Tithe an Oireachtais

An Comhchoiste um Chumarsáid,

Gníomhú ar son na hAeráide agus Comhshaol

Houses of the Oireachtas

Joint Committee on Communications,

Climate Action and Environment

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Climate Action and Environment

Submission

on the Public Consultation on the

Regulation of Online Political Advertising in Ireland

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How should political advertising be defined?

Political Advertising should be defined as online advertising which is directed towards a political end. A matter is directed towards a political end if it:

Communicates a message that promotes a candidate or candidates for public office in an election within the State or a political party registered on the Register of Political Parties;

Promotes a message on a matter of political interest or importance or a matter which, at the time when the online advertising is placed or promoted, is before or intended to be before either House of the Oireachtas or the Northern Ireland Assembly or the European Parliament or a local authority within the State;

Promotes a message on a matter which is the subject matter of a referendum;

Promotes a message on a matter which has any relation to an industrial dispute going on within the State.

A matter is not directed towards a political end if it is contained in online advertising placed or promoted at the request of the Referendum Commission in relation to a matter referred to in section 3 of the Referendum Act 1998 concerning a referendum.

A matter is not directed towards a political end if it is aimed solely at the provision of impartial information pertaining to the debate – time and date, publication of the text of the referendum.

Should it be limited to the promotion of candidates or proposals (the subject of potential elections or referendums)?

Regulation should cover any political advertising online.

Should any regulation in this area apply to both candidates and political parties campaigning at elections and also apply to referendum proposals?

Yes, the regulation should cover both candidates and political parties, as well as third-party actors, during election cycles and also referendum periods.

Should controls be limited to defined time periods in advance of referendums and/or elections?

No, it would be better for the democratic process for such regulation to run constantly outside of defined election/referenda periods as well as during them.

What should be made transparent?

Similar to election posters, online political advertising should be required to provide:

- The name and address of the person, company, organisation or entity (whether that entity has legal personality or otherwise) who paid for the online political advertising;
- Contact information for the person, company, organisation or entity (whether that entity has legal personality or otherwise) who paid for the online political advertising;
- A description of the audience targeted by the online political advertising;
- Any other information as the Minister may by order provide.

This information should be clearly displayed on the advertisement. Alternatively, the advertisement should contain an icon which contains a link to this information

Are there models or proposals which assist in defining these issues?

Facebook is currently planning to introduce tagging for political ads, plus a database for such ads. It will introduce artificial intelligence tools to seek out ads that don't declare themselves as political, along with requiring advertisers wishing to run political ads to have their identity verified. (Irish Times, 17/0402018)

Which stakeholders will be impacted?

Stakeholders who would be impacted would be individuals, companies, organisations or entities placing political advertising online. This could include:

- Political parties and candidates
- Advocacy groups
- Advertising platforms – social media platforms, online platforms of traditional media, non-linear audio-visual media services, video sharing platforms
- The Electorate

Are there other stakeholders likely to be impacted?

The aim of any regulation should also be to cover any person who knowingly uses automated software (so-called "bots") which are programmed to run multiple online presences that are directed towards a political end, or to cause a distortion within the democratic process.

What impact will regulation have on which stakeholders?

- Political parties and candidates
  - Will be required to include information on political advertising online which is of a similar nature to what is required on election posters.
- Civil Society organisations and/or advocacy groups
  - Will be required to include information on political advertising online which is of a similar nature to what is required on referendum posters.
- Advertising platforms – social media platforms, online platforms of traditional media, non-linear audio-visual media services, video sharing platforms
  - Will be required to ensure political advertising which is published on their platforms contain the necessary information. Online platforms in this instance are Publishers, thus falling under a higher standard of liability than regards mere comments/posts which users upload or post to these sites.
- The Electorate
  - Will be better informed about information which is made available in the run-up to elections and referenda in Ireland and can decide for themselves about the relative biases of different groups advertising in these campaigns.

What technical capability have social media and online platforms to control advertising?

