

# Parliament of Victoria inquiry into the impact of social media on elections and electoral administration

30<sup>th</sup> September 2020

## Introduction

The Electoral Reform Society is the UK's leading voice for democratic reform. We work with everyone – from political parties, civil society groups and academics to our own members and supporters and the wider public – to campaign for a better democracy in the UK.

Our vision is of a democracy fit for the 21st century, where every voice is heard, every vote is valued equally, and every citizen is empowered to take part. We make the case for lasting political reforms, we seek to embed democracy into the heart of public debate, and we foster the democratic spaces which encourage active citizenship.

We welcome the opportunity to make a submission to the Parliament of Victoria's inquiry into the impact of social media on elections and electoral administration. This submission draws on research conducted and commissioned by the ERS and relates primarily to the UK experience.

## How is social media changing elections?

Social media has changed elections and political processes in two distinct ways: on the one hand, it has enhanced the capacity for democratic participation among a wider section of the public; on the other, it has exposed the vulnerabilities in and presented new challenges to our political processes.

Social media has not dramatically altered the nature of political campaigning – direct marketing and the targeting of voters on the basis of certain characteristics, for example, has occurred offline for decades. But while such campaigning techniques are not new, social media has changed the landscape considerably in terms of the scale, reach and sophistication of these activities.

While much of the commentary in recent years has focused on the negative impact of social media on elections – and indeed our submission will highlight these issues – the important role that social media and online political campaigning can play in increasing citizens' participation in our political processes should not be underestimated.

Social media has lowered the access cost for regular citizens, political parties and non-party campaigners to take part in democratic processes, thus contributing to a healthy and vibrant democratic debate. The cheap and easy access to information, combined with the fact that everyone has – at least theoretically – an equal voice online, are important democratising features of digital campaigning that should not be lost amidst concerns surrounding 'dark ads', 'fake news' and the like.

Social media enables voters to obtain and share information on candidates' and parties' policy positions, if they so wish, from a wide range of sources, which might help them make a more informed decision at the ballot box and, after an election, hold politicians to account to the pledges made in the course of a campaign.

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Given tech platforms' significant reach across different sections of society, even traditionally underrepresented groups can become more involved in political processes. Such enhanced opportunities for engaging in political discussions may contribute to creating a collective public debate in the digital sphere, across demographic and national divides, which might be more difficult to achieve in the 'real world'.

### **What problems have you seen with social media and online advertising around elections?**

Concerns about social media and online advertising around elections have increased dramatically in recent years, as the use of tech platforms for political campaigning has grown. Underlying most of these concerns is the fact that, in many countries, electoral rules have not kept up with the shifting nature of campaigning, with regulators and legislators appearing powerless in the face of threats and with the democratic principles underpinning our elections (such as transparency, fairness and accountability) being undermined by these unregulated campaigning techniques.

A first problem relates to transparency. Political campaigning online has meant that voters cannot always be certain of who created an online political advert. In the UK, imprint requirements (which state who paid for and promoted election material), for example, apply to campaign material in print, but not online. This has implications for the spread of mis- and dis-information:<sup>1</sup> purveyors of false or misleading information cannot be held to account if their identity cannot be verified.

'Dark ads' – adverts which are visible only to the creator and the individual or group being targeted – can be micro-targeted to individual voters who may not be aware of the fact they are being targeted, and why. The use of highly tailored adverts means that different voters can be targeted with conflicting information without the sender facing any scrutiny, which has consequences for the accountability of our elected representatives.

Voters may also have little information with regards to whether and how their personal data is being used for political purposes. Campaigners are increasingly using citizens' personal data to create detailed profiles, which are then used to target voters with highly personalised adverts and information. External agencies are increasingly involved in such data collection and analysis, but the extent of their involvement remains hard to ascertain. A recent investigation conducted by Channel 4 News found that the 2016 presidential campaign of Donald Trump used an algorithm to separate millions of Americans into separate audiences so that they could be targeted with tailored adverts on Facebook and other platforms.<sup>2</sup> One such audience, classified as 'Deterrence', comprised people who Trump's campaign hoped would not turn out at the election and which Channel 4 News found was predominantly made up of African Americans.

