



PAYING FOR VIEWS

Solving transparency and accountability risks
in online political advertising

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Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising

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EXECUTIVE SUMMARY

The rapid rise of online political campaigning has made most political financing regulations obsolete, putting transparency and accountability at risk. Seven in 10 countries worldwide do not have any specific limits on online spending on election campaigns, with six out of 10 not having any restrictions on online political advertising at all.

Digital advertising has obscured who is behind an ad, how much the ad costs and whose money is paying for the ad. In too many countries, virtually any internet user with a credit card can pay to promote political content and circumvent laws. Worse, domestic or foreign actors can invest financial resources in inauthentic behaviour – through bots or fake accounts – to amplify divisive political messages or advance illegitimate interests.

The finance of online political advertising is hard to scrutinise. In the absence of regulation advertising volumes might be unlimited, allowing opaque cash to flow into digital spending.

Parties and candidates can micro target their online ads to very narrow groups of voters, excluding others from public deliberation. The same ads can spread untruths and misinformation. This use of digital ads weakens the accountability of politicians and erodes the legitimacy of power.

Online political advertising could be advantageous too. It opens up opportunities to reach out and connect to voters. Different groups of constituents can use it to bring their own voice to public deliberation. If used strategically, it can help emerging politicians with fewer resources to take advantage of

crowdfunding so they don't have to heavily rely on wealthy donors.

To realise the full potential of online political advertising it is necessary to first address its transparency and accountability risks. This overview identifies five areas for improvement:

- 1. Update regulations to the digital era.**

Regulatory upgrades are urgent. Governments, electoral management bodies and relevant oversight agencies must act swiftly to bring legal definitions of political advertising up to date, thereby grounding in law essential responsibilities on content, financing and placement of online political ads that correspond to online platforms, political activists, sponsors and other intermediaries.

- 2. Ensure authentic political messaging.**

Political parties, candidates, their committees and authorised third parties must conduct online activity through official accounts in their own name and register them with oversight agencies. Online platforms must conduct identity verification protocols to ensure that only legally authorised advertisers place ads and should be responsible for removing inauthentic online communications. Regulations

should ban inauthentic production and dissemination of online political advertisement, such as machine-generated ads and targeting.

- 3. Hold platforms accountable for ad transparency.** Regulations must subject online platforms – and not only authorised advertisers – to the highest standards of transparency so that voters can distinguish paid and user-generated content. Platforms must publicly disclose information at both ad and aggregated levels in regard to who places ads, who pays for them, the ad generation methods, the targeting criteria, the profiling data sources, reach, duration, and average rates charged. Infringements by platforms must be penalised.
- 4. Raise the bar for financial reporting.** Likewise, political parties, candidates, their committees and legally authorised third parties must take responsibility report and itemise their expenditures on online platforms. Financial reports must detail expenditures made for every ad per vendor. Agencies mandated with the oversight of political financing should receive this information at regular intervals, cross-check it with the online

platforms' repositories and take corrective action on potential infringements.

- 5. Restrict microtargeting and enhance standards for trading personal data.** Regulators, platforms and advertisers must restrict political-ad microtargeting to basic geographical criteria. Regulators must introduce fair pricing, silent periods, and other safeguards to enhance accountability for expenditures and safeguard democratic public debate. Profiling methods beyond such minimum parameters must be halted until they meet heightened standards. First, increased transparency of the collection of personal data that goes into voter profiles that enable microtargeting techniques, as well as the inference methods used in profiling voters. Second, overcome the deep information asymmetries between users who consent to the trading of personal data and the professionals who profit from it. Users' consent to the collection and commercialisation of their personal information must latch on a genuine understanding of the economic and political value of their choice.

INTRODUCTION

The rise of online campaigning renders traditional political finance regulations obsolete. This puts transparency and accountability at risk.

This global overview seeks to identify political finance risks posed by unregulated digital advertising along with the regulatory improvements needed to protect financial transparency and accountability in the political process.

Why is it important? First, digital advertising has grown from a 1994 US\$30,000 ad deal¹ in to US\$265² - US\$336 billion (approx.) global industry today.³ In comparison with other media types, digital advertising equated to 50 per cent of total media spending in 2019.⁴

Second, two companies dominate this growing market worldwide. Facebook is estimated to have 80 per cent of the market share in social media platforms, while Alphabet (Google, YouTube, etc.) the 90 per cent in search engines.⁵ Social media advertising is thought to have expanded from US\$59bn per year in 2017 to US\$98bn in 2020. According to the same estimates, search advertising traded US\$109bn in 2017, and its 2020 forecast is at US\$158bn.⁶

Third, it is difficult to precisely gauge the share of political advertising yet online advertising is poised to become the predominant field for politicians to spread their messages. Figure 1 illustrates this point. In both the UK and the US online advertising

not only grows fast; it is already – or is soon to be – the largest media expenditure.

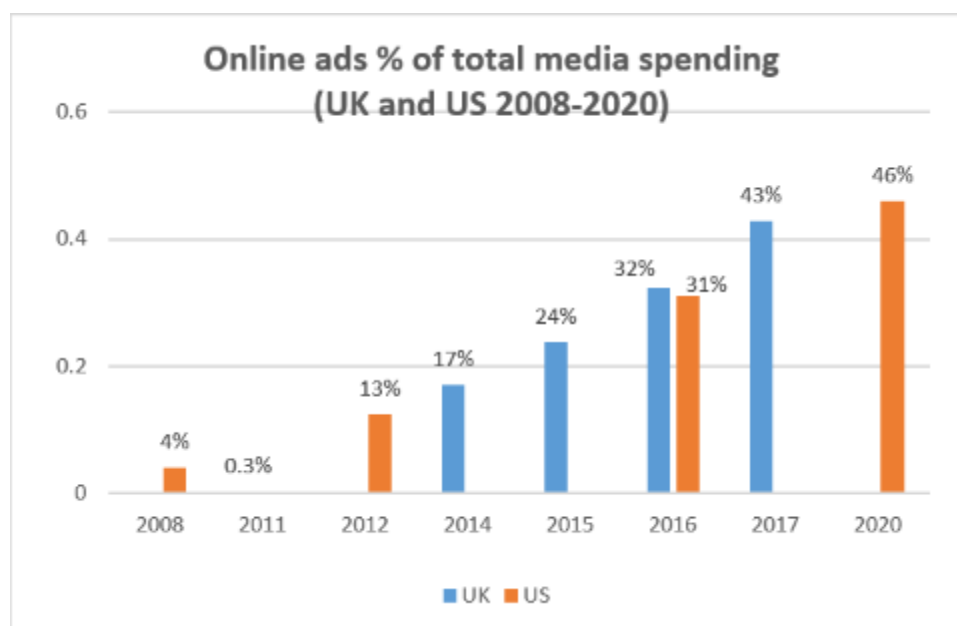
Estimates from 2018 in the US – the country with the biggest market – put spend at no less than US\$1.2 billion on online advertising for the 2020 election cycle.⁷ Spending had already hit a record US\$1 billion by February 2020.⁸ A few weeks before the November 2020 elections, online ads may have represented at least US\$3 billion.⁹

Because of the unique and complex workings of digital advertising, money flowing into digital campaigns is hard to scrutinise and authorities tend not to be well equipped to do so. Regulatory frameworks for political financing in most countries largely lag behind the growth of digital political advertising.

