

Coalition for Reform in Political Advertising – written evidence (DAD0092)

Introduction

- *The authors of this evidence are from the Coalition for Reform in Political Advertising (The Coalition); background is at <https://reformpoliticaladvertising.org/>. This is a politically neutral, non-profit organisation whose founders are from the advertising industry and experienced in the operations of that industry, including its regulatory mechanisms.*
- *The Green Party, the Yorkshire Party and the Women’s Equality Party are among the political parties that support the Coalition. While the Coalition seeks to extend its role so that its principles and pledges are supported by all parties, its position with regard to the assessment of advertising remains as objective as any organisation of this kind can be. The organisation is self-funding and driven only by principle; political party supporters do not pay any form of subscription.*
- *One of our early supporters was the UK trade body ISBA, which represents advertisers who fund the highly regarded U.K. self-regulatory system managed by the Advertising Standards Authority. The perspective which ISBA shares with the Coalition is that it is fundamentally wrong that electoral political advertising should not be subject to the same rules required of virtually all other advertising and that the absence of such rules and the concomitant political misinformation brings all advertising into disrepute.*

THE COMMITTEE IS SEEKING INPUT ON THE FOLLOWING QUESTIONS:

GENERAL

1. HOW HAS DIGITAL TECHNOLOGY CHANGED THE WAY THAT DEMOCRACY WORKS IN THE UK AND HAS THIS BEEN A NET POSITIVE OR NEGATIVE EFFECT?

- *Our relatively narrow applicable expertise and the very wide scope of this question require us only to address the way in which digital technology has developed channels which invite or require all technology users, politicians and commentators among them, to communicate differently and in addition to more traditional methods. To further narrow that context, we are focused on communications, paid or otherwise, in the electoral process and as expressed in or by digital technology. Equally, we make the assumption that the issue at stake here is the way in which digital technology is applied, rather than its existence per se, which will obviously provide significant benefits unless it is abused.*
- *The committee will already have heard evidence on the issue of micro-targeting. It will also be aware of work from the CMA and its recent interim report ‘Online platforms and digital advertising’; the Furman Report; the current DCMS Online Advertising Review; the work of the ICO on Real Time Bidding; and the CDEI’s review of Online Targeting. All of those reports and reviews contain admirable and valuable work, but they do not to any notable extent address what voters — who in general have little knowledge of the manipulation of data — actually see and experience. This seems to be at best an oversight, as it is the content of advertising that will have the most significant impact in forming opinions and influencing behaviour. So our attention in this submission is on the content of*

political advertising, the way in which it is regulated, and how that content is deployed in digital technology in particular.

- We propose that 'digital technology' has had a positive effect on 'the way that democracy works in the UK', because it allows faster and more complete information. The way the technology is applied by its owners and users is quite another matter: the nature of the technology and a lack of proper regulation has led to some serious abuse, which we will highlight later, of the electoral process. However, if the question is whether, for example, 'digital technology' or its application would have changed the result in Blyth Valley or any other constituency, we are not convinced that there is sufficiently strong evidence to support that assertion. Voters are smarter than technology, though we recognise that many may be influenced by its unscrupulous application.*
- We conclude that digital technology in this democratic/ electoral context is 'a good thing with some serious downsides'. Of these negatives, the most visible, the most offensive, the most damaging (in other industries as well as in the electoral process) and for all those reasons by some margin the most serious, is the lack of regulation of the content of political advertising. This applies however it is expressed, but especially in digital channels, as those now command the majority share of political party spend. Bizarrely, it is also the negative aspect most easily fixed.*

2. HOW HAS THE DESIGN OF ALGORITHMS USED BY SOCIAL MEDIA PLATFORMS SHAPED DEMOCRATIC DEBATE? TO WHAT EXTENT SHOULD THERE BE GREATER ACCOUNTABILITY FOR THE DESIGN OF THESE ALGORITHMS?

