



Regulating Online Campaign Finance

Chasing the Ghost?

Khushbu Agrawal, Yukihiro Hamada and Alberto Fernández Gibaja

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International IDEA
Strömsborg
SE-103 34 Stockholm
Sweden
Telephone: +46 8 698 37 00
Email: info@idea.int
Website: <https://www.idea.int>

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1. Introduction

Online political campaigning refers to political messages that political parties, candidates or third-party campaigners send to supporters and voters primarily through online platforms (see Box 1). The message can be of any nature and can take one of several forms, such as a paid advertisement or posting on Facebook pages or groups, WhatsApp groups, Twitter, Google advertising network, TikTok or Instagram profiles, among others. Each platform brings a different set of features and ways of communicating. Some platforms are encrypted while others are open, and some are based on video, others on pictures or text.

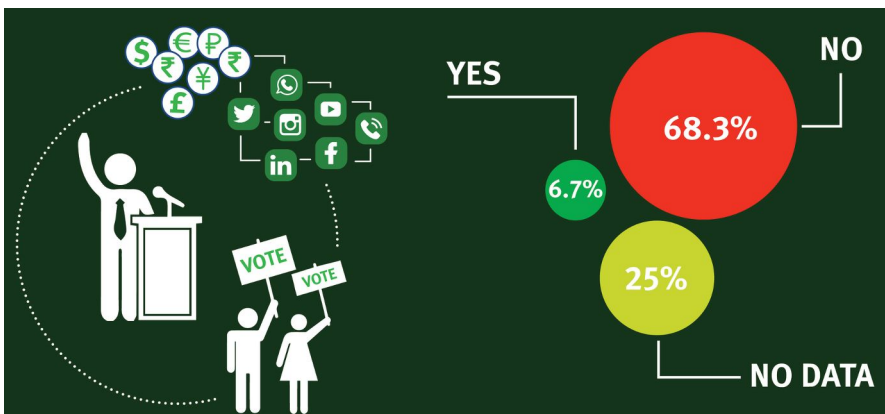
Box 1. Characteristics of online campaigning in politics

Online technologies not only help political parties and candidates to reach out to more voters with comparatively lower costs but also allow them to communicate more targeted messages to voters when compared with other traditional campaign tools. Online campaigns may, however, include bots, troll armies or other types of inauthentic online behaviour. A ‘bot’ is an automated software programme that mimics human behaviour on social media by posting, liking (forwarding, signposting) posts, and talking to real people; a ‘troll’ is a real person who spends time on websites and social media, posting divisive or irrelevant messages and comments to provoke, harass or intimidate. Trolls can also be hired by parties to amplify their campaign messages, manufacturing an impression of grassroots support—a phenomenon known as ‘astroturfing’. More recently, campaigners have also been using social media influencers and digital content creators to promote their campaign messages (Pardes 2020).

The pace, anonymity and portability are all substantially new features of online political space. Turning to individual voters' authentic preferences, these can be 'microtargeted' with individually tailored advertising based on their digital footprints—a process that feeds back powerfully into preference formation. As with offline campaigns, simplifications and distortions may often be in the mix. The polarizing influence of 'echo chambers and filter bubbles'—whereby users' biases are both socially and algorithmically reinforced online—is widely acknowledged (Pazzanese 2017; Bixby 2016). Nor has this influence gone unnoticed, or unused, by electoral actors.

Online campaign expenditure is one of the key weaknesses of political finance systems and regulatory frameworks, whose purpose is to uphold the integrity and legitimacy of free and fair elections and protect them from undue influence. While 'traditional', offline campaign methods are generally subject to a mature system of regulatory constraints (including spending limits, bans on contributions from certain sources such as corporations and foreign donations, allocated broadcasting airtime), regulation of the online funding space is almost non-existent. According to International IDEA's Political Finance Database, only 12 of the 180 countries (6.7 per cent) included in the database have an explicit limitation on online campaign expenditure, either for political parties, candidates or third parties (Figure 1) (International IDEA 2020a).

Figure 1. Limits on online media advertising spending

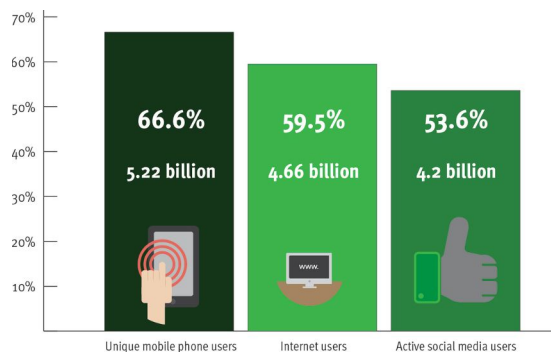


Source: International IDEA, Political Finance Database, 2020, <<http://www.idea.int/data-tools/data/political-finance-database>>, accessed 28 December 2020.

