

Illegal, Indecent, Dishonest & Untruthful

How Political Advertising in the 2019 General Election let us down

December 2019

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Note

This document is without prejudice. It represents the personal views of the authors, all of whom have had extensive experience within different aspects of the advertising industry. We are not lawyers, nor regulators, however. Where we make judgments about political advertising content, we do so on the basis of experience of the application of rules that are in the public domain and in doing so we do not intend to undermine the ASA's authority in this regard. Our premise is simply that electoral political advertising should be required to observe the same standards as all other advertising, and we have considerable experience of working to those standards.

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1. Summary and overview

- 1.1. At the time of writing, the 2019 General Election is one week away. It seems reasonable to suggest that this election has already been, in what is anyway not exactly a glorious history, particularly aggressive, feverish and discordant.
- 1.2. In case that impression is the result of being too close to the fire, The Coalition fielded in the week of 2nd December research via YouGov which revealed that *more than a third* of voters felt that 'politicians and political parties have been less honest than at previous elections'.
- 1.3. In the same research, we found that 87% of voters thought that 'it should be a legal requirement that factual claims in political adverts must be accurate.' This is a remarkable figure. The current absence of independent and formal regulation of electoral political advertising, such as that which must be observed by all other advertisers, is at odds with the overwhelming majority of voters' views.
- 1.4. The distrust of politicians and politics is well documented. Advertising's reputation is also in decline. Political advertising, therefore, does not exactly make a head start, yet it is apparently permitted to break rules that are mandatory for others. The consequences if this situation is allowed to continue are clear: the reputation of both politics and advertising will continue to decline, and trust and confidence in our democracy will continue to be eroded.
- 1.5. 'Live' political debate will always be aggressive to some greater or lesser extent and we do not wish or expect to have any impact on that process, as its pressures often reveal important aspects of policies or leaders or both, and we are particularly nervous of any form of intrusion into freedom of political speech.
- 1.6. Such political debate is anyway frequently 'moderated' in the sense that the presence of interviewers and commentators can curb some of the more extreme behaviour and claims, which are also subject to ongoing correction and intervention; no such balance for the advertising channel as political advertising, later defined, remains unregulated to a very large degree. The dangers of this situation are clear: where misleading claims meet barriers in some channels, they will be, and often are, expressed in channels where there are apparently none.
- 1.7. There is some irony in this situation in as much as all other advertisers are required to be 'Legal, Decent, Honest and Truthful' in paid and unpaid advertising, but the Regulator, the ASA, is careful to avoid any intrusion into what might loosely be described as 'editorial.' Press releases for example, scrutinised in their political versions by journalists and others, are outside the Regulator's remit.
- 1.8. We show in the following pages a little of the history behind this regulatory gap, a review of some of the sadly plentiful examples of paid and unpaid advertising that transgresses, and we propose how a solution might be developed.
- 1.9. In short, first and foremost, the political will to address this issue must be found and managed in the right direction. We propose a means to do that, though we suggest that the views of 87% of voters, expressed above, should really provide sufficient persuasion.

- 1.10. The second ‘critical success factor’, in our opinion, is the involvement of the Advertising Standards Authority. It may be that the ASA, together with other parties, establishes a ‘specialist extension’ for this purpose, but the Codes and mechanisms, and above all the consumer recognition and confidence, are already in place. It is the sine qua non principle that voters have confidence in the regulatory body charged with righting what has been, for a long time, a considerable wrong.
- 1.11. The U.K.’s Advertising Standards Authority is probably the most respected advertising self-regulatory organisation in the world, and for good reason. It is a highly competent and effective regulator in a rapidly evolving and challenging digital environment. While we have not engaged with the ASA in this exercise in any way, it would probably not be presumptuous to suggest that they do not relish the idea of regulating political advertising, as [their evidence](#) to the House of Lords Select Committee on Democracy and Digital Technologies implies. We can be certain, from their consistent position on this issue over the years, that if there is no forthcoming political will and undertaking, there will be no ASA regulation, who regulate only those who agree to be regulated.
- 1.12. Funding: we propose the same levy-on-spend *principle* as that undertaken by other advertisers, but supplemented by sums that reflect the particular requirements of the exercise. There can be no circumstances under which the ASA and any required partners in this context are not fairly compensated for the demands of this work.
- 1.13. No doubt there will be adverse reactions from many quarters to these comments and proposals, as that seems to be standard form these days. We don’t anyway expect proposals to be followed to any real degree of accuracy, as it should be the role of those responsible for delivering it to design the plan and its execution. We are simply trying to *do something* about this entirely unsatisfactory situation, and to suggest that those in positions that can affect its change might at least share that attitude.
- 1.14. Finally, we offer the point made by a voter who got in touch with The Coalition about a seriously misleading election campaign leaflet. She simply said:

“I don’t know who to complain to, or how to complain.”

