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RESEARCH ARTICLE

The barriers to regulating the online world: Insights from UK debates on online political advertising

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Abstract

Online political advertising has grown rapidly over the last two decades and played an important role in campaigns and elections. Arising with it are concerns around issues such as data privacy and transparency, which have sparked calls for regulation. Whilst change has begun to be implemented, in many contexts moves to regulate online political advertising have been limited. In this article, we explore one such case, asking whether attempts to regulate have been hindered by the particular characteristics of digital technology or by wider political factors. Presenting new interview data examining the experiences and perceptions of regulators, policy makers, civil servants, civil society groups and academics in the United Kingdom, we distil three barriers: political reticence, logistical challenges and conflicting policy proposals. Our findings suggest that efforts to regulate online phenomena need to apply a media and politics-centric lens, considering how the technological traits of digital media and political factors can affect efforts to regulate.

KEYWORDS

digital media, online, political advertising, regulation, United Kingdom

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INTRODUCTION

The rise of online political advertising in electoral politics has prompted a significant and sustained shift in how campaigners communicate with citizens. Whilst only a decade ago campaigners were beginning to get to grips with the utility of digital campaigning tools (Stromer-Galley, 2014; Vaccari, 2013), nowadays it is common to see campaigns of all sizes and scale deploying political adverts in the online (and offline) sphere (Fowler et al., 2021). Indeed, platforms such as Facebook and Google have made these activities easier than ever before, resulting in hundreds of thousands of pounds being expended by campaigners around the globe (Dommett & Power, 2019; Homonoff, 2020).

Alongside this rapid rise, many actors in government, civil society and academia have expressed concerns over the implications of this practice for democracy. It is argued that targeted advertising may result in electoral fragmentation (Fowler et al., 2021), citizen manipulation (Nadler et al., 2018; Susser et al., 2019), transmission of false claims (Bennett & Lyon, 2019), data monitoring (Howard, 2006) and limited transparency and accountability (M. Harker, 2020; Jamieson, 2013; Kreiss & Howard, 2010; Wood, 2020). Some social media platforms have taken voluntary measures to address these critiques (Kirk & Teeling, 2021; Leerssen et al., 2018), whilst policy makers in Canada, France, Singapore, a number of US states and the European Union have implemented or drafted regulation around online political advertising (European Commission, 2021; Menezes-Cwajg, 2020). In the United Kingdom, Ireland and many other nations, however, limited progress has been made.

In this article, we use the United Kingdom as a case study to consider the technological and political factors that have hindered progress toward the regulation of online political advertising. Reflecting on Samuelson's (2000) work on legal approaches to regulating the Internet and promoting a global information society, we ask: what prevents regulators from applying existing laws and policies to the regulation of Internet activities? With this study we seek to contribute to existing research on political advertising and provide insights for the growing body of work exploring the challenge of regulating digital phenomena more broadly (Abbot, 2012; Flew, 2021; Helberger et al., 2018; Rochefort, 2020; Samuelson, 2000).

In the United Kingdom, it is widely recognised that '[u]nder the current system, online political advertisers are subject to less regulation than political advertising on broadcast TV and radio' (Wood, 2020, p. 536), and yet it is perplexing why such a disparity endures and what is acting as a barrier to reform. Considering this case, we argue that digital technologies create particular challenges for regulation, but that political factors also present obstacles. Our empirical analysis identifies three prominent barriers to change: political reticence, logistical challenges and a lack of policy consensus. Highlighting these three barriers, we argue it is crucial for those seeking to influence regulatory debates to adopt a media and politics-centric lens (Vaccari, 2021) when attempting to understand the barriers to regulation.

The article is structured as follows. First, we provide an overview of debates around the regulation of digital technology. Noting the prominence of much media-centric discourse around the particular challenges of regulating technology, we review existing debate around political advertising regulation in the United Kingdom to show that political ideas also have resonance. On this basis we suggest the value of a media *and* politics-centric approach to analysis. Adopting this lens, we present new interview data that reveals three key barriers to regulation: political reticence, logistical challenges and conflicting policy proposals. Reflecting on the significance of these insights for debates around regulation, we conclude by considering what these findings reveal about attempts to regulate online political advertising and digital media more broadly, offering practical recommendations for those seeking reform.

THE REGULATION OF DIGITAL TECHNOLOGY

Current debates in policy making frequently highlight the particular challenges digital technology poses for regulation. Within the European Commission, for example, there is an emphasis on the ways in which '[d]igital technologies, especially Artificial Intelligence (AI), are transforming the world at an unprecedented speed', creating an urgency for new regulation and oversight (von der Leyen, 2019, p. 13). Similarly in the United Kingdom, the 'accumulation, processing and portability of personal data' on digital technologies, as well as the distinctive systems of 'oversight, accountability and verification of digital content' are seen to create novel challenges for regulators that requires 'a distinct regulatory approach' (DCMS, 2022). Notably, the Organisation for Economic Co-operation and Development (OECD), an intergovernmental economic organisation, has proposed four attributes of emerging technologies that 'challenge deeply the way governments regulate' (see Table 1), raising issues of pace, design, enforcement and jurisdiction (Abbot, 2012; OECD, 2019).

These challenges are worth noting because they raise questions about the degree to which the attributes of digital technology frustrate attempts to regulate online political advertising. These technological factors may accordingly help explain the lack of progress in the United Kingdom. Such ideas offer a media-centric approach to the study of online political advertising, with a focus on the characteristics of digital media—in this case digital advertising infrastructure—seen to present challenges for regulation.

Within political communications research, media-centric approaches have been a prominent mode of analysis. Bucy and Evans (2021), for example, have highlighted the growing adoption of this approach over the last two decades, particularly comparing such work to what they term 'politics-centric' perspectives. Whilst the former tradition of analysis focuses attention on the attributes and impact of media in public life, the latter centres around the role of the political system in democratic processes, expanding inquiry to focus on various social and political attributes that 'situate media' (Krajina et al., 2014, p. 690; Morley, 2009).