2. A ‘digital divide’ in campaign transparency

The first and obvious reason for seeking to regulate online campaigning is that it is here to stay—and growing. Over the years, in addition to traditional campaign tools, political parties and candidates are spending significant amounts of money on online campaigning as the number of Internet and social media users continues to increase (Figure 2). As of January 2021, there are approximately 4.2 billion social media users in the world, accounting for 53.6 per cent of the total global population, and up by 13.2 per cent from the previous year (Datareportal 2021). It is rational, then, for political parties and candidates to harness popular platforms for their campaigns, and in turn for voters to inform themselves—and each other—through the use of the same.

Figure 2. Global state of Internet and social media use, January 2021



Source: DataReportal, ‘Digital 2021: Global Overview Report’, Kemp, S., 21 January 2021, <<https://datareportal.com/reports/digital-2021-global-overview-report>>, accessed 31 March 2021.

During the 2020 US presidential election campaigns, 97,000 advertisers spent approximately USD 2.2 billion on 14 million Facebook and Google ads (Center for Responsive Politics 2020). All over the world spending on online political advertisements is increasing, particularly during the Covid-19 pandemic as social distancing protocols disrupt in-person and print media campaign strategies (International IDEA 2020b). For political actors, the lessons learned will undoubtedly outlive pandemic conditions.

Online electoral campaigning wields a complex but direct influence on one of the key principles of democracy—access to reliable information to cast an informed vote (International IDEA 2020c; OHCHR 1996). While online campaigning may sometimes assist political parties with limited offline resources, and hence bridge the gap between political actors and sympathetic constituents, it is often also a conduit for manipulating public opinion through illegitimate campaigning.

Negative aspects of online campaigns may have long-term implications in the post-electoral phase, not only for effective parliaments but for the whole panoply of civic and political rights. Appropriate regulation of online expenditures will not only protect the integrity of the political process, but also contribute to thwarting negative effects, such as disinformation and polarization, and, more generally, prevent inauthentic activities that usually characterize online campaigns (International IDEA 2020c; Krasodonski-Jones et al. 2019). Most directly, regulations of online campaign finance should have three main objectives:

1. *Increasing transparency to allow for public scrutiny, build trust among voters and enhance accountability.* This also contributes to the implementation of the United Nations Convention against Corruption (UNCAC; UN 2003), which calls for measures to enhance the transparency of political finance.
2. *Ensuring fairness by creating a level playing field for all political parties and candidates, such that no party or candidate gets an undue advantage owing to their financial muscle or by problematic exploitation of online tools.* Clearly, non-disclosure of online expenditure interacts with other institutional risks impacting media integrity and media freedom, such as media plurality.
3. *Ensuring that the political finance regulations and legislative frameworks are up to date with the exigencies of online activities, or as 'future-proof' as possible.* The practices of online platforms (on accounting and taxation, commercial confidentiality, user privacy, defamation and hate speech, corporate governance, and other things) evolve rapidly. Anachronistic laws and regulations suffer both from breaches and from deliberate sidestepping by companies ('nullification').

Being a relatively new phenomenon, the regulation of online expenditure is not straightforward and there is no conclusive evidence on what works. Policymakers and oversight agencies face several challenges as they take steps towards drafting and implementing legislation on online campaign finance. These challenges include the organic nature of some online political campaigning, lack of capacity of oversight agencies to monitor online campaign finance, different approaches to political advertising adopted by different platforms, among others. Some of these challenges are explored in the next chapter, together with an analysis of country cases where some sort of regulations on online campaign finance has been introduced.

3. The challenges of financial ‘track and trace’: country examples

The nature of online campaigns is different from traditional political campaigns in many aspects. Many elements of these campaigns, such as the involvement and role of intermediaries, the multiple jurisprudences involved, and the rapid evolution of methods, pose a challenge to regulatory agencies. This section presents the main challenges that policymakers and legislators are likely to face when drafting laws to include online expenditure within the scope of regulated political finance.

