



BRIEFING PAPER

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Political advertising

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Summary

The [Electoral Commission](#) works to support well-run and fair elections and referendums in the UK. According to the Electoral Commission, political advertisements are a fundamental part of any democratic system and can inform voting intentions.¹ It is appropriate, therefore, that the “impact of political communications on perceptions of politics is taken seriously”.² It is the Electoral Commission’s responsibility to monitor and enforce election rules about where the money behind campaigns comes from and how it is spent, including money spent on advertising. It will investigate where offences may have been committed.

Generally speaking, the [Advertising Standards Authority](#) (ASA) regulates in the UK advertising, sales promotions and direct marketing across all media, including marketing on websites. It does this by enforcing the Advertising Codes; there are separate codes for non-broadcast advertisements (known as the CAP Code) and broadcast advertisements (known as the BCAP Code). However, political advertising is treated differently.

The [Communications Act 2003](#) prohibits “political advertisements” from being broadcast on television or radio; instead parties are given airtime via party political broadcasts which are not classified as advertising. This legislation is enforced by [Ofcom](#).

In respect of non-broadcast advertisements (such as ads in leaflets, in newspapers or on social networking sites), the ASA’s remit does not extend to adverts whose principal purpose is to influence voters in a local, regional, national or international elections or referendums. Such political ads are exempt from the CAP Code. Instead, complaints about political advertising should be made directly to the party responsible for that advertising.

This was not always the case. Before October 1999, some non-broadcast political advertising was subject to the CAP Code. However, following the 1997 General Election, there were concerns that the impartiality of the ASA’s self-regulatory system could be damaged by rulings for or against political parties, and the likelihood that complaints subject to ASA investigation would be ruled upon after an election had taken place. The [Human Rights Act 1998](#) also raised concerns about the legality of the ASA restraining the freedom of political speech around democratic elections and referendums.

The “Neill Committee on Standards in Public Life” considered the issue of political advertising and concluded in its 1998 [report](#) that the best option was for political parties to adopt a new code of practice. The Electoral Commission undertook to examine again the case for a code and issued a consultation paper in October 2003. Its report, “[Political advertising – report and recommendations](#)” was published in 2004. Whilst identifying as a priority the need to promote and protect the interests of the electorate, the Electoral Commission was not in favour of establishing a new separate code, arguing that any regulation of political advertising would need to be voluntary. More recently, the Electoral Commission has considered the risks and challenges that digital campaigns bring to the UK’s election and referendum rules. Its [report](#) was published on 1 June 2018.

This House of Commons briefing paper provides an overview of the current regulation of political advertising in the UK. In the process, it also considers in detail the rationale for the ASA’s exemption for political advertising.

¹ Electoral Commission, “[Political advertising – report and recommendations](#)”, June 2004 [online] (accessed 8 October 2019)

² Ibid

1. Background

1.1 Regulatory role of the ASA

The UK advertising regulatory system is a mixture of:

- self-regulation for non-broadcast advertising and
- co-regulation for broadcast advertising.

The [Advertising Standards Authority](#) (ASA) is the UK's single independent advertising regulator in all mediums. It does this by enforcing the Advertising Codes; there are separate codes for non-broadcast and broadcast advertisements. Broadly speaking, the Codes are designed to ensure that all advertising is "legal, decent, honest and truthful." However, the Codes also include more prescriptive rules for sensitive products such as medicines and alcohol, as well as specific rules for advertising to children.

A self-regulatory system operates in respect of non-broadcast advertising, under the "UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing," known as the [CAP Code](#). On 1 March 2011, the ASA's remit was extended significantly to cover marketing communications on companies' own websites and in other third-party space under their control, such as social networking sites like Twitter and Facebook. The CAP Code applies in full to this new space.

The system is co-regulatory for broadcast advertising; there is a coregulatory partnership between the ASA and [Ofcom](#). Rules contained in the "UK Code of Broadcast Advertising," known as the [BCAP Code](#), cover both the content and scheduling of advertisements.

The Advertising Codes are written and maintained by two industry bodies, namely:

- The [Committee of Advertising Practice](#) (CAP) is responsible for non-broadcast advertising (print, outdoor, cinema, online, SMS, direct mail etc.).
- The [Broadcast Committee of Advertising Practice](#) (BCAP) is responsible for broadcast Advertising (including radio, teleshopping, television text, interactive television advertisements, and the content on self-promotional television channels).

