

MEDIA POLICY BRIEF 19

The new political campaigning

Damian Tambini, London School of Economics and Political Science

Sharif Labo

Emma Goodman, London School of Economics and Political Science

Martin Moore, Kings College, University of London

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Key messages

- Election communication has been subject to regulation since the nineteenth century. This aims to sustain democratic legitimacy by maintaining a level playing field, guarding against corruption and falsehood, and safeguarding transparency.
- New technologies such as social media pose challenges for established institutions and principles of regulation of election communication such as spending limits and regulation of political advertising, and undermine the ability of existing regulation to maintain a level playing field in electoral communication.
- New intermediaries and platforms now occupy important gatekeeper positions once occupied by journalists but have not adopted the ethical obligations of the media. This presents a threat to elections and potential for corrupt practices to emerge, including the potential for foreign interference in elections.
- These problems are beginning to emerge in the new communications environment that can undermine the legitimacy of the democratic process. There is therefore a need for new standards in this area, and an expanded watching brief for communications regulators, parliaments, electoral monitors and civil society.
- To resolve these problems, we need a review of campaign regulation that is independent of government. This should take account not only of limits on spending, but the wider context of broadcast regulation and data protection, and their impact on political campaigning.

Introduction

Campaign regulation aims to ensure that elections are free and fair and not captured by a narrow range of interests. Since 1883, the UK has had legislation¹ on its statute books that limits candidates' spending on political campaigns. Broadcasting legislation ensures impartiality and fairness in elections, and rationing of air time. This policy brief examines the impact of social media on these rules.

As social media and other online services become primary sources of information for many, and campaign advertising spend moves decisively online, the current framework covers a shrinking amount of campaign activity. Key problems include the fact that the impact of broadcasting regulation is lessened and campaigning is carried out on platforms that are closed and – for the most part – beyond scrutiny. As a result, it is becoming difficult to ensure fairness, transparency and guard against corruption.

Online and social media also undermine the spending regime. Invoices do not detail how and where money is being spent, so it is hard to track how much is being spent on what, where, and by whom. Major pre-campaign expenses, such as the development of detailed databases of voters, may not be included, even though they have a substantive impact during the campaign itself. Digital campaigns can also target voters far more precisely compared with analogue campaigns, which raises questions about transparency, privacy and equal access to information. Commentators have raised concerns about the impact of targeting on the integrity and honesty of campaigns. It is also increasingly difficult to monitor spending and support-in-kind from third parties and unofficial media.

¹ Illegal and Corrupt Practices(Prevention) Act of 1883. For more detail see: Anstead, Nick (2008) Internet and campaign finance in the US and the UK: an institutional comparison..Journal of information technology & politics , 5 (3). pp. 285-302. ISSN 1933-169X [http://eprints.lse.ac.uk/31499/1/Internet_and_campaign_finance_in_the_US_and_the_UK_\(lsero\).doc.pdf](http://eprints.lse.ac.uk/31499/1/Internet_and_campaign_finance_in_the_US_and_the_UK_(lsero).doc.pdf)

The current regulatory framework

The regulatory framework dealing with election campaigning in the UK aims to ensure a fair playing field primarily by regulating the amount of money that political parties and other campaigners spend, and the amount of time they are given on broadcast media.

International guidelines

An array of international guidance on campaign financing exists, from organisations such as the OSCE² and the IDEA³. Perhaps the most comprehensive is that from the Venice Commission, the legal advisory body to the Council of Europe, which calls for the regulation of campaign spending to essentially ensure that elections are **fair, clean and free** ⁴.

Fair:

“The principle of equal treatment before the law with regard to the media refers not only to the time given to parties and candidates but also to the timing and location of such space. Legislation should set out requirements for equal treatment, ensuring there are no discrepancies between parties through the allotment of prime viewing times to particular parties and late-night or off-peak slots to other parties.”

Clean:

“Transparency in party and campaign finance, as noted above, is important to protect the rights of voters as well as prevent corruption. Transparency is also important because the public has the right to receive relevant information and to be informed. Voters must have relevant information as to the financial support given to political parties in order to hold parties accountable.”

Free:

“The regulation of party and campaign finance is necessary to protect the democratic process, including spending limits where appropriate... Reasonable limitations on campaign expenditures might be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or political party.”

Campaign spending regulation

Regulation of campaign finance in the UK focuses on the expenditure of parties and candidates, rather than on the donations received. Transparent reporting of both spending and donations is required. According to The Committee for Standards in Public Life, the main reason for campaign spending limits is to prevent an “undue focus on fundraising.”⁵ The Committee pointed out that funding of political parties through private contributions is also a form of civic participation and freedom of expression, thus any

² Organisation for Security and Cooperation in Europe Election Handbooks <http://www.osce.org/odihr/elections/119893>

³ International Institute for Democracy Electoral Assistance Election Guidelines <http://www.idea.int/our-work/what-we-do/elections>

⁴ Council of Europe Venice Commission, Elections and referendums, political parties http://www.venice.coe.int/WebForms/pages/?p=01_Elections_and_Referendums

⁵ The Committee on Standards in Public Life, 1998. [The Funding of Political Parties in the United Kingdom](#), Cm 4057-I, pp.120. para 10.29 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336870/5thInquiry_FullReport.pdf

legislation should attempt to achieve a balance between encouraging moderate contributions and limiting unduly large contributions.