An overarching challenge is how each platform has its own definition of political advertisement and sets its own policies and/or reacts differently to the regulations on political advertisement in a respective country. For instance, Facebook’s (including Instagram) and Snapchat’s definition of political ads include advertisements on social issues, while Google does not treat ads about social issues as political advertisement, while streaming services, such as Hulu and Pandora, do not define what constitutes a political ad. Moreover, these platforms design their own policies in relation to issues such as microtargeting. Facebook does not put any limit on how much campaigns can target their ads, and even allow advertisers to customize their reach, while Google only allows for political ads to be targeted to broad categories, such as zip code, sex and age (Culliford 2019; Nott 2020). These designations and policies matter as they have a direct impact on the calculation of total online advertisement spending, and their oversight.

Furthermore, in most countries, regulation is non-existent on political campaign activities which can be undertaken online. Paying an external company for the creation and management of a troll army or purchasing datasets with voters’ information, is largely unregulated in most countries around the world

(Funke and Flamini 2019). Such an absence of regulations provides incentives for political parties to evade reporting of expenditures. This, in turn, makes it difficult for oversight agencies to trace payments and verify the accuracy of financial reporting by the parties concerned.

The ease with which political actors can circumvent monitoring of foreign or anonymous donations, or spending limits, is another big challenge of online campaign finance. Although cross-border political ads have been banned by all platforms allowing political ads, its enforcement is a challenge. For example, a donor, private company or foreign government might purchase services and deploy them as part of a political campaign, all from abroad. A company may be hired to build and maintain a series of Facebook groups to influence public opinion in a foreign country. Since the money used to purchase these services might never circulate through the banking system of the country where elections are taking place, it can effectively be hidden from oversight agencies and regulators. Similarly, the non-traceability of online payments provides a perfect space for donors to remain anonymous. In countries where there is a limit on anonymous donations, such as in Germany, online campaigns provide spaces for such donations to exceed the limit without being detected (International IDEA 2020a). It is therefore critical that any sort of online political ad discloses the identity of the advertiser, the identity of the ad's sponsor, the total amount spent on the ad and the audience for the ad. Although both Facebook and Google have put in place corresponding disclosure protocols in some countries, it is not always obligatory or even legally enforceable, particularly in absence of related regulations in most countries.

3.1. 'Organic' and 'third-party' campaigning

While paid advertisement across platforms constitutes an important component of online political campaigns, political parties, candidates as well as third parties make significant use of unpaid content to reach out to their supporters and voters. For instance, political parties and candidates use their social media profiles to publish messages and communicate with citizens, and third parties engage in 'organic' online campaigning by sharing or reposting messages from political parties and candidates. Given the nature of organic content, regulating it is a challenge as it is neither easy nor possible to track its use, or put a value to it.

In 2018, Canada's Elections Act was amended through the enactment of the Elections Modernization Act with the aim of, among other things, establishing spending limits for third parties (including civil society bodies such as non-profits and trade unions) and increasing transparency regarding their participation in the electoral process. According to the act, third parties are allowed to spend just over CAD 1 million (USD 764,000) in the pre-election period between 30 June and the start of the election campaign. They can spend half this amount again (or

USD 382,000) during the election campaign itself. While the act allows third-party spending for regulated activity, including election advertising, it prevents its use if the source of the funds is a foreign entity. Moreover, it prohibits foreign third parties from incurring expenses for partisan advertising during the pre-election and election period, and prohibits selling advertising space to foreigners who unduly influence electors (Elections Canada 2019). Violation of the act could result in fines or imprisonment.

Although the legislation aims to regulate and control the flow of resources during campaigning, some challenges remain. First, Canada’s new Elections Modernization Act stipulates that online platforms, including social network sites, must create and preserve registries of partisan and election advertising messages posted on their respective platforms (Elections Canada 2019). This, however, only applies to paid political advertisements and not to ‘organic’ and user-generated content posted on either social media platforms or websites of candidates, or to videos on free websites such as YouTube, which serve as a vehicle for self-promotion (Bryden 2019). Organic content can be a respite to small parties or independent candidates with small advertising budgets by providing them avenues for promoting themselves at minimal or no cost. However, if it goes unregulated and unaccounted for, it can easily be misused by big campaigners, who—in addition to spending large sums on paid advertisements—can use organic content as an important campaign tool. This has been evident in the case of third-party campaigners in Canada, whose real influence and spending on online advertising have been difficult to capture, although the act regulates them. Third-party campaigners may use bots to retweet, share, like or upvote content to promote a candidate or a party, which is not covered under the current legislation (Reepschlager and Dubios 2019). The online campaign of Canada Proud, one of the biggest third-party spenders on online advertising during the 2019 federal elections (CAD 350,000 (USD 260,000)), was said to have organically reached up to 15 million users each week through its social media page (i.e. via ‘like’, ‘share’ and ‘post’ message functions, or similar). This does not fall under paid advertising and hence was not tracked, recorded and accounted for as online campaign expenditure (Bryden 2019).