- See above. The CDEI investigation will be more valuable than any contribution we can make on this issue.*

EDUCATION

3. WHAT ROLE SHOULD EVERY STAGE OF EDUCATION PLAY IN HELPING TO CREATE A HEALTHY, ACTIVE, DIGITALLY LITERATE DEMOCRACY?

- A significant role at every stage. We suggest it is critical that the objective of education in a 'healthy, active, digitally literate' democracy should include a specific element of 'savviness'. It is important that young people in particular can distinguish between 'editorial' and 'advertising' and, within that scenario, opinion and fact, contention and truth, especially in commercial or political matters. We would reference as good practice in this context the Advertising Association's Mediasmart programme.*

ONLINE CAMPAIGNING

4. WOULD GREATER TRANSPARENCY IN THE ONLINE SPENDING AND CAMPAIGNING OF POLITICAL GROUPS IMPROVE THE ELECTORAL PROCESS IN THE UK BY ENSURING ACCOUNTABILITY, AND IF SO WHAT SHOULD THIS TRANSPARENCY LOOK LIKE?

- It is our view that almost by definition greater transparency would improve the electoral process. Our earlier evidence makes some suggestions in that respect. This version of our evidence to the Committee benefits from being able to*

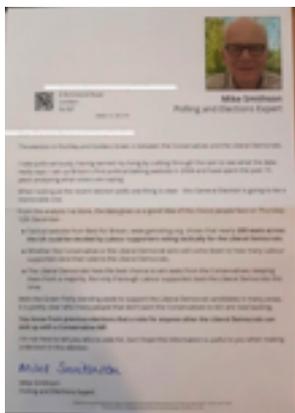
provide examples of when transparency of advertising content was singularly lacking, to the detriment of the process.

4.1. Transparency of identification of the advertiser

- The following examples, which in all cases appeared as shown, are from the 2019 General Election campaign, which we reviewed more fully in our December 2019 paper [here](#). The paper makes the point, as we now repeat, that virtually all other forms of advertising are regulated by the Advertising Standards Authority: political advertising is not. In the linked paper and below, we draw on the ASA's codes, which are in the public domain, to help the process of identification of transgression. We have not requested permission from the ASA to do so; the exercise is in good faith, however, and we have no intention or the presumption to undermine the ASA's authority in this regard.



- The press office Twitter account for the Conservative party rebranded itself as 'FactcheckUK' for the duration of the televised leaders' debate, issuing a series of 'correcting' statements on the Labour leader's 'lies'. Close examination of the top right hand corner of the ad, underneath the Factcheck UK logo, reveals the letters 'CCHQ'. Leaving aside the prominence or lack of it of the reference to Conservative Campaign Headquarters, it would anyway be meaningless to most. It is a fundamental tenet of both the law (Consumer Protection Regulations 2008) and the self-regulatory regime managed by the ASA (CAP Code clause 2.1), that advertising is recognisable as such.



- The above letter, received in the Golders Green constituency, was posted on Twitter by its recipient. It is signed by Mike Smithson, a 'Polling and Elections Expert' signs it. The letter sets out the potential impact of tactical voting, claiming that nearly 200 seats across the UK could be decided by Labour supporters voting tactically. The 'imprint' required by the Electoral Commission

(on printed material, not digital material) indicates that the letter is from the Liberal Democrats. Mike Smithson is a former Liberal Democrat politician, but is not identified as such.

- *Both the Conservative and the Liberal Democrat parties distributed electoral material in the style of local freesheets; references to these can be found in the above linked document. The (actual) advertiser/ 'publisher', i.e., the political party concerned, is identified minimally – again, regulated advertising is required to give sufficient emphasis to 'material information'. The CAP Code clause 3.3 requires that 'Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.'*
- *Our earlier submission called for the legal requirement to include the identity of the distributor in hard copy election material to be extended to digital material. We repeat the request here. Since digital communications have now been around for some 25 years, it is something of an anomaly that it hasn't already happened. We also note here that minimum standards of legibility of such a notice should be established: these apply in regulated advertising.*

