

## **Conservative Party - written evidence (DAD0095)**

I am writing to provide evidence on behalf of the Conservative Party to the Committee's inquiry. The Committee kindly provided a number of questions, and I have structured our answers accordingly.

**Q1: How much of your online campaign strategy relies on the organic spread of your content and how much relies on paid promotion? To what extent do you rely on campaigning material created by activists over which you have no control? What reputational and other risks does this pose?**

Details of our spending on online campaigning will be available in due course for public scrutiny when national returns are published by the Electoral Commission.

Leaving aside personal communications by individuals, under electoral law, the Conservative Party itself only issues election materials which have been authorised (by the party, the party's candidate or the candidate's agent). This is particularly the case in light of the change in electoral law that stems from the Supreme Court's *Mackinlay* judgement (which has had a chilling and confusing effect on the law on authorisations).<sup>1</sup>

Equally, it is important to understand that political organisations are essentially voluntary sector organisations. Political campaigning by volunteers, party members and elected representatives (including councillors and MPs) is an important part of the democratic process – it is not for central political parties to 'control' or oversee every comment made on social media by a political party representative.

**Q2: How important is data from companies that monitor the public's online activity (either from social media companies or from data brokers) to your data operation? Has this changed significantly in recent years?**

Analytics data from social media platforms allows us to determine how well our content has performed. This is in the public interest, as it allows us to see what policies and messages have strong public support, thereby facilitating democratic engagement (listening to the views of the public). The Conservative Party operates within the confines of the Data Protection Act 2018 when analysing such data.

**Q3 How much do you rely on the current GDPR exception for the use of data for political engagement for your use of individual's data? What would be the effect of revisiting this exception in light of increased public concern?**

There is no such exemption under GDPR. Rather Parliament, via the Data Protection Act 2018 – legislated with cross-party support to provide a basis for processing of 'democratic engagement', as a task in the public interest. There is also a permitted

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<sup>1</sup> We have outlined our concerns in evidence to the Public Administration and Constitutional Affairs Committee last year ([link](#)).

provision for political parties to process the 'special category data' of political opinions.

The Act's provision did not seek to create a partisan advantage for any one side, nor to create new exemptions from past data protection practices. It was intended to provide greater clarity, and be independent of any particular technology. It would not legalise activities which were illegal under the Data Protection Act 1998, nor which remained illegal under the 2018 Act. The activities by the firm Cambridge Analytica remain against data protection law.

During the Bill, the Government stated it was open to suggestions of what else could be done to ensure legal and operational clarity for political parties, candidates and elected representatives. Ministers noted that further work might be needed to ensure that their current activities have the legal basis required to rely on the public interest condition, and the Government pledged to engage with the Parliamentary Parties Panel.

The policy intent behind that legislative provision is to ensure that long-standing and established practices by political parties, elected representatives and candidates continue, and to avoid unintended consequences or inconsistent regulation as a consequence of confusing and voluminous GDPR.

**Q4 What would be the effect of Facebook limiting data targeting to postcode, age and gender, in a similar manner to Google, on your social media strategy?**

Decisions by commercial organisations on the digital tools they offer are a matter for that organisation. The Conservative Party operates under the prevailing rules of electoral, data protection and privacy law.

**Q5: What changes do you expect to happen in online campaigning in the next five years? How will you ensure that your Party maintains public trust in adapting to new technological opportunities?**

We support greater transparency on online campaigning. In particular, we have long advocated the extension of the tried and tested system of imprints to electronic campaigning material. The imprint provides a check and balance against inappropriate content – as the publisher or promoter can be held to account publicly, and legal action can be initiated in the case of defamation or electoral offences (such as making a false statement about a candidate).

For example, in 2018, the Labour Party stopped accepting donations from Max Mosely after his role in a 1961 racist election leaflet was revealed – scrutiny that occurred only thanks to the hard copy imprint.<sup>2</sup>

**Q6: Should political advertising (both digital and traditional) fall under the same constraints as do all other forms of advertising?**

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<sup>2</sup> *Daily Mail*, 27 February 2018; *The Guardian*, 28 February 2018.

Political advertising is an important expression of free speech and freedom of association, and is a fundamental part of democratic engagement and the responsive functioning of our democracy. It should not be conflated with commercial advertising; yet we have concerns that the Information Commissioner seeks to do (such as in its draft guidance on direct marketing)

Since 1997, the Advertising Standards Authority has not overseen political advertising. We do not believe it would be beneficial to try to create some 'political truth commission'. Rather, the Government should ensure that there is an independent free press to facilitate robust political debate and scrutiny by the press and public.

We have concerns that the Information Commissioner has wrongly conflated political and commercial advertising in its interpretation of data protection and privacy law. We are happy to elaborate on this further, and explain the potential chilling effects on the work of MPs and councillors.

**Q: If just one thing could be done to improve public trust in election campaigns (by parties, platforms or anyone else) what would it be?**

The Conservative Party's 2019 manifesto re-affirmed its support for legislative measures to tackle electoral fraud (including postal vote harvesting, and through introducing voter ID in Great Britain), alongside measures to prevent any future foreign interference. Such measures will help safeguard the integrity of our elections and the public's trust in our democracy.

We hope these points will be useful.

Yours faithfully,

**Alan Mabbutt OBE**  
*Director-General*  
*Conservative Party*