This global overview starts by stressing the importance of updating the legal definitions of political advertising to the realities of the digital market. Next, the second section delves into the opportunities online political advertising offers to political competition as well as the four challenges or risks to transparency and accountability in political financing. The third section presents examples of existing regulations in those areas, drawing from

monitoring initiatives by Transparency International chapters (Czech Republic, Lithuania and New Zealand) as well as from other countries that have taken steps towards enhanced regulation (Canada,

US, Spain, UK, EU). The last section articulates guidance for regulators to introduce improved transparency and accountability in the finance of online political advertising.



Transparency International elaboration. Several sources¹⁰.

Notes:

- United Kingdom (UK): 2011 (Referendum on UK Election System; Scottish Parliament, Wales National Assembly and Northern Ireland Assembly elections); 2014 (Scottish Independence Referendum); 2015 (General Elections); 2016 (EU Referendum; Scottish Parliament, Wales National Assembly and Northern Ireland Assembly elections); 2017 (UK General Elections and Northern Ireland Assembly Elections);
- United States (US): 2008 (Presidential Election - full cycle); 2012 (Presidential Election 1 July - Nov 30); 2016 (Presidential Election 1 July - Nov 30); 2020 (Presidential Election by Oct 26*).

What is online political advertising

In the broadest terms, political advertising is the type of paid communications that aim to influence voters or political office holders' decisions on matters of public interest. Strictly speaking, "election advertising" is a specific subset of "political advertising". Its purpose – influencing a voting choice or political decision – and its timing are specific. However, the two terms are often used interchangeably.

Most democratic countries have rules governing political advertising in the context of election campaigns.

Election laws concerned with financial transparency and fairness could reasonably regulate and enforce timing, pricing, content or spending in broadcast or printed political advertising. Because they were written before the digital era, election laws often define political advertising forms too narrowly (see Box 1). Some laws even provide a close-ended taxonomy of allowed advertising forms (such as flyers, billboards, banners, broadcasts) that leaves digital ads out.

While more countries include digital advertising in their official legal definitions, they make no further distinction between traditional campaigning and digital campaigning. Even if countries broaden the scope of their definitions to encompass digital advertising, rules devised to deal with print or broadcast fall short when it comes to achieving transparency and fairness in online campaigning. The demands of generating, trading, transmitting and placing advertising online are unique and somewhat complex.

In filling in these gaps, the companies running online platforms have their own definitions and conditions. They vary from country to country, and

touch on nuanced subcategories depending on the advertiser (such as 'political parties', 'candidates', 'users') or its content ("issue" ads). A recent report on the use of digital political advertising in the context of the European Parliament elections of 2019 found that internet platforms that sell and place advertisements had adopted working definitions of political advertising "focused primarily on official candidates, parties and other official political actors" leaving third-party actors out. Such disparities resulted in "a fragmented approach across platforms due to different definitions of political and political issue ads."¹¹ The way platforms make their own definitions and policies is consequential for how money going into politics through online campaigning.

Examples of legal definitions of online political advertising

In Lithuania, the law defines political advertising as “information disseminated by a state politician, political party, its member, political campaign participant, on behalf and/or in the interest thereof, in any form and through any means, for payment or without return consideration, during the political campaign period or between political campaigns, where such information is intended to influence the motivation of voters when voting at elections or referendums, or where it is disseminated with the purpose of campaigning for a state politician, political party, its member or political campaign participant as well as their ideas, objectives or programme”.

New Zealand defines election advertisement as one that “may reasonably be regarded as encouraging or persuading voters” to vote or not vote for a candidate or party, or type of candidate or party referenced by views they do or do not hold.

Bolivia defines paid election ads as any message – printed or aired – placed by political organisations with the purpose of promoting the vote through “(...) iii. Digital media. News agencies, periodicals, magazines, TV or radio stations transmitted through the Internet; iv Digital social networks that transmit paid advertising”.

Canadian law defines partisan and election advertising “as ads that promote or oppose a party or a candidate”. Additionally, the Office of the Chief Electoral Officer understands that “election advertising includes advertising that takes a position on anything that is or may become an issue during a federal election campaign, from an item in a political party's platform to an issue at the electoral district level”.

Platform definitions

Facebook

Guidelines for ads [about social issues, elections or politics](#) are very comprehensive. They include ads made about a candidate, a political figure, a party or advocates for an election outcome; ads placed in any election or referendum or ballot initiative; those about “social issues”; and any others regulated as political advertising.

Facebook [defines social issues](#) as “sensitive topics that are heavily debated, may influence the outcome of an election or result in/relate to existing or proposed legislation.”

Google

Google expects all advertisers of political content (“ads for political organizations, political parties, political issue advocacy or fundraising, and individual candidates and politicians”) [to comply with local legal requirements, including campaign and election laws](#).

Google defines “election ads” specifically for a number of specific countries, but not all. For instance:

In India, ads that feature or are run by a political party, a political candidate or current member of the Lok Sabha or Vidhan Sabha.

In the EU, ads that feature a party, a current elected officeholder, or candidate for EU Parliament; a political party, a current officeholder, or candidate for an elected office in an EU member state; a referendum question, a referendum campaign group, or a call to vote related to a national referendum or subnational referendum.

OPPORTUNITIES

The expansion of the internet has brought more opportunities for politicians to reach different groups of constituents and it has renewed different aspects of democratic governance. Political campaigning and activism are no exceptions.

Over the last two decades, political parties and candidates from around the world have made frequent use of social media to communicate with voters in campaigns in a fairly substantial manner in election campaigns.¹² This use is the most frequent in European countries and the United States. Particularly the latter have presented fertile ground for the emergence of social media and its growing sophistication. The 2008 Obama campaign's use of online platforms often receives credit for revolutionising elections.¹³ Online campaigning may have been a decisive factor in the 2016 elections too.¹⁴ The Trump campaign spent 50 per cent of media expenditures on digital media, in contrast to only six per cent of Clinton's.¹⁵

As political campaigns shift online and the internet grows in importance as a decisive battleground, there is potential for:

- increasing political participation
- two-way political communication
- cheaper communication
- fundraising

More people consume their news online. Social media platforms have become an important source of news. For example, more than 50 per cent of adults use social media as a news source in Swe-

den, Ireland, Italy, Norway, Slovakia, Poland.¹⁶ Professional journalists have also been using "new media" as one of the main sources of communication.¹⁷ Online political campaigning that uses social media may therefore have a significant effect on political participation, in particular voter turnout.¹⁸ For example, the US presidential election in 2012 – often called "the big data election"¹⁹ – showed how the use of Facebook data to leverage social pressure could increase voter turnout.²⁰ In New Zealand, internet use may have increased the probability of voting in 2014.²¹

If utilised to its full potential, digital advertising could advance citizen engagement with politics. One further example involves connecting with voters to elicit their feedback and inputs into political discourse. According to the majority (71 per cent) of citizens eligible to vote in the UK, social media platforms are giving a voice to people who would not normally take part in political debate.²²

This is possible because the digital sphere offers cheaper ways to bring campaign messages across to voters. Online ads cost a fraction of broadcast or print media rates. In addition, it is a mechanism with greater reliability and a swifter deployment than the work of door-knocking and leafletting volunteers. This can help level the playing field for

new entries in the political system, in particular new and smaller parties. With just some cash at hand, platforms such as Facebook Ad Manager and Google AdWords make it possible for activists to log on, design and distribute advertising with little expertise.²³

Parties, candidates and their campaigns can also use digital advertising to solicit small donations from their support base and beyond. The integration of 'wallets' into mobile devices has lowered the barrier for average citizens to support their political cause financially, even "earmarking" their contribution towards specific projects, candidates, or actions. If successfully scaled up, crowdfunding holds the promise of freeing political parties from dependence on a few big donors with narrow interests.²⁴

CHALLENGES

Relatively low cost and highly complex, while largely unregulated, political online advertising presents risks to the transparency and accountability of political financing.