Spending is regulated by the watchdog, [the Electoral Commission](#), which derives its powers from the [Political Parties, Elections and Referendums Act 2000 \(PPERA\)](#) and reports to parliament.

The Electoral Commission publishes specific guidance⁶ for political parties and candidates for the elections taking place in each year covering:

- the spending limits that apply for each party and candidate for each election
- the periods for which these limits apply
- the reporting deadlines for each election

For example, there were two regulated periods for constituency spending during the 2015 UK Parliamentary General Election. In each period, the spending limit was calculated 'by adding together a base amount and a variable top up that takes into account the number of registered electors in the constituency' the candidate was contesting. There was one regulated period, of 365 days, for **national** party spending. The spending limit was £30,000 multiplied by the number of seats a party was contesting (each part of the UK had a separate limit based on the number of seats the party was contesting in each part).

After each election or referendum, the Electoral Commission gathers and publishes the reported spending by each party.

Since December 2010, the Electoral Commission has had powers to investigate potential breaches of the rules set out in the PERA, and to issue sanctions if breaches are found to have occurred, including variable fines up to a maximum of £20,000.⁷ Election expenses are also covered under the Representation of the People Act (1983).

Media regulation

UK broadcasters are required, as a condition of their licences, to be impartial in politics. Media spend by political parties and campaigning organisations is regulated by the Electoral Commission. In addition, **broadcast media** exposure for political parties during election campaigns is regulated by Ofcom and its Broadcasting Code⁸. The BBC's content was previously regulated by the BBC Trust, but Ofcom is due to take over from April 2017.

Under the Communications Act 2003, the UK does not allow political advertising to be broadcast on TV, to avoid giving an advantage to better financed parties, but parties are offered airtime for party political broadcasts, which are not classified as advertising.

During an election period there are clearly defined rules within Ofcom's Code about how much attention is given to parties and other candidates:

⁶ The Electoral Commission, Overview of Party Campaign Spending
http://www.electoralcommission.org.uk/_media/guidance/party-campaigners/to-campaign-spend-rp.pdf

⁷ The Electoral Commission UKPGE Spending Report 2015
http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/197907/UKPGE-Spending-Report-2015.pdf

⁸ Ofcom, Broadcasting Code <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

“Due weight must be given to the coverage of parties and independent candidates during the election period. In determining the appropriate level of coverage to be given to parties and independent candidates broadcasters must take into account evidence of past electoral support and/or current support. Broadcasters must also consider giving appropriate coverage to parties and independent candidates with significant views and perspectives.”⁹

One of the ways in which Ofcom does this is by setting rules for a minimum allocation of short party election broadcasts (PEBs) ahead of elections “which allow political parties an opportunity to communicate directly with the electorate.”¹⁰ The production costs of these must be reported as campaign spending.

Until March 2017 Ofcom decided which ‘major parties’ were entitled to equal attention, but following a review of this concept, broadcasters can now make decisions over which PEBs to air, based on parties’ previous electoral performance and/or current levels of support (expressed in opinion polls).

Ofcom also stipulates that discussion and analysis of election and referendum issues must finish when polling stations open, and broadcasters may not publish the results of any opinion polls on polling day itself until the election or referendum poll closes.

Non-broadcast media are not subject to external regulation, but print journalists have traditionally self-regulated with adherence to ethics codes. Political advertising on non-broadcast media is exempt from the Advertising Code and therefore not subject to regulation by the Advertising Standards Authority, leaving it essentially unregulated,¹¹ though it is subject to the general law and electoral law which call for sanctions for wilfully untrue or defamatory claims.

⁹ Ofcom Broadcasting Code Section Six, Elections and Referendums <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code/section-six-elections-referendums>

¹⁰ <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2016/party-election-broadcast-regulations>

¹¹ Ad watchdog powerless to act on controversial Brexit campaigns, Guardian, 28 June 2016 <https://www.theguardian.com/media/2016/jun/28/ad-watchdog-powerless-to-act-on-controversial-brexit-campaigns>

Overview of political advertising regulation in select European countries

The UK, like some other countries maintains a ban on broadcast political advertising, despite repeated challenge of such bans on freedom of expression grounds. This has been justified as an attempt to limit the role of money in electoral campaigns, and avoid the 'arms race' approach to political advertising funding that occurs in the US, and arguably leads to dependence of parties on large donations. But the objective of limiting the role of money in political campaigns is achieved through a variety of means, as this table shows.