Third, different platforms have reacted differently to the mandatory requirement of maintaining registries for partisan advertising. For example, only Facebook complied with the requirement for both pre-election and election periods, creating an advertisement library to capture details of all the political ads on its platform. Google and Microsoft instead imposed bans on partisan advertising during both the pre-election period and official campaign period in Canada, while Twitter did so for the former (Thompson 2019). This does not mean that no organic content was promoted on these platforms in the relevant

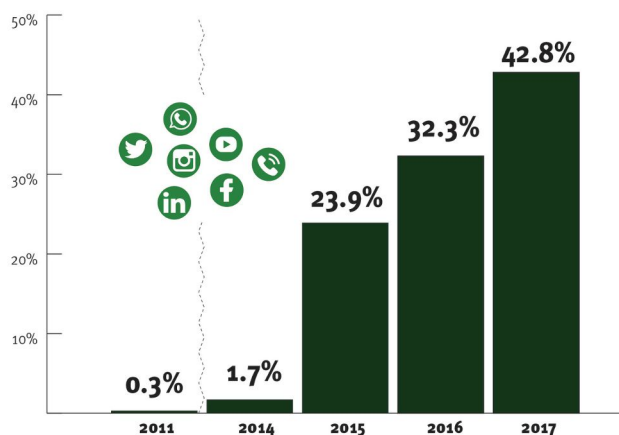
periods, creating another layer of difficulty in tracking the actual spending on online campaigning.¹

3.2. Speed of innovation versus legislation

The world of digital advertising is anything but static. Ways of campaigning online are continuously evolving—and faster than policymakers can develop full legislative frameworks.

In the United Kingdom, expenditure on digital campaigning has increased significantly over the last decade (Figure 3). In 2011, campaigners spent a mere 0.3 per cent of their total advertising budgets on digital advertising; by 2017, that share had soared to 42.8 per cent (as based on data reported by campaigners in their statutory spending returns for elections and referendums held in the UK, 2011–2017). However, just as in Canada, this may not necessarily represent the full picture. The data does not include all platforms or capture other informal and organic ways in which campaigners communicate with voters in the online realm, sometimes without any cost, and to potentially massive audiences (The Electoral Commission of the United Kingdom 2019). This could include content disseminated in closed groups or private messaging services, such as Facebook Messenger and WhatsApp groups (Dommett and Bakir 2020).

Figure 3. Reported spending by campaigners on digital advertising as a percentage of total advertising spending



Source: The Electoral Commission of the United Kingdom, 'Report: Digital campaigning—increasing transparency for voters', 13 August 2019, <<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/changing-electoral-law/transparent-digital-campaigning/report-digital-campaigning-increasing-transparency-voters>>, accessed 21 January 2021.

In fact, regulators in the UK operate without a specific category that records spending on digital advertising within broader political advertising. Additionally, the current legislation does not anticipate foreign actors purchasing campaign advertising and does not explicitly ban it. The result is that foreign nationals or entities, who cannot register as third-party campaigners in the UK, can nevertheless purchase digital advertisements in their home country and target voters in the UK (The Electoral Commission of the United Kingdom 2019).

Following the Cambridge Analytica case of 2018, the Electoral Commission called for changing the campaign finance regulations. Such proposals included completely banning any foreign entity from spending on UK elections and referendums, increasing the maximum fine for those not complying with the regulations and implementing tougher requirements for timely declaration of spending. In particular, the Electoral Commission proposed the inclusion of detailed paperwork on how campaigners spend their money online and the disclosure of the funding source for all digital political campaign material.

However, two years since the revelation of the Cambridge Analytica case, the Political Parties, Elections and Referendums Act 2000—the principal statutory force on political regulation in the UK—and also the Political Parties and Elections Act 2009 have not been updated to take account of the digital revolution (d'Ancona 2018). Both these regulations are not only domestically focused, but their attention is also restricted to digital expenditure incurred only during the regulated campaign period. This does not reflect the reality that political advertisements aimed at influencing political debate are likely to be deployed throughout the year.

This demonstrates that the democratic institutions of the 20th century are often slow in responding to the unprecedented technological change of the 21st century. Changing any regulation is a long process, and requires, at a minimum, a broad agreement among political stakeholders. Yet, online platforms and digital campaigns are evolving continuously, which makes it imperative for legislators to stay ahead of the innovation curve to protect political and electoral processes.