Although depicted here in simplistic terms, these different approaches are of interest for discussions of online political advertising regulation because they suggest that the 'problem'

TABLE 1 Challenges that digital technology poses for regulation.

Type of problem	Description
Pacing problem	'The sheer pace of technological change itself fundamentally challenges contemporary regulation. Digital technologies tend to develop faster than the regulation or social structures governing them'
Designing 'fit-for-purpose' regulatory frameworks	'Digitalisation blurs the usual delineation of markets and sectors… This blurring of boundaries affects, inter alia, the scope of the regulators' mandate and activities' meaning '[n]ew forms of regulatory intervention may be needed'
Regulatory enforcement challenges	'Digitalisation challenges regulatory enforcement by questioning the traditional notion of liability. In particular, it makes it more difficult to apportion and attribute responsibility for damage or harm caused by the use of technology to end users'
Institutional and transboundary jurisdiction challenges	Digital technologies can 'span multiple regulatory regimes, creating the potential for confusion and risks. Moreover, digitalisation pays no regard to national or jurisdictional boundaries and drastically increases the intensity of cross-border flows and transactions'

of online political advertising can be understood in different ways. Whilst it is possible, for example, to focus on the technological and media related barriers to regulation, it is also possible to foreground political barriers to change. Seeking to avoid drawing what we perceive to be a false dichotomy between media and politics-centric analyses of debates around online political advertising, and recognising the potential for these two approaches to be combined (Strömbäck, 2021; Vaccari, 2021), we argue there is utility in looking for evidence of barriers relating to both perspectives. Accordingly, whilst drawing on the technology focused ideas outlined above, we also seek to identify political factors that may hinder regulatory progress. This approach is inspired by the dynamics of debate around offline political advertising, where we argue it is possible to observe political influences on existing regulatory configurations.

POLITICAL ADVERTISING REGULATION IN THE UNITED KINGDOM

Political advertising in the United Kingdom is governed by a complex landscape of state, co- and self-regulatory bodies. We identified six actors who exercise oversight, either focused directly on advertising or more broadly on political campaigning or data use (see Table 2). Exploring the role and history of these bodies, we argue that political influences on existing regulation can be observed, suggesting the value of a media and politics-centric approach.

At present, political advertising in the United Kingdom is primarily regulated by the Office of Communications (Ofcom) and the Advertising Standards Authority (ASA) in line with the 2003 Communications Act.[1] Ofcom prohibits political advertisements on

TABLE 2 Regulators with oversight of political advertising in the United Kingdom.

Type of regulator	Name of regulatory body	Sphere of oversight
State regulator	Office of Communications (Ofcom)	Regulates political advertising on broadcast media.
	Electoral Commission	Oversees spending in elections, ensures that campaign materials do not contain false claims about opponents, and that imprints are contained on nondigital campaign materials.
	Information Commissioners' Office (ICO)	Oversees data protection law, monitors the use of data for activities such as online political advertising.
	UK Statistics Authority	Oversees the production and publication of official statistics to ensure they serve the public good.
Self-regulator	Advertising Standards Authority (ASA)	Regulates nonpolitical advertising on broadcast and nonbroadcast media.
	Clearcast	Provides pre-screening of ads ahead of ASA approval. Helps to identify possible political ads that are prohibited under ASA rules.
Co-regulators	Ofcom and ASA	Ofcom established a co-regulatory relationship with the ASA in 2004 by contracting out the day-to-day regulation of television and radio advertising.

Note: For more details, see: ASA. No Date. Self-Regulation and Co-Regulation. https://www.asa.org.uk/about-asa-and-cap/about-regulation/self-regulation-and-co-regulation.html.

broadcast media (i.e., television, radio, video-sharing platforms), with only parties allowed an official party election broadcast. The ASA, co-regulating with Ofcom, oversees nonbroadcast advertising (e.g., posters, newspapers) and regulates to ensure that adverts are 'legal, decent, honest and truthful'. The ASA's remit does not cover political advertising with a principal function to influence voters in an election, meaning that adverts placed by campaigners aiming to influence electoral outcomes are not currently regulated.[2] What is regulated, however, is advertising that makes claims about an election or referendum, but does not principally aim to influence voters. Similarly, marketing communications by central or local government are assessed to ensure they follow the protocols of 'legal, decent, honest and truthful'.[3]

In addition to these primary bodies, a range of other actors play a role in regulating political advertising. The Electoral Commission, for example, oversees spending on such advertising, the Information Commissioners' Office (ICO) enforces data law (Conway, 2019; p. 10) and the Statistics Authority prevents the misrepresentation of public statistics (Electoral Commission, 2021). Clearcast also works with commercial advertisers to identify any content that may be deemed political, pre-screening adverts to ensure they are compliant with guidance from the ASA.

Observing this landscape, a suite of existing oversight for the regulation of political advertising can be detected, as can longstanding debates about the sufficiency of existing regulation. The origins of the current regime can be traced to 1999 when it was decided that the ASA should no longer hold political adverts in nonbroadcast media to (some rules in) its advertising code (Conway, 2019). The ASA explained this decision by noting that 'regulating mostly-commercial advertising is very different from regulating material that forms part of the democratic process' (ASA News, 2021). In part, political advertising was seen to pose logistical challenges associated with the difficulties of enacting regulation in 'the short, fixed timeframes over which elections run' (ASA News, 2021). Explaining the impact of these restricted time periods, the ASA observed that 'complaints subject to ASA investigation would be ruled upon after an election has taken place' (Ibid.), weakening the impact of any deterrent effect. Logistical challenges were therefore seen as a barrier to effective regulation, but the ASA also voiced political concerns.