This regulatory system is funded entirely by the advertising industry by a levy on advertising spend. According to the ASA website, the levy is currently set at 0.1% on the cost of buying advertising space and 0.2% on some direct mail. This is collected at "arm's length" on behalf of CAP, BCAP and the ASA by two bodies: the [Advertising Standards Board of Finance](#) and the [Broadcast Advertising Standards Board of Finance](#). The ASA is therefore able to act independently of both Government and industry.

As an independent advertising regulator, the ASA will deal with most types of advertisements but not all. Broadcast political advertising is regulated by [Ofcom](#). Non-broadcast advertisements where the purpose of the advert is to persuade voters in local, national or international

All advertisements must be "legal, decent, honest and truthful".

Non-broadcast ads include those that appear in the press, on billboards, or on social networking sites.

elections or referendums are outside the scope of the CAP Code and ASA regulation (see **section 2** below).

1.2 Regulatory role of the Electoral Commission

The [Electoral Commission](#) oversees the delivery of elections and is the regulator of political finance in the UK. It works to ensure that parties and campaigners understand and comply with the laws about elections.

The UK Parliament has given the Electoral Commission a role to report on elections and referendums, to keep electoral law under review and to recommend changes where necessary. The Scottish Parliament and Government are responsible for Scotland-only elections. The Welsh Government and National Assembly for Wales are responsible for Wales-only elections. The Electoral Commission works with all relevant governments on the changes to electoral law they are responsible for.

Under UK electoral law, political parties must:

- register with the Electoral Commission to stand candidates in elections;
- non-party campaigners and referendum campaigners that want to spend over a certain amount must also register with the Electoral Commission;
- only people who live in the UK or are registered to vote here can register.

Electoral law sets requirements relating to funding and spending for election and referendum campaigns. As the regulator of political finance, the Electoral Commission have powers to investigate breaches of the rules and can impose a monetary penalty (known as a civil sanction). The police can also investigate suspected breaches of the rules and refer cases for criminal prosecution in a court.

2. Political advertising & the ASA

2.1 Broadcast political advertising

The [Communications Act 2003](#) prohibits political advertisements from being broadcast on television and radio; this legislation is enforced by [Ofcom](#). Instead parties are given airtime via party political broadcasts which are not classified as advertising.

2.2 Non-broadcast political advertising

Political advertisements in non-broadcast media (. e.g. in leaflets, in newspapers, on posters or on social networking sites) whose principal function is to influence voters in local, regional, national or international elections or referendums are **exempt** from the ASA's CAP Code.

Specifically, [section 7](#) of the CAP Code contains the following exemption:

7.1 Claims in marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code.

7.2 Marketing communications by central or local government, as distinct from those concerning party policy, are subject to the Code.

According to its website, the ASA bases its assessment of non-broadcast ads and whether they should be exempt under section 7, on "the nature and function" of the claims themselves and not on the identity of the individual or organisation who placed the advertisement. For ads to be deemed as containing "political" claims exempt from the CAP Code the following points must **all** apply:

- the claims are related to a "a local, regional, national or international election or referendum";
- their function is to "influence voters" in the election/referendum; and
- this is their "principal function".

It follows from this that if claims in an advertisement correspond in some way to an election or referendum but influencing voters is not its principal function, the CAP Code may apply. By way of example, the ASA suggests that if an advertisement for a commercial product makes a topical reference to an election, but its principal function is to sell the product rather than to influence the election result, the ASA may still be able to apply the CAP Code to the ad. If, however, the ad's principal function is to influence voters, the CAP Code will not apply, and the ASA will not regulate it.

The CAP Code rule does not specify a particular way in which voters must be "influenced", and it does not state that an election or

The ASA cannot investigate complaints that political advertisements are "misleading, harmful or offensive".

referendum must have been called or confirmed for a particular date, or that it must be referred to explicitly in the ad.

It is important to note that the same test applies whether the advertisement in question has been published by an individual, a commercial business, a charity, a political party, an interest group or any other type of organisation.

2.3 Digital advertising

Digital advertising in the UK is regulated by a combination of legislative rules (such as the [Data Protection Act 2018](#) or the [Privacy and Electronic Communications \(EC Directive\) \(Amendment\) Regulations 2011](#)) and self-regulatory rules contained in the [CAP Code](#) for non-broadcast advertising. However, for the reasons outlined above, the ASA does not have a role in election or referendum campaigns.