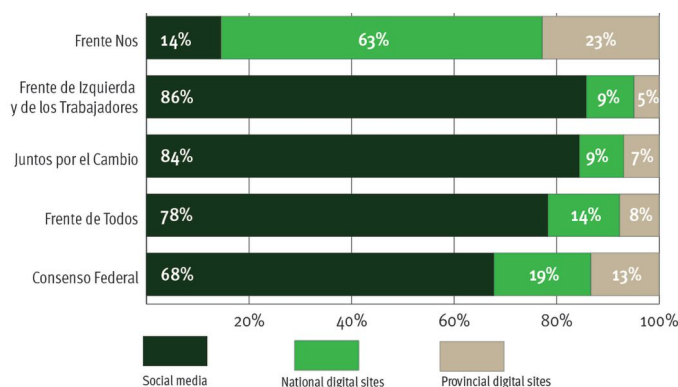
3.3. Limited information disclosure by online platforms

While the existence of multiple online platforms provides an opportunity for campaigners to reach electorates in a myriad of ways, it also brings challenges as a result of the fragmented approach to political advertisement transparency across the platforms. Although Facebook, Google and Snapchat have ad libraries, the level of detail provided and their accessibility varies by platform, including who can access the data, how to access the data, and the type of information in the library. For example, in Facebook Ad Library, it is possible to search the database for political and social ads by certain advertisers but not to obtain or export a consolidated report of all the expenditure made by and on behalf of a political

actor. Additionally, it does not necessarily provide information on all paid political advertisements as there is room for political actors to bypass the ad library if they do not label their advertisement as ‘related to social issues, elections or politics’. Such limited degree of financial information disclosure by platforms can compromise the effectiveness of spending limits and other political finance measures that aim to control the flow of political funding in the online sphere. The case of Argentina is a good example of this challenge.

There have been several initiatives to increase transparency and accountability in online political finance in Argentina. In 2019, in the run-up to its presidential election, Argentina amended its Law on the Financing of Political Parties 2006, including specific measures aimed at enhancing the transparency and accountability of online political advertising (Camará de Diputados 2019). As per the amendment, all social media accounts, websites and any other digital communication channels of pre-candidates, candidates, and political parties and their leading officials should be registered with the National Electoral Chamber (Cámara Nacional Electoral, CNE). Similarly, at the time of reporting their digital campaign expenses, political parties are required to submit all audiovisual campaign material (material pertaining to the political campaign that is available on the Internet, social media networks, messaging and any other digital platform). According to the reports presented by political parties to the CNE (Figure 4), between the primary and general elections in the presidential race, political parties spent a large proportion of their online electoral expenses on social media, some even up to 86 per cent (Frente de Izquierda y de los Trabajadores).

Figure 4. Online advertising spending distribution, Argentina’s presidential elections 2019 (ARS)



Source: Cámara Nacional Electoral [National Electoral Chamber], Gastos de publicidad electoral para la campaña [Electoral campaign advertising expenses], 20 February 2020, <<https://www.electoral.gob.ar/financiamiento/gastos-publicidad.php>>, accessed 22 January 2021.

Although information concerning political parties’ spending on online campaigns is published by the CNE, it is not possible to verify such financial reports with the information available on social media platforms. Although some digital platforms disclose information about political parties’ online expenditure, such disclosure relies on their voluntary actions. The Facebook Ad Library, for instance, provides information on political spending in Argentina starting from 27 September 2019, while campaigning for elections began in July 2019. Additionally, it is possible that advertisers placed political ads without labelling them as ‘ads on social issues, politics and elections’, meaning that they disappear once the ad is inactive. Google, on the other hand, does not provide advertisement information publicly but provides that information only to the CNE upon request (Carelli 2019). And, while Twitter has now banned all political ads on its platform, it does not have any information on political ads from Argentina in its past archives. This varying degree of transparency from social media platforms makes the tracking of actual costs of online political advertising extremely fragmented and challenging.

3.4. Oversight capacity

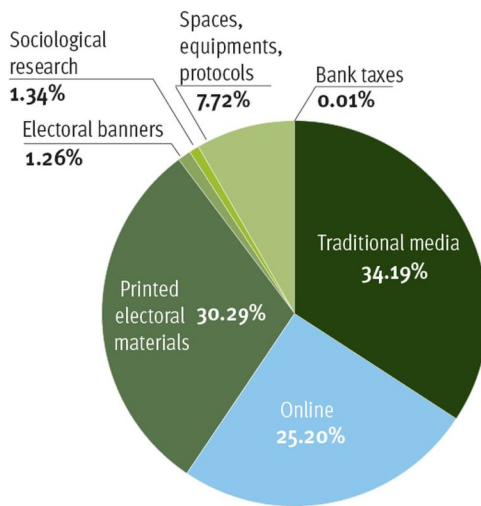
Considerations of market share present another dimension of the challenge—technical capacity of oversight bodies to monitor and audit campaign finance reports. As we have seen, the ambiguous nature of online campaigns—falling between coordinated and organic actions—and the lack of data availability compound the difficulties of developing such capacity. Whereas countries with small populations can engage in manual monitoring of online political campaigns, this is not possible in countries with high Internet reach and big populations (International IDEA 2020c). As the case of Romania demonstrates, despite major strides in regulating online political campaigns, oversight agencies need to strengthen their digital audit capacity.