In particular, the ASA argued that any attempt to regulate political advertising 'risked bringing advertising regulation into disrepute' (ASA and CAP News, 2019). Pointing to 'concerns that the independence of the system could be damaged by rulings for or against political parties', the existing regulator was reluctant to arbitrate on political debate. In part, this reluctance was attributed to, what the ASA described as: 'the absence of consensus between the Labour, Conservative and Liberal Democrat Parties to bring political advertising wholly within the scope of the Code' (ASA and CAP News, 2019). Political support for advertising regulation was therefore seen to be limited, creating a risk that the ASA could be subject to political reprisal. These concerns were subsequently compounded by the refusal of political parties to agree to the recommendation for 'a code of best practice for political advertising in the nonbroadcast media' (Neill Committee, 1998; see also Electoral Commission, 2004).

Looking at the history of political advertising regulation, it accordingly appears that political challenges (alongside more logistical concerns) have played a role in accounting for the shape of current regulation. In seeking to identify current barriers to the regulation of online political advertising, we accordingly suggest that it is useful to consider both the attributes of digital technology (i.e., challenges of pace, design, enforcement and jurisdiction) and political factors (i.e., political risk). For this reason, we adopt a media *and* politics-centric lens of analysis to consider current debates around online political advertising regulation, applying this approach to interrogate interview data that captures the perceptions of those active within current regulatory debates.

METHOD

Most recent studies of online political advertising utilise content analysis to study the frequency, form and focus of online political advertising in countries including, but not limited to, Canada (Bennett & Gordon, 2020), Great Britain (Dommett & Bakir, 2020), United States (Edelson et al., 2019; Fowler et al., 2020), Ireland (Kirk & Teeling, 2021), and Germany (Medina Serrano et al., 2020). Whilst some studies have offered legal analyses to identify the tensions and gaps in the regulation of microtargeted political advertising (M. Harker, 2020), few scholars have utilised interviews (cf. D. Harker, 2008) to develop a rich and holistic picture of the perspectives, experiences, and expertise of actors involved in debates around online political advertising (Rubin & Rubin, 2011).

We apply the qualitative interview method to a single country—the United Kingdom—as an *instrumental case study*, so that 'a particular case is examined mainly to provide insight into an issue, or to redraw a generalization' (Stake, 2008). Adopting this method, we seek to understand the specific dynamics of regulatory debate in this context, and to draw more generalised insights about the challenges of regulating digital phenomena. Our study looks at the development of online political advertising since 2016, with a particular focus on debates in 2019–2021. We selected the UK case on the basis that despite extensive interest in the issue of political advertising amongst policy makers, so far there has been limited evidence of change. Indeed, whilst recommendations have been made by, amongst others, the Centre for Data Ethics, the Electoral Commission, and the Department for Digital, Culture, Media and Sport (DCMS) Select Committee around online advertising regulation, to date the Government has only actioned calls for a digital imprint to be required on political advertising online within its Elections Bill (Electoral Commission, 2021). This case therefore provides an ideal instance in which to ask why, despite vocal and diverse support for regulation, limited progress has been made.

To inform our analysis, we conducted 23 interviews with actors from 6 groups: regulatory bodies, government departments, civil society organisations, the European Commission, academic institutes and think tanks (particularly academics engaged in live policy debates), and professional advertising associations (see Table 3). The vast majority of our interviewees were based in the United Kingdom, but we also interviewed two representatives from the European Commission and two European researchers to gather an international perspective on political advertising regulation and to contextualise efforts in the United Kingdom. Interviewees were identified by personal recommendations through the researchers' networks, online searching of potential individuals of interest, and snowball sampling. The interviews were conducted via video calls between May and July 2021 and lasted on average 50 minutes. All interviewees were asked the same set of structured questions, complemented by tailored questions pertaining to their personal background or

TABLE 3 Summary of interviewees.

Individual affiliations	Code number
Regulatory Bodies	1-6
UK Government Bodies	7
Civil Society Groups	8–15
European Commission	16–17
Academic Institutes and Think Tanks	18–21
Professional Advertising Associations	22–23

the goals of their organisation. The full questionnaire is available in the Supporting Information: Appendix. All interviews were recorded upon consent and then transcribed and returned to the interviewees for their approval of use. To honour the anonymity agreement, no names are provided within this article (with one exception), and specific organisations are only mentioned where express consent was provided.

Interview transcripts were coded using Nvivo, employing an inductive coding process that sought to identify the barriers to regulation (see similar method in Barrett et al., 2021). We read transcripts closely and hand-coded interview responses, identifying themes around 'barriers to regulation', but also other codes such as 'options for reform', 'regulation principles' and 'the effectiveness of online political advertising'. Having inductively coded our interviews, we looked for synergies and divergence between our interviewees' accounts, seeking to identify technological or political factors exerting influence.

FINDINGS

Our interviews showed unanimous agreement that the current (lack of) regulation for online political advertising was problematic. It was commonly argued that there 'should be some kind of regulation' (interviewee 5), with some noting that 'it's a danger to democracy for us not to regulate this stuff' (interviewee 10) and others arguing that the misuse of online techniques in advertising posed 'a real risk to meaningful democracy' (interviewee 11). Despite wide consensus that regulation was needed, interviewees routinely expressed frustration at the lack of progress, with three different explanations emerging for the lack of change. Characterised here as political reticence, logistical challenges and conflicting policy proposals, our analysis showed that technological and political factors posed challenges for regulation.

In reporting our findings, it is important to note that we did not ask interviewees to focus on a particular form of regulatory response, and hence did not prescribe a focus on state regulation, co- or self-regulation. Despite this, the majority of our interviewees focused on the barriers to state regulation, highlighting the particular challenges to state-led change. In some places, however, barriers to self- or co-regulation were also discussed. In the analysis below, we outline the three major barriers identified regardless of regulatory type, highlighting where appropriate how challenges vary depending on the type of regulation pursued.