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2. Introduction and Context

- 2.1. This document reviews some of the advertising of the main political parties in the context of the U.K.’s 2019 General Election, due to take place on December 12th 2019. Its purpose is to draw attention to the significant proportion of election advertising that is found (in the terms later defined) to be misleading and to propose a means by which such advertising is regulated in future.

- 2.2. The authors are from the Coalition for Reform in Political Advertising (The Coalition); background is at <https://reformpoliticaladvertising.org/>. This is a politically neutral, non-profit organisation whose founders are from the advertising industry and experienced in the operations of that industry, including its regulatory mechanisms.
- 2.3. The Green Party, the Independent group for Change, the Yorkshire Party and the Women's Equality Party are among the Coalition's supporters. While the Coalition seeks to extend its role so that its principles and pledges are supported by all parties, their position with regard to the assessment of advertising remains as objective as any organisation of this kind can be. The organisation is self-funding and driven only by principle; political party supporters do not pay any form of subscription and costs are negligible anyway.
- 2.4. Most readers of this document will probably be aware that political advertising in this election context remains unregulated by any official independent (or dependent) body. This situation is certainly unsatisfactory to voters: according to a YouGov poll commissioned by The Coalition 87% of voters believe 'there should be a legal requirement for factual claims in political advertisements to be accurate'.
- 2.5. It is also unsatisfactory, we believe we can state, to the advertising industry, which funds and very largely abides by a highly-regarded and effective self-regulatory organisation the Advertising Standards Authority (ASA), by which all (or the vast majority of) other advertising is required to be 'Legal, Decent, Honest and Truthful.' However, '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.' ([CAP Code, Section 7](#))
- 2.6. This 'lacuna' state of affairs has been developing over a period of some years: until 1999, non-broadcast political advertising was subject to some rules in the Advertising Code - for example, the rules relating to denigration and offence. Following the 1997 General Election, CAP (the Committee of Advertising Practice, administered by the ASA) made a decision to exclude political advertising from the ASA's remit 'because of several factors that risked bringing advertising regulation in general into disrepute'. The ASA position is set out in full [here](#).
- 2.7. In the statement linked above, the ASA reference a relatively recent (October 2013) [Report of the All-Party Parliamentary Inquiry Into electoral conduct](#), which covers the issue of political advertising regulation under Section 4, points 78-83. The Report references the work in this context of The Committee for Standards in Public Life (The Neill Committee) which recommended that *'the political parties seek to agree a code of best practice in partnership with the advertising industry to apply to the non-broadcast media. The enforceability of such a Code by, for example, the Electoral Commission was questioned by the Government in their response to the Committee but it stated its intention to explore whether existing or adhoc bodies could oversee it and offered to broker cross-party agreement. There appears to have been no action taken.'*
- 2.8. A very recent exploration of the issue of regulation in political advertising is that from the House of Lords Democracy and Digital Technologies Committee in November 2019, which took [evidence](#) from Lord Currie of Marylebone, Chair of the Advertising Standards Authority and Guy Parker, CEO. Lord Currie is recorded as follows: *"We rely on the buy-in of the people we regulate to comply with the system. I do not see signs yet that the political parties and the players in the political sphere have that willingness to buy into a system for regulating political advertising. The self-regulatory aspect of what we do would be questioned."*

- 2.9. The above has been the consistent position of the ASA over the years: they do not believe that a self-regulatory system can work unless those that it regulates choose to participate.
- 2.10. As political parties are not exactly forming a queue for that participation, either because it suits them not to do so, or because their priorities are not aligned with voters' on this issue, 'official' regulation of political advertising in the Autumn of 2019 did not look like happening anytime soon. The Coalition therefore took it upon itself, after discussions with advertising industry bodies, to do what it was able, such that at least there was some 'public' and collective scrutiny of claims in advertising related to the 2019 General Election that could then be placed on the record.

