



FAQ for Meta Appeal and Amicus Brief

What is this case and what is the appeal?

In 2020 the State of Washington filed suit in King County Superior Court against Meta Platforms, Inc., formerly d/b/a Facebook, Inc., alleging numerous violations of state campaign finance disclosure laws. Two years later, the court ruled in favor of the State, concluding Meta willfully violated Washington State's campaign finance laws more than 800 times. The court rejected Meta's argument that the law was too burdensome and subsequently granted the State's motion to fine Meta the maximum penalty available--\$24.6 million.

Meta then appealed the decision to the Washington Court of Appeals, arguing that the Washington State disclosure laws are overly burdensome and violate the First Amendment. A date for oral argument has not yet been set.

How did this case start?

Members of the public filed complaints with the [Washington State Public Disclosure Commission](#) (PDC), including [this September 2021 case](#) filed by a journalist. After the PDC determined that the complaints were credible, they were referred to the Attorney General, who filed suit in 2020.

What are the Washington State laws at issue?

The Washington State Fair Campaign Practices Act ([Chapter 42.17A RCW](#)) broadly requires that "political campaign and lobbying contributions and expenditures be fully disclosed to the public," adding that "secrecy is to be avoided." [RCW 42.17A.001\(1\)](#). The law imposes requirements on advertisers who sell political ads in Washington to make available upon request certain information about those ads. (RCW 42.17A.345). The PDC rules require specific disclosures applied to different media. Digital platforms such as Meta must provide specific information about digital ads including who bought the ads and the targeting information. WAC 390-18-050(7)(g).

Is there additional history on this case?

In 2018, following the State's first lawsuit, Facebook agreed to pay \$238,000 and committed to transparency in campaign finance and political advertising. It subsequently said it would stop selling political ads in the state rather than comply with the requirements. However, ads continued to be sold. That is the basis for the most recent lawsuit and appeal.

Which information about digital ads is required to be available for public inspection?

[WAC 390-18-050\(7\)\(g\)](#) requires: "A description of the demographic information, the statistical characteristics of a population (e.g., age, gender, race, location, etc.), of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business; and the total number of impressions generated by the advertisement or communication."

Is this a new law?

There has been some form of campaign finance regulation in Washington since 1907. Because the laws were not widely followed or enforced, this created an appetite for comprehensive reform through public initiative, after several less successful attempts to work with the legislature to pass similar reforms were unsuccessful. **Washington Initiative 276** was on the [ballot](#) as an [initiative to the people in Washington](#) on [November 7, 1972](#) and passed with overwhelming support. It specified:

Section 110. Duties of Commercial Advertisers.

A commercial advertiser must maintain records specifying the names and addresses of persons from whom it accepted political advertising, the exact nature of the services rendered, and the manner of paying for the services. This information has been an investigative tool in determining whether committees have properly reported advertising expenditures and is open to public inspection.

In 2018, additional rulemaking was in part prompted by the passage of [ESHB 2938](#), which expanded the definition of “political advertising” to explicitly include digital advertising. Digital advertising had been understood to be included in the definition of political advertising previously under the broad heading of “other means of mass communication” but the sweeping changes implemented by ESHB 2938 prompted an extensive rulemaking effort that provided an opportunity to also update the WAC pertaining to commercial advertisers.

The State’s laws have been upheld numerous times in court prior to the Meta case.

Can campaigns be solely responsible for this disclosure?

Campaigns report expenditures, and commercial advertisers provide disclosure on what was sold—including information on targeting and reach that isn’t available to campaigns. This helps cross referencing in situations where the sponsorship of political advertising is unknown or in dispute.

Why is information about digital advertising important to the public?

This excerpt from the Amicus brief explains the importance of understanding the sources and targeting of digital political ads.