Linked to the opacity of online political ads are concerns around mis- and disinformation. The accuracy and veracity of election content have not historically been at the centre of electoral regulation but are becoming increasingly prominent in debates around digital campaigning, with the proliferation of new voices online making it hard to know who to trust and what information is correct. The potential for the dissemination of such false or misleading claims is problematic given that voters' ability to make a free and informed decision at the ballot box rests on the quality of the information they can obtain. While the shift to online campaigning has been a force for good in enhancing democratic participation and in promoting a vibrant and varied political debate, the easy availability of seductive misinformation,

<sup>1</sup> Misinformation is commonly defined as the inadvertent spread of false or misleading information, while disinformation is the deliberate use of false or misleading information in order to deceive.

<sup>2</sup> <https://www.channel4.com/news/revealed-trump-campaign-strategy-to-deter-millions-of-black-americans-from-voting-in-2016>

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particularly online, and the potential for information overload, pose a threat to our democratic processes.

The shift to online campaigning also creates problems for regulating money in politics and for attempts to create a level playing field among candidates, parties and campaigners. The UK's system of political finance is based on regulating spending (with limits on how much candidates, parties and campaigners can spend at the local and national levels) and donations, both of which – in the case of political parties – need to be reported to the Electoral Commission. But with online material, cost does not have the same direct correlation with reach (and therefore influence) that it does with printed materials: lower spending does not necessarily mean fewer people seeing the ads. Additionally, reporting of spending online is subject to limited regulatory oversight in the UK – parties, for example, do not need to provide a breakdown of social media spend on different platforms, but can classify this under broader categories such as 'market research' or 'advertising'.

Social media exacerbates concerns around foreign money playing a role in domestic politics. While UK campaigners are required to register with the Electoral Commission for election periods, foreign states, organisations or individuals are able to influence UK campaigns with online ads with little oversight. Millions can also be channelled into campaign groups – including from foreign donors – outside of a regulated campaign period, without funding transparency.

The growing, monopolistic role of private tech companies and external agencies exacerbates these concerns. Tech platforms do not have the same liability as traditional news outlets, and the fact that most of the online platforms on which adverts can be purchased are based overseas, raises jurisdictional and regulatory enforcement concerns, making it hard to track down, verify and, if necessary, take action against foreign actors interfering in the UK's democratic processes. A good example of such concerns is provided by the recent case of Facebook threatening to block Australians from sharing local and international news on the platform if a new plan to make tech platforms pay for news content becomes law in Australia.<sup>3</sup>

A final concern relates to the intimidation and harassment of candidates, politicians and staff which has increased in recent years as a result of the shifting nature of online campaigning.<sup>4</sup> While social media can give voters more power and voice, an unintended consequence may be to increase such harassment and abuse.

### **What actions have you seen governments take in relation to social media/online advertising and elections? What results have been achieved by these actions?**

In the UK, only limited action has taken place in response to social media/online advertising and elections. The UK government has recently reaffirmed its commitment to introducing imprints (disclosures stating who promoted and paid for election material) for online election material<sup>5</sup> and has launched a consultation on the technical details.<sup>6</sup>

The UK government has also published an Online Harms white paper, which proposes a statutory duty of care for tech companies, which would make them take more responsibility for the safety of their users and tackle harm caused by content or activity on their services. While it mentions disinformation, the white paper does not however specifically focus on issues concerning electoral democracy and political campaigning.

3 <https://www.theguardian.com/media/2020/sep/01/facebook-instagram-threatens-block-australians-sharing-news-landmark-acc-media-law>

4 For more information on intimidation in public life in the UK, see: <https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

5 <https://www.gov.uk/government/news/political-campaigning-online-to-be-made-more-transparent-under-new-rules>

6 <https://www.gov.uk/government/consultations/transparency-in-digital-campaigning-technical-consultation-on-digital-imprints>

Despite the limited legislative/government-initiated action in the UK (and internationally), tech companies have taken some tentative action voluntarily by implementing some form of imprints regime (e.g. Facebook now requires political advertisers to display a ‘paid for by’ disclosure), creating databases of political adverts running on the platform (such as Facebook’s Ad Library<sup>7</sup> and Google’s Transparency Report for political advertising<sup>8</sup>), and promoting information from trusted sources (e.g. during the coronavirus pandemic, Facebook and Google upgraded information from the World Health Organisation). Twitter has taken a different approach, banning political advertising from its platform altogether,<sup>9</sup> though this has had implications on what the company defines as ‘political ads’.<sup>10</sup>