2.4 Why are political ads exempt from ASA regulation?

The basis of this decision was freedom of speech considerations; namely that it is “inappropriate for a body like the ASA to intervene in the democratic process”.³ The ASA explains its position as follows:

“[...] we can’t look into complaints about political ads - they’re not subject to the Advertising Code. The best course of action for anyone with concerns about a political ad is to contact the party responsible and exercise your democratic right to tell them what you think.

Often political ads, and the parties, issues and policies they promote, can be emotive. As political ads fall outside our remit, this naturally raises questions about how to complain about the ads we think are problematic and who is responsible for regulating them.

Political advertisements are banned from being broadcast on TV under the Communications Act 2003 (instead parties are given airtime via party political broadcasts which aren’t classed as advertising).

Meanwhile, political ads in non-broadcast media (posters, newspapers etc) whose principal function is to influence voters in local, regional, national or international elections or referendums are exempt from the Advertising Code. We can’t, therefore, look into complaints that political ads are misleading, harmful or offensive.⁴

On its [website](#), the ASA outlines the context in which this decision was reached. In brief, until 1999, [non-broadcast](#) political advertising was subject to [some](#) rules in the Advertising Code. However, following the 1997 General Election, there were concerns that the impartiality of the self-regulatory system could be damaged by rulings for or against political parties, and that the ASA could not be expected to respond with the speed necessary at an election (i.e. the likelihood that

³ “[Why we don’t cover political ads](#)”, ASA and CAP News, 18 August 2019 [online] (accessed from the Advertising Standards Authority website, 8 October 2019)

⁴ Ibid

complaints subject to ASA investigation would be ruled upon after an election had taken place). The [Human Rights Act 1998](#) also raised concerns about the legality of the ASA restraining the freedom of political speech around democratic elections and referendums. **From October 1999, therefore, political advertisements aimed at influencing voters in elections or referendums have been exempt from the CAP Code.**

Subsequently, the “Neill Committee on Standards in Public Life” considered the issue of political advertising. Its 1998 [report](#) concluded that the best way forward would be for political parties to adopt a new code of practice.

Reporting on the 2001 General Election, the [Electoral Commission](#) noted that no progress had been made towards a code on political advertising which the Neill Committee had urged political parties to adopt. The Commission undertook to examine again the case for a code on political advertising and issued a consultation paper in October 2003. Its report, “[Political advertising – report and recommendations](#)” was published in 2004. In this report, the Electoral Commission identified as a priority the need to promote and protect the interests of the electorate:

The priority for the Commission is to promote and protect the interests of the electorate. We are therefore concerned, above all, that political advertising should encourage participation and provide voters with information to support their voting decisions. We are also concerned that the electorate, and the wider general public, should not be exposed to advertising that causes gratuitous offence.⁵

The Electoral Commission agreed that political advertising should remain outside the remit of the ASA and exempt from the CAP Code. However, it was not in favour of establishing a new separate code, arguing that any regulation of political advertising would need to be voluntary. The relevant extract from the report is reproduced below:

The argument for a statutory code on political advertising is in our view unsustainable, both because of the protection given to free political speech in the Human Rights Act and because it would be inconsistent with, and stricter than, the regulation of other non-broadcast advertising. Any regulation of political advertising would therefore need to be voluntary. Even with a voluntary code, it would seem inappropriate and impractical to seek to control misleading or untruthful advertising, given the often subjective nature of political claims.

With respect to political advertising that might offend against common standards of decency, a code could be in the public interest by protecting against gratuitously offensive material. However, for many forms of paid-for advertising, existing editorial controls already provide a check on material that may be inappropriate.

The practical difficulties that would need to be addressed in order for any code to be workable are formidable. We doubt that a

The Electoral Commission agreed that political advertising should remain outside the remit of the ASA and exempt from the CAP Code.

⁵ Electoral Commission, “[Political advertising – report and recommendations](#)”, June 2004 [online] (accessed 8 October 2019)

system of considering complaints would deliver sufficiently prompt adjudications to be of value, and we doubt that it would be acceptable to require pre-clearance of advertising copy. Even if a workable system could be established, very significant resources would be required to make such a system effective, particularly if the code extended to all political advertising from local to national level.

We are concerned that a code might be open to spurious claims. In addition, we consider that the only realistic sanction for breach of a code would be adverse publicity and we are not convinced that this would be a sufficient deterrent.