Political reticence

First, our interviewees routinely spoke about political reticence as a barrier to regulation. Departing from the political barriers identified above, our interviewees spoke about the need for politicians (in Government or opposition) to invest political will and energy in the idea of regulation, particularly if state or co-regulation of online political advertising was to be enacted. It was routinely expressed that 'we've got to have leadership…a government that wants to do this, basically' (interviewee 2), with change seen to be reliant on 'the will of particular governments' (interviewee 10). Describing the dynamics of current debate, however, numerous interviewees described the political reticence of politicians across the political spectrum (interviewee 2, 11, 14, 17, 21). Whilst some individual politicians were seen to have spoken about the need for regulation (All Party Parliamentary Group on Electoral Campaigning Transparency, 2020), for the most part our interviewees suggested that political actors had failed to call for regulation or to develop proposals for change. One interviewee noted, 'you can see from the legislative agenda that there's no urgency for

electoral reform or fixing these types of issues' (interviewee 8), suggesting that change was not a political priority (interviewee 1, 10, 11, 12, 23).

Explaining this lack of action, interviewees pointed to the significance of 'short-term self-interest' (interviewee 11), with one interviewee noting that 'nobody likes to change the system that seems to have suited them' (interviewee 19). This attitude was seen to be not only a particular barrier to state or co-regulation, but also for self-regulation, as it was perceived to undermine voluntary efforts to promote higher standards (such as establishing a code of conduct for online political advertising). Indeed, interviewees highlighted a 'collective action problem' (interviewee 11) and the absence of 'a critical mass of support' (interviewee 6) that could bring about change.

Self-interest was not, however, seen to be the only reason that politicians were not promoting change. One interviewee also argued that a lack of knowledge and understanding may play a role. As interviewee 9 noted:

> […] when it comes to tech issues politicians tend to shy away. I think they don't understand tech very well and as a result there is a role that civil society is playing, in not just calling for regulation but actually having to do a chunk of education to politicians and to society on the whole to help people understand what's going on.

These thoughts suggest that politicians' reticence could be self-interested, but may also reflect logistical considerations related to a lack of understanding.

In addition to political reticence from politicians to promoting different forms of regulation, we also found reticence amongst existing regulatory bodies who expressed political concerns about regulating online political advertising. As in previous debates (see above), there were seen to be significant political risks for advertisers or existing co-regulatory bodies in becoming responsible for the regulation of online political advertising. One interviewee therefore explained that it would be difficult for the industry itself to take proactive action, because 'either people have no desire to get involved in this stuff or they know it's problematic but are massively conflicted' (interviewee 22). This comment reflected a public statement from the ASA which asserted that 'It would be inappropriate, and perhaps unhelpful, for us to intervene in that process', because of concerns that 'the independence of the system could be damaged by rulings for or against political parties' (ASA and CAP News, 2019). These ideas were articulated by one of our interviewees Guy Parker, Chief Executive of the ASA (who agreed to be named) who emphasised how 'It would be reputationally dangerous for the ASA to take on, on its own, political ad content regulation'. From this perspective, political reticence about further regulation also comes from regulators themselves, hindering reform.

Logistical challenges

Further, our interviewees highlighted a second barrier, citing the logistical challenges of regulating online political advertising. Relating most directly to the attributes of digital technology, we also found some political challenges that related to the task of defining 'politics'.

First, at the technical level, we heard about a number of logistical challenges that closely mirrored the technological challenges of pace and design identified by the OECD. As one interviewee noted, 'there are huge logistical issues, like a lot of aspects about online regulation' (interviewee 3). Often these related to the speed and scale of the online sphere, dynamics that were seen to 'make it very, very difficult from a regulatory point of view…in terms of trying to make sure that we are identifying political advertising and making sure that

the finances behind it are properly reported is very difficult to do because there is so much of it' (interviewee 1). In comparison to regulation offline, the attributes of the online sphere were particularly seen to make the task of regulation 'feel that much more massive, and thereby unknowable and terrifying' (interviewee 2).

As above, these issues of speed and scale were felt to be particularly acute because of the difficulty of needing to regulate within short election periods. One reflected, for example, on the difficulty of 'keeping up with all of the cycle and the amount of content that exists on platforms' (interviewee 21) in real time (interviewee 14), with another interviewee citing the particular challenge of doing so 'during the heat of an election or referendum campaign' (interviewee 3). These factors were seen to make it challenging to pursue state, co- or self-regulation, because digital advertising infrastructure was seen to create 'huge logistical issues, like a lot of aspects about online regulation' (interviewee 3).

In addition, we identified technological issues that varied dependent on the type of regulation pursued. In focusing on state regulation, a number of interviewees cited the challenge of gaining access to information and compelling action from online advertising companies. As one interviewee reflected:

> […] it's just really, really complicated, and trying to create new regulations, to deal with the online space, require a really in-depth understanding of how online technologies work. It also requires an understanding of how people consume, and respond to content. It also requires an understanding of exactly what effects the rules would have. (interviewee 23)

A number of interviewees explained that it was difficult to 'get information out of social media platforms' (interviewee 1), due to information asymmetries (Abbot, 2012). This was considered a mounting challenge due to the diversity of online advertisers. It was argued that state regulators would therefore need to be able to regulate multiple actors and understand different platforms, recognising that 'there's no clear answer across platforms' (interviewee 19). State regulation was also seen to be particularly challenging in terms of what the OECD described as jurisdictional and transboundary challenges. Pointing to cross-country level challenges, one interviewee noted that 'we can look at what works for the situation in the United Kingdom, but there really does need to be that much more international debate in which we would be a very willing observer and potentially participant' (interviewee 2). Others similarly noted that because 'they [platforms] are not really nationally regulated as much as all the others', it's very hard to exercise control over advertising (interviewee 19). These factors suggested particular logistical barriers that relate to the nature of digital technology.

