Wisconsin appears to be one of the first states where regulators are drafting such guidelines, and they expect others to follow.

Many states currently require political ads to include disclaimers saying who paid for them, although some exempt small items such as bumper stickers, buttons and T-shirts where a disclaimer is impractical. Paul Ryan, a lawyer with the Campaign Legal Center in Washington, said text messages and small pay-per-click online ads might become "the campaign buttons of the Millennium Era."

So far, the Federal Elections Commission has taken a mostly hands-off approach, as campaigns still spend far more money reaching voters

through television, radio and direct mail. The commission ruled in 2006 that campaign regulations do not apply to most Internet activity, except for paid political advertising on someone else's Web site. Bloggers are exempt as long as they write voluntarily and are not paid by a campaign.

In California, the state's Fair Political Practices Commission has formed a task force to study the issue and make recommendations.

Gubernatorial candidates there are facing questions about whether they must report Twitter Inc.'s recommendation of their Twitter feeds as in-kind campaign donations, a scenario not covered by the state's current rules.

"These are some of the types of issues we're going to be looking at," said the commission's executive director, Roman Porter.

The retired judges on the Wisconsin board, mostly in their 60s, seemed divided during a recent meeting when discussing regulating Internet communication while also protecting free speech rights. At times, they puzzled over what they are and how they work.

"I've been in government for 45 years and this is the first meeting I've ever been to where we've discussed tweets and widgets," said board member William Eich. Widgets are applications that can be embedded on Web sites and PC desktops, displaying news from a campaign or a blog.

Board lawyer Shane Falk said he believed the pay-per-click ads on Facebook and Google need not have disclaimers as long as the sites they link to do. Based on its discussion, the board may require other sites, including Facebook pages for campaigns and candidates, to have them.

Wagman's ads on [Google](#) and Facebook touted his background as a businessman and endorsements from local leaders, said Brian Bailey,

president of Rearden Killion Communications and a campaign consultant. He's optimistic the Florida commission will reverse itself when it issues a final decision on whether to fine Wagman, who lost in last month's crowded primary for St. Petersburg mayor.

Bailey said other states should approve similar guidelines before the 2010 election cycle, saying they will otherwise be inundated with complaints about online campaign activity.

"States are really going to have to deal with this," he said. "It would be easy for candidates in partisan races to attack the opponents for breaking rules and throw a wrench into the campaigns. I think voters would get really turned off by it."

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