Were there to be a code with an adjudicatory body, that body would need to have sufficient independence and authority to carry out its role effectively. We do not consider that it would be appropriate for the Commission to undertake such a role, because of the risk that our independence might be perceived to be compromised.

In order for any code to be workable there would need to be a minimum level of acceptance among political advertisers. Although the Liberal Democrats and Plaid Cymru have indicated their support for a code, the Conservative Party have said that they would not adhere to a code and the Labour Party and the SNP, together with most other parties that might be expected to undertake substantial advertising, have failed to respond. It is clear that the difficulties of implementing any code on political advertising mean it would be impractical. The Electoral Commission therefore concludes that no further progress in this direction is likely to be achieved.⁶

This is the current position. On its website, the ASA does not comment on whether a body or code should be established to regulate election advertising. However, the ASA does mention that recent calls have been made by others for a voluntary code of practice.⁷

⁶ Ibid

⁷ "[Why we don't cover political ads](#)", ASA and CAP News, 18 August 2019 [online] (accessed from the Advertising Standards Authority website, 8 October 2019)

3. Political advertising & the Electoral Commission

3.1 Overview

As outlined in section 1.2 above, electoral law sets limits on the amount of money that campaigners can spend on campaign activity during the regulated period for elections and referendums.⁸ Spending limits and rules to report spending apply to campaign spending on advertising.

The same rules apply whether campaigners use long-standing techniques, such as printed mailshots or billboards, or newer ones, such as emails and online adverts.

In effect, it is the Electoral Commission's responsibility to monitor and enforce the rules about where the money behind campaigns comes from and how this money is spent. It has published online the following information for candidates and their agents: [Guidance on spending and donations](#). The Electoral Commission will investigate where offences may have been committed and will also make recommendations about how to improve the fairness and transparency of the UK's democracy.

It is important to note that electoral law does not require claims in campaigns to be truthful or factually accurate. But it is a crime to make or publish a false statement of fact about the personal character or conduct of a candidate. Campaign material must not incite others to commit crimes. The police may investigate such allegations. On 15 August 2018 (updated 16 August 2018), the Electoral Commission published its "[Response to the UK Government policy consultation: Protecting the Debate](#)", in which it set out its advice on three proposed changes to electoral law to protect candidates and voters from intimidation.

In the UK, the evidence shows campaigners are increasingly using advertising services bought from digital and social media companies like Facebook, Google, YouTube, Snapchat, Twitter or Instagram. According to the Electoral Commission, the proportion of money campaigners have reported spending on digital advertising has continued to increase during this decade, from 0.3% in 2011 to 42.8% in 2017.⁹ But this is not the full picture. Campaigners also communicate with voters on social and digital media; they can "like", "share" and "post" messages for free and potentially reach wide audiences.¹⁰ These campaigns range from registered political parties to individual campaigners.

Recently, the Electoral Commission considered the risks and challenges that digital campaigns bring to the UK's election and referendum rules. Specifically, it spoke to political parties after the 2017 General Election and looked at spending returns from campaigners at other recent

⁸ The regulated period is the period in which the spending rules apply

⁹ The Electoral Commission, [Digital campaigning – increasing transparency for votes](#), 1 June 2018 [online] (accessed 31 October 2019)

¹⁰ The Electoral Commission, [Digital campaigning – increasing transparency for votes](#), 1 June 2018 [online] (accessed 31 October 2019)

elections and referendums. It spoke to the main social media companies that operate in the UK and carried out its own research with members of the public to find out their views about digital campaigns. Its report, "[Digital campaigning- increasing transparency for voters](#)", was published on 1 June 2018. The Electoral Commission has also published online [guidance](#) for candidates and their agents in respect of best practice.

Further detailed information about the Electoral Commission's role in regulating digital advertising and its recommendations for change is set out below.

3.2 Digital advertising

The UK's election rules cover the most important costs of campaigning, including the costs of distributing and targeting digital campaign materials or developing and using databases for digital campaigning.

Whereas printed campaign material (such as election leaflets and newspaper ads) must carry the name and address of the candidate's agent who is paying for it (known as the "imprint"), [electoral law doesn't require campaigners to include an imprint on digital material](#). As a result, voters do not always know who is targeting them.

The Electoral Commission's has given its views on digital advertising as follows:

We do not think that there is anything wrong with campaigners using bots to post messages telling voters about their policies and political views. But it should be clear who is doing it.

[...]