When it came to co- or self-regulation where online advertising platforms were more active partners, a different logistical challenge was identified that related to the difficulty of securing platform buy-in. As one interviewee reflected, on a practical level there was often a difficulty of 'persuading US tech companies that they ought to invest and partner, and play a huge part in self-regulation. Because the UK executives at these platforms get it, but they find it difficult selling the idea to their American bosses'. The structure of major online political advertisers—who are often headquartered in the United States—was therefore seen to create difficulties in terms of gaining approval for national-level regulatory interventions. Logistical difficulties reflecting the governance and autonomy of advertising companies were therefore also seen to raise barriers.

In addition to these technological challenges, we also identified some logistical difficulties that related to more political questions. A number of our interviewees noted that efforts to regulate online political advertising were frustrated by the difficulty of identifying this phenomenon. As one interviewee suggested, 'If they're going to regulate political advertising, they need to define it' (interviewee 19), but there was little agreement about what comprised this

activity—and the definitional task was seen to be inherently political. This was because in determining what did or did not 'count' as online political advertising, different boundaries for regulatory oversight were established that had different political implications. Within our interviews, the question of what identified political advertising was openly debated. Some interviewees focused on electoral advertising, making comments such as:

> […] I think where there is electoral advertising, most people would pretty clearly see that as political advertising. And when you see an advert from a consumer brand asking you to buy a certain brand of detergent or chocolate or something, that's pretty clearly non-political advertising. I think things have perhaps grown muddier in increasing use of companies' sustainability campaigns or companies taking more of a stand on social issues. There is an open question about when that starts to become 'political'. (interviewee 7)

Others, however, offered broader definitions, noting that political advertising included any content:

> trying to influence people's political views, whether that's who they vote for in a polling booth, or whether that's more broadly support this party, don't support that party, even if there's no election going on. Or support this policy issue or this bit of legislation or whatever it is. I think to my mind, if that's the purpose of the content, then it's online political. (interviewee 13)

These examples demonstrate considerable ambiguity as to what constitutes online political advertising, and what should accordingly be regulated. This suggests the presence not only of technological challenge associated with identifying and scrutinising relevant types of content, but also political challenges that relate to the question of what should be subject to oversight.

Conflicting policy proposals

Finally, in addition to the political and technological barriers identified above in relation to political reticence and logistical challenges, our analysis also revealed an additional explanation for the lack of progress, namely a lack of consensus about what, and how exactly, regulation needed to change.

Amongst our interviewees we found varying degrees of agreement about what exact form of regulation was required. Whilst our interviewees were united around the need to increase transparency—arguing that 'we need much more open transparent and clear information about who spent what' (interviewee 19) and that 'there is a need for greater transparency in relation to targeted advertising online in the political context' (interviewee 7)—a significant subset also favoured content moderation. Interviewee 11, for instance, reflected 'there is a very reasonable question about content standards themselves', whilst interviewee 22 claimed that '[a] fundamental problem with online advertising is…an absence of regulation of the message'. Similarly, interviewee 10 noted 'you can campaign on untruths and emotional untruths that exploit national frames and narratives or dig into people's fears…there are no consequences so there's nothing to stop people from having this race to the bottom'. This proposal was not, however, uniformly favoured, and indeed one civil society representative dismissed the idea, asserting:

> […] people who think that content of political advertising can be regulated have totally lost their minds, really. Because it's so easy to imagine jamming up that

> system. If I wanted to jam that system up entirely and I was 10 points ahead in the polls, I would just submit a million ads for fact checking. And I could destroy even the biggest platform's ability to approve ads or any truth regulator's ability to do stuff. Let alone the challenges around who would be on that committee, what is truth, who can verify any of these things in political advertising anyway. (interviewee 8)

Such differences suggest that those advocating for increased regulation are not in agreement about what exactly should be done to regulate online political advertising. These tensions were also evident in the specific proposals advanced. Despite an apparent consensus around the need for transparency, widespread support for mandatory advertising archives and extensive critiques of existing resources (interviewee 1, 7, 16, 19, 20, 21), we discerned very different proposals (Dommett, 2020). Interviewees outlined alternative requirements for the type of transparency, calling variously for targeting information, details of spend, audience, source, data collection and algorithmic transparency. They also differed in their views of who this information should be disclosed by, with some focusing on the need for social media platforms to be more transparent and others focusing on the need for parties or campaigners to be more transparent. We also found different perceptions of the audience for transparency, with some focusing on individual users (interviewee 13, 18), others focusing on electoral regulators, and others again focusing on academic researchers or civil society groups. Another argued that there was a need for social media advertising archives so that 'media journalists, researchers can, at least, do the work for the public and start to investigate what kind of advertising has been deployed on different digital platforms' (interviewee 7, 21). Proposals for regulation were therefore not consistent, varying not only in content but also in terms of whether state, co- or self-regulation was the best avenue for reform.

The lack of consensus around what needed to happen was seen by some of our interviewees to intersect with the challenge of political reticence. Interviewee 11, for example, noted that to overcome political reticence it was necessary to have:

> some concrete proposals out there that have wide external buy-in, that are sort of obviously viable and obviously a sort of broad consensus on what a sensible next step might be would at least put the ball in the court of political parties more firmly. And then it would be good to see them rise to respond to that. But at the moment, I don't think they have really been given anything very concrete to respond to.

The lack of a clear and widely accepted account of the action that needed to be taken was therefore seen to create debate about what needed to happen, and in turn to weaken the political pressure on parties and politicians to take action.

