WEST VIRGINIA CODE: §5a-3-64

§5A-3-64. First Amendment Preservation Act.

(a) This section shall be known and may be cited as the First Amendment Preservation Act and is hereby established by the Legislature for the purpose of preventing the state and its agencies from contracting with advertising agencies that use the services of misinformation or disinformation media reliability and bias monitors to ensure that state moneys do not fund viewpoint discrimination and that state funding advertising reaches the broadest possible audience without regard for political ideology or viewpoint.

(b) For the purposes of this section:

"Agency" means any state department, division, board, commission, institution, or other administrative agency of state government, institutions of higher education using state funds, or any political subdivisions of the state.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority owned subsidiaries, or parent companies that exist for the purpose of making a profit or that are nonprofit entities.

"Media reliability and bias monitor" means a company whose primary or principal function is rating or ranking news and information sources for the factual accuracy of their content, whether published online, in print, by audio, or digitally, or by broadcasting via radio, television, cable, streaming service, or any other ways news is delivered to the public, or that provide ratings or rankings of news sources based on misinformation, bias, adherence to journalistic standards, or ethics, including, but not limited to, organizations that claim to engage in fact checking or determining overall news accuracy. For purposes of this section, the term "media reliability and bias monitor" does not include a company that only rates media outlets for audience size, viewership, and demographic information, or that monitors media outlets for the purposes of compiling press or video clippings or aggregating news sources.

(c) Notwithstanding any other provision of this code to the contrary, an agency may not:

(1) Enter into any contract or other agreement with any media reliability and bias monitor for purposes of directing the agency's advertising placements or for use of the agency's programmatic advertising purchases;

(2) Enter into any contract or agreement with any advertising or marketing agency that uses the services of a media reliability and bias monitor for purposes of directing the agency's advertising placements or for use of the agency's programmatic advertising purchases; or

WV Legislature

(3) Enter into any contract with an entity directly or indirectly associated with any person or entity connected to:

(A) The list of persons determined to be foreign adversaries by the Secretary of Commerce of the United States under 15 C.F.R. 791.4;

(B) The terrorist exclusion list compiled by the Secretary of State of the United States in consultation with the Attorney General of the United States under 8 U.S.C. 1182;

(C) The list of countries determined by the Secretary of State of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d); and

(D) The list of individual and entities designated by, or in accordance with Executive Order 13224, issued by the President of the United States on September 23, 2021, or Executive Order 13268, issued by the President of the United States on July 2, 2002.

(d) Any agency seeking to contract for advertising or marketing services shall require all companies submitting a bid or proposal to provide written certification that the company is neither a media reliability and bias monitor nor planning to use the services of a media reliability and bias monitor for the purposes of the contract or agreement with the agency. Prior to extending, renewing, or otherwise changing or modifying an agreement or contract for advertising or marketing services in effect prior to the effective date of this section, an agency shall obtain written certification from the contractor it is neither a media reliability and bias monitor nor planning to use the services of a media reliability and bias monitor for the purposes of the contract or agreement with the agency.

(e) Nothing in this section shall be construed to prevent an agency from contracting for services which aggregate news articles and information relevant to the agency or its constituents or to prevent a company from providing analytical or statistical information on the performance of advertisements placed by an agency.

(f) The provisions of this section enacted apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after July 1, 2026.

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