I. Voters Benefit from Full Disclosure of the Interests Financing the Election Messaging They Hear.

The Supreme Court has repeatedly recognized that voters benefit from campaign finance information, and democracy functions better when the interests funding and influencing campaign-related debate are disclosed. *See, e.g., Citizens United*, 558 U.S. at 339. These interests are all the more acute in the context of online political advertising—where anonymity and technical innovations such as microtargeting and user data harvesting have meant that voters are subject to ever more finely-targeted campaign advertising with little understanding of who is behind the messages. Against this backdrop, Washington’s Disclosure Law provides voters with critical information about political advertising in the digital space, thus enabling Washington’s election system to evolve with developing

technologies and guarding against false information, fraudulent actors, and the overwhelming power of dark money.

Why have the LWVWA and FDF decided to join this amicus brief?

The League is committed to protecting voting rights, empowering voters, and defending democracy. LWVWA works to ensure that all voters have the opportunity to exercise their right to vote and that all voters—including those from traditionally underrepresented or underserved communities, such as first-time voters, non-college youth, new citizens, communities of color, the elderly, and low-income Americans—also have the information they need to exercise their right to vote.

When Meta refused to provide the required information to journalists, the public was deprived of the information required by the State’s Disclosure Law. In 2022 the LWVWA published [The Decline of Local News and Its Impact on Democracy](#). This extensively researched report concluded that access to credible local news sources increases voter turnout and community engagement, increases the number of candidates running for public office, and decreases polarized political viewpoints. In response to this report, the LWVWA's membership adopted a public policy position in support of ensuring that everyone has access to information necessary for casting an informed ballot. The information Meta is withholding interferes with this access.

Fix Democracy First is a nonprofit, nonpartisan advocacy organization focused on achieving fair elections and government policies that reflect the will of the people, not the power of money. FDF has been working on campaign finance reform to expand transparency and disclose in Washington state for more than 10 years.

Are there First Amendment concerns about Washington State’s disclosure laws?

These excerpts from the Amicus brief explain why the State’s disclosure laws are consistent with the First Amendment.

Disclosure advances core First Amendment principles.

The U.S. Supreme Court has repeatedly recognized that laws like Washington’s serve at least three important democratic interests: (1) providing “citizens with the information needed to hold . . . elected officials accountable for their positions and supporters.” *Citizens United*, 558 U.S. at 370-71; (2) deterring actual political corruption and the appearance of corruption, *Buckley*, 424 U.S. at 66-68; and (3) gathering the data necessary to detect violations of the law, *id.* The first of these interests, the public’s informational interest, is “alone . . . sufficient to justify” disclosure laws. *Citizens United*, 558 U.S. at 369.

Does the State disclosure law compel speech?

Note: The compelled speech doctrine sets out the principle that the government cannot force an individual or group to support certain expression. Thus, the First Amendment not only limits the government from punishing a person for his speech, it also prevents the government from punishing a person for refusing to articulate, advocate, or adhere to the government’s approved messages. However, this case is not about forcing Meta to adhere to the government’s messaging. It is only about disclosure related to how information Meta hosts is generated and paid for.

The Brief states:

There is no requirement to publish or host this information, only to respond timely to disclosure requests. The Supreme Court has never applied its compelled speech doctrine to electoral reporting or disclaimers laws. But, even outside the electoral arena, the Supreme Court has typically reserved a finding of “compelled speech” for laws that discriminate on the basis of viewpoint. Campaign finance information disclosed by the platforms does not convey their ideological or political position, and is purely factual in nature. (From brief McManus in tension...)

Is Meta correct that the disclosure law favors well-funded candidates because advertising on digital platforms is cheaper and more efficient than other forms of advertising?

Digital advertising ensures equitable access to small campaigns who want to deliver affordable and timely messages to the public. Meta and some other third-party platforms have responded to the disclosure requirements by making a business decision to decline political ads in Washington. To the extent that political advertising on digital platforms such as Facebook is reduced, that is due to this business decision, not the existence of campaign finance laws ensuring that Washington voters have access to necessary information. The LWVWA encourages political speech, and urges platforms to comply with the disclosure law, as have newspapers, radio, tv and other commercial advertisers.