In Romania, the Permanent Electoral Authority (PEA), through its specialized department for the control of the financing of political parties and electoral campaigns, acts as an oversight agency responsible for the application of Law 334/2006 on the Financing of the Activity of Political Parties and Electoral Campaigns (Chamber of Deputies 2006). Under this law, expenses for the production and distribution of online electoral communications cannot exceed 30 per cent of the total expenses made in a given electoral campaign.

Law 334/2006 also refers to the obligation of coordinating financial agents to submit to the PEA, within 15 days of the election, detailed reports of income and election-related expenses of political parties, political alliances, electoral alliances, organizations of Romanian citizens belonging to national minorities, and independent candidates, as well as the amount of debt recorded as a result of the campaign. Violation of the provisions relating to the maximum limits of

expenditures for online campaigning is sanctioned with a fine between RON 15,000 and RON 50,000 (USD 3,600–12,000). In 2019, online promotion accounted for just over a quarter of total declared electoral expenditure (Figure 5).

Figure 5. Declared electoral expenditure, Romanian presidential election 2019



Source: Expert Forum, *Raport de observare a alegerilor prezidențiale din noiembrie 2019* [Observation report of the November 2019 presidential elections], 24 November 2019, <https://expertforum.ro/wp-content/uploads/2020/02/Raport_prezidentiale_2019.pdf>, accessed 22 January 2021.

Despite the fact that some legislation around online electoral spending is in place, the absence of an adequate framework combined with gaps in digital capacity make it virtually impossible for auditors to effectively track and verify expenditures in the online environment. The main difficulties from this perspective are: (a) verifying/confirming the costs of the services contracted; (b) verifying whether the contracted services were indeed provided; and (c) checking the actual posting period.

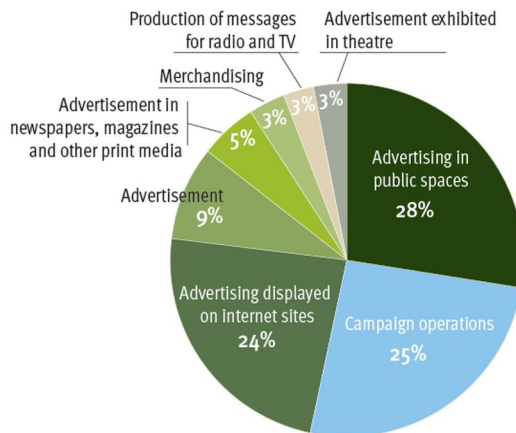
According to the Romanian legislation, expenses related to the production of electoral communications materials shall be borne exclusively by their beneficiaries—independent candidates, political parties or political alliances—and their production and dissemination under other conditions than those provided by law is prohibited. However, for the same reasons given above, auditors are not able to effectively verify and take timely action against relevant violations in the online environment.

3.5. Weak interagency coordination

Given the technical, legal and political complexities involved, effective regulation and oversight of online campaign finance—even where individual agency capacity is relatively strong—require an unprecedented degree of coordination between political finance oversight, anti-corruption and data protection bodies, among others. They also require cooperation and engagement with private companies which are not always physically located in the same country. Despite this, in most cases the regulatory framework does not create clear lines of interagency cooperation in advance, which increases the difficulties each of the relevant bodies faces in fulfilling their respective tasks. Better synergies between different agencies would facilitate access to and compilation of key financial information pertaining to online campaigns.

In Mexico, online political advertising is regulated by the General Law of Electoral Institutions and Procedures. According to data from the National Electoral Institute (Instituto Nacional Electoral, INE), between the presidential and local elections of 2017 and 2018, political parties and candidates spent 24 per cent of their campaign budget on ‘Advertisements on Internet sites’. This line of expenditure is the third biggest expense category, behind only ‘Posters and billboards’ and ‘Rallies and meetings’, which account for 28 per cent and 25 per cent respectively (Figure 6).

