

Written evidence from Professor Rachel Gibson (TEC45)

Public Administration and Constitutional Affairs Committee The Work of the Electoral Commission inquiry

The Committee invites evidence on the following issues:

1. The effectiveness of the Electoral Commission in discharging its statutory obligations
2. a) What roles and functions within the UK electoral system should the Commission perform?
3. b) Should the remit of the Electoral Commission be changed?
4. c) What powers should the Electoral Commission have? Should the existing powers be changed?: Do you agree or disagree with this proposal for the extension of the powers of the Electoral Commission

The EC role in relation to the circulation of digital content during campaigns and elections needs clarifying and strengthening. In particular there are three areas where it should be enhanced:

- (1) Regulation of Digital Advertising - The EC should have power to require that all campaign organizations follow a digital imprints regime for digital election material, and the powers to regulate and enforce this requirement. Imprints should include information about the organization or individual that paid for material. If an organization or group is responsible for it, this should be clearly stated in addition to any named person and address. This should include all registered political parties, registered third party campaigners, candidates, holders of elected office and registered referendum campaigners. All content both paid and unpaid (or 'organic') material should be included under this imprint requirement. The requirement should also be extended to registered third parties. This should also cover registered third parties, and the threshold of expenditure to be considered a registered third party should be lowered. This would close or at least tighten up the possible loophole whereby private individuals or organizations can campaign on behalf of a party or candidate without having to use a digital imprint.*
- (2) Controlling Misinformation – While the EC is not in a position to identify all instances of misinformation, or to adjudicate on what constitutes free speech, there are steps the EC could take in dealing with obvious or blatant false information. In particular the EC should work with reputable fact checking organizations to establish a list of accounts for which there is very strong evidence that they are 'fake' accounts and apply an imprint that signals that its provenance and contents are 'unknown or of unreliable origin' and thereby flag it as potentially misleading to voters. This would carry some costs for the EC but there are methods and ways now for identifying bot content. This could also include an element of crowd sourcing, whereby the EC works with an academic body as part of a citizen science project to develop a system for reporting bots, with cases making the final ruling. This would provide a helpful cue to voters.*
- (3) Ensuring Compliance: Current sanctions for non-compliance are at a maximum of £20,000. This is relatively low and does not act as a strong deterrent. Digital platforms should be required to conduct a legal check list with advertisers prior to their content*

being posted. This would require advertisers to confirm whether the content they are posting any material that is explicitly designed to influence users political views, preferences and ultimately vote choice. The platforms need to make this process as simple and accessible as possible. Imprints should be mandatory for any advertising, with an explicit requirement to do so, and significant financial penalties imposed if there is a failure to comply. While the level of penalty is open to discussion and should likely be on a sliding scale based on the extent of the non-compliance and budget of the organization in question there is an argument that the current maximum fine should be reconsidered as a minimum amount. This is based on the reasoning that currently to be registered as a 3rd party, a minimum expenditure of £20,000 is required. As such, essentially the maximum fine in theory equates to the minimum cost that a registered group would incur if they are found in breach of the rules. So if they have already advertised and the messages have been sent to a cost of 100,000k for eg. then the maximum they would then pay for any failure to comply is the minimum amount they have paid to advertise.

5. The governance of the Electoral Commission
6. Public and political confidence in the impartiality and ability of the Electoral Commission
7. The international reputation of and comparators for the UK Electoral Commission
8. What, if any, reforms of the Electoral Commission should be considered?

November 2021