On the other hand, online campaigning in politics presents challenges to the transparency and accountability of its financing and to the health of public deliberation. Four concrete challenges are:

- Misinformation and disinformation
- Cybersecurity and data protection
- Unchecked financing and microtargeting

Misinformation and disinformation

Digital advertising can become a vehicle to spreading untruths. Online campaigning is rapidly changing established practices of journalistic verification, institutional accountability and the ethical ‘truth filters’ of a free but responsible news media.²⁵

Misinformation generally refers to “information whose inaccuracy is unintentional” while disinformation designates “information that is deliberately false or misleading.”²⁶ A variation is mal-information, which “occurs when information based on reality is used to inflict harm, often by moving information designed to stay private into the public sphere.”²⁷ Digital advertising magnifies the impact of these practices on public debate.

During recent legislative and presidential election campaigns, online disinformation efforts promoted false stories targeting voters in Europe and the US.

Some evidence shows that “fake news” was more widely spread on Facebook than in traditional media. Information manipulation in the online public sphere can capitalise on declining levels of trust in institutions and experts.²⁸ Disinformation might create doubts about the integrity of the ballot box and the professional, impartial behaviour of election management bodies, as well as call into question the legitimacy and accuracy of an election or a referendum.²⁹

While there is no official data illustrating the real impact of such campaigns,³⁰ some studies suggest they are highly efficient. For instance, a survey in the US showed that more than 50% of those who saw fake news stories around the 2016 election reported to believe them.³¹

Similar trends appeared during the 2016 Brexit referendum. In that case, misinformation and so-called echo chambers³² were seen to influence the campaign. Data released by Facebook showed that “Vote Leave” campaign ads were seen more than 169 million times in total and cost more than US\$2,7 million. A large number of them contained false claims on the EU and targeted specific audiences based on their gender, age and location.³³

Disinformation, combined with targeting methods, amplifies the chances voters make decisions based on false information. These trends lead to growing concerns about the trustworthiness of different media outlets. Almost 73 per cent of internet users in the EU worry about misinformation and disinformation online.³⁴ 67 per cent of the respondents said that this kind of targeting, based on their personal data, is undermining free and fair competition between all political parties, while 56 per cent were also concerned about voters being influenced by third parties.³⁵

Some countries tried to find innovative solutions to address the issue. For example, New Zealand has in the Advertising Standards Authority (ASA) a unique tool to help regulate the truthfulness of political content.³⁶ The ASA is an industry-funded voluntary organisation³⁷ that accepts complaints from any individual or party about advertisements that violate its Code of Practices around truthful presentation and social responsibility.³⁸ The ASA normally takes about three weeks to render decisions on election complaints. However, in 2017 it implemented a 'fast-track' process for election advertisements during the regulated period, allowing most complaints to be settled in three or four days.³⁹ While it does have its limitations, ASA has been an asset in fighting against political misinformation.

Cybersecurity and data protection

Hostile and foreign interests that aim to disrupt democratic states have taken advantage of online tools too. Third party influence became an even more important question after the Cambridge Analytica scandal in 2018, which revealed that millions of Facebook users' personal data was used for the purpose of political advertising.⁴⁰ In the US, more than 73 per cent of internet users expressed concern about how their personal data is stored and used.⁴¹

Digital advertising is a multibillion industry where personal data intermediaries thrive.⁴² Such misuse

of information presents a risk to political integrity for several reasons. The amount of data processed every day is not decreasing. On the contrary, more personal data is stored every year. According to the IAPP-EY Annual Governance Report 2019 – produced by an international body of policy professionals – 90 per cent of respondents report that their firms rely on third parties for data processing; the top method for ensuring vendors have appropriate data protection safeguards is "relying on assurances in the contract" (named by 94 per cent of respondents), while 57 per cent use questionnaires and only one in four conduct on-site audits.⁴³ In addition, the number of breaches that happen every year is also troubling. From 25 May 2018 to 27 January 2020, 160,921 personal data breaches were reported by organisations to data protection supervisory authorities within the EEA.⁴⁴

Other than data-breaches, cyber threats appear in various forms, such as cyberattacks against electoral stakeholders, parties, media, or disinformation campaigns in attempt to undermine the credibility of the electoral authorities.⁴⁵ While countries do not necessarily experience any significantly large attacks, most try to safeguard their online infrastructure, especially during an election. For instance, the New Zealand parliament passed legislation in March providing for the adjournment of polling in case of major disruptions, including cyberattacks.⁴⁶ The Electoral Commission is advising political candidates and parties on best practices to protect their online security.⁴⁷ The public in the EU has expressed fears of foreign interests undermining democratic processes. For example, the Eurobarometer (2018) survey on democracy and elections, shows that six in 10 respondents are concerned about the manipulation of elections.⁴⁸ It should also be noted that breaches of cybersecurity could undermine the results of elections and citizen trust in the integrity of politicians, since digital technology is also used for confidential communication between political candidates' parties, communication in the media.⁴⁹

Unchecked financing and microtargeting

The financing of online political advertising confronts key transparency issues:

- Who places an ad?
- Who pays for an ad?
- How much money is invested?
- What is the audience of the ad?

Twitter, LinkedIn,⁵⁰ TikTok,⁵¹ Spotify, Pinterest⁵² and a few others such as Reddit have the strictest of measures to counter these issues: an outright ban of political advertising.

Platforms have started implementing transparency measures of their own that are becoming a baseline for new regulations.

Who places an ad

Countries that restrict the eligibility of advertisers to political parties, candidates, committees or authorised third parties need to update their regulations to encompass the realities of digital advertising. In principle, virtually any internet user with a credit card can promote their own political content well beyond their own network of contacts. Various parties could also disguise their identity through inauthentic users such as bots or fake accounts to amplify political messages if they proliferate on a large scale.

Chief among these measures is a requirement for advertisers to verify their identity. This is instrumental to promoting authentic behaviour, avoiding malign interference (foreign and other third actors not legally authorised to place ads) and providing the basis for disclosing who pays for an ad. Both Facebook and Google have put identity verification protocols in place in a limited number of countries but it is not always compulsory.

For instance in the US, Facebook and Google now can effectively prevent non-Americans from buying

US political ads.⁵³ Facebook policy in New Zealand states that only “New Zealanders who have provided Facebook with a form of government-issued identification will be able to post ads that make references to political figures, parties, social issues or the country’s election” and they “will be exempted from the fact-checking, to avoid the appearance that Facebook is censoring political debates”.⁵⁴

While compulsory for their clients, these provisions may not be legally enforceable in the absence of laws. Some advertisers in the most recent elections for the European Parliament reported that they found the procedures cumbersome or lengthy, and in some cases unsuccessful authorisations did not prevent advertisers from placing ads.⁵⁵

Who pays for ads

In addition to identification issues, voters can distinguish paid from unpaid content only if ads are duly labelled as such. Labels must therefore inform users who endorses and who sponsors the message. Platforms have started to disclose this information through “paid for” labels, compulsory in a limited number of countries. Complementary tools that allow users to report ads that have bypassed the verification and labelling systems are also in place⁵⁶.

The identification of each ad’s sponsor allows oversight agencies to detect and monitor ad spending. Without such effective checks, online advertising volumes might be effectively unrestricted. That can attract unlimited cash or dark money from anonymous companies or groups that do not disclose their sources of income, with circumvents limits or hides money flows.⁵⁷ Interests vested in swaying policy can use digital advertising as a safe haven to disguise their donations.