Figure 6. Share of total expenses by type, Mexico’s federal elections, 2017–2018



Source: Instituto Nacional Electoral, *Informe sobre el registro de operaciones de ingresos y gastos de los candidatos del proceso electoral federal y local 2017–2018* [Report on the registry of income and expenditure of the candidates of the federal and local electoral process 2017–2018], 17 July 2018, <<https://fiscalizacion.ine.mx/documents/82565/409446/Informe+sobre+el+registro+de+operaciones+de+ingresos+y+gastos+180717.pdf>>, accessed 21 January 2021.

Oversight and audit of such expenditure in Mexico face challenges related to functional duplication and the cash economy, among others. First, there is a designated unit within the INE to monitor and audit online activities, called the Technical Audit Unit (Unidad Técnica de Fiscalización). According to one national anti-corruption group in Mexico, the INE usually takes proactive measures to audit non-declared expenses, but it does not necessarily have the technical infrastructure and capacity to ‘detect the total flow of cash resources that flow into campaigns’ and how these are used to pay for campaign activities (Amparo Casar and Ugalde 2018). According to a report published by Artículo 12, although political parties are required to be transparent regarding their political campaign spending, many pay for services in cash to avoid tracking, including for costs incurred on online campaigns (Rayman and Rennó 2018).

Second, and the most critical element in regulating digital campaign expenditure, is the presence of multiple actors and agencies who have a stake in the electoral process including social media companies, political parties, anti-corruption watchdogs, civil society organizations and private companies. Moreover, there are three bodies that supervise the integrity of electoral processes in the country. The INE is the administrative body and has the constitutional remit to determine electoral rules and organize the presidential and congressional elections. It also decides the amount of public funding that political parties and candidates receive. The Federal Electoral Tribunal (Tribunal Electoral del Poder Judicial de la Federación, TEPJF) is the electoral judicial body which safeguards against any authority infringing a citizen’s political or electoral rights. It is the final judicial arbiter on matters of electoral law. The third body is the Specialized Prosecutor for Electoral Crimes (Fiscalía Especializada en Delitos Electorales, FEDE), an agency within the attorney general’s office entrusted with the prevention, mitigation and prosecution of electoral crimes and with guaranteeing the fairness of the electoral process. The novelty and complexity of online political campaigning mean that not only a clear division of roles is required to enable each agency to apply its expertise where it is best used, but also various agencies will need to work together and complement each other in ensuring the integrity of electoral processes.

For instance, as in other parts of the world, political parties and candidates in Mexico are increasingly using social media ‘influencers’—individuals who have a dedicated social following and are viewed as experts within their niche—to create, position and promote their candidacy. These influencers, who fall outside of the definition of ‘traditional’ political influencers, can play an important role in influencing their followers’ political inclinations and voting preferences.

While the Mexican legislation is clear on campaign spending limits, it does not outline rules regarding use of influencers by political parties and candidates. The law is particularly unclear on paid-partnerships with influencers promoting political parties and candidates on their social media handles. Given that

influencers often make a living out of posting and promoting products/services on their social media handles, each post they make has a perceived commercial value as assigned by marketing agencies. As a result, actual value of using popular influencers for political campaigns could exceed campaign spending limits. Although there have been a couple of resolutions made by TEPJF on the use of influencers in political campaigning in specific cases, there is a legal vacuum on how to deal with influencers in political campaigns and measure financial implications of their social media posts. Given that there are multiple stakeholders involved, addressing this issue requires coordination between the TEPJF, INE, the Prosecutor, social media platforms, marketing agencies, data protection agencies, advertising council, among others. Such inter-agency coordination is paramount to regulate emerging issues like this to ensure that campaign finance regulations are up-to-date and comprehensive.

Endnotes

1. As of 2021, Twitter and Microsoft have put a worldwide ban on all forms of political advertising.

4. Conclusions and recommendations

Online campaign financing is one of the key weaknesses of political finance systems and regulatory frameworks. Closing the regulatory gap is not only important to align electoral rules with today's campaign realities, but also a key avenue to improving them by curtailing disinformation, the polarization of societies, infringements on citizens' privacy and other challenges to democratic governance.

Changing political finance legislation takes time as it requires, at a minimum, a broad political agreement among the main political stakeholders, as well as a detailed understanding of good practices and the political context. With each political scandal related to the use of online campaigns, a new set of restricting measures arise—from private companies, civil society and governments—and political operatives seek new, unregulated or untraceable means.