We have been recommending since 2003 that online campaign material should include an imprint. Campaigners would then have to identify who they are so that it is clear who is campaigning.

We currently advise campaigners to include an imprint, even though it is not required under law. This could include posts made by bots and paid trolls.

Although posting on social media is free, it costs money to employ people and acquire bots. These costs count towards a campaigner's spending limit for an election or referendum. A campaigner who doesn't include an imprint would run the risk of a fine.

Imprints on digital campaign messages would also help us enforce the spending rules. This is because we would have a better idea who may need to register and submit a spending return after an election or referendum.

It was a legal requirement at the Scottish independence referendum for digital material to have an imprint. Overall it worked fairly well. There were some questions about what kinds of digital material the law applied to, including personal opinions. We can learn from this experience when considering any new requirement.

[...]

We are not in a position to monitor the truthfulness of campaign claims, online or otherwise. However, changing the law so that

digital material has to have an imprint will help voters to assess the credibility of campaign messages. Voters will know who the source is and be more able to decide how credible it is.¹¹

Under electoral law, registered political parties, non-party campaigners and referendum campaigners must send details of their spending during the regulatory period (including money spent on digital advertising) to the Electoral Commission after the election or referendum. Any spending over £200 must be supported by an invoice, but the law is not clear on the level of detail that should be included in the invoice.

Database of political adverts

The Electoral Commission wants digital and social media companies to do more to help improve public confidence in digital advertising by making sure their policies on political adverts better reflect the UK's election and referendum campaign rules. It gave its position as follows:

Facebook, Google and Twitter have said that they will make sure that campaigners who pay to place political adverts with them will have to include labels showing who has paid for them.

They also say that they plan to publish their own online databases of the political adverts that they have been paid to run. These will include information such as the targeting, actual reach and amount spent on those adverts.

These companies are aiming to publish their databases in time for the November 2018 mid-term elections in the United States. Some of them also published data ahead of the May 2018 referendum in Ireland.

Facebook has said it aims to publish similar data ahead of the local elections in England and Northern Ireland in May 2019.

[...]

We welcome the intention of each of these proposals. Databases like these would bring greater transparency for voters. They would also make it easier for us to enforce the spending rules. We would be able to see what adverts a campaigner has taken out and how much they paid.

[...]

We expect the social media companies to make sure that their new databases of political adverts reflect the UK's election and referendum rules and provide meaningful information for us and for voters.

We want all the major social media companies that run election adverts in the UK to make sure they create such databases. We expect them to discuss with us whether they can publish their data in the same format.¹²

The Electoral Commission said it would monitor how well the digital and social media companies' voluntary proposals work at upcoming

¹¹ Electoral Commission, [Digital campaigning – increasing transparency for votes](#), 1 June 2018 [online] (accessed 31 October 2019)

¹² Ibid

elections. If their initiatives fall short, it would recommend that the UK's governments and legislators consider direct regulation.¹³

Recently, Facebook launched a library of political ads in the UK. The [Ad Library](#) provides advertising transparency by offering a searchable collection of all ads currently running across Facebook Products (including Instagram). Anyone can carry out a search (with or without a Facebook or Instagram account).

In September 2019, Facebook clarified its fact-checking policy and said it would treat all posts by politicians and parties as "newsworthy content" that should be "seen and heard".¹⁴ Some commentators have criticised this decision, saying it gives political parties freedom to create and promote deliberately misleading advertisements on the social network.¹⁵ On 17 October 2019, Facebook's founder Mark Zuckerberg ruled out banning political adverts on the basis that he did not think it right for a company to censor politicians or the news in a democracy.¹⁶

Twitter announced on 30 October 2019 that it would be banning political advertising globally, saying that the reach of political messages "should be earned, not bought".¹⁷ Twitter said the ban would be enforced from 22 November 2019, with full details released by 15 November 2019.¹⁸ However, Damian Collins MP, Chairman of the Digital, Culture, Media and Sport (DCMS) Select Committee, said that this decision could have unintended consequences:

The problem on [Twitter] has been big networks of fake bot accounts, rather than legitimate advertisers. This move could make life easier for the peddlers of fake news.¹⁹

The DCMS Select Committee is currently investigating fake news and disinformation online.