As described in the New Zealand case study, Facebook decided to make these measures compulsory for advertisers three months before the 2020 general election. While these measures were voluntary, the ruling party did not sign up to them.

How much money goes online

Because of the trading, pricing and targeting systems used in online advertising, tracking the aggregated volumes of ads and money is only possible with active disclosure by the platforms.

Ad libraries serve that goal. Facebook and Google and other platforms such as Snapchat keep archives of ‘election’, ‘political’ or ‘issue’ ads in specific countries.⁵⁸ These libraries are essential for determining political spending volumes online, though they are still voluntary in most countries. However, the quality of the information provided is far from impressive.

Ad libraries also present difficulties for fully tracing sponsors and actual ad rates.⁵⁹ A review of politicians’ Facebook pages and automated searches by Transparency International’s Czech chapter showed that Facebook’s ad library does not include all paid political advertisements. The review found that the Facebook pages for political parties and movements can bypass the ad library if they do not identify their advertising as “related to social issues, elections or politics”. Lax controls in payment methods and calculating advertising costs on Facebook prevent adequate compliance with the amounts of statutory expenditure caps or the ability to place ads.

These findings are compatible with the assessment of how these libraries performed in the 2019 European Parliament elections, which deemed ad libraries “incomplete, inaccurate and inconsistent.”⁶⁰

Ad libraries nonetheless are the exception with video streaming platforms, a growing market segment for political ads. A recent assessment by Mozilla Foundation regards the even lower transparency standards of these platforms the “wild West of political ads.”⁶¹

Although it is still possible to spend large amounts of money on digital ads in a non-transparent way, oversight agencies lack regulatory and technical means to police opacity, which is focused on candidates and parties’ own reporting rather than that

of the platforms. For example, Transparency International New Zealand’s analysis of the 2017 general election party expense returns revealed that deficiencies in reporting requirements add to the inability of the Electoral Commission to investigate election expenditures.⁶² There is no uniform level of itemisation required on expense reports, with some parties lumping all online ad spending together and others individually listing out ad buys.⁶³ Parties are not required to specify the medium of paid advertisements, the sites used for online ads, the demographic targets employed or the number of people reached.

Who sees the ad: microtargeting

The Cambridge Analytica scandal shed light on the commercial and political value of users’ personal data mined into voter profiles for microtargeting purposes. Google limits microtargeting to geolocation, age and gender – and contextual criteria since 2019 – but Facebook and Snapchat do not have restrictions. They even allow advertisers to customise their reach, include “similar” audiences inferred through opaque automatisations (or black box algorithms), or use their own datasets.

Microtargeting could exclude certain voter groups from political debate or feed those targeted with biased information, thereby polarising public deliberation.⁶⁴ Microtargeting blurs the accountability of politicians for their public messaging.

Yet these issues are not only ethical or political.

Microtargeting touches on political financing questions too. Making ads untraceable – or “dark posts” – could further pre-empt any financial scrutiny.

Most important, the commercial value of microtargeting creates incentives for an ‘arms race’ in the collection of personal information, creation of voter profile datasets and rising ad costs. The economic value of microtargeting elicits scrutiny.

Highly refined filtering of audiences relies on sophisticated databases built on intensive or contextual personal collection.⁶⁵ These services provide

an expensive advantage that only well-funded or well-connected political parties and individuals can afford.⁶⁶ It is also likely that such datasets are foreign-mined and traded, posing foreign influence questions.

Much of the scrutiny that microtargeting elicits could be possible if ad libraries had enough information on the generation methods, what audiences are targeted by advertisers and how messages vary from group to group.

However, that is not the case yet. For instance, upon the introduction of the Facebook ad library in New Zealand, the costs and range of “impressions” were imprecise, as the targeting data lacked the specificity that advertisers use. This flaw is consistent with assessments in Europe that found an information imbalance between the level of detail advertisers have when placing ads, and the level of granularity offered to users when they click on “why am I seeing this ad”.⁶⁷

As campaigns shift to the digital sphere, initiatives to address concerns with microtargeting include Facebook’s option for users to disable political ads for the 2020 presidential election as well as monitoring from watchdog groups. *Who Targets Me?* has been used in over 10 countries to check on Facebook’s transparency tools and their scope for collecting data on targeted political advertising.⁶⁸ The “PubliElectoral”, a similar tool used by the Argentinian Association por los Derechos Civiles, has helped improve the understanding of political parties’ and candidates’ data-driven techniques and strategies. For the most part however those techniques and strategies remain opaque in Argentina and elsewhere.

Transparency measures are only part of a range of possible remedies. Other ideas for reigning in the potentially pernicious use of microtargeting include directly addressing of its criteria and taking an approach that undercuts economic advantages gained from it, such as setting minimum sizes for segments or even outright bans.

REGULATION

On average, seven in 10 countries worldwide do not have any spending limits or specific regulations on online advertising. The overall capacity of governments to regulate the internet is limited, and their approaches rely heavily on action from private interests themselves.

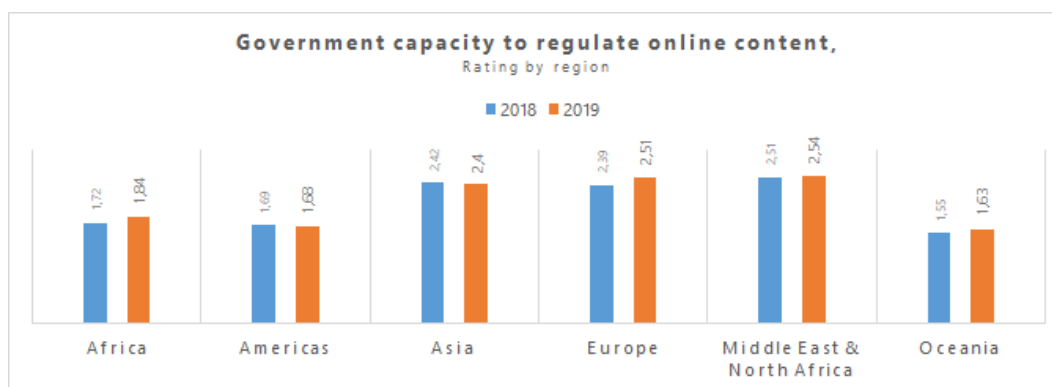
Online platforms face criticism for not going far enough. Updating legal frameworks to counter the risks posed by online political ads could accelerate action by platforms. There is still plenty of room for adjusting political campaigning laws and regulations to make the financing of online political advertising more accountable and transparent. Higher standards of due diligence and compulsory procedures for verifying advertisers, penalties for failures to comply with the company's policies and increasing the effectiveness of the platforms' systems responsible for tackling transparency issues are a few of them.⁶⁹

Nevertheless, rules on online political ads lag well behind. The IDEA Political Finance Database shows that by 2018, only 25 out of 122 countries from all regions had their political finance laws set limits in spending (19 countries) or other restrictions (13 countries) on online media advertising, or both (seven countries).⁷⁰ Elections during the global pandemic have seen election management bodies or political finance oversight agencies rush to adjust their campaign regulations by introducing some