While some platforms have taken the initiative of making available reports on online political advertisement expenditures of political actors, the primary responsibility for reporting these expenditures rests on political parties and candidates. However, in absence of proper regulatory frameworks, there is hardly any incentive for either the platforms or the political actors to take considerable actions to make financing of online political advertising transparent. This section provides recommendations on steps that policymakers, platforms, political actors and civil society can take to fill the regulatory gap.

For policymakers

- Regulations on political finance should outline legal definitions of online political advertisement. The definition should be broad to include all political ads placed either during election campaigns or on an ongoing

basis, by political parties and its officials, candidates, and third parties.

- In order to remain ahead of the technological curve, legislation should be generic and not platform-specific. Having legislation that is not directly linked with a particular platform, feature or product allows for adaptation. Additionally, uniform transparency rules for social media platforms can be useful—at least for political ads—including requirements to disclose detailed data about the targeting criteria, audience reach, and spending.
- Policymakers should consider the capacity of all state agencies, particularly data analysis capacity. Institutional strengthening should be planned and budgeted for, alongside interagency coordination, and new legislation should clearly define responsibilities and use the existing capacities of diverse state agencies for oversight functions. This is especially relevant when it comes to analysing online traffic and financial transactions, skills that might not be fully integrated into traditional electoral oversight and monitoring institutions.
- Audits of digital activities of political parties should be considered. While data privacy should be protected, oversight agencies should consider measures to require political parties to disclose the details of their online campaigns.
- As online campaigns involve multinational corporations, as well as often payments from abroad, coordination with other countries will be important to develop standards of reporting and accounting. Regional organizations, such as the African Union and European Union, have a role to play in adopting common regional guidelines on online campaign regulation, including monitoring that funds collected through crowdfunding are only from within the country, to ensure that there is no foreign interference in elections.
- Regulation of ‘third parties’ may be necessary—in particular, marketing and public relations companies—demanding a similar standard of accountability, openness and transparency as applies to main parties and online platforms. It could also apply to other companies in the supply chain, such as data engineering subcontractors to the platforms.
- The area of online campaign finance is relatively new and there is no conclusive evidence on what mechanisms work. More research should therefore be conducted in order to build an evidence base not only to identify regulatory loopholes but also to better understand the impact of various regulatory mechanisms to inform reforms.

For online platforms

- An open dialogue with policymakers is key, and clear information is required on what type of legislative frameworks are easier for the platforms to implement in their work.
- Platforms should put in place necessary protocols such as identity verification of advertisers as well as sponsors to ensure that ads are placed only by authorized persons and hence, accounted for.
- Platforms should label every online political ad with information on who placed the ad, paid for the ad, the targeting criteria, reach, duration and cost of ad placement.
- Platforms should make aggregated information available on all political ads published on its platform. Such information should be comprehensive, in an easy to understand format, in searchable and centralized repositories.

For political parties, candidates and campaigners

- Political parties should strive for itemized reporting of their financial expenditures, including spending made on online platforms to promote transparency to the highest possible degree.
- Bookkeeping of online activities will support the integrity of the political process.
- Allowing—and encouraging—digital audits should be considered.
- When hiring external services for online campaigning, political parties and candidates should be aware of the exact nature of the offered services. In addition, reporting the details of each activity and its cost will support more effective oversight.

For civil society actors

- Civil society organizations should remain vigilant and serve as watchdogs to oversee possible unfair and illegal practices in online campaign financing. As they have been doing for ‘offline’ political spending, they should seek answers, clarifications and justifications from campaigners on any discrepancy in their financial reporting pertaining to online campaigning.

- Civil society can play an important role in voter education and wider civic/political education. Disinformation, divisive campaigning and other harmful methods can be thwarted when electorates are able to see through them, do fact-checking and foster resistance to misleading narratives and conspiracy theories.

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About the authors

Khushbu Agrawal is a Programme Officer at International IDEA in Stockholm, Sweden. Her research and work focus on political finance and influence of money in politics, and achieving inclusive, responsive and accountable institutions and processes. She has previously worked at the Institute's Regional Office for Latin America and the Caribbean and the Nepal Country Office, in addition to the International Organization for Migration, Save the Children, and South Asia Partnership International. In her previous roles, she developed and led programmes, and conducted research, policy analysis and programme evaluation in the areas of gender, peace and conflict, and equitable political participation. She holds a master's degree in Public Policy from the Australian National University.

Yukihiko Hamada is a Programme Manager at International IDEA. He leads the Money in Politics (MiP) programme and provides policy guidance to advance the political finance reforms in a number of countries. His research and work focuses on political finance regulations, anti-corruption and public integrity. He has authored a number of policy papers and news articles including *The Integrity of Political Finