UPLIFT PEOPLE POWERED CHANGE

Uplift Submission on the Regulation of Online Political Advertising in Ireland

19.10.2018

Introduction

The digital age of communication has transformed how our societies work and how decision makers engage with voters, service users, consumers, critics. The opportunities for enhancing democracy are immense and to be welcomed.

Equally the dangers of an unregulated, ‘free for all’ approach where corporations control immense levels of personal information and where they determine how we access information is very dangerous.

Uplift welcomes the opportunity to engage in the process of developing best practice and solutions to the dangers that an unregulated online environment.

In preparation for this submission Uplift members submitted their views and opinions in relation to regulating political advertising and ‘fake news’. Over a period of three days 616 people took the survey - an indication that there is significant interest in this particular subject - (Appendix 1)

The submission also draws on a legal analysis prepared by BL James Kane on the Online Advertising and Social Media (Transparency Bill) 2017. Available on request.

Uplift - A People Powered Community

Uplift is a people powered campaigning community of 175,000 people across Ireland and Irish people living overseas. We support members to take coordinated action to hold decision makers to account with the purpose of making Ireland a more equal, democratic, just and sustainable place for all.

Uplift uses digital technology to enable our members connect and take action together. This includes a range of social media and online platforms - Facebook, Twitter, Google.

Issues our community wants to highlight

Definition of 'political purposes'

The current definition of 'political purposes' is relevant to the discussion on regulating on-line political advertising. The issues in relation to the definition of 'political purposes' in the Electoral Acts have been widely flagged as creating an environment where campaigning for social change in Ireland is being unfairly hampered and works against a free and democratic society - most recently by the Coalition For Civil Society Freedom, of which Uplift is a member.

Similarly in the Online Advertising and Social Media (Transparency) Bill 2007, the definition of 'directed towards a political end' goes overboard because it fails to distinguish properly between advertisement which re truly political and those that are otherwise matters of general public importance.

The right to critique and participate in political processes

87% of survey respondents are very concerned that organisations like Uplift are at risk of being accused of spreading 'fake news' by politicians or companies who don't like being challenged.

Critically analysing and engaging with the political system is fundamental to democracy and is a core function of a healthy civil society. Holding decision makers to account is a core Uplift task. We fundamentally believe that when decision makers are accountable that better decisions can be made, communities better served and policies more effective.

Civil society organisations must be allowed and supported to engage in legitimate democratic action - including the right to critique, disagree, counter and downright disagree with politicians and the political process.

Fake news is designed to deliberately mislead and influence political opinion. It is important to distinguish this form of activity from genuine errors and mistakes in posting and sharing inaccurate information. This should not be punished other than if existing laws are broken ie data protection, equality legislation. Unfortunately in Ireland hate crime legislation is not in place - this could aid the curtailing of fake news designed to spread hate.

Uplift analysis of the The Online Advertising and Social Media (Transparency) Bill 2007 recommends that a defence is needed to protect entities such as Uplift from being prosecuted for publishing information that was obtained in good faith. (Section 5(1).

Transparency

Only 9.4% of survey respondents say that they still completely trust the media, the majority, 54,7% is indecisive and more than a third, 35.9%, say they have fully lost trust in the media.

Transparency is a means of holding decision makers accountable and fighting corruption. The lack of transparency in relation to online political ads is creating an environment where fostering distrust and confusion. Corporations that run social media platforms are operating in a transparency vacuum despite censoring what we see and don't see and controlling vast amounts of personal data. Some recent initiatives are welcome but it is wholly inappropriate that these are at the discretion of social media corporations and not overseen by democratic government.

Fake news

Two thirds (65%) of survey respondents believe that democracy is extremely harmed by misinformation, a further 21% think it is harmed. A vast majority of respondents, 91% believe that fake accounts should be exposed and closed. 4% of respondents strongly disagree.