DISCUSSION

Within this study we set out to consider why, despite vocal interest in the regulation of online political advertising, many countries have not been able to bring about regulatory change. Utilising a case study of the United Kingdom, we drew on both media and politics-centric approaches to consider the technological and political influences on debates around the regulation of online political advertising. Presenting a unique data set composed of in-depth interviews with a range of actors involved in debates around online political advertising, we accordingly set out to identify the barriers frustrating regulatory progress.

Offering our analysis, we have shown the resonance of technological and political barriers. Focusing first on the challenges associated with digital technology, our interviewees noted particular barriers for state, co- or self-regulation posed by the pace of online advertising, and the particular need to conduct regulation within short election time periods. When seeking to promote state regulation in particular, interviewees highlighted the difficulties of working with often opaque and diverse online advertising platforms, with informational asymmetries posing particular challenges for the design and enforcement of any regulation. They also highlighted the challenge of creating national regulations for trans-national companies. Meanwhile for co- or self-regulatory avenues, where such difficulties could be more easily overcome (due to the buy-in of such companies), other difficulties emerged around securing buy-in to participate in self-regulatory efforts. On this evidence, it appears that the challenge of regulating online political advertising is at least in part a product of the characteristics of digital technology.

And yet, in reaching this conclusion, our analysis also showed that many of these 'digital' challenges were entwined with political challenges. We found political reticence to be a widely perceived barrier to change via state, co- or self-regulation. In terms of state regulation, our interviewees routinely argued that political actors were not committed to promoting change— with policy makers and parties seen to be unwilling to invest political capital in driving forward this agenda. Whilst it is important to note that none of our interviewees were politicians (creating a need for some caution borne of interviewees attempts to 'blame' other actors), the uniformity of this perception and the lack of concrete proposals from any party to advance online political advertising regulation supports this claim. Interestingly, our study also showed an awareness of political reticence amongst regulators that acted as a barrier to co- or self-regulation. Indeed, we saw that such actors were extremely wary of taking responsibility for the regulation of online political advertising because of the reputational risks this could pose. Our data therefore suggests that political influences can play a key role alongside technological factors in inhibiting change.

In addition, our analysis also extended our expectations by showing the apparent relevance of competing policy proposals for change. Rather than finding evidence of a clear and consistent agenda, we found that our stakeholders had different visions for regulation, and different precise proposals that cumulatively created uncertainty about precisely what needed to change. As outlined by Interviewee 21, there is presently a lack of 'a shared understanding of the problem we're trying to solve… so that we can come up with the right policy measures to tackle that', creating a barrier to regulation. Such ideas mirror insights from public administration scholarship which suggest the importance of consensus in securing policy change (Cullerton et al., 2016). Whilst further study is necessary to test the resilience of this finding, we suggest that consensus may offer an important explanation for current regulatory progress.

Taken together, our findings suggest that digital technologies create particular challenges for regulation, but progress is also affected by political factors. Whilst our analysis did not seek to establish the connections between or relative importance of these explanations in accounting for trends, our interviews suggested that many of these factors interrelate, with questions of definition, for example, dovetailing with a lack of consensus, and political reticence interacting with the difficulty of creating national legislation to counter inter-national digital phenomena. Rather than pointing to a single explanatory factor, therefore, we argue that it is important to consider the range of influences that are affecting current policy debate. This approach has implications both for how we understand and conceptualise the 'problem' of digital regulation, but also for attempts to promote regulatory change in this area.

First, in showing the presence of technological and political barriers to regulation, this analysis suggests a need to avoid taking a media-centric *or* politics-centric approach to debates around the regulation of digital phenomena. Our study has revealed that the

influences upon regulation are not confined to one tradition of explanation, but rather reflect both approaches. There is accordingly a need to recognise not only the attributes of online political advertising and how to regulate these, but also the context in which this digital phenomena is situated, noting that the affordances and capabilities of online political advertising are not divorced from wider political structures and sensibilities. For those interested in promoting regulation this suggests, as one of our interviewees cautioned, a danger of pursuing ineffective responses when focusing only on technological affordances and ignoring 'offline solutions and offline changes' that tackle human behaviour (interviewee 20). What appears to be needed, therefore, are not only technical regulatory strategies, but policy solutions that recognise and seek to overcome the particular challenges posed by digital technology *and* politics.

Second, thinking about the specific implications of our findings for those advocating for regulation, we argue that there are a number of actions they may wish to take. In identifying these, however, we argue that it is first necessary to clarify the type of regulation that is sought. As indicated above, many of our interviewees did not specify whether it was state, co- or self-regulation (by politicians or online advertising companies) that they sought to promote. Determining which avenue is most appropriate is important because the precise barriers encountered do differ (e.g., logistical challenges around understanding online advertising are less pronounced when pursuing a co- or self-regulatory approach where online advertisers themselves are directly involved). Thinking about options for state regulation as the route most interviewees implicitly appeared to favour, our study suggests that there is a need to build new infrastructure or extend existing procedures to enable oversight of digital technology. In the field of advertising, this involves campaigning not only for regulation of online political advertising, but for stronger oversight of, and powers over technological companies. In terms of political factors, our analysis suggests the importance of striving to create policy consensus to build greater consistency around the precise form of regulation that is favoured. Political reticence and logistical challenges around the electoral timeframe are, however, not as easy to tackle. Given the importance of politicians and parties in particular to political agenda setting for state regulation, there is a need to promote greater political support for regulation. It may, for example, be fruitful for those campaigning for regulation to draft a code of conduct and to try and get parties to sign up. Alternatively, an evidence base could be produced to show the positive political returns that could be yielded by taking action in this space. On more logistical challenges, advocates may want to look for international examples of real-time electoral regulation, looking for example to New Zealand where fact checking of advertising occurs in elections (Parsons, 2016).