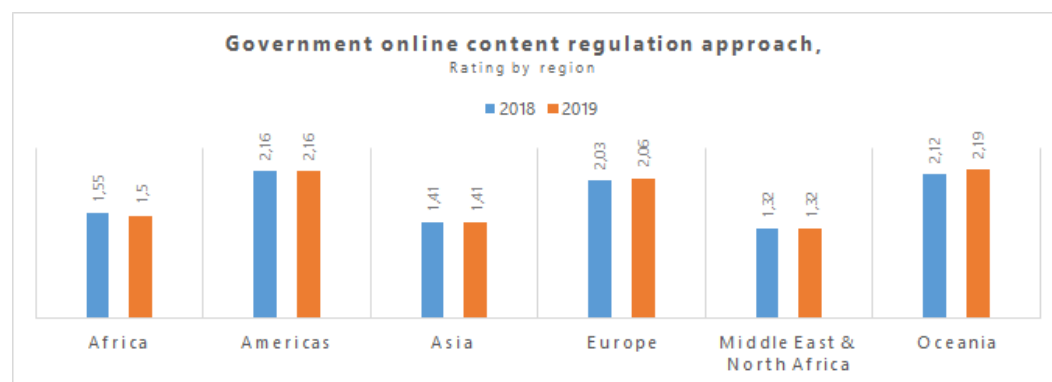
rules about online advertising (such as Bolivia, Lithuania and Singapore).

The capacity of governments to regulate the internet is limited. According to 2019 data from the Varieties of Democracy Project, governments around the world have an average capacity to regulate only *"some online content or some portions of the law"*⁷¹ – online political advertising is an important part of such content. Having a strong capacity to regulate online content is not a panacea in itself, as it could well lead to curtailing free speech on the internet.

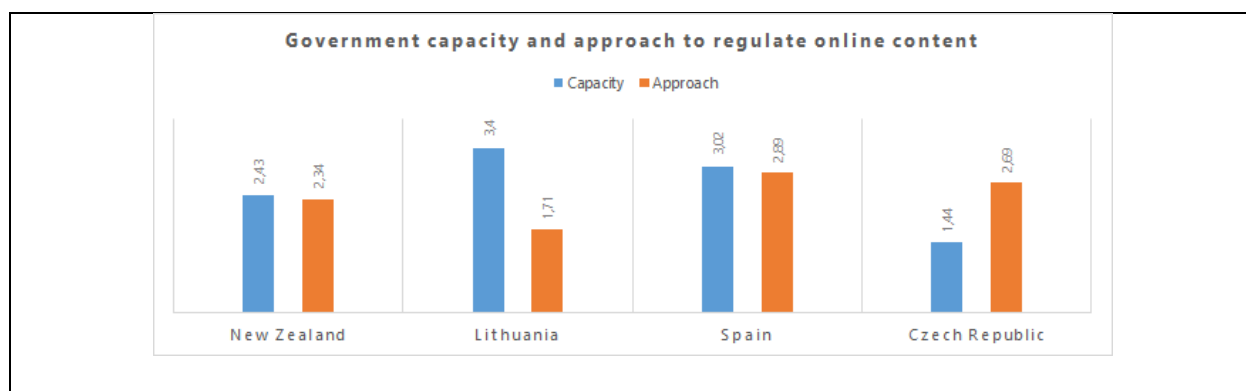
Take for instance the Middle East and North Africa (MENA) and Western Europe regions. Countries in these regions have a stronger capacity to regulate online content than in other regions. However, countries from these regions approach the matter differently. In the average MENA country "most online content monitoring and regulation is done by the state", in Western European countries the most common approach is "some online content monitoring and regulation is done by the state, but the state also involves private actors in monitoring and regulation in various ways."



Notes: 0: No, almost all online activity happens outside of reach of the state, where it lacks the capacity to remove illegal content; 1: Not really. The state has extremely limited resources to regulate online content; 2: Somewhat. The state has the capacity to regulate only some online content or some portions of the law; 3: Mostly. The state has robust capacity to regulate online content, though not enough to regulate all content and all portions of the law; 4: Yes, the government has sufficient capacity to regulate all online content.



Notes: 0: All online content monitoring and regulation is done by the state; 1: Most online content monitoring and regulation is done by the state, though the state involves private actors in a limited way; 2: Some online content monitoring and regulation is done by the state, but the state also involves private actors in monitoring and regulation in various ways; 3: The state does little online content monitoring and regulation, and entrusts most of the monitoring and regulation to private actors; 4: The state off-loads all online content monitoring and regulation to private actors.



Source: *Varieties of Democracy*⁷²

The different capacities and approaches to regulation reflect the complexity of online platforms. The following presents examples of these regulatory approaches specifically applied to online political advertising and the risks it presents to political financing.

Lithuania: legal updates with limitations

Lithuania amended its campaign financing law, which went into effect in January 2020.⁷³ Now it explicitly recognises internet advertising as a form of political advertising. It moreover establishes the obligation for all political advertising to disclose the source of funding and be labelled accordingly⁷⁴. Following this amendment, in April 2020 the Central Electoral Commission (CEC) issued recommendations for the dissemination of political advertisements during the campaign period. These recommendations specify that rules for advertising through broadcast or print media also apply to online platforms.⁷⁵ For the first time the CEC has also addressed influencers' political online activity in social networks during the silence period, illustrating emerging concerns about elections.

The recommendations still do not offer solutions on how to better track political ads on social platforms.⁷⁶ Nor is it clear how their implementation will be carried out; for example, whether it will be compulsory for "influencers" to label political advertisements or the methods of monitoring such advertising.⁷⁷

Other challenges are associated with scrutinising the content of financial statements that candidates, political parties and advertisers must submit to the CEC, when the numbers reported differ.⁷⁸ Furthermore, reports are not required to itemise expenditure going to different digital media types, making it difficult to determine how much money actually is spent on social media advertising in each election. Even though all actors must disclose their financial statements and the CEC is also monitoring political ads during the campaign, there is still a lack of comparable and aggregated data. Information disclosed about ads differs by source, and sometimes it is not clear what methodology is being used to collect some of the data.

Spain: personal data collection concerns

Spain's regulation also addresses digital political advertising insufficiently. The Organic Law 5/1985 on the General Electoral Regime was amended to include online political campaigning and digital propaganda. This means the same rules for electoral advertising apply to digital campaigning. The amendment created concerns about the constitutionality of a provision that allowed political parties to collect information on people's personal and political opinions. The Constitutional Court in its ruling 76/2019 of 22 May 22, declared unconstitutional paragraph 1 of article 58bis for conflicting with freedoms of expression and ideology (articles 20 and 16 of the Spanish constitution).

The Spanish Data Protection Agency issued a circular based on this ruling with the aim of framing and

detailing how political parties should act when using personal data related to political opinions and the distribution of digital propaganda.

Although both initiatives meant a step forward in data protection and data collection carried out in election campaigns, the legal framework could still be improved to bring more transparency into digital advertising. This could include clearer guidelines in the use of digital tools and digital advertising during non-election periods.

New Zealand: Moderate restrictions yet low disclosure

Despite its comprehensive political campaign funding regulations, New Zealand has seen a rapid increase in online political activity that has been addressed by some legislative and procedural improvements in recent years.

A first response was an update of the definition of “election advertisement” that now includes all media: advertisement that “may reasonably be regarded as encouraging or persuading voters” to vote or not vote for a candidate or party, or type of candidate or party referenced by views they do or do not hold. All ads must include a “promoter statement” clearly indicating the name and address of the person or organisation that sponsored the advertisement. Third-party promoters (spending over the equivalent of US\$66,000) and all registered parties and candidates must provide itemised expense reports of expenditures. The Electoral Amendment Act 2019 extended the requirement for “advertisements relating to an election” (for instance: get-out-the-vote ads) or referendum to include a promoter statement to online media. The law changed specifically to deter misleading anonymous online advertisements.

