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<div align="center">The Case for Potentially Banning the Publication of Opinion Polls</div>

The past few weeks following the 2020 United States Presidential Election have been full of controversy over the validity and trustworthiness of election polls. This is because the opinion polls were grossly incorrect in their predictions of a Democratic landslide victory and, as a result, the entire country expressed a sense of déjà vu on Election Day as the votes counted showed a much closer race than expected (similar to the 2016 Presidential Election). This is largely a result of the media's over-use of horse race journalism which presents an election to the public as a spectator sport; the focus being more on who's winning/losing in the polls rather than the actual policy issues of each candidate. Such coverage puts too much focus on the results of political opinion polls, which have proven inaccurate in recent elections, and has a negative impact on voter behavior leading up to an election because people make decisions based on incorrect information they believe to be true. Horse race journalism is, at best, an unnecessary distraction that is potentially harmful to the outcome of an election and therefore, the publication of election polls should be banned five days prior to Election Day.

The major media's reliance on political opinion polls as well as their inaccuracy in recent years is a key reason for banning their publication in the days leading up to an election. Prior to Election Day in 2020, many polls predicted a landslide victory for the Democratic candidate, Joe Biden, and his running mate, Kamala Harris. A blue wave was expected to sweep across the election map leaving no doubt who the next President of the United States would be. However, that was not the case and the country soon realized that the pollsters had made a grave mistake. Instead, the country witnessed what was later called a "red mirage" which showed Trump in an

unexpected lead for a short time, only to fall behind in the days to come as more and more mail-in ballots were counted. After analyzing the election results alongside those of the pre-election polls, it is clear that support for Republican candidate and presidential incumbent Donald Trump was greatly underestimated. Inaccuracy in the polls was especially prevalent in key swing states such as Ohio, Iowa, and Florida which were favored for Biden but instead were called for Trump on election night. Other important states like Nevada and Michigan were also expected to be quick victories for the Democrats but, in reality, were too close to call for several days after voting ended (Russonello, 2020). With coverage of the election focused mostly on horse race journalism, many voters were influenced by what they saw in the polls and who was predicted to win and lose as opposed to the actual policies of each candidate. This is because when credible news organizations give out information they advertise as being true, people are likely to believe them and will take their predictions into account when making their own voting decisions. This is especially detrimental in the last few days leading up to an election because it can easily lead to voter suppression by discouraging people from voting, as they may believe their vote will not change the outcome of an election.

Extremely similar to the 2020 election in regard to inaccurate pre-election polling, the 2016 election results shocked the country when Donald Trump, a wealthy businessman from New York, "…won the Electoral College by 306 Electoral Votes (EV's), to 232 EV's for [former Secretary of State] Hillary Clinton" (Beaumont, 2016). This mistake is largely due to a failed attempt at predicting the outcome of key swing states that ended up tilting the Electoral College in favor of Trump (Dickie, 2020). Not only were the polls wrong in predicting that Clinton would win the election, but they were blatantly incorrect in presuming that her victory would be a landslide. A couple of weeks before Election Day The New York Times even went as

far as saying that Clinton had a 91% chance of winning the election; a highly embarrassing mistake that resulted in more caution from The New York Times in its coverage of the 2020 election (The New York Times, 2016). All polls have a certain margin of error, but the extent to which the pollsters were wrong in both the 2016 and the 2020 election is alarming to many throughout the country. The influential power that opinion polls have over voters, along with their proven inaccuracy in recent years, is, again, an important reason to ban publishing them in the five days prior to an election.

Just to illustrate how blatantly inaccurate the polling industry is on a regular basis, look no further than President Bush's 2004 reelection campaign. Exit polls are the most accurate polls published because they are conducted as people are leaving their polling place, having just voted. They take the guesswork out of polling and yet, the Bush-Kerry election proved that they can still be wrong in their presumptions and can negatively impact election results. The exit polls released on Election Day during the 2004 midterm election between George H. W. Bush and John F. Kerry strongly predicted that Kerry would be the next to enter the White House. In fact, "…respected election watchers John Zogby and Frank Luntz declared Bush defeated before the sun had set on Washington" that day (Anderson & Fiore, 2004). However, data from exit polls in states like Florida and Ohio, which were favored for Kerry, was incorrect and Bush ended up winning not only those key states but the election as well. The problem with publishing these inaccurate results while voting is still open is that voters in states already declared for Kerry may have decided not to vote because, according to reliable news organizations, the election was already won and voting either for or against Kerry would make no difference in the end result. This goes to show that using exit polls to call states before the polls close runs a real risk of voter suppression as they impact the decisions made by voters and, therefore, the election itself.

Analyzing the impact of inaccurate pre-election polls on the 2020, 2016, and 2004 elections have shown just how influential such information can be on voters before an election. This analysis also proves that banning the publication of polls five days before Election Day would be helpful in preventing such influence from reaching voters, either undecided or unwilling to vote if they believe their vote won't make a difference. Unfortunately, the First Amendment may cause difficulties in the implementation of such a strong action as it could be interpreted as an attack on freedom of speech. However, a bill to ban the publication of opinion polls in the days leading up to Election Day is not impossible as the Federal Communications Commission was able to ban the advertisement of cigarettes on television and radio in the early 1970s. While cigarette commercials and pre-election polls are two very different things, they are both very influential products that have the capacity to impact the wellbeing of the citizens of the United States. After cigarette ads were banned from TV and radio, their influence on consumers dropped significantly, as did their popularity (Glass, 2018). The same could be true for the influential power that pre-election polls have on voters before an election. With the absence of published polls five days before an election, voters would be free to make their own informed decisions on who is best suited to be elected. Although social media organizations represent a gray area as the government does not have the power to moderate individual citizens' online posting, they could and should prevent major news media outlets from publishing this data in the days leading up to an election on their online web pages. Instead, an agreement must be made between all the major social media organizations and the government to ensure their compliance with the ban. While this is not a perfect solution, some restriction is better than none at all in this scenario.

To some, the idea of banning the publication of pre-election polls for a period of time prior to Election Day may seem like a new idea but there are actually many other countries whose laws provide for similar limitations. For example, in the United Kingdom the publishing of exit polls on Election Day before the polls have closed is considered a criminal offense that can result in "…a fine of up to £5,000 or a jail term of up to six months" (Trevelyan, n.d.). Other countries, including Armenia, Bulgaria, Cambodia, and the Czech Republic, ban the publication of opinion polls in general at least one or more days before an election depending on the country (ACE: The Electoral Knowledge Network, n.d.). The reason for this is because many countries believe that opinion polls are highly influential over voter behavior and wish to ensure that every voter has the opportunity to make their own decisions on which candidate they want to support.

While pre-election polls can be useful in gauging public opinion prior to an election, they have proven highly inaccurate in their predictions and are largely capable of influencing the decisions of voters. That being said, coverage of elections through horse race journalism focusing on opinion poll results is potentially harmful to the outcome of an election and, therefore, the publishing of such polls should be banned five days prior to Election Day. This will allow voters to make their own informed decisions about candidates and their platforms and should drastically reduce the chance of voter suppression on Election Day.

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