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3. How we defined and identified 'political advertising'

- 3.1. This section covers some of the more 'technical' regulatory ground. We have borrowed extensively from the ASA/ CAP Code for these purposes, as it's the obvious quality reference point and its codes are in the public domain and a reasonable measure by which to judge political advertising, as they are the basis for regulation of all other advertising. We did not seek the ASA's permission or indeed their guidance; they have not been involved in this exercise in any way, apart from 'lending' their codes in the manner described.
- 3.2. We earlier referenced Section 7.1 of the CAP Code, which exempts '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.' This seemed a perfectly good definition for the purposes of informing our searches in political advertising.
- 3.3. It will be well understood that political advertising is not short of claims of various types. We felt it was inappropriate and pretty much an impossible task for the Coalition to assess and pursue claims of philosophy or general policy, or claims that related to the opposition's philosophy, policy or personality. To illustrate the point by way of advertising from previous elections:

A



B



C



3.4. Advertisements A and B may or may not be accurate or offensive or misleading. A key difference between political advertising and that for, say, consumer goods, is that assessments of that form of political advertising are more likely to be perceived by third parties as a matter of opinion influenced by the assessor's political persuasion, just as voters according to their own preference will perceive them differently. Either way, these appeared to be muddy waters that The Coalition preferred to avoid.

3.5. Advertisement C, on the other hand, makes a material and measurable assertion. The claim is arguable, but arguments are on the more secure ground of data and its interpretation. The key [CAP Code clauses](#) in this context are:

3.1. Marketing communications must not materially mislead or be likely to do so.

3.2. Obvious exaggerations ("puffery") and claims that the average consumer who sees the marketing communication is unlikely to take literally are allowed provided they do not materially mislead.

3.3. Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner. Material information is information that the consumer needs to make informed decisions in relation to a product. Whether the omission or presentation of material information is likely to mislead the consumer depends on the context, the medium and, if the medium of the marketing communication is constrained by time or space, the measures that the marketer takes to make that information available to the consumer by other means.

3.5. Marketing communications must not materially mislead by omitting the identity of the marketer. Some marketing communications must include the marketer's identity and contact details. Marketing communications that fall under the Database Practice or Employment sections of the Code must comply with the more detailed rules in those sections. Marketers

should note the law requires marketers to identify themselves in some marketing communications. Marketers should take legal advice.

3.7. Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.

3.6. The simple remit of The Coalition, and the brief to its researchers taking all of the above into account, became that they should seek political advertising that included 'A material claim that can be substantiated.'

3.7. It was also important to define the channel remit, i.e. not only what is communicated but where it is communicated. A particular and controversial feature of recent elections, both in the U.K. and overseas, is the use of social media as a communication channel; the ASA extended its remit into social network spaces under the advertiser's control in 2011. They state on their website: *'The ASA applies the rules to all marketing within the remit of the Code. Since 2011, this has included ads directly connected with the supply of goods or services appearing on marketers' own websites or in space, such as social media, that they control. Tweets that feature even indirect links to products and services are in remit and must comply with the CAP Code.'*

3.8. A Tweet, therefore, would be regarded as in remit if its 'principal function is to influence voters in a local, regional, national or international election or referendum.' (From the CAP Code, clause 7). This is important, as we suspect that Twitter is seen as a form of 'news channel' in this context, where 'editorial' can surely feature untroubled by regulators. All political advertising is of course to a large extent untroubled by regulators, but if it were to be regulated in the same way as other advertisers, its Tweets, provided that they met the defining terms, would be within the ASA's scope.

3.9. It should go without saying that The Coalition does not review claims made 'live' by politicians. We confine ourselves to online and offline advertising, as defined, paid and unpaid.

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4. How we collected and assessed the advertising

4.1. The methodology for the capturing of the advertising included:

- A team of Coalition volunteer researchers, ten in total, conducted a daily search of the ad libraries of the main digital platforms and 'offline' searches of leaflets and outdoor advertising;
- The mainstream national print media were also reviewed, both for political advertising and for reports of political advertising;
- The websites of the main parties were visited (claims on websites can constitute advertising; see reference to scope above and in the [CAP remit](#));
- Other supporters and observers provided examples to the Coalition central team for their review.