	TV Political Advertising Permitted	Spending Limits on Expenditure	Direct Public Funding	Spending Disclosure Rules	Provision of free political advertising time on TV
United Kingdom	No	Yes	Yes	Yes	Yes
France	No	Yes	Yes	Yes	Yes
Germany	Yes	No	Yes	Yes	Yes
Italy	Yes	Yes	Yes	Yes	Yes
Spain	No	Yes, The ceiling on party election expenditure is established for each electoral cycle by the General Accounting Court	Yes	Yes	Yes
Denmark	No	No	Yes	Yes	Yes
Sweden	No	No	Yes	No. Parties must generate an annual report, but it is not made public	Yes
Poland	Yes	Yes	Yes	Yes	Yes
Ireland	No	No, A party can only spend part of a party candidate's election expenditure limit, which the candidate has to agree to	Yes	Yes. Disclosure is required for campaign expenditure	Yes
Portugal	No	Yes, EUR 3M	Yes	Yes	Yes
Switzerland	No	No	No	No	No
Belgium	No	Yes, EUR 1M	Yes	Yes	Yes

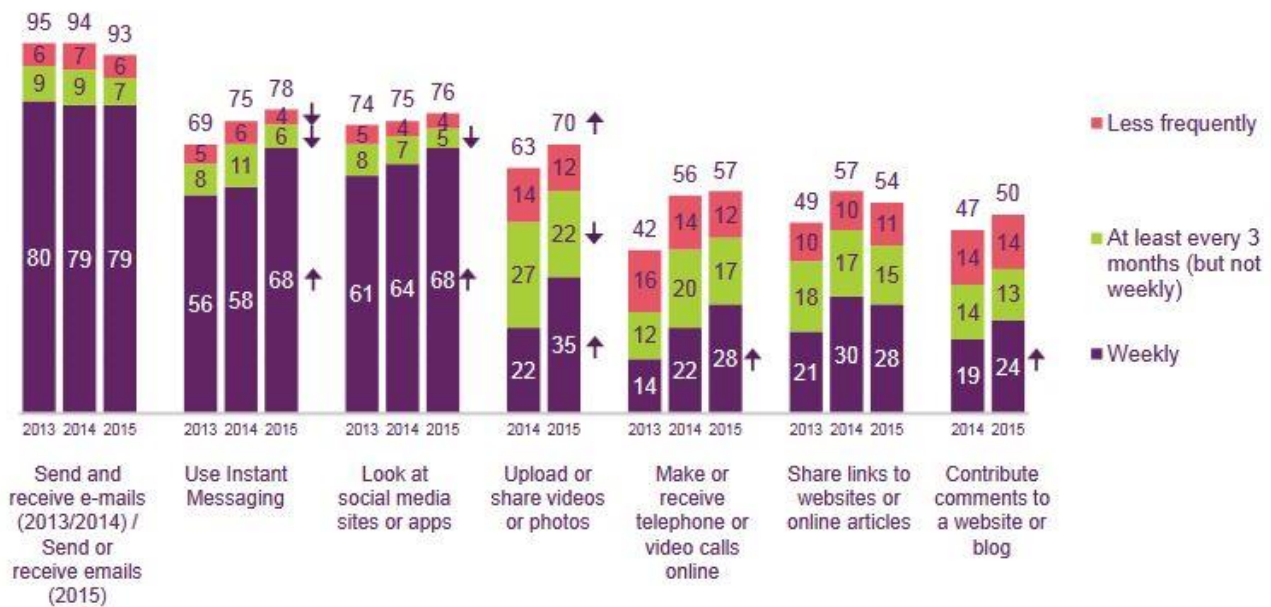
Source: Rules are subject to change. This table intended as a general guide. Compiled from: Holtz-Bacha, C., & Kaid, L. L. (2006). [Advertising in international comparison](#). The Sage handbook of political advertising, 3-14 and IDEA. 2014. [Funding of Political Parties and Election Campaigns: A Handbook on Political Finance](#) see also: <http://www.idea.int/sites/default/files/publications/the-state-of-political-finance-regulations-in-western-europe.pdf>

The challenges of a changing environment

The shift to social

According to the Office for National Statistics' statistical bulletin on internet access¹², the internet was used daily or almost daily by 82% of adults (41.8 million) in Great Britain in 2016, compared with 78% (39.3 million) in 2015 and 35% (16.2 million) in 2006.

An Ofcom chart shows where social media stands in comparison to other online communication and participation activities¹³:



IN15/ IN16 -When using any of the devices you said you use to go online at home or elsewhere, how often, if at all, do you do any of the following?

Base: All adults aged 16+ who go online (1272 in 2013, 1609 in 2014, 1458 in 2015)

Arrows show significant changes (95% level) between 2014 and 2015. 'Upload or share videos or photos' and 'contribute comments to a website or blog' were added in 2014