The use of Facebook and other platforms to spread misinformation aka 'fake news' during the recent referendum, Brexit referendum and US 2016 presidential elections has shown just how vulnerable our democracies are to interference and sabotage through the spread of misinformation designed to manipulate our opinions and shape how we vote.

Protecting freedom of speech

One third of respondents are very afraid 'free speech' could be limited in any way. Another 29% are afraid that 'free speech' could be limited, while 7% don't see any risk.

A significant challenge government faces is balancing the need to regulate and address the spread of 'fake news' or misinformation designed to spread hate and influence election processes - alongside our fundamental right to free speech.
Uplift has had direct experience of Facebook banning ad we have posted without any explanation provided. Given the virtual monopoly that Facebook, Twitter and Google combined have there is a real danger (end evidence to show it is happening) that they are exercising arbitrary decisions about what is allowed/disallowed - resulting in complete 'lockout' from the digital communication system.
It is unclear what their criteria is for moderating content - news reports highlighted earlier this year the biased nature of this process. Again leaving it up to the platforms themselves to self censor is not desirable.
Balanced data protection and privacy laws and regulations are necessary to protect freedom of expression alongside the need to stop the spread of hate speech.

Holding powerful corporations to account

When Uplift members were asked 'What do think the government should prioritise in the battle to control how political ads and 'fake' misinformation is used to influence the outcome of elections and referendums' the top response was to force companies like Google and Facebook to be fully transparent and accountable ie mandatory reporting and fines.

Corporations like Facebook, Twitter, Google have unprecedented reach and influence over our daily lives. They are however ultimately concerned with increasing their profit margin. Despite notable initiatives - there are too many examples of these companies knowingly allowing their platforms to be used for the purposes of sharing fake information and for deliberately manipulating opinions, sharing of private and sensitive information and inappropriate interference in elections.
Self regulation is not the answer given the core business model and track record of these corporations and states have a duty to develop effective ways of holding them to account.

Bots

Bots are used in multiple ways by organisations working legitimately and go far beyond the common understanding that they are used to create multiple accounts and present social media accounts as owned and managed by a real person. Clamping down on this type of activity is to be welcomed but care must be taken with how it is defined and that the legitimate use of bots is not affected.
The Online Advertising and Social Media (Transparency) Bill 2007 contained a definition of 'bots' that there is a considerable risk that Uplift itself could be considered a bot. This is deeply worrying and undemocratic. It is only when a bot is used deceivingly to cause multiple online presences, presented as an individual or profile, that it should be considered problematic.

Local and European elections

The local and European Elections will take place May 2019. Short term action is needed to ensure that it is proceeds in a fair and transparent manner. For example the use micro targeting either to dissuade people from voting or targeting groups with 'fake' and misleading messages could be a real problem. The role of online platforms offering ad services must be addressed prior to the campaign kicking off.

Way Forward

Uplift members were asked what the government should prioritise in the battle to control how political ads and 'fake' misinformation is used to influence the outcome of elections and referendums?

1. Forcing companies like google and Facebook to be fully transparent and accountable ie mandatory reporting and fines - for allowing their platforms to be used to spread misinformation and hate?
   One third of respondents felt this was the most important action. A quarter felt it was the second most important step to take.

2. Set up an Electoral Commission that proactively looks to protect elections and referendums from being illegally manipulated
   51% of respondents put this action as the most or 2nd most important step for the government.

3. Support fact checking initiatives that help identify and 'fake' news
   This was the 3rd and 4th most popular option for members

4. Better enforcement of data protection rules that protect individuals better from being targeted online
   26% felt this was the 3rd most important action while 26% said it was the least important action to take.

5. More training for the public about 'fake news' and how our votes and opinions are being manipulated by political advertising online
   A majority of 36% rated this as the least important/helpful means.

Given that the local and European elections are around the corner immediate steps should be taken to protect the integrity of these elections. Many of these companies have their headquarters in Ireland and therefore the Irish government is in prime position to lead on putting in place measure that address the risks all countries in Europe face.