- 4.2. Advertising was provided on a daily basis to a small central Coalition team. Individual advertisements were assessed for misleadingness according to guidance provided by the CAP Code, if the advertising included a material claim that could be substantiated.
- 4.3. We do not pretend that all election advertising has been captured and assessed, but we are confident that the most significant material was reviewed. Certainly, enough advertising has been obtained to draw some conclusions based on a reasonable body of evidence. Where The Coalition had cause to believe advertising was in breach, we wrote to the advertiser pointing out any transgression and asked for material to be amended or withdrawn.
- 4.4. Statements of ‘fact’ and other background matters were checked using [Full Fact](#) and the [BBC Reality Check](#) service, together with sources such as the [Electoral Commission](#) and the [Office for National Statistics](#), the [ICO](#) and the political parties’ own websites.

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5. The advertising that appeared to transgress (so far)

5.1. The Conservative Party



This is the Keir Starmer edited video, placed on Twitter, in which Starmer’s replies to questions on Brexit were edited out. This was justified as ‘light-hearted.’ That may be the case, but it is also misleading.



A video placed on Facebook by Hastings and Rye Conservatives that includes the claim ‘We are building 40 new hospitals’. The claim has been made elsewhere, both in advertising and in ‘live’ claims. It is challenged and found to be misleading by the BBC’s Reality Check [here](#) and Full Fact [here](#)

A video posted on Twitter to coincide with the launch of the Labour Party manifesto features



a Labour MP Jess Phillips discussing in an Oct. 2019 interview how manifestos can be subject to change. The Tweet reads ‘Labour’s Jess Phillips undermines Corbyn’s manifesto by admitting they can’t or won’t deliver on their promises.’ The video itself is momentarily titled with the date of the original.



This advertising from the Tiverton and Honiton Conservatives is not GDPR compliant, as completion of the survey it makes available will require the processing of personal data. In that event, the advertising must explicitly state the lawful basis of the processing.



The advertising states ‘Labour’s reckless spending could hand a £2,400 tax bill to every taxpayer every year.’ Full Fact describes the figure as “largely meaningless”, and “it’s not possible to convert the supposed £374 billion funding ‘black hole’ into a uniform cost of £2,400.”



This ‘Cost of Corbyn’ advertising includes the statement: ‘Corbyn has committed to over £1.2 trillion of extra spending over the next 5 years.’ The advertising is misleading because it preceded the publication of the Labour manifesto. Full Fact review [here](#).



Ellesmere Port and Neston Conservatives posted a video in Facebook advertising that included the Conservative claim (later described as a ‘guarantee’ in their manifesto), of ‘50,000 more nurses’. Full Fact: ‘According to [reports](#) since the manifesto launch, the 50,000 figure includes 18,500 existing nurses who will be encouraged to remain, or attracted to re-join after leaving.’



This Facebook advertising, utilising BBC News clips, was taken down by the platform, citing their Intellectual Property rules. It may have been the case that the advertising was also misleading in light of similar examples of edits referenced above. It is here for completeness, as it was a high-profile example.



The press office Twitter account for the Conservative party rebranded itself as factcheckUK for the duration of the leaders' debate, issuing a series of 'correcting' statements on the Labour leader's 'lies'. Relevant [CAP Code rules](#) might include Clause 3.50 and 3.42 (Denigration)



This leaflet sent to The Coalition by a High Peak constituent is executed in the style of a local publication, only revealed to be Conservative party material by very small type at the base of the publication. Misleading or inaccurate claims are too numerous to be listed here; the principal claim is that the 'Brexit deal is agreed and ready to go' and that it 'protects jobs and trade.'

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5.2. The Liberal Democratic Party



The leaflet referenced opposite shows a series of quotes purporting to be from Sky News/ The Guardian. The juxtaposition of the quotes and the titles intends to convey that the views expressed are those of the media concerned, when they are in reality quotes from Jo Swinson.