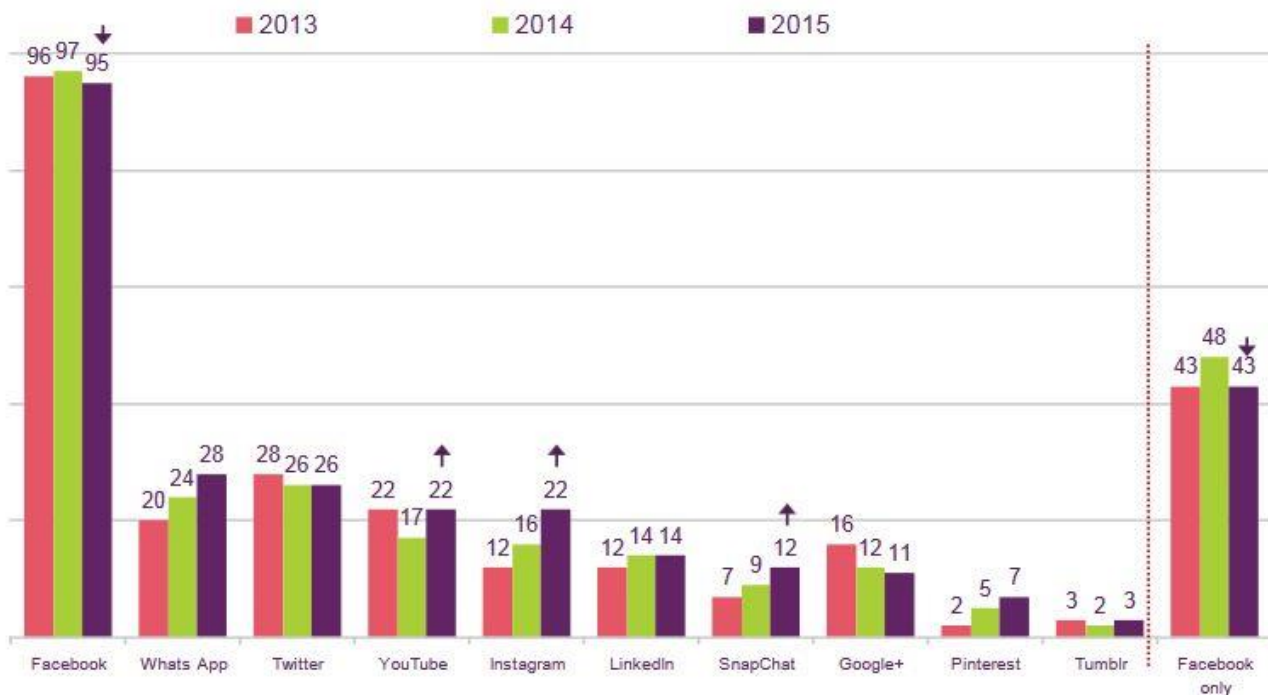
Facebook and YouTube dominate the social networking sector. According to eMarketer, 31.6 million people used Facebook regularly in 2016, which is 59% of UK internet users, and 48% of the whole population.¹⁴ The Google-owned video platform YouTube is used by a larger number of people, according to a 2016 report from advertising and marketing agency We are Flint, although not as regularly as Facebook is, with 27% of online adults using it on a daily basis.

¹² <https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/bulletins/internetaccesshouseholdsandindividuals/2016>

¹³ https://www.ofcom.org.uk/__data/assets/pdf_file/0026/80828/2016-adults-media-use-and-attitudes.pdf

¹⁴ <https://www.emarketer.com/Article/Facebook-Reaches-Nine-10-UK-Social-Network-Users/1014423>

According to Ofcom, more than nine out of ten (95%) social media users say they use Facebook, with 43% saying they only use Facebook and 84% saying their main social media profile is on Facebook. Although there has been a two percentage point decrease since 2014 in the incidence of social media users who have a Facebook profile, while the proportion of social media users who say they have a profile on YouTube, Instagram or Snapchat has increased year on year, Facebook's dominance is still significant, as this Ofcom chart shows:



IN25 – Which sites or apps do you have a page or profile on? Responses of 3% or more shown
 Base: All adults aged 16+ with a social media profile (1093 in 2014, 1019 in 2015).
 Arrows show significant changes (95% level) between 2014 and 2015

Source: Ofcom Adults Media Use and Attitudes 2016¹⁵

Social media are increasingly used by campaigners

Ad spending is moving online fast in the UK. According to the Internet Advertising Bureau, ad spend on social media sites grew 43% to £745 million, meaning nearly half (48%) of display spend now goes on social. Social media spend on mobile alone grew 64%, so mobile now accounts for 80% of spend allocated to social.¹⁶

Among parties and campaigners, social media advertising is increasingly seen as better value than advertising in traditional media. It is far cheaper than placing an ad in a newspaper, and these ads can be precisely targeted.

¹⁵ https://www.ofcom.org.uk/__data/assets/pdf_file/0026/80828/2016-adults-media-use-and-attitudes.pdf

¹⁶ Internet Advertising Bureau <https://iabuk.net/about/press/archive/adspend-on-mobile-display-overtakes-pc-for-first-time#AcMyAVxgFpkoxsj.99>

2015 was the first year in the UK where figures have been reported on digital spending on political campaigns. In total **£1.6M was spent by the main parties** on digital, accounting for about **23% of the total advertising budget**, with the vast majority of **digital budgets being spent with Facebook**.¹⁷

Facebook has made claims that using its marketing services can indeed sway election results, citing US Senator Pat Toomey's successful campaign for re-election in Pennsylvania in 2016 as an example.¹⁸ The campaign's effort to reach "persuadable voters" through Facebook contributed to the Senator's re-election, Facebook says. It also claims to have reached over 80% of Facebook users in marginal seats in the UK election:

*'Using Facebook's targeting tools, the [Conservative] party was able to reach 80.65% of Facebook users in the key marginal seats. The party's videos were viewed 3.5 million times, while 86.9% of all ads served had social context—the all-important endorsement by a friend'*¹⁹

Vote Leave in the 2016 EU referendum campaign

According to campaign director of Vote Leave Dominic Cummings, the official campaign to leave the EU in the run up to the referendum "put almost all our money into digital (~98%)" and also made the decision to "hold the vast majority of our budget back and drop it all right at the end with money spent on those adverts that experiments had shown were most effective (internal code name 'Waterloo')."²⁰