4.2. Transparency of material claim evidence



- The above Facebook ad for the Liberal Democrats used a technique which was extensively deployed by the party in the 2019 General Election – suggesting by means of polling data of dubious integrity that they were in contention. In this particular case, there is no data relating to the bar charts and their position. There is therefore no way of knowing whether the columns refer to opinion polls, for example, or other election results, or whether they are a symbol of hope or imagination. Claims of this type in regulated advertising require clear communication of actual and relevant evidence to support a claim; there is no such offer in this case. The advertising was transparent in the sense that it was clear that it was from the Liberal Democrats, but highly misleading in the sense that it was not transparent about the source or form of the data.



- This Facebook advertising from the Labour party featured Conservative leaders and a photo-shopped bus carrying claims that the Tories have been in talks with the U.S. about 'selling off' the NHS; this and similar claims were emphatically denied and there was no evidence to support such claims in fact-checking services. The 'transparency' issue in this case is that regulated advertising is required to observe CAP Code rule 3.7: 'Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.'

4.3. Transparency of personal data collection



- *The advertising above, from the Tiverton and Honiton Conservatives, is not GDPR compliant, as completion of the survey it offers will require the processing of personal data. In that event, the advertising must explicitly state the lawful basis of the processing. We are reasonably confident in stating that many local constituency campaign managers or helpers may not be familiar with the demands of GDPR. We also note from observation of local campaigns in particular that there does not appear to be an approval process between constituency and campaign headquarters, nor would there appear to be distribution and observation of a clear set of communication rules which observe the established laws, in this context, GDPR and CPRs (albeit the latter is business to consumer law). If there is indeed such a set of rules, it is either deficient, ignored, or forgotten.*

4.4. Transparency of all campaign material

- *Our earlier submission called for a searchable repository for online political advertising; this proposal was included verbatim in the DCMS Disinformation and Fake News Inquiry recommendations. If there is to be transparency for political ads, it is essential that they should be permanently available and that the repository should provide the following information:*
 - *the advertising*
 - *the date it was posted*
 - *targeting*
 - *spend*
 - *reach*
 - *engagement.*
- *We believe that the CDEI have also called for mandatory online archives for political advertising. The issue that arises is when and how these are posted and the accuracy of the information they contain. Those expert in the business of advertising, as well as data practitioners, should be invited to be involved in the process of establishing the access, structure and processes of such an archive.*

Summary

- *The few examples shown above, necessarily limited in number, do not do justice to the scale of transgression by all political party advertising at the time of the General Election 2019. Much of the advertising we reviewed was almost risible in its flagrant breaching of the most basic and obvious requirements for any form of commercial communication in any context.*

- *This context is more significant than most, yet confectionery, for example, is subject to at least three laws (Regulation 1924/2006, Food Information Regulations 2014, and CPRs 2008) and three codes of practice (CAP and BCAP Codes, the EU Pledge, and various media codes such as TFL's). It is our vote, not a predilection or otherwise towards a chocolate bar, that is being treated with such disdain.*
- *If advertisers in the private sector were to behave similarly, they would rightly be vilified. They don't, either because they are self-regulated, or because they have a higher regard for, and sensitivity towards, their 'voters' and their brands.*

5. WHAT EFFECT DOES ONLINE TARGETED ADVERTISING HAVE ON THE POLITICAL PROCESS, AND WHAT EFFECTS COULD IT HAVE IN THE FUTURE? SHOULD THERE BE ADDITIONAL REGULATION OF POLITICAL ADVERTISING?