7 <https://www.facebook.com/ads/library/>

8 [https://transparencyreport.google.com/political-ads/home?hl=en\\_GB](https://transparencyreport.google.com/political-ads/home?hl=en_GB)

9 <https://twitter.com/jack/status/1187634360472829952?s=20>

10 See for example: <https://www.theguardian.com/commentisfree/2019/nov/04/twitters-political-ads-ban>

Regulation of political campaigning, however, should not be in the hands of private tech companies, which is why the Electoral Reform Society has long called for government action and legislation in updating electoral rules.

### **What are the most effective ways to address any problems with social media and online advertising around elections?**

As mentioned above, limited action has been taken to address the problems created by an increased use of social media and online advertising around elections, with the primary government intervention in the UK being a commitment to extending ‘imprints’ to online election material.

The dearth of domestic and international interventions makes it hard to ascertain what the most effective courses of action are. However, as argued above, we believe that it should be up to government and parliament, not tech companies, to regulate online political campaigning and set out the principles by which we want our elections to be governed. Such principles might include transparency, fairness/level playing field, and accountability.

A plethora of recommendations have been made in the UK by politicians, parliamentary committees, regulators, academics and civil society organisations, including the Electoral Reform Society. These include:<sup>11</sup>

- Creating a publicly accessible, clear and consistent archive of paid-for political advertising. This archive should include details of each advert’s source (name and address), who sponsored (paid) for it, and (for some) the country of origin.
- Establishing a statutory code of practice for political parties and campaigners with regards to the use of personal data for political purposes.
- Ensuring that those tasked with regulating political campaigning have sufficient enforcement powers and resources so that they can act as a genuine deterrent against wrongdoing and take action more promptly if offences occur.
- Requiring political parties and campaigners to provide meaningful invoices for spending online so that it is clear how much money they have spent and on which platforms.
- Ensuring that the regulation of political finance is up to date for the digital age, accounts for the cheap cost of advertising/campaigning online and prevents foreign interference.
- Implementing shorter reporting deadlines so that financial information from campaigns on their donations and spending is available to voters and the Electoral Commission more quickly after a campaign, or indeed, in ‘real time’.
- Recognising that campaigning now takes place year-round, rather than shortly before an election, and thus ensuring that there are appropriate safeguards and reporting mechanisms in place.
- Engaging in public awareness, digital media literacy and – more broadly –

11 For more information on the many recommendations which have been made, see the ERS’ report by Dommett and Power *Democracy in the Dark*: <https://www.electoral-reform.org.uk/latest-news-and-research/publications/democracy-in-the-dark-digital-campaigning-in-the-2019-general-election-and-beyond/>

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political education campaigns to empower citizens to identify mis- and disinformation, more critically assess information circulating online, and make an informed decision at election time.

**Other comments:**

The Electoral Reform Society has been at the forefront of highlighting issues around the need to update campaign rules to account for the rise of social media and online political advertising and campaigning. Some of our work on this topic is flagged below for further information.

- In September 2020, we published *Democracy in the Dark*, a report on online campaigning at the 2019 UK general election, written by leading political finance experts Dr Katharine Dommett and Dr Sam Power. This is available at: <https://www.electoral-reform.org.uk/latest-news-and-research/publications/democracy-in-the-dark-digital-campaigning-in-the-2019-general-election-and-beyond/>
- In October 2019, the ERS published the ‘Loophole List’ which highlighted some of the gaps in Britain’s political campaign rules: <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/report-campaign-loopholes-put-free-and-fair-elections-under-threat/>
- Finally, our February 2019 report *Reining in the Political ‘Wild West’* brought together politicians, regulators, academics and civil society organisations to consider how to update our campaign rules for the 21st century. This can be found at: <https://www.electoral-reform.org.uk/latest-news-and-research/publications/reining-in-the-political-wild-west-campaign-rules-for-the-21st-century>