It is unlikely that legislation will be drafted and completed in this timeframe, therefore agreement with digital communication companies should be secured ie full transparency of who and where ads are being generated, how they are being targeted, costs.

The Electoral Acts should be reformed, in particular introducing a clearer definition of 'political purposes' and guaranteeing that the role of civil society in holding politics to account is respected and upheld, including its right to raise funds for legitimate action.

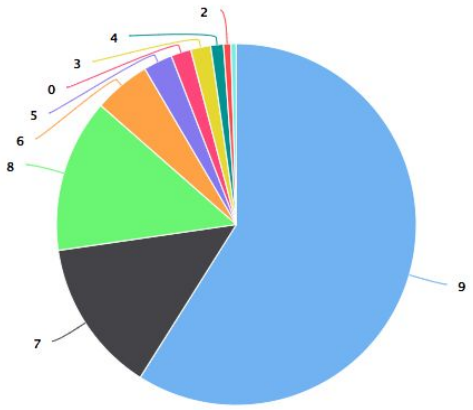
An Electoral Commission as proposed by the Transparency Initiative should be established to provide an ongoing mechanism for responding to each election context and the fast evolving nature of political advertising online. The commission should focus on definitions, range of content considered political, timeframes etc.

The Social Media (Transparency) Bill 2017 requires substantial redrafting if it is to be of use in protecting democracy and people living in Ireland from the worst effects of 'fake news' and political interference.

Appendix 1

Uplift Member Survey conducted 23rd to 25th October 2018

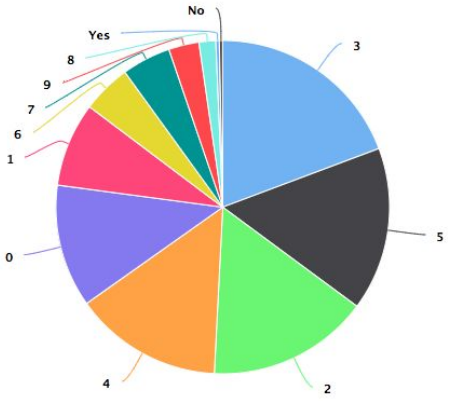
How much do you agree/disagree with this statement: "The spread of 'fake' news is a real threat to distorting people's opinions and voting decisions"?



Answer	# Respondents	% of respondents
9	361	59
7	84	14
8	84	14
6	31	5
5	16	3
0	11	2
3	11	2
4	7	1
2	4	1
1	3	0

0 = do not agree 9 = fully agree

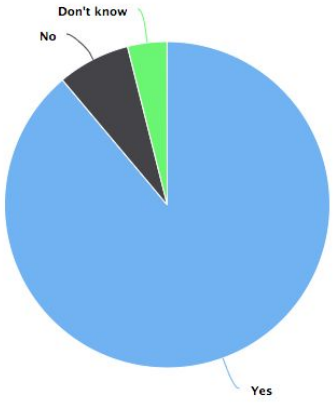
Do you trust what you read online more or less than you did three years ago?



Answer	# Respondents	% of respondents
3	118	19
5	97	16
2	96	16
4	88	14
0	73	12
1	50	8
6	29	5
7	29	5
9	18	3
8	10	2
Yes	2	0
No	2	0

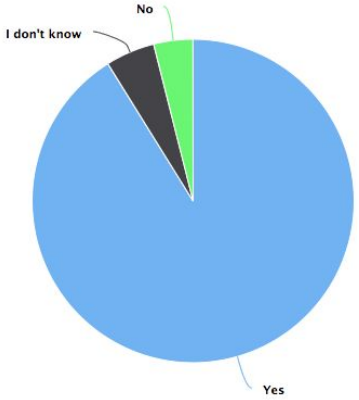
0 = do not trust at all 9 = fully trust

Are you aware that social media accounts - both owned by real people as well as computer generated - are sharing messages designed to mislead and spread 'fake' news?