Recent legislative change has increased the amount of public funding for online advertising. The Broadcasting (Election Programmes and Election Advertising) Amendment Act 2017 allows political parties to spend public funds previously ear-

marked for TV and radio broadcasts on online advertising. Parliament increased the broadcasting allocation substantially in 2017, from NZ\$3.3 million (US\$2.2 million) to NZ\$4.1 million (US\$2.7 million). These amendments have further contributed to the rapid growth of online political advertising in New Zealand, which Transparency International estimated at 19% of the total 2017 party expenditures.

However, the use of the state funding known as Parliamentary Service – available for party operations including support staff, travel, research and communication – is opaque when deployed for online political advertising. This funding can be spent on online political advertisements, so long as they do not explicitly tell the public to do certain things. It can also be used outside of the “regulated” election advertising period (the three months before polling day) to describe party policies and attack opponent policies. None of this spending requires public disclosure. It is granted in addition to the publicly funded broadcasting allocation, which can be used for any election advertisements during the regulated period and is disproportionately distributed to the largest political parties.

Fortunately, Facebook tightened its political advertising policies in the months leading to the 2020 general election, making registration mandatory and prescribing that “all ads covered by the policy will be required to show a disclaimer as well as publicly list a local phone number, email and website where the person or group responsible can be reached”⁷⁹. What is more, only New Zealanders with government-issued identification were allowed to post political ads on Facebook. Google agreed to implement similar regulations with regard to political ads.

A review of the Facebook ad library showcases how extensive parliamentary service funding is for online political advertising in New Zealand. From the beginning of the year through 1 August 2020, Labour has placed 892 Facebook ads, with 860 of

them paid for by Parliamentary Service funding. National has placed 61 ads, 20 of which were paid for by the Parliamentary Service. And the Greens have placed 72 ads, with all 72 of them paid for by the Parliamentary Service. In other words, 33 per cent of National's, 96 per cent of Labour's and 100 per cent of the Greens' Facebook ads were paid for by opaque public funds. Without the Facebook ad library, these expenditures would be completely untraceable.

While New Zealand's system for supervising and regulating funding for political campaigns, candidates and advertising could be further improved, the regulatory steps taken are positive examples on how to increase transparency in elections. More checks on the system though could be done to ensure that the country's elections are transparent and politically accountable (see the Annex for a full description).

Czech Republic: Why the Facebook ad library is not enough to ensure transparency

In the Czech Republic online platforms, in particular social networks, used to be the medium favoured by new parties aiming at younger voters such as the Pirate Party, the Greens and the ANO 2011 movement. Since 2017 onwards, all parties use online advertising with a comparable level of skills and interest, although with different impact.

The legal definition of political advertising dated from 1995 covers all media. The main parameters to qualify as political advertising are:

- The communication takes place at some point of time after the announcement of and inclusive of the Election Day itself.
- The content of the messaging is for or against a candidate, with or without candidate's consent.
- The message is transmitted in a manner that is usually considered to be paid, even in cases when it actually was not paid directly.

Therefore, online political ads have fallen within the definition of political advertising, so they are evaluated and regulated accordingly. Czech political finance laws require that all ads disclose the information on the producer and contractor; and that the total advertising spending does not exceed caps specially established for the campaign period. Other than these basic rules applicable to all media, the Czech jurisdiction does not have any further concrete rule over online platforms.

Caps on campaign spending in parliamentary election are at EUR3.5 million for each party, relatively small. Importantly, the main income of parties consists of state subsidies, although business donations are considerably high and legal too. Typically, political parties spend as much as the limit allows. However, there are indications of excess in spending that is unreported. Therefore, it is plausible that online advertising has not reduced election campaign expenditures but rather facilitated their underreporting.

Monitoring by Transparency International Czech Republic points that platforms' weak political advertising safeguards have facilitated hidden groups and networks of 'profiles' to create almost invisible ecosystems with the ability to advance political messages and influence public opinion without transparency and accountability.

A review of the practical implementation of Facebook's transparency policies offers some possible explanations. One reason is that the identity verification procedures of eligible promoters or advertisers is not strict, at least on Facebook. Another reason is that Facebook procedures to appraise whether an ad qualifies as "social issue, politics or election" is also weak, therefore ads can circumvent their listing in their ad library, keeping the sponsor unidentified and expenditures unreported. Political ads that are placed undetected will not appear in the library section: "Advertising related to social issues, elections or politics". Instead, they appear in the "all ads" section where it will remain visible only as long as the ad is active. It will disappear after the sponsorship expires and no

one will be able to find it anymore. In addition, the estimated cost of advertising or targeting in this section remains undisclosed.

Thirdly, Facebook's payment system allows for an incorrect billing, therefore omitting the identity of the advertiser in the ad library. This further prevents "supervising institutions from effectively monitoring compliance with statutory limits on expenditures allowing for significant amounts of money to be spent in a non-transparent way".

Canada: The Election Modernization Act

The Election Modernization Act (the bill received royal assent on 13 December, 2018) amends the Canada Elections Act to establish spending limits for third parties and political parties during a defined period before the election period of a general election held on a day fixed under that Act. It also establishes measures to increase transparency regarding the participation of third parties in the electoral process. Additional provisions now regulate election-related advertising published during the pre-election period. This new category of regulated content called "partisan advertising" includes any advertising message that promotes or opposes a political party, potential candidate, nomination contestant or leader of a political party.

The US: Widespread spending without regulation (Honest Ads bill)

In the United States, the House of Representatives passed a bill in 2019, which contains provisions of the Honest Ads Act. The bill would modernise campaign finance laws to account for online political advertising. Specifically, the proposed legislation addresses a loophole in existing campaign finance laws, which regulate TV and radio ads but not internet ads. This loophole has allowed foreign entities to purchase online ads that mention political candidates. The Honest Ads Act would help close that loophole by subjecting internet ads to the same rules as TV and radio ads. It would also increase overall transparency by allowing the public to see who bought an online political ad, no matter who it was, as it would require large digital platforms like

Facebook and Google to maintain a public database of political ads.

Additional efforts like the For the People Act, or HR 1, would require the "dark money" groups that spend a major amount of funds on elections, including on digital ads, to disclose their large donors.

The bill did not make it to the floor of the US Senate before the 2020 election. Despite this setback at the federal level, there has been progress in certain cities and states. In 2018, North Dakota and San Francisco voters approved laws that considerably improve the transparency of online political ads. The North Dakota law is "now the most expansive in the country, requiring the 'prompt, electronically accessible, plainly comprehensible, public disclosure of the ultimate and true source' of spending greater than \$200."⁸⁰

Reforms in the United Kingdom

In the United Kingdom in 2019, the Electoral Commission made recommendations for the UK's governments and legislatures, social media companies and campaigners to follow. These recommendations would increase the transparency of digital campaigns, prevent foreign funding of elections and referendum campaigns, and give the power to impose higher fines on campaigners who break the rules. The Electoral Commission, the Information Commissioner, the DCMS Select Committee and other experts have stressed that current electoral laws are not fit for purpose when it comes to digital campaigning.

However, the UK government committed to implementing an imprints regime for digital election campaign material so that the public would be able to see who was paying for ads. In addition, the Information Commissioner's Office is in the process of developing a code of practice for using personal data in political campaigning. The Data Protection Act 2018 generally covers the processing of personal data. The UK government is considering changes to the law that would require online political campaign material to carry labels that disclose who is promoting and funding the messaging. The government said the measures would mean voters

get the same transparency from online campaign material as they do from leaflets posted through their letterbox. A variety of platforms would be covered, according to the current proposal, which include social media and video sharing apps, general websites and apps, podcasts, online ads, search engines, some forms of email and digital streaming services.