Electoral Commission's 2018 report

The Electoral Commission's report, "[Digital campaigning – increasing transparency for voters](#)",²⁰ was published on 1 June 2018 (and subsequently updated on 13 August 2019). In this report, the Electoral Commission highlights the potential for digital techniques to be misused, thereby risking voters' confidence in the integrity of elections and referendums:

For example, it could be easier for foreign individuals or regimes to try to influence voters online without any physical presence in

The Electoral Commission is calling on the Government to make political advertising more transparent.

¹³ Ibid

¹⁴ "[Facebook's Zuckerberg grilled over ad fact-checking policy](#)", BBC News, 24 October 2019, [online] (accessed 31 October 2019)

¹⁵ Ibid

¹⁶ "[Facebook chief rules out banning political adverts](#)", BBC News, 17 October 2019 [online] (accessed 31 October 2019)

¹⁷ "[Twitter to ban all political advertising](#)", BBC News, 31 October 2019, [online] (accessed 31 October 2019)

¹⁸ Ibid

¹⁹ "[Facebook challenged over political ad policy](#)", BBC News, 31 October 2019, [online] (accessed 31 October 2019)

²⁰ Electoral Commission, [Digital campaigning – increasing transparency for votes](#), 1 June 2018 [online] (accessed 31 October 2019)

the country. UK-based campaigners may also try to get around limits on spending through hidden digital activity.²¹

It also points out that electoral law has not kept pace with the development of these new digital techniques:

The amount of money spent on digital advertising is increasing with every election. But electoral law was written long before campaigning went digital.

While it must be clear who paid for printed election campaign advertising, no law covers these ads online.

We're calling on the UK's governments and social media companies to work with us in making it clear to voters who is paying to influence them online.²²

The Electoral Commission made a series of recommendations for immediate action to improve the transparency of digital political campaigning and to help prevent foreign funding of elections and referendum results (see **Box 1** below). The Electoral Commission's recommendations include: imprints on digital campaign material, increasing the maximum fine it can impose; and giving it greater powers to compel information from third party organisations (like social media companies).

Box 1: Electoral Commission recommendations

Each of the UK's governments and legislatures should:

- Change the law so that digital material must have an imprint saying who is behind the campaign and who created it.
- Amend the rules for reporting spending and make campaigners sub-divide their spending returns into different types of spending. These categories should give more information about the money spent on digital campaigns.
- Clarify that spending on election or referendum campaigns by foreign organisations or bodies is not allowed. They would need to consider how it could be enforced and the impact on free speech.
- Increase the maximum fine the Electoral Commission can sanction campaigners for breaking the rules and strengthen the Commission's powers to obtain information outside of an investigation.

Social media companies should:

- Work with the Electoral Commission to improve their policies on campaign material and advertising for elections and referendums in the UK.
- Label adverts about elections and referendums on their platforms to make the source clear.
- Make sure their political advert databases follow the UK's rules on elections and referendums.

Campaigners should:

- Be required to provide more detailed and meaningful invoices from their digital suppliers to improve transparency.

The Electoral Commission will:

- Make proposals to campaigners and each of the UK's governments about how to improve the rules and deadlines for reporting spending.
- Require information to be available to voters and the Commission more quickly after a campaign, or during it.

²¹ Electoral Commission, [Digital campaigning – increasing transparency for votes](#), 1 June 2018 [online] (accessed 31 October 2019)

²² Ibid

In making these recommendations, the Electoral Commission explained its position as follows:

Funding of online campaigning is already covered by the laws on election spending and donations. But the laws need to ensure more clarity about who is spending what, and where and how, and bigger sanctions for those who break the rules.

This report is therefore a call to action for the UK's governments and parliaments to change the rules to make it easier for voters to know who is targeting them online, and to make unacceptable behaviour harder. The public opinion research we publish alongside this report demonstrates the level of concern and confusion amongst voters and the will for new action.

We also call on social media companies to play their part in transforming the transparency of digital political advertising and removing messages which do not meet the right standards. If this turns out to be insufficient, the UK's governments and parliaments should be ready to consider direct regulation.²³

Responding to the report, a Cabinet Office spokesperson said:

"The government is committed to increasing transparency in digital campaigning, in order to maintain a fair and proportionate democratic process, and we will be consulting on proposals for new imprint requirements on electronic campaigning in due course."²⁴

Action by other regulators and organisations

In addition to the Electoral Commission, the rise of digital campaigning has also raised important issues for other regulators and organisations. For example, the [Information Commissioner](#) (IC) is responsible for the rules about how organisations in the UK use personal data. Last year, the IC's office investigated the use of personal data and analytics by political campaigns, parties, social media companies and other commercial organisations. Its report to Parliament, [Investigation into the use of data analytics in political campaigns](#), was published on 6 November 2018.