- *We believe targeted online advertising has a significant effect on the political process (versus the choice of party, on which the impact may be more uncertain), in that online targeted advertising has become the political battleground. That is a significant departure from the 'carpet bombing' campaigns of only a decade ago where the battle was fought in 48-sheet posters and in the pages of the national press. The result, due to the nature of the channels concerned and the process deployed, is an hour-by-hour exchange of fire, deploying weapons of targeted persuasion: the propaganda of bar charts, rallying slogans, video trickery, and huge and frequent promises and claims.*
- *This form of political warfare requires significant resources, working practically round the clock — generating ideas, finding new channels, jumping on perceived opposition mistakes, creating and delivering stunts, feeding the hungry media, reading the polls, commissioning and interpreting proprietary research, spotting the trends and opportunities, and bashing out another hundred ads that reflect these.*

A new culture

- *So the impact on the political process is considerable: it is faster, dirtier (for the week of 2nd December 2019, research via YouGov, commissioned by ourselves, revealed that more than a third of voters felt that 'politicians and political parties have been less honest than at previous elections'), much greater in volume, and reflects a new culture where the rules are irrelevant, because they don't exist, and ethics are equally absent.*
- *It seems reasonable to observe that approval processes, which may provide an opportunity for scrutiny of some of the more extreme expressions, may well occur, if at all, at a less senior level than has been the case. Sheer volume, speed, culture, and dispersion of authority to communicate will probably have made the 'ethical filter' process virtually non-existent. This is a 'digital get-it-done' culture, where brand values and the higher ground are a distant second to reactive staccato messaging on the topic of the day.*
- *In that context, and to address the Committee's specific question: 'Should there be additional regulation of political advertising?', at the risk of flippancy we*

question the use of 'additional'. There is no regulation of electoral political advertising and it is unique in that regard.

A way forward

- *In our earlier evidence to the Committee, and in our December 2019 review 'Illegal, Indecent, Dishonest, & Untruthful', linked earlier, we proposed that, subject to the agreement of the political and regulatory parties concerned, regulation of content of electoral political advertising might become the responsibility of a 'specialist extension' of the ASA, with involvement from the Electoral Commission in particular.*
- *We continue to believe that that proposal, which did not require legislation, remains a sensible solution. However, mindful that the CDEI have proposed measures that would enhance campaign transparency, and sensing a gathering of 'political' support for the issue of regulation of political advertising (for example Jess Phillips, until recently a Labour Party leadership candidate, came out in favour), then it may be that the time is right for consideration of legislation that will secure the way forwards.*
- *This implies the repeal or amendment of the relevant element of the Communications Act 2003, and its enforcement by Ofcom. If, therefore, parliamentary time is found, it would seem appropriate that the opportunity be taken to draft broader legislation embedding in law the regulation of content and placement of political advertising, establishing that a Code of Conduct should be developed to which all political parties must adhere.*
- *It is not as if this proposal would lack voter support: in the same December 2019 YouGov research that we referenced earlier, 87% of voters thought that 'it should be a legal requirement that factual claims in political adverts must be accurate.'*

PRIVACY AND ANONYMITY

6. TO WHAT EXTENT DOES INCREASING USE OF ENCRYPTED MESSAGING AND PRIVATE GROUPS PRESENT A CHALLENGE TO THE DEMOCRATIC PROCESS?

We believe this question will be better addressed by the authorities we referenced above.

7. WHAT ARE THE POSITIVE OR NEGATIVE EFFECTS OF ANONYMITY ON ONLINE DEMOCRATIC DISCOURSE?

We believe this question will be better addressed by the authorities we referenced above.

DEMOCRATIC DEBATE

8. TO WHAT EXTENT DOES SOCIAL MEDIA NEGATIVELY SHAPE PUBLIC DEBATE, EITHER THROUGH ENCOURAGING POLARISATION OR THROUGH ABUSE DETERRING INDIVIDUALS FROM ENGAGING IN PUBLIC LIFE?

We believe this question will be better addressed by the authorities we referenced above.

9. TO WHAT EXTENT DO YOU THINK THAT THERE ARE THOSE WHO ARE USING SOCIAL MEDIA TO ATTEMPT TO UNDERMINE TRUST IN THE DEMOCRATIC PROCESS AND IN DEMOCRATIC INSTITUTIONS; AND WHAT MIGHT BE THE BEST WAYS TO COMBAT THIS AND STRENGTHEN FAITH IN DEMOCRACY?