The campaign created its own software to manage its digital efforts: "In the official 10 week campaign we served about *one billion targeted digital adverts*, mostly via Facebook and strongly weighted to the period around postal voting and the last 10 days of the campaign. We ran many different versions of ads, tested them, dropped the less effective and reinforced the most effective in a constant iterative process," Cummings explained.²¹

"When things are digital you can be more empirical and control the timing," he added. "This points to another important issue – it is actually hard even for very competent and determined people to track digital communication accurately, and it is important that the political media is not set up to do this. There was not a single report anywhere (and very little curiosity) on how the official Leave campaign spent 98% of its marketing budget. There was a lot of coverage of a few tactical posters."

¹⁷ Electoral Commission. 2016. UK Parliamentary General Election 2015: Campaign spending report pp.28.

¹⁸ Facebook Business, Toomey for Senate, <https://www.facebook.com/business/success/toomey-for-senate>

¹⁹ Facebook Business, The Conservative Party https://www.facebook.com/business/success/conservative-party#u_0_2

²⁰ <http://blogs.spectator.co.uk/2017/01/dominic-cummings-brexit-referendum-won/>

²¹ <https://dominiccummings.wordpress.com/2016/10/29/on-the-referendum-20-the-campaign-physics-and-data-science-vote-leaves-voter-intention-collection-system-vics-now-available-for-all/>

The new gatekeepers

As well as direct short term questions about the effectiveness of campaign finance and fairness regulation, the shift to social raises a number of wider concerns about campaign ethics. Journalists at established news organisations used to be the main filter through which the public received news about political campaigns. Now, political parties and campaigners can reach potential voters directly via social media or other online services such as YouTube, and a great deal of political discussion takes place on these platforms.

This leaves tech companies in positions of great power as gatekeepers of information, with the ability to facilitate or impede information dissemination.. They are in a position – should they wish – to offer different terms and services to different campaigns, and even to deny certain campaigns access. They could in theory make it easier for a political party with which their business or ideological interests align to reach their supporters, or vice versa.

In May 2016, claims emerged that in the US, Facebook was routinely suppressing conservative news stories in its supposedly automated “trending” news section.²² The company responded by getting rid of its human editors for trending news and leaving the section entirely run by an algorithm, which then again led to controversy after false and offensive stories were highlighted.²³

Social media and other tech companies are private companies which were not designed to play such a significant role in the public sphere. Their codes of practice are insufficient, they do not make their data transparent, and their proprietary algorithms lack independent oversight. They have a fine line to tread between allowing inappropriate and offensive content to spread, and accusations of censorship.

Honesty in campaigning: post-truth politics

Revelations of [Macedonian teenagers making money](#) by publishing fictional pro-Trump stories, and [assertions of Russian interference in the US elections](#) through disinformation campaigns have understandably increased fears of ‘fake news’ and its impact on politics. As several people have argued, fake news is not new, but what is new is its scale and participatory nature²⁴. Social media enables sites created to generate advertising revenue to thrive by making it easier for readers to find stories while leaving the source of news less obvious, and by promoting stories that get a high level of attention.

Fake news is of particular concern during election campaigns. In the run up to the US election, BuzzFeed’s Craig Silverman and colleagues looked at posts from six large ‘hyperpartisan’ Facebook pages. They found that 38% of the posts by the three big right-wing Facebook pages published during the period analysed contained false or misleading information, along with 19% of posts on the three large left-wing pages. The journalists concluded that:

22 Gizmodo, Former Facebook Workers: We Routinely Suppressed Conservative News <http://gizmodo.com/former-facebook-workers-we-routinely-suppressed-conser-1775461006>

23 Quartz, A glimpse into Facebook’s notoriously opaque—and potentially vulnerable—Trending algorithm, Dave Gershgorin and Mike Murphy

<https://qz.com/769413/heres-how-facebooks-automated-trending-bar-probably-works/>

24 The Conversation, Good news in an era of fake news: the public is becoming wiser about how the media works, James Rodgers <https://theconversation.com/good-news-in-an-era-of-fake-news-the-public-is-becoming-wiser-about-how-the-media-works-73282>

“The best way to attract and grow an audience for political content on the world’s biggest social network is to eschew factual reporting and instead play to partisan biases using false or misleading information that simply tells people what they want to hear. This approach has precursors in partisan print and television media, but has gained a new scale of distribution on Facebook.”²⁵

A recent UK study found that it’s not always easy to tell what is true and what’s not. Channel 4 published the results of a survey in February 2017²⁶ that showed that when shown six individual news stories, three of which were true and three of which were fake, only 4 per cent of respondents were able to correctly identify them all correctly. Half (49 per cent) of all respondents thought at least one of the fake stories was true.

The term itself can be misleading, however. ‘Fake news’ is being used as a catch-all term for an array of different types of misinformation, which are in reality complex, as Claire Wardle of First Draft News explains, identifying seven different types of mis- and disinformation: satire/parody, misleading content, imposter content, fabricated content, false connection, false context, manipulated content.²⁷

There is no clear way to tackle it. Any attempt to prevent ‘fake news’ poses risks to free speech and current strategies focus on flagging rather than removing.