The advertising states: 'Only the Liberal Democrats can beat the Conservatives in the Tewkesbury constituency.' *Borough* election results are referenced, showing the



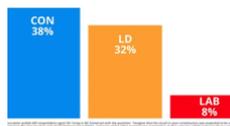
LDs in 2nd place to the Conservatives. The 2017 GE result had Labour in 2nd place with 21% and LDs 3rd with 13.5%, which does not substantiate the LD claim.



No data is provided that relates to the bar charts and their position. There is therefore no way of knowing whether these refer to opinion polls, for example, or earlier election results. Either would require clear communication of actual and relevant results in order to be meaningful or helpful to the reader.



The leaflet opposite from the LD candidate in Putney references YouGov polling. The commentary in the Tweet states there has been no YouGov polling in the constituency. YG confirmed 16/11 it didn't do constituency polls and while it produced projections it had 'not yet published any for the 2019 election campaign.' (Source: Guardian 16/11/19)



In NE Somerset, a poll suggests possible defeat of the Conservative candidate. The poll is based on: 'Imagine that the result in your constituency was expected to be very close between the Conservative and the Liberal Democrat candidate, and none of the other parties were competitive. In this scenario, which party would you vote for?' The last GE results in this constituency were Conservatives 53.6% Labour 34.7% LDs 8.3%. BBC commentary on this issue [here](#).



Plagiarising of various local media titles; the Wantage example describes a 'two-horse race' between the LD candidate and the Conservative party. The 2017 GE result was a Conservative win with 54.2%, Labour 2nd with 26.9% and LDs third with 14.5%, which evidence suggests a claim of 'a two-horse race' is misleading.

This letter, received in the Golders Green constituency, was posted on Twitter. Mike Smithson, a 'Polling and Elections Expert'



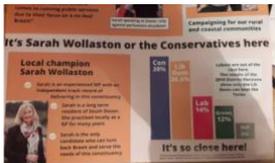
signs it. The letter sets out the potential impact of tactical voting, claiming that nearly 200 seats across the UK could be decided by Labour supporters voting tactically. The ‘imprint’ required by the Electoral Commission provides that the letter is from the LDs. Mike Smithson is a former LD politician.



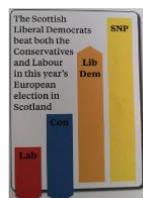
A Facebook ad for Nicola Horlick/ Chelsea and Fulham LDs: ‘Best For Britain & Hope not Hate have published important research showing only the Liberal Democrats can beat the Brexiteer Conservative MP in Chelsea & Fulham.’ The modelling concerned, and its accreditation, has been called into question by a number of sources, not least [Flavible](#)



Oxford East was a Labour stronghold in 2017 with 65% voter share. A Lib Dem bar chart shows Labour on 37%, the Lib Dems on 35%, the Conservatives on 10% and the Greens on 9%. Data is sourced as a “projection for Oxford East constituency, Flavible Politics, YouGov poll 20 Sept 2019”. The party has already [been criticised for using data from Flavible](#)



In Totnes, where the Lib Dem candidate is the former Conservative Sarah Wollaston, the party’s leaflets declare the election is “so close” that “only the Liberal Democrats can beat the Tories”. In 2017, the Conservatives were clear winners with 53.7% of the vote, and Labour, not the Liberal Democrats, came second.



Liberal Democrats Scotland. Bar chart shows LibDems (14% of the vote) coming a close second to the SNP (38% of the vote). It also omits the Brexit Party, which really did come second.

5.3. The Brexit Party



Facebook advertising that includes the claim ‘The only way to stop a second referendum is by voting for the Brexit party.’ The Conservative party is opposed to a second referendum.



Facebook advertising from the Brexit Party Bromley and Chislehurst: “Boris’ treaty means the UK receives no past or future profits from the European Investment Bank. We do get £500 billion of liabilities though!” provides no evidence or substantiation; “we do get £500 billion of liabilities” may be misleading as the scenario outlined is unlikely and the statement implies that it has happened.



Facebook ad claims under deal we will have to: Surrender our territorial fishing waters, stay in ‘regulatory alignment’ with bloc (Including employment and environment law).” There is no substantiation of what appear to be significant and relatively extreme claims.