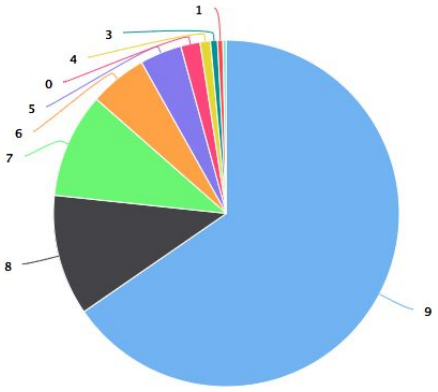
Answer	# Respondents	% of respondents
Yes	543	89
No	44	7
Don't know	24	4

Should sites and accounts set up to deliberately spread 'fake' news and misinformation targeting voters be shut down?



Answer	# Respondents	% of respondents
Yes	555	91
I don't know	30	5
No	24	4

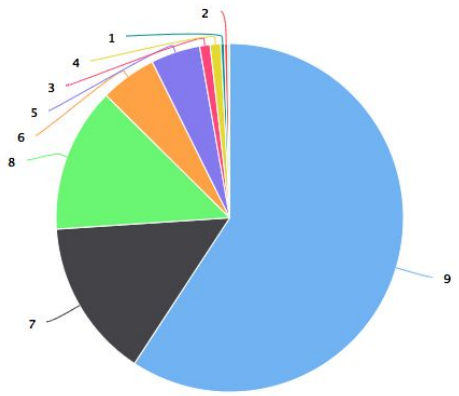
Do you think that democracy is being harmed by the spread of misinformation and hate online?



Answer	# Respondents	% of respondents
9	401	65
8	69	11
7	60	10
6	33	5
5	24	4
0	11	2
4	6	1
3	4	1
1	3	0
2	2	0

0 = not harmed at all 9 = extremely harmed

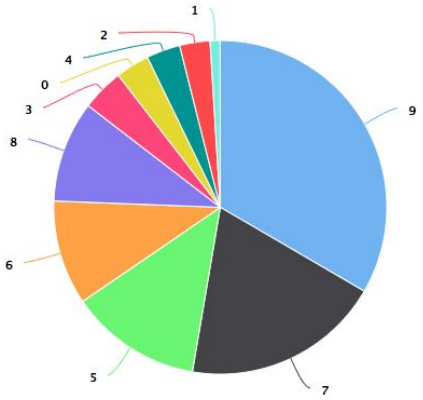
Do you think there is a risk that politicians or companies who don't like being challenged accuse campaigning organisations like Uplift of spreading 'fake' news?



Answer	# Respondents	% of respondents
9	362	59
7	90	15
8	82	13
6	32	5
5	28	5
3	6	1
4	6	1
1	2	0
2	2	0
0	1	0

0 = no risk at all 9 = high risk

Do you think there is a danger in the rush to regulate political advertising and 'fake' news that our right to 'free speech' could be limited?



Answer	# Respondents	% of respondents
9	204	33
7	118	19
5	78	13
6	62	10
8	60	10
3	25	4
0	20	3
4	20	3
2	18	3
1	6	1

0 = no risk 9 = high risk

What do you think the government should prioritise in the battle to control how political ads and 'fake' information is used to influence the outcome of elections and referendums?

		1	2	3	4	5	Average
1	Force companies like Google and Facebook to be fully transparent and accountable eg. fines and mandatory full disclosure.	34%	24%	18%	14%	9%	2.4
2	Make the Electoral Commission proactively protect elections and referendums from being illegally manipulated.	28%	23%	19%	16%	14%	2.66
3	Support fact checking initiatives that help identify and expose 'fake' news.	16%	20%	23%	24%	17%	3.05
4	Better enforcement of data protection rules that protect individuals better from being targeted online.	10%	18%	26%	21%	24%	3.31
5	More training for the public about 'fake' news and how our opinions are being manipulated by political advertising and 'fake' news online.	12%	14%	14%	24%	36%	3.58

Contact

Siobhan O'Donoghue
Director
Uplift