EU: The Code of Practice on Disinformation and Digital Services Act

Representatives of online platforms, leading social networks, advertisers and advertising industry agreed on a self-regulatory Code of Practice in 2018, set forth by the European Commission to address the spread of online disinformation and fake news. This was the first time worldwide that the industry agreed, on a voluntary basis, to self-regulatory standards to fight disinformation. The Code of Practice aimed at a wide range of commitments, from transparency in political advertising to the closure of fake accounts and demonetisation of purveyors of disinformation. The Code of Practice was signed by the online platforms Facebook, Google and Twitter and Mozilla, as well as by advertisers and the advertising industry. Previous acts had defined online advertising without emphasising online political advertising. For instance, the e-Commerce Directive (2000) establishes harmonised rules on issues such as transparency and information requirements for online service providers, commercial communications, electronic contracts and limitations of liability for intermediary service providers. Currently, the EU is consulting a draft Digital Services Act that proposes to protect the limited liability regime of the e-Commerce Directive, require large commercial platforms to provide a way for users to report potentially illegal online content and impose some transparency standards. However, the draft fails to introduce limits to microtargeting.

EU: European Democracy Action Plan

Following the limited success of the Code of Practice Disinformation, the European Commission introduced in December 2020 the European Democracy Action Plan. The document, a blueprint to pro-

tect democracy in Europe, recognises the challenges raised by the digital revolution and the need to upgrade the EU rules to fit the new context.

The plan acknowledges that extant election campaigning regulatory frameworks are “difficult to enforce or ineffective [as they are] largely applicable only within a particular jurisdiction or may not have been formulated to take the borderless online space into account.”⁸¹ The plan stresses the “clear need for more transparency in political advertising and communication, and the commercial activities surrounding it”⁸² (including the origin, intent, sources and funding of political messages). Furthermore, it also notes that organic and paid-for political content need to be clearly distinguished. To address these issues, the European Commission will propose legislation on the transparency of sponsored political content in 2021. The plan outlines that such proposal will target sponsors of paid online advertising and “production/distribution channels, including online platforms, advertisers and political consultancies, clarifying their respective responsibilities”, considering the possibility of special rules for election campaigns.

Most importantly, the European Commission warns that “micro-targeting and behavioural profiling techniques can rely on data improperly obtained, and be misused to direct divisive and polarising narratives”.⁸³ To that end, the plan commits to explore the establishment of restrictions on micro-targeting through obligations such as labelling, record-keeping, disclosure requirements, transparency of prices, and targeting and amplification criteria.

RECOMMENDATIONS

Update political finance regulations to the digital era

Regulatory upgrades are urgent. Governments, electoral management bodies and relevant oversight agencies must act swiftly to ground in the law responsibilities on the content, the financing and placement of online political ads to online platforms, political activists, and intermediaries that place or sponsor ads.

Legal definitions must consider all paid online communication aimed at influencing decisions on matters of public interest under consideration by voters or political office holders.

A definition must take into account that political advertising takes place during election campaigns as well as on an ongoing basis as part of wider public deliberation.

Any paid content by political officials, registered candidates, political parties, registered promoters or third parties must be treated as political advertising.

Ensure authentic political messaging

Political parties, candidates, their committees, and authorised third parties must conduct online activity through official accounts in their own name.

Where possible, oversight agencies must establish registers of the said accounts, and the individuals

legally authorised to make financial disbursements on their behalf. This information must be made available to media outlets and online platforms.

In absence of this official information, online platforms that sell or publish political advertising must conduct identity verification protocols to ensure only legally authorised advertisers place ads.

Regulations should ban inauthentic production and dissemination of online political advertisement, such as machine-generated ads and targeting.

Hold platforms accountable for ad transparency

Regulations must subject online platforms that sell advertising to the highest standards of transparency on the volumes and reach of its transmission and sponsorship. Lack of compliance must be appropriately sanctioned.

Voters must be able to distinguish between paid and user-generated (organic) content.

Advertisers, intermediaries and platforms must be held responsible for ensuring that each political ad is visibly labelled with a tagline identifying:

- the sponsor paying for the ad placement (as per payment medium such as intermediary, individual, group, candidate, political party, third-party organisation)
- the authoriser of the ad's content and placement (endorsed by/on whose behalf)

- the ad generation method provided by the platform
- the profile criteria met by the user and targeted by the sponsor
- pro-active verification of the identity both the sponsor, advertiser and beneficiary

At the aggregated level, online platforms must build – and make available on an ongoing basis – searchable, machine-readable, centralised registers or repositories with copies of all ads published by the platform. These must contain the following information per ad:

- an impression sample
- identification of who placed and paid for the ad
- identification of who authorised the ad (the individual endorsing the content)
- reach: number of impressions for every targeting parameter used by the advertiser (contextual, geographical, demographic)
- duration: start date and time, end date and time-span when the ad was shown.
- the segmentation/targeting criteria used if allowed; the data source for targeting criteria and the inferred profiles used
- split testing practices
- cost: individual and total cost paid, including rebates and discounts applicable and average rates charged

Raise the bar for financial reporting

Political parties, candidates, their committees and legally authorised third parties must be responsible for the itemised reporting of the expenditures on online platforms.

Financial statements should provide clear information on expenditures made for every ad and each online platform, duly identified.

Agencies mandated with the oversight of political financing require higher technical capacities to meet the requirements of monitoring digital advertising. They must receive this information at regular

intervals, cross-check it with the online platforms' repositories, and take corrective action on potential infringements. The results of their checks – with the identification of non-compliant instances – must be published in aggregated open data format.

Restrict microtargeting. Enhance standards for trading personal data

Regulators, platforms and advertisers must restrict political-ad microtargeting to basic geographical criteria, thus enhancing accountability for online expenditures while safeguarding democratic public debate.

Profiling methods beyond such minimum parameter must meet heightened standards. First, increased transparency of the economic incentives present in the collection of personal data that goes into voter profiles and enable microtargeting techniques. Also, the inference methods used in profiling voters. Second, overcome the deep information asymmetries between users who consent to the trading of personal data and the professionals who profit from it. Personal consent must be meaningful. There must be genuine choice on how our information is used and traded, and eventually opt out.

Until such heightened levels of transparency, fairness and meaningful consent are not in place, microtargeting must be restricted.

CONCLUSIONS

Online advertising is rapidly becoming part of the new political campaigning normal. Digital advertising has brought opacity to who is behind an ad, how much the ad costs, and whose money is paying for the ad. On average, seven in 10 countries worldwide do not have any financial regulations on online advertising. The overall capacity of governments to regulate the internet is limited, and their approaches rely heavily on action from private actors themselves. This lack of control leaves malign actors, domestic or foreign, with no more than a credit card, enough room to funnel money into digital operations – from ads to coordinated bots and fake accounts – aimed at sowing divisiveness into political discourse or simply spreading lies.

Financial scrutiny can deter these threats by imposing conditions on advertising volumes and make

the goals of ads and the identity of advertisers more transparent.

Online political advertising has advantages too. It opens up opportunities to reach out and connect to voters. Different groups of constituents can use it to bring their own voice to public deliberation. If used strategically, it can help less conventional politicians with fewer resources engage in crowdfunding, freeing them from heavy reliance on wealthy donors.