While under the EU's E-Commerce Directive, online platforms are not automatically liable for information which appears on their sites, paid for advertising on online platforms is a different matter. In these instances the platform is a Publisher of the advertisement and joint liability should be deemed to apply to both the platform and the individual/organisation paying for the advertisement.

Paid for advertising should be monitored by social media and online platforms generally to ensure that it complies with any guidelines or legislation which is in force within the geographic areas the ad is being targeted at.

What organisations should come within the scope?

Any online platform or social media which operates within the territory.

How can regulations protect against/prepare for technological advancements?

Any regulation should be technology neutral and speak to general principles rather than methods of application or specific online platforms.

How to control right to be free from microtargetting/right to know origin of microtargetting concerning political preferences?

Advertising online should be required to make public the "lookalike audience" target list – similar to the system which currently operates on a voluntary basis on Facebook.

How can transparency of online political advertising be regulated – Obligations placed on sellers or buyers of advertising or both?

Obligations should be placed on both the sellers (Online Platforms) and buyers of advertising and joint liability should be deemed to apply.

What challenges arise from extraterritoriality?

Challenges arise in relation to sentencing or issuing of fines for ad buyers.

Who should monitor compliance with governance norms?

There could be a role for either the proposed Digital Safety Commissioner (per the Digital Safety Commissioner Bill 2017 – Donnchadh O'Laoghaire) or the proposed Electoral Commissioner.

Short-term – existing authority e.g. SIPO?

Depending on how the Legislation is framed SIPO may play a role in monitoring and investigating breaches in Advertising.

Long-term – Electoral Commission?

However, while we do have the Standards in Public Office already established, there would be great value in settling up a permanent Electoral Commission.

How will enforcement work?

Enforcement should take the form of fines and/or imprisonment on conviction.

There should also be provisions included to allow for Norwich Pharmacal Orders to allow for the identification of buyers of unregulated political advertising so orders can be issued to prevent further advertising being taken out by persistent offenders.

Membership of the Committee on Communications, Climate Action and Environment

Member	Party
Deputies:	
Hildegarde Naughton [Chairman]	*Fine Gael*
James Lawless [Vice Chairman]	*Fianna Fáil*
Timmy Dooley	*Fianna Fáil*
Michael Lowry	*Rural Independent Group*
Eamon Ryan	*Social Democrats - Green Party Group*
Bríd Smith	*Solidarity - People Before Profit*
Brian Stanley	*Sinn Féin*
Senators:	
Terry Leyden	*Fianna Fáil*
Tim Lombard	*Fine Gael*
Michael McDowell	*Independent Group*
Joe O'Reilly	*Fine Gael*

- The Dáil Committee of Selection nominated the members of the Dáil Select committee on 15 June 2016 and the report nominating Deputy Hildegarde Naughton to be chairman of the committee was agreed by the Dáil on Thursday 16 June 2016.
- The Seanad Committee of Selection report on membership of the Seanad select committee was agreed by the Seanad on 21 July 2016.
- This committee's name was changed from the Joint Committee on Communications, Climate Change and Natural Resources on Thursday 29 September 2016.
- Deputy James Lawless was elected vice chairman of the joint committee on Tuesday 28 February 2017.

Dáil Select Committee on Communications, Climate Action and Environment

 Deputy Timmy Dooley *Fianna Fáil*		 Deputy James Lawless *Fianna Fáil* [Vice Chairman]
 Deputy Michael Lowry *Rural Independent Group*	 Deputy Hildegarde Naughton *Fine Gael* [Chairman]	 Deputy Eamon Ryan *Social Democrats* *- Green Party Group*
 Deputy Bríd Smith *Solidarity -* *People Before Profit*		 Deputy Brian Stanley *Sinn Féin*

Seanad Select Committee on Communications, Climate Action and Environment

 Senator Terry Leyden *Fianna Fáil*	 *Senator Tim Lombard* *Fine Gael*
 Senator Michael McDowell *Independent Group*	 Senator Joe O'Reilly *Fine Gael*