Disclosures included on paid posts made by social influencers/bloggers

- Current language in the Disclose Act applicable to electronic media does not appear to address paid posts made on social media by social influencers/bloggers

- Pursuant to Section 84504.3(h), committees must include disclosures on a profile or landing page for social media accounts; but this is not applicable in the case of a social influencer/blogger

➢ Recommendation: Task Force to discuss potential statutory/regulatory fix to address this gap.

Disclosures included on streaming apps such as Hulu, Netflix, etc.

- Ads appearing on streaming sites paid for by committees require disclosure under Section 84504.1

- However, non-independent expenditure ads made by political parties and candidates are not subject to these requirements. In other words, a direct ad placed by a candidate on Hulu currently does not require a disclaimer. (Independent expenditure ads by political parties and candidates do require a disclaimer pursuant to Section 84504.5.)

➢ <u>Recommendation</u>: Task Force to discuss potential statutory/regulatory fix to address disclosures for non-independent expenditure ads placed on streaming apps by political parties and candidates.

Ability to require a copy of issue ads be submitted for database

- Section 85310 requires a person who has made a payment of $50,000 or more for a communication that clearly identifies a candidate for state office – but does not expressly advocate for/against the candidate – disseminated within 45 days of an election to file a report disclosing the name and amount of the payment, among other information, within 48 hours.

- *Citizens United*, disclosure of traditional disclaimer information for the federal analog of California's issue ads ("electioneering communications") upheld by a vote of 8-1.

- No cases under California law challenging the current disclosure requirements of Section 85310.

- No current case law to indicate that requiring a copy of the ad would prove an unconstitutional burden on speech.