The ad states Jeremy Corbyn ‘will scrap controls on immigration and hand foreign nationals the right to vote in future elections if Labour wins power. The Labour leader will



head into the next election promising to extend freedom of movement to migrants around the world, along with abolishing detention centres, under plans approved on Wednesday.’ Challenges [here](#) and [here](#).



Alyn and Deeside Brexit Party. ‘For the many, not the Jew’. The video ‘Vox-pops’ a number of members of the public, presumably Jewish, who explain their nervousness of a Corbyn govt. The advertising states that the Labour party is anti-Semitic, and shows extracts from the Andrew Neill interview. CAP Code 3.42 ‘Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.’ This is highly offensive advertising.



One of the claims in this Brexit Facebook ad is that ‘5 million Labour voters voted to leave the EU’. See BBC reality check [here](#). ‘Although precise figures do not exist, most estimates for this figure fall between three and four million.’

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5.4. The Labour Party





Facebook advertising featuring a photo-shopped bus and Conservative leaders carrying claims that the Tories have been in talks with the U.S. about ‘selling off’ the NHS; this and similar claims have been emphatically denied and we can find no evidence of support for such claims in fact-checking services. The bus is a figment of the advertiser’s imagination.



Bramley and Stanningley Labour Party advertising on Facebook that includes the claim ‘Boris Johnson is a Russian asset.’



Facebook ad which includes the claim ‘Only Labour can deliver ...£100 billion investment in Scotland’s people, communities and public services.’



Claim in this Facebook ad: ‘Boris Johnson wants to open the door to an attack on our rights and a sell-out deal with Donald Trump that could mean giving £500m a week to big drugs companies.’ [Full Fact](#): The £500 millionis a rough calculation based on the 'fairly extreme scenario' the average UK drug prices more than doubled.

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6. Conclusions from the advertising review

- 6.1. Our premise, stated earlier, is that electoral political advertising should be required to observe the same standards as all other advertising. We approach these conclusions from the same perspective. While the stakes may be higher, we see no reason why standards should be lower. The opposite should really be the case.
- 6.2. Many advertisers in the private sector are subject to criticism from commentators, for a variety of reasons, and sometimes with good cause. Advertising has been blamed for price

increases, unnecessary need generation, referendum results, addiction, obsession and obesity, and some of the more extreme arguments have advertising as the root of all of society's difficulties.

- 6.3. We don't regard advertising as having the seismic effects set out above; we do know, however, that when advertising is done well it can be highly effective. Good advertising can accelerate the fortunes of just about any type of brand or organisation; bad advertising can have the opposite effect and brings with it damage to the reputation of advertising itself.
- 6.4. There are two implications for this review: The first is that we need to take this issue seriously: advertising matters. The second is that we have tried to be balanced in our individual reviews above and in these conclusions.
- 6.5. The first conclusion we reach is that a very high proportion of the advertising that we have seen is simply bad advertising. That can be true of a number of sectors; it seems that in the case of the 2019 electoral advertising that we have seen so far there appears to be a remarkably high proportion that in our judgement neither engages nor stimulates. Political advertising seems to have become a race to the base.
- 6.6. More importantly in this context, the proportion of political advertising that is misleading also appears to be high. There has not been sufficient time to analyse 'misleadingness per pound spent' by sector, but we would be surprised if political advertising did not distinguish itself in that regard.
- 6.7. We venture to suggest that if advertisers in the private sector were to behave similarly, they would rightly be vilified. They don't, either because they can't because they are voluntarily regulated, or because they have a higher regard for, and sensitivity towards, their 'voters' and their brands.

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7. Proposal for a regulatory solution for electoral political advertising

- 7.1. As background, the Coalition has earlier (October 2019) submitted evidence to the House of Lords Select Committee on Democracy and Digital Technologies. The document can be found [here](#).
- 7.2. It is our view that there are two principles, and critical keys for success, in establishing a competent and effective regulatory body for the regulation of electoral political advertising:
 - The process of establishing such a body should be as straightforward as possible; in the first instance, we propose a relatively informal approach, outlined further under points 7.8 and 7.9, that does not require the passing of legislation. Parliament, not unreasonably, may have other priorities, especially in the shorter-term. In the event that an informal approach is unsuccessful, we will revert to trying for a legislative

route. First and foremost within this exercise, the political parties must be persuaded that it is in their and their voters' interests that electoral advertising is regulated.