The Digital, Culture, Media and Sport (DCMS) Committee published its final report on "[Disinformation and fake news](#)" on 18 February 2019. In this report, the Committee called on the Government to:

- introduce a compulsory code of ethics for tech companies overseen by an independent regulator;
- give the regulator the powers to launch a legal action against companies breaching the code of ethics;
- Government to reform current electoral communications laws and rules on overseas involvement in UK elections; and

²³ Ibid

²⁴ "[Political ads on social media must be transparent – Electoral Commission](#)", BBC News, 26 June 2018, [online] (accessed 8 October 2019)

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- social media companies to be obliged to take down known sources of harmful content, including proven sources of disinformation.

Following its [Internet Safety Strategy Green Paper](#)²⁵, the UK Government has set out its own [Digital Charter](#),²⁶ a programme of work to agree and put into practice norms and rules for the online world. It aims to ensure that the rights people have offline are protected online. This includes:

“[...] limiting the spread and impact of disinformation intended to mislead for political, personal and/or financial gain”.

²⁵ HM Government, [Internet Safety Strategy Green Paper](#), 11 October 2017 [online] (accessed 31 October 2019)

²⁶ Department for Digital, Culture, Media and Sport, [Digital Charter – Policy Paper](#), 8 April 2019, [online] (accessed 31 October 2019)

4. How to complain about a political advert

Since political adverts are not subject to the Advertising Codes, the ASA cannot investigate complaints about them. Anyone with concerns about a political advert are advised to complain directly to the party responsible. However, complaints of political bias in television or radio advertising can be made to [Ofcom](#).

On its website, the Electoral Commission has published the following [statement](#) about political advertising complaints from members of the public:

We frequently receive complaints about political advertising or campaign material and the behaviour of candidates, especially in the period before an election. These are not within the scope of the complaints policy and will be referred to our Public Information Team.

While we have regulatory duties relating to campaign spending, including in relation to political advertising/election material, we have very few powers to deal with the content of material published by candidates and parties, or their general conduct. In most cases we will not be able to deal with such complaints, which should instead be made directly to the party or candidate responsible for the material.

If you feel that the content of the material may constitute a criminal offence, you should contact the police. Every police force has a dedicated Single Point of Contact officer (SPOC), who may be contacted about such allegations.

5. Parliamentary questions (PQs)

On 25 July 2019, during oral questions about the Speaker's Committee on the Electoral Commission,²⁷ there was the following exchange about spending on digital campaigning during elections:

Alan Brown: What recent discussions she has had with the Commission on reporting spending on digital campaigning in elections.

Bridget Phillipson (Committee Spokesperson): Transparency around spending on campaigning at elections helps voters to have confidence that campaigners follow the rules and limits on spending. Earlier this week, the Electoral Commission presented to Government statutory codes of practice on candidate and political party spending. If enacted, these codes will provide further clarity and consistency in reporting election spending, including on digital campaigning.

Alan Brown: I thank the hon. Lady for that answer. That concurs with reports from the Select Committee on Digital, Culture, Media and Sport and the Electoral Commission, which are clear that the law on digital political advertising badly needs updating. Some people have called for a database of online political ads, giving full information on content, target and reach, and spend. That should guarantee transparency. Is the hon. Lady aware of measures being taken to reform the law, and does she share my concern that so many people from Vote Leave who abused the system are now in the UK Government?

Bridget Phillipson: The social media companies' voluntary ad libraries and reports are useful tools in monitoring who is spending money on elections and other political campaigning. In its response to the online "harms" consultation, the commission recommended that the new regulator ensure common standards and obligations on what social media companies publish about political adverts and that there be significant sanctions if companies do not publish meaningful information.²⁸

More recently, on 2 September 2019, Paul Farrelly MP asked the Secretary of State for DCMS, whether he plans to create a regulator for online political advertising. However, no response was provided due to Prorogation.²⁹

²⁷ The Speaker's Committee on the Electoral Commission (SCEC) is a statutory body established under the [Political Parties, Elections and Referendums Act 2000](#). Its work relates to the Electoral Commission and the Local Government Boundary Commission for England.

²⁸ [HC Deb 25 July 2019 c.1430-1431](#)

²⁹ [WPO 284584](#)

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