Facebook’s current strategy is to attempt to curb ‘fake news’ by introducing ways for people to report it more easily, and launching new (unspecified) efforts to disrupt the financial incentives for spammers. The company has also announced a program to work with third-party fact checking organizations that are signatories of [Poynter’s International Fact Checking Code of Principles](#) to identify hoaxes on Facebook.²⁸

The ‘filter bubble’

There is a vast choice of information sources available online, but people tend (as they do offline) to read what reflects their beliefs. The phenomenon of targeted political advertising exacerbates this problem.

As noted in a Demos report which collected data from 2,500 Twitter users, “the idea that the breadth of information we are shown online is being technologically narrowed – filtered by algorithms and tailored by our increasing power to shape the news we see – has become a topic of keen debate in 2016.”²⁹

Although we don’t know exactly how the proprietary algorithms that Facebook and other social media use work, we do know that they feed users updates and stories which they believe their users will want to know about. This can lead to what is commonly called the ‘filter bubble’ or echo chamber: algorithms supply stories and updates based on likes and past consumption, so that the more you read on one topic, the more you see.

This means that although people are exposed to information from multiple sources, they tend to see opinions that reinforce their existing beliefs. The Demos study says that its findings provide “evidence that users with published support for political parties in the UK are more likely to share ideologically-

²⁵ Craig Silverman, BuzzFeed https://www.buzzfeed.com/craigsilverman/partisan-fb-pages-analysis?utm_term=.jvjwoyj71#.hj16ojV1a

²⁶ Channel 4, <http://www.channel4.com/info/press/news/c4-study-reveals-only-4-surveyed-can-identify-true-or-fake-news>

²⁷ First Draft News, <https://firstdraftnews.com/fake-news-complicated/>

²⁸ Facebook Media, <https://media.fb.com/2017/01/11/facebook-journalism-project/>

²⁹ Alex Krasodonski-Jones, Talking to Ourselves, Demos <https://www.demos.co.uk/project/talking-to-ourselves/>

aligned media, are more likely to keep within ideologically-aligned communities, and that this tendency increases the further the set of beliefs lies from the mainstream.”

The study’s author underlined the importance of mainstream news as the place where social media users with differing political viewpoints were most likely to encounter one another.

Imbalance of power

It is important to stress that social media offer huge potential for freedom of expression. Polling conducted by Ipsos Mori and King’s College London in early 2015 found that seven in ten Britons (71%) felt that social media platforms are giving a voice to people who would not normally take part in political debate. This is particularly the case for young people (88% of 18-34s, compared with 56% of those aged 55+) ³⁰

Further research from King’s College London carried out during the 2015 general election found that influencers including journalists were more likely to challenge the narrative of the parties and mainstream media when using Twitter compared with traditional platforms. “They were more likely to bring attention to inconsistencies between party claims and independent analysis, to point people to original sources that contradicted party or press claims, and to satirise stage-managed announcements and events,” researchers found. ³¹

However, it is also essential to note that although anyone with internet access and a connected device (which is not everyone) can sign up to these platforms, users are not automatically equal, and in practice some voices are far louder than others. Offline influence tends to translate into online influence, and vast numbers of followers for a limited number of users. Thus, it is difficult to maintain the premise that all voices carry equal weight on social media platforms.

30 Gideon Skinner, Ipsos Mori, A third of young people think social media will influence their vote <https://www.ipsos-mori.com/researchpublications/researcharchive/3539/A-third-of-young-people-think-social-media-will-influence-their-vote.aspx>

³¹ Martin Moore and Gordon Ramsey, UK Election 2015 Setting the Agenda <http://www.kcl.ac.uk/sspp/policy-institute/CMCP/MST-Election-2015-FINAL.pdf>

Targeted messaging

It is far easier to more precisely target potential voters with information online, either based on demographics, geography or associations or behaviour, enabling a shift from targeting based on clustering to targeting based on modelling the individual. This is both more invasive than traditional advertising and campaigning, and harder to track.

There are two basic models of targeted online advertising:

- Advertisers can pay to have their ads displayed on search engine results pages when people search for particular keywords. They can tailor their ads based on the user's device, language and region, and pay per click. The advantage of this is the capacity to target people when they are actively seeking information and looking to make decisions. According to the IAB UK, paid-for search overall grew 18.1% in the first half of 2016 to £2.49bn, accounting for a 52% share of total digital ad spend.³²
- Advertisers can also target users as they carry out standard online activities using websites, social media and some email services, displaying ads unprompted alongside other information and services. Such ads can be targeted according to demographics, or to past user behaviour and habits, or other parameters.

Political parties can use both of these methods to target people who they see as potential voters, while wasting less money on advertising to those who are unlikely ever to vote for them. Facebook, YouTube and Twitter all allow paid promotion of campaign videos or other material, and targeting particular demographics, based on data such as age, gender, location and online behaviour. Facebook offers 'unpublished page posts' (formerly called 'dark posts') which allow page admins to manage delivery of ad content through audience filters³³ - in other words, it allows page owners to show nonpublic paid posts to selected users.

Blurring local and national spending

The ability to target specific people within a particular geographic area gives parties the opportunity to focus their attention on marginal voters within marginal constituencies. This means, in practice, that parties can direct significant effort – and therefore spending – at a small number of crucial seats. Yet, though the social media spending may be targeted directly at those constituencies, and at particular voters within those constituencies, the spending can currently be defined as national, for which limits are set far higher than for constituency spending. This necessarily undermines the principle of a level playing field at a local level.

To sum up, in recent years political campaigns have moved decisively online. Whilst this opens up huge opportunities for political communication, there are also a number of potential problems with this shift, in terms of its impact on long-term prospects for open and fair elections, and democratic deliberation more widely.

Because the existing regulatory framework is becoming less effective, it is difficult to maintain the premise that all voices carry equal weight on social media platforms. The existing rules that apply to campaign spending and media regulation need to be reviewed.

³² Internet Advertising Bureau H1 2016 Digital Adspend Results <https://iabuk.net/research/library/h1-2016-digital-adspend-results>

³³ Facebook Business, Unpublished Page Posts <https://www.facebook.com/business/help/835452799843730>

Policy options: Spending

The problem

- It is more difficult to track spending online, as new forms of digital advertising are less widely understood than their analogue predecessors and are inherently less transparent. The major costs associated with campaigning, particularly the costs of creating databases and profiles of citizens, may not be recorded or reportable within current categories and may be spent outside the regulatory period.
- Public scrutiny of campaigns has been enabled by a number of rules obliging campaigners to be transparent about funding and origin of campaign communications: These include the obligation to note the printer and funder of leaflets. Such rules are difficult to impose online.³⁴

Currently, social media spending is not specifically tracked by the Electoral Commission but counts towards advertising or unsolicited campaign material:

“Although there are no specific controls in the PPERA or RPA rules on the use of social media or digital campaign methods any such regulated spending by political parties would be subject to existing spending limits and reportable after the election. It is likely to be reportable as advertising or unsolicited campaign material and this applies whether it is conducted online, via social media or in another format...”

This means we have only been able to identify limited examples of some spend on social media in the invoices and receipts that political parties and non-party campaigners have submitted as part of their spending returns. Our available data on social media spend is limited to identifiable social media providers (Twitter, YouTube, Facebook) where the spending was directly incurred with that provider, and does not take into account spending on social media from less recognisable providers or through consultancies or intermediary agencies.”³⁵

What can be done?

The first step would be to find new ways to track campaign spend online, changing reporting obligations so that social media spending must be reported separately and transparently, and invoices must detail who was targeted with political advertising, where and with what messaging.

The Electoral Commission has already made recommendations for potential changes to regulation surrounding spending reports:

“For future elections, consideration should be given to the merits of extending the current reporting categories to include one specifically for spending on social media. This would have the benefit of providing greater transparency on campaigner’s activity and provide a fuller understanding of how technology is changing traditional campaign activities.”

³⁴ UK electoral commission has repeatedly called all such rules to be applied to campaign communications including Non print communications.

³⁵ The Electoral Commission, UK Parliamentary General Election 2015: Campaign spending report, February 2016 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/197907/UKPGE-Spending-Report-2015.pdf

However the benefits of increased transparency would also need to be balanced with the potential regulatory burdens placed on campaigners by creating a separate category to record spending that is already covered by the existing spending limits. It would also be important to consider exactly how a new reporting category should be defined and future-proofed to keep up with changing technology.”³⁶

“We will give further consideration to how campaigners should report spend on social media at future elections. As spend in this area grows, there is the potential for less transparency if expenditure on social media is not easily identifiable within the spending returns because social media is not a specific reporting category. This will need to be considered as part of reviewing all of the expenditure reporting categories to ensure that they remain proportionate and relevant to future trends in campaigning. We recommend that Governments and Parliaments should consider the timing needed for implementing changes before the next major elections expected in 2019, 2020 and 2021.”³⁷

³⁶ The Electoral Commission, UK Parliamentary General Election 2015: Campaign spending report, February 2016
http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/197907/UKPGE-Spending-Report-2015.pdf

³⁷ The Electoral Commission, UK Parliamentary General Election 2015: Campaign spending report, February 2016
http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/197907/UKPGE-Spending-Report-2015.pdf

Policy options: Targeting

The problem

- Targeted content can make elections less fair as potential voters are only exposed to limited information.

Message targeting encourages contact and engagement only with those who are deemed worthy of political campaigning, for example those in marginal seats or judged to be undecided voters. This begs the question, however, as to what happens to those who are not regarded as strategically important. Groups less likely to vote risk being further disenfranchised if they do not see campaign messages, and there is also a risk of a compounding effect. Data on past elections are often used as a guide to inform future campaigning, so groups which are seen as not worth the resources are likely to be bypassed in the future, while those already seen as 'decided' are likely to receive information only from their affiliated party, if at all (as it might be considered a waste of resources). If democratic societies flourish through the free flow of information which in turn allows citizens to consider issues on balance, then any move to restrict information flow might exacerbate polarization. As Karpf (2012) noted, advances in technology which allow message targeting removes a "beneficial inefficiency" that has in fact aided the public sphere.³⁸

- Targeted messaging can increase the focus on divisive issues

The ability to micro-target political messages increases the likelihood that parties and candidates campaign on wedge issues, which are highly divisive in a public forum but also have the ability to mobilize voters such as matters on immigration and welfare.³⁹ Research from the U.S.⁴⁰ has shown that candidates are more likely to campaign on these wedge issues when the forum is not public. This however again raises questions about the impact this type of precise hidden campaigning and asymmetric informational flows has on the polarization of citizens. Message targeting speaks to the individual concerns of citizens as part of a group. The legitimate concerns of opposing groups are discredited or dismissed. Because these messages are being played out largely in secret they cannot be challenged or fact checked.

Andy Wigmore, communications director of Leave.eu explained in an interview with LSE researchers that his campaign would consider: "What were their key feelings? What were their anxieties? What, for them, was the issue about the EU or Europe?" Campaigners would then tailor messages accordingly, and "our mass concentration was on that," he said.

- Targeted messaging has implications for the privacy of citizens

Privacy helps protect freedom of speech and facilitates political debate by providing citizens a space to form opinions and develop identities free from surveillance. An online sphere where every conversation, comment or post is recorded, scanned and analysed for its commercial and political use could have

³⁸ Karpf, D. 2012. *The MoveOn Effect: The Unexpected Transformation of American Political Advocacy*, Oxford University Press.

³⁹ Barocas, S., 2012, November. The price of precision: Voter microtargeting and its potential harms to the democratic process. In *Proceedings of the first edition workshop on Politics, elections and data* (pp. 31-36). ACM.

⁴⁰ Sunshine Hillygus .D & Shields, G. T. 2009. "The Persuadable Voter: Wedge Issues in Presidential Campaigns

negative repercussions for the free expression and exchange of views especially as privacy concerns among citizens grow.⁴¹

- The political offer: the dangers of closed networks

A key risk of targeted messaging is that the 'mandate' or 'manifesto' that forms the bases of the political pledge to citizens becomes fragmented and inaccessible. Candidates and parties can make specific commitments to particular voters via closed social networks like Facebook. For example, a candidate could use the unpublished page posts feature on Facebook to commit to keeping a local library open, or to widening a local bypass. This also has implications for holding candidates to account for their promises: if such a commitment were to appear in a user's Facebook newsfeed or as an ad alongside it could subsequently disappear, or could be deleted by the candidate. It would then be very difficult for the voter to hold the candidate to this commitment should s/he win the election.

What can be done?

Tighter privacy obligations and individual control over personal data will be essential. In line with the Council of Europe's proposal 13 of recommendation CM/Rec (2012) and Recommendation CM PC/Rec (2016) on Internet freedom, social network services should not process personal data beyond the specified purposes for which they have collected it. Electoral campaigning constitutes in most cases a distinct purpose for which distinct consent is required. The use of personal data for message targeting services in the context of electoral campaigns should be scrutinised by the Information Commissioner's Office and the Electoral Commission to ensure that it complies with national law.

The suitability and fairness of large-scale personal data collection by a party prior to a campaign should be reviewed. If a party has significant amounts of personal data prior to the official campaign, then it will benefit from a significant digital advantage during the campaign itself.

⁴¹ Kreiss, D. (2012). [Yes we can \(profile you\): A brief primer on campaigns and political data](#). *Stanford Law Review Online*, 64, 70.

Conclusions and recommendations

A significant proportion of political campaigning has now moved online. Academic researchers are increasingly concerned about a number of problems that have emerged as a result, which could undermine democratic processes.

The UK urgently needs an independent review of campaign regulation: this should be a holistic review taking into account both broadcasting regulation and spending regulation.

Reforms such a review could consider include:

New transparency requirements

Extending, for example, candidate and party expenditure reporting obligations with regard to digital media, in order to maintain a fair and level playing field

New political advertising guidance

Aligning the constraints on television advertising with the lack of constraints online

Clarifying guidance for the use of targeted messaging online, particularly with regards to enabling transparency and public scrutiny

Consider the creation of an accessible repository of targeted messages

Fair access

Obliging platforms to offer equal access and equivalent services to campaigners at equal pricing

Use of personal data

Clarifying fair and legal use of personal data by political campaigns

Instituting stricter controls on the use of personal data by candidates and parties

Third parties

Providing further guidance as to the role and exemptions of third party campaigners and media

Ethical safeguards

Encouraging self-regulation by candidates and parties of campaign messaging online, in order to reassure voters that campaigns will not adopt intrusive or manipulative propaganda techniques

In the short term, The Electoral Commission's statutory duties should be updated. They should work with independent national regulatory agencies in the communications sector and the Information Commissioner to monitor the importance of online political advertising and review the effectiveness of current quotas, limits and reporting categories in the area of electoral spending and subsidized public service announcements.

If the policy framework is not updated, the ability of 'rules of the game' to ensure that elections are free, fair and legitimate will increasingly be called into question.

LSE MEDIA POLICY PROJECT

ABOUT:

The Media Policy Project aims to establish a deliberative relationship between policy makers, civil society actors, media professionals and relevant media research. We want policy makers to have timely access to the best policy-relevant research and better access to the views of civil society. We also hope to engage the policy community with research on the policy making process itself.

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CONTACT:

media.policyproject@lse.ac.uk