- Connected to the above principle, the regulatory body should, in essence, be the Advertising Standards Authority. It may be that the ASA, together with other parties establishes a 'specialist extension' (see below) for this purpose, but the 'base' Codes and mechanisms, and above all the consumer recognition and confidence, are already in place. It is 'mission critical' that voters have confidence in this regulatory body.

7.3. The ASA already oversees many billions of pounds of advertising expenditure across hundreds of sectors and is probably the most respected advertising self-regulatory organisation in the world. The ASA does not lack expertise; it may lack desire, however.

7.4. This is an extremely challenging and difficult environment in which to regulate: practically without exception, political parties have shown themselves to be entirely capable of cynical, aggressive, distasteful, mendacious and vituperative behaviour. The ASA may well require specific political intervention to ensure that parties approach the kind of arrangement described with a constructive and positive attitude.

7.5. Funding: regulation of electoral political advertising should in principle be funded in the same way as regulation of all other advertisers: a levy of 0.1% (£1 in £1,000) on the cost of buying advertising space and 0.2% on some Direct Mail. In the event that costs will exceed the funding model after estimates have been made of the specific process and likely revenue, then a further levy will be applied that will ensure the meeting of the required sum. In the event that final estimates are exceeded, those costs, capped to an agreed sum, will be submitted to the Electoral Commission. There can be no circumstances under which the ASA is not properly funded to help to deliver this hugely significant exercise.

7.6. Revenues are normally secured from advertising agencies; in this case, as the parties themselves place much of the advertising, it would seem more appropriate that the levy is paid direct. That process might be subject to audit.

7.7. We refer earlier to a 'specialist extension' of the ASA. Clearly, it would be inappropriate to specify structures without the involvement of those we are proposing are responsible. However, there are certain challenges of regulating electoral advertising that it seemed right to point out, if only to prepare the ground, or to show that the task is manageable. The following are elements that may need specially to be addressed:

- Speed of ruling: the limited time frame of an election will require rapid review and ruling processes;
- Close involvement of (especially) digital media platforms and their preparedness to take down offending advertising;
- Specialist complaint monitoring: there may be some abuse of the complaint process by supporters or opponents of political parties;
- Vis à vis the above, consideration that the process should not be complaint-based *alone*;
- Pre-vetting: some material claims (not necessarily finished advertising) might be submitted prior to their development into advertising; the ASA might be asked if members of the CAP copy advice team could be dedicated to such a role;

- Nomination and availability of individuals from political parties in positions of sufficient seniority to agree the amendment or withdrawal of their advertising;
- A dedicated website that makes available to consumers all electoral political advertising;
- The involvement of the Electoral Commission in some capacity, if only to observe
- It may be productive if the ICO joined the proposed organisation. While the ASA cover use of data for marketing under [Section 10](#) there is inevitably some crossover between the regulators, and some [evidence](#) of data processing skulduggery. We have not consulted with the ICO.

7.8. As next steps, we suggest that we first understand the implications of the House of Lords Select Committee work, referenced earlier. Subject to its conclusions, it seems appropriate, or perhaps more accurately a reasonable proposal, that its chair Lord Puttnam provides the requisite impetus to bring all parties together for preliminary discussions on the viability of the proposals outlined in this document.

7.9. Specifically, Lord Puttnam might lead a process by which parties are requested that they consider the adoption of a Communications Code of Conduct for Electoral Political Advertising, to be developed by working parties and with the assistance of the ASA. Lord Puttnam might also request reassurance from media platforms/ owners that they will fully support an effort to prevent the further distribution of the kind of misleading and offensive advertising that we have identified in this paper.

7.10. We conclude with three final points:

1. This is a serious issue. There have already been many billions of advertising impressions inflicted on voters that are either illegal, indecent, dishonest, or untruthful and in some notable cases, all of the preceding. Voters deserve better; indeed, 87% of them have expressed that view. The advertising sector also deserves better than to be obliged to suffer further damage to its reputation.
2. But this is a fixable issue. All that needs to happen is agreement by political parties to the principle that their advertising should be subject to, essentially, the same regulation as all other advertising.
3. Is that really too much to ask?

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