In offering our in-depth qualitative analysis, within this article we have sought to provide a different perspective on debates around online political advertising that provides new insight into the barriers to regulation. Our study does, however, have a number of limitations. In offering a single case study we are unable to engage in comparative analysis and hence to compare the degree to which the presence or absence of the variables we identify are replicated in other contexts that have been more successful, or similarly unable to progress regulation. Future analysis will therefore be needed to determine whether contexts such as Canada, France, Singapore, a number of US states, and the European Commission exhibit an absence of these constraining factors, and whether similar cases to the United Kingdom display the same traits. Similarly, as mentioned above, it would be fruitful to examine the relative importance of these factors to determine which attributes are most significant in frustrating progress. Future study could also longitudinally trace developments in debates around online political advertising regulation to determine when and under what conditions barriers were overcome. Whilst unable to answer these questions, within this article we have sought to offer the first detailed exploration of stakeholders' perceptions of online political advertising regulation, providing a foundation on which future analysis can build.

CONCLUSION

In this article we have examined the case of online political advertising, asking whether limited progress on the regulation of online political advertising reflects the particular challenge of regulating digital technology, or is a product of longstanding political barriers. Our analysis has shown that rather than being frustrated solely by the affordances of new technologies, in the United Kingdom the regulation of online political advertising is perceived by stakeholders to have been waylaid by a range of technological and political factors. These insights suggest the value of adopting a media and politics-centric lens when seeking to identify barriers to regulation. Adopting this approach it becomes possible to recognise the technological *and* political barriers that exist, characterised here as political reticence, logistical challenges or policy dissensus. Drawing this conclusion, we argue that those advocating for regulation need to develop strategies to address the range of technological and political challenges confronted when attempting to regulate phenomena such as online political advertising.

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ENDNOTES

[1] The definition provided in Section 321 of the Communications Act 2003 specifies that a political advert exhibits one or more of the following aims: (a) influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere; (b) bringing about changes of the law in the whole or a part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory; (c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere; (d) Influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom; (e) Influencing the policies or decisions of persons on whom functions are conferred by or under international agreements; (f) Influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy; (g) Promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends.

[2] For more details on the remit of the ASA in regard to political advertising, see: https://www.asa.org.uk/advice-online/political-advertising.html.

[3] See ASA Rules: https://www.asa.org.uk/static/uploaded/e6097bcd-9678-47d7-ada0c2f6dfc2cf75.pdf.

REFERENCES

Abbot, C. (2012). Bridging the gap–non-state actors and the challenges of regulating new technology. *Journal of Law and Society*, *39*(3), 329–358.

All Party Parliamentary Group on Electoral Campaigning Transparency. (2020, January 20). *Defending our democracy in the digital age*. Fair Vote. https://fairvote.uk/defending-our-democracy-in-the-digital-age-new-report-launched/

ASA and CAP News. (2019, August 15). Why we don't cover political ads. *ASA*. https://www.asa.org.uk/news/why-we-don-t-cover-political-ads.html

ASA News. (2021, April 15). Why we don't regulate political ads. *ASA*. https://www.asa.org.uk/news/why-we-don-t-regulate-political-ads.html

Barrett, B., Dommett, K., & Kreiss, D. (2021). The capricious relationship between technology and democracy: Analyzing public policy discussions in the UK and US. *Policy & Internet*, *13*, 522–543.

Bennett, C., & Gordon, J. (2020). *Understanding the 'micro' in micro-targeting: An analysis of Facebook digital advertising in the 2019 Federal Canadian Election*. SSRN Working Paper, University of Victoria. https://doi.org/10.2139/ssrn.3589687

Bennett, C. J., & Lyon, D. (2019). Data-driven elections: Implications and challenges for democratic societies. *Internet Policy Review*, *8*(4), 1-16. https://doi.org/10.14763/2019.4.1433

Bucy, E. P., & Evans, H. K. (2021). Media-centric and politics-centric views of media and democracy: A longitudinal analysis of *Political Communication* and the *International Journal of Press/Politics*. *Political Communication*, 1–12.

Conway, L. (2019, November 4). *Who regulates political advertising?*. House of Commons Library. https://commonslibrary.parliament.uk/who-regulates-political-advertising/

Cullerton, K., Donnet, T., Lee, A., & Gallegos, D. (2016). Playing the policy game: a review of the barriers to and enablers of nutrition policy change. *Public Health Nutrition*, *19*(14), 2643–2653.

DCMS. (2022, March 9). *Digital regulation: Driving growth and unlocking innovation*. https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation/digital-regulation-driving-growth-and-unlocking-innovation

Dommett, K. (2020). Regulating digital campaigning: The need for precision in calls for transparency. *Policy & Internet*, *12*(4), 432–449.

Dommett, K., & Bakir, M. E. (2020). A transparent digital election campaign? The insights and significance of political advertising archives for debates on electoral regulation. *Parliamentary Affairs*, *73*(Suppl. 1), 208–224.

Dommett, K., & Power, S. (2019). The political economy of Facebook advertising: Election spending, regulation and targeting online. *The Political Quarterly*, *90*(2), 257–65.

Edelson, L., Sakhuja, S., Dey, R., & McCoy, D. (2019). *An analysis of united states online political advertising transparency*. Working paper, Cornell University.

Electoral Commission. (2004). *Political advertising—Report and recommendations*. https://www.electoralcommission.org.uk/media/2043

Electoral Commission. (2021, August 13). *Claims made in online political ads*. https://www.electoralcommission.org.uk/i-am-a/voter/online-campaigning/claims-made-online-political-ads

Electoral Commission. (2021, July 5). *Introducing digital imprints*. https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/elections-bill/introducing-digital-imprints

European Commission. (2021, November 25). *Proposal for a regulation of the European Parliament and of the Council on the transparency and targeting of political advertising*. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0731

Flew, T. (2021). *Regulating platforms.* John Wiley & Sons.