MISINFORMATION

10. WHAT MIGHT BE THE BEST WAYS OF REDUCING THE EFFECTS OF MISINFORMATION ON SOCIAL MEDIA PLATFORMS?

We confine our answer to the issue of misinformation as expressed in electoral political advertising.

- 1. Give an existing body the power to regulate political advertising content or create a new one to do so;*
 - 2. Legislate so that all paid-for political advertising can be viewed by the public;*
 - 3. Introduce compulsory imprints or watermarks to show the provenance of online advertising.*
- While the select committee is focusing on digital channels, regulation of electoral political advertising should apply to all media.*
 - The remit of the appointed authority must include not only paid advertising but also owned spaces such as political parties' own websites and other spaces under their control. Such a remit would include, for example, Tweets, as per this explanation from the ASA website (albeit related to commerce): 'The ASA applies the rules to all marketing within the remit of the Code. Since 2011, this has included ads directly connected with the supply of goods or services appearing on marketers' own websites or in space, such as social media, that they control. Tweets that feature even indirect links to products and services are in remit and must comply with the CAP Code.'*
 - When addressing digital channels specifically, focus should extend beyond advertising content. Regulation should cover the entire digital marketing ecosystem and should take into account, for example, the work of the ICO in Real Time Bidding, and the way in which GDPR is understood and applied or otherwise.*
 - The scope of the remit of the created or appointed authority will inevitably be largely concerned with the scrutiny of 'material claims' in electoral political advertising, as this is where most advertising transgresses — approximately three-quarters of complaints to the ASA fall into the category of being misleading. Albeit on less securely quantified grounds, 2019 General Election advertising appeared largely to reflect that more general picture, with more extreme forms of misleading advertising than those which the ASA usually addresses.*
 - Nevertheless, we would anticipate that the remit should include the equivalent of the CAP Code's 'Harm and Offence' clauses, notwithstanding that any form of intrusion into freedom of political speech must be avoided. In other words, opinions will remain untouched unless indecent or harmful in some way, but lies/misinformation/ omissions of material information should really be the particular bugbear of any new or existing authority.*

Funding the regulator

- *An electoral political advertising regulator might be funded in a manner similar to the ASA's arrangement whose revenues derive from a 0.1% fee on advertising spend. Given the special requirements of electoral political advertising – rapid turnaround, not necessarily only complaint-based, the possibility of pre-vetting material claims etc. – it will almost certainly be the case that some set-up costs will need to be funded.*
- *The funding issue, however, is part of the 'how' answer to this issue: we must first deal with the more important question of whether electoral political advertising should be regulated. It is unambiguously our view that that should happen and that this is a significant and urgent matter. Some nine out of ten voters agree with us; they should not continue to be treated with the kind of contempt that has been manifested in electoral political advertising for far too long.*

MODERATION

11. HOW COULD THE MODERATION PROCESSES OF LARGE TECHNOLOGY COMPANIES BE IMPROVED TO BETTER TACKLE ABUSE AND MISINFORMATION, AS WELL AS HELPING PUBLIC DEBATE FLOURISH?

TECHNOLOGY AND DEMOCRATIC ENGAGEMENT

12. HOW COULD THE GOVERNMENT BETTER SUPPORT THE POSITIVE WORK OF CIVIL SOCIETY ORGANISATIONS USING TECHNOLOGY TO FACILITATE ENGAGEMENT WITH DEMOCRATIC PROCESSES?

13. HOW CAN ELECTED REPRESENTATIVES USE TECHNOLOGY TO ENGAGE WITH THE PUBLIC IN LOCAL AND NATIONAL DECISION MAKING? WHAT CAN PARLIAMENT AND GOVERNMENT DO TO BETTER USE TECHNOLOGY TO SUPPORT DEMOCRATIC ENGAGEMENT AND ENSURE THE EFFICACY OF THE DEMOCRATIC PROCESS?

14. WHAT POSITIVE EXAMPLES ARE THERE OF TECHNOLOGY BEING USED TO ENHANCE DEMOCRACY?