Governments must adopt decisive action to strengthen accountability of politicians, ensure transparent political campaign financing, restrict microtargeting, and protect voters' personal data as suggested in the recommendations.

ANNEXES: CASE STUDIES

ANNEX 1: NEW ZEALAND

Summary⁸⁴

New Zealand has so far allowed internet sites to set their own transparency rules as long as basic compliance with promoter statement and expenditure limits are followed. However, the rapid increase in online political activity has raised concerns about the transparency of campaign finance. While New Zealand has responded with some legislative improvements in recent years, more must be done.

Google has limited microtargeting options and required all advertisers to verify and comply with domestic legal requirements. It provides a political advertising transparency report on advertisers' spending on election ads. Facebook introduced an ad library for all election and issue-based advertisements on its platform, providing basic information including advertisement cost, reach and targeting. However, Facebook's transparency provisions remain inadequate in several respects.

Parties' expense returns show several deficiencies in the level of itemisation for online ad spending, the specific internet sites used, the demographic targets employed or the number of people reached. These problems dovetail with the Electoral Commission's inability to investigate expenditures.

Moreover, public funding received as Parliamentary Service Funding does not require public disclosure but it funds substantial parts of the parties' advertising efforts. In the first seven months of 2020, 33 per cent of National, 96 per cent of Labour and 100 per cent of Green Party Facebook ads were paid for with these funds. Without the Facebook ad library, these expenses would remain unknown.

Platforms have also ramped up their efforts to shut down foreign adversaries, prevent social media hacks and address astroturfing – the spread of disinformation through robot accounts and paid participations. Real risks remain. Weak disclosure laws mean that bad-faith actors can legally spend NZ\$13,600 (US\$8,980) to influence elections without any disclosure whatsoever, up to NZ\$100,000 (US\$66,000) without disclosing expenditures and as much as NZ\$330,000 (US\$217,800) without disclosing funding sources. This is in essence “dark money” at work. A lack of proactive enforcement powers means that the Electoral Commission is unable to monitor technology companies to ensure compliance with existing laws. Unless there is a regulatory framework outlawing foreign social media advertising in New Zealand elections, the country remains at the whim of social media giants to fight foreign influence campaigns.

In light of such challenges, Transparency International New Zealand has developed recommendations to improve the level of transparency and accountability in online political campaigning. It

advises that the Electoral Commission consider requirements that parties, candidates and third-party promoters provide more detailed accounts of online ad buys and include the medium of expenditure in their expense returns. Moreover, Parliament should include in its Select Committee inquiry into the 2020 election a consideration of the following legislation:

- requiring itemised expense reports of all Parliamentary Service-funded advertising
- requiring those who sell advertisements directly or indirectly online to keep a public, searchable register of published election advertisements targeting New Zealanders, including detailed information on demographic microtargeting, ad reach, cost and source of payment
- strengthening enforcement capabilities of the Electoral Commission to investigate electoral expenditure offences and issue penalties.
- reinforcing the capacity, enforcement power and scope of the Advertising Standards Authority to ensure its continued ability to address digital election complaints in a timely manner. This should include whether the Advertising Standards Authority should extend its “rapid-response” elections unit to cover the beginning of every election year through polling day.

ANNEX 2: CASE STUDY LITHUANIA

Summary⁸⁵

The importance of digital political advertising in Lithuania has been increasing, with political campaigning actively moving to various online platforms and social networking sites growing in popularity.

While laws in Lithuania do not specifically exclude the rules for political advertising on social media platforms such as Facebook, it can be presumed that the same rules apply to online political advertising as to the traditional forms.⁸⁶ According to the

legislation, all political advertising must be marked accordingly,⁸⁷ visibly separated from other disseminated information and the source of funding must be disclosed. Political advertising is monitored by three separate bodies: the Central Electoral Commission (CEC) and local electoral commissions, the private company⁸⁸ hired by the CEC, and the public (through complaints and an ads map, where members of the public can report potentially non-compliant ads).⁸⁹ For the first time, in 2020 the CEC also published recommendations that covered issues such as regulation of influencers and political online activity in social networks during the silence period.

Rules on funding political campaigns are also well established in the law. Maximum donation amount and donor profile are both stipulated in the law. Information on donations must be submitted together with full campaign expenditure to the CEC by information producers and disseminators as well as election candidates.⁹⁰

However, though regulation looks adequate on paper there are many questions still unanswered. There is a lack of clarity on how efficiently online ads are being monitored, taking into account the role of social networks where it is hard to trace the sponsors and actual rates of the advertisements, as well as growing role of “influencers” who are difficult to track and monitor.⁹¹ It is also difficult to understand the methods used by each of the parties for monitoring purposes, and which advertisements are taken into account and which are not. It is noted that data on online political campaign financing is different in most CEC-published sources. Thus, it is not clear what are the exact amounts spent each election on political advertising in social media.

From what can be acknowledged, Lithuania has sufficient legal framework. However there is a lack of information on whether it is implemented efficiently. That is especially vital, as the importance of digital advertising is only going to grow along with new risks such as political micro targeting, misinformation and disinformation – to name but a few.

ANNEX 3: CASE STUDY CZECH REPUBLIC

Summary⁹²

Transparency International Czech Republic (TI CZ) has monitored political campaigns on Facebook for a long time, yet only now is able to accurately evaluate an online campaign's transparency. The launch of the Facebook ad library tool brought a new opportunity to truly understand and analyse the cost and financial management of campaigns. Before this tool was introduced TI CZ could only speculate about these costs. However, through using the tool we have found that its limitations and gaps are so wide, that it is effectively useless at accurately tracking political advertising spending and activity. For one, the Facebook pages of political parties and movements can circumvent the tool, making it difficult to see all political advertisements for a specific campaign. Second, current payment methods allow political parties and movements to prevent oversight by supervisory institutions. This report takes a closer look at these issues.

Facebook is seemingly improving the transparency of political marketing and advertising on its platform. However, it still has a long way to go. Given the nature of the company's product and its 2.5 billion monthly active users, the company needs to take responsibility for its extensive political influence, and actively anticipate and tackle the dangers its platform poses to the integrity and transparency of democratic elections. The ad library does not accurately reflect all political ads that run on Facebook products. At best, it shows only those voluntarily marked and active.

Facebook pages of political parties and movements can bypass the ad library by not identifying their advertising as "related to social issues, elections or politics". The detection of a "politically exposed" posts on Facebook is not reliable. Methods in which advertising costs are calculated and payments are made prevent effective monitoring by supervisory institutions. Statutory budget limits for electoral campaigns can be circumvented on Facebook, and as a result a significant amount of money can be spent in a non-transparent way. In order to be able to serve as a tool for making political advertisements more transparent (i.e. to enable anyone to compile a realistic picture of campaign financing on Facebook, not only to tell users individually how the advertisement is targeted at them), the ad library will need to undergo several improvements.

From TI CZ's point of view, advertising for political actors should be set as political automatically, i.e. "relating to social issues, elections or politics" without giving the administrator of its Facebook page a choice. Payment for Facebook advertising services for political entities should only be allowed from bank accounts that supervisory institutions (i.e. ÚDHPSH) have access to. The ad library tool should be more user-friendly by enabling users to search and gain access to the data they are looking for, instead of solely providing access to limited and confusing numbers that give an unclear advertising picture. In the future, the transparency of political advertising on social networks will have to be addressed systemically and preferably centrally, for example within the EU. One of the proposals that TI CZ supports is to set up a central register of all (including social issues) advertising at the European level.

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