Fowler, E. F., Franz, M. M., Martin, G. J., Peskowitz, Z., & Ridout, T. N. (2021). Political advertising online and offline. *American Political Science Review*, *115*(1), 130–149.

Fowler, E. F., Franz, M. M., & Ridout, T. N. (2020). Online political advertising in the United States. In N. Persily, & J. Tucker (Eds.), *Social Media and Democracy: The State of the Field, Prospects for Reform* (pp. 111–138. Cambridge University Press.

Harker, D. (2008). Regulating online advertising: the benefit of qualitative insights. *Qualitative Market Research: An International Journal*, *11*(3), 295–315.

Harker, M. (2020). Political advertising revisited: Digital campaigning and protecting democratic discourse. *Legal Studies*, *40*(1), 151–171.

Helberger, N., Pierson, J., & Poell, T. (2018). Governing online platforms: From contested to cooperative responsibility. *The Information Society*, *34*(1), 1–14.

Homonoff, H. (2020, December 8). Political Ad spending exploded: Did it work? *Forbes*. https://www.forbes.com/sites/howardhomonoff/2020/12/08/2020-political-ad-spending-exploded-did-it-work/?sh=7433f0283ce0

Howard, P. N. (2006). *New media campaigns and the managed citizen*. Cambridge University Press.

Jamieson, K. H. (2013). Messages, micro-targeting, and new media technologies. *The Forum*, *11*(3), 429–435.

Kirk, N., & Teeling, L. (2021). A review of political advertising online during the 2019 European Elections and establishing future regulatory requirements in Ireland. *Irish Political Studies*, *37*(1), 85-102.

Krajina, Z., Moores, S., & Morley, D. (2014). Non-media-centric media studies: A cross-generational conversation. *European Journal of Cultural Studies*, *17*(6), 682–700.

Kreiss, D., & Howard, P. N. (2010). New challenges to political privacy: Lessons from the first US Presidential race in the Web 2.0 era. *International Journal of Communication*, *4*, 1032–1050.

Leerssen, P., Ausloos, J., Zarouali, B., Helberger, N., & de Vreese, C. (2018). Platform ad archives: Promises and pitfalls. *Internet Policy Review*, *8*(4), 1–21.

Medina Serrano, J. C., Papakyriakopoulos, O., & Hegelich, S. (2020). Exploring political ad libraries for online advertising transparency: Lessons from Germany and the 2019 European elections. In A. Gruzd, P. Mai, R. Recuero, Á. Hernández-García, C. S. Lee, J. Cook, J. Hodson, B. McEwan, & J. Hopke (Eds.), *SMSociety'20: on Social Media and Society* (pp. 111–121). ACM. https://doi.org/10.1145/3400806.3400820

Menezes-Cwajg, C. (2020). *Transparency rules in online political advertising: Mapping global law and policy*. University of Amsterdam. https://www.ivir.nl/publicaties/download/TransparencyRulesOnlinePoliticalAds2020.pdf

Morley, D. (2009). For a materialist, non-media-centric media studies. *Television & New Media*, *10*(1), 114–116.

Nadler, A., Crain, M., & Donovan, J. (2018). *Weaponizing the digital influence machine: The political perils of online ad tech*. Data & Society Research Institute. https://apo.org.au/sites/default/files/resource-files/2018-10/apo-nid197676.pdf

Neill Committee. (1998). *Standards in public life*. The National Archives. https://webarchive.nationalarchives.gov.uk/ukgwa/20131205122143/ http://www.archive.official-documents.co.uk/document/cm44/4413/4413-09.htm

OECD. (2019). *Regulatory effectiveness in the era of digitalisation*. https://www.oecd.org/gov/regulatory-policy/Regulatory-effectiveness-in-the-era-of-digitalisation.pdf

Parsons, A. (2016, September 22). *Don't let them lie: how we can start holding political advertising to account*. Democratic Audit. https://www.democraticaudit.com/2016/09/22/dont-let-them-lie-how-we-can-start-holding-political-advertising-to-account/.

Rochefort, A. (2020). Regulating social media platforms: A comparative policy analysis. *Communication Law and Policy*, *25*(2), 225–260.

Rubin, H. J., & Rubin, I. S. (2011). *Qualitative interviewing: The art of hearing data*. Sage Publications, Inc.

Samuelson, P. (2000). Five challenges for regulating the global information society. In C. T. Marsden (Ed.), *Regulating the global information society* (pp. 317–331). Routledge.

Stake, R. E. (2008). Qualitative case studies. In N. K. Denzin, & Y. S. Lincoln (Eds.), *Strategies of qualitative inquiry* (pp. 119–151). Sage Publications.

Strömbäck, J. (2021). Media-centric or politics-centric political communication research? Some reflections. *Political Communication*, 1–6.

Stromer-Galley, J. (2014). *Presidential campaigning in the Internet age*. Oxford University Press.

Susser, D., Roessler, B., & Nissenbaum, H. (2019, January 8). *Online manipulation: Hidden influences in a digital world*. SSRN. https://ssrn.com/abstract=3306006

Vaccari, C. (2013). *Digital politics in Western Democracies; a comparative study*. Oxford University Press.

Vaccari, C. (2021). The international and post-disciplinary journey of political communication: Reflections on "media-centric and politics-centric views of media and Democracy: A longitudinal analysis of *Political Communication* and the *International Journal of Press/Politics*". *Political Communication*, 1–5.

von der Leyen, U. (2019). *A Union that strives for more: My agenda for Europe*. European Commission. https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf

Wood, A. K. (2020). Facilitating accountability for online political advertisements. *The Ohio State Technology Law Journal*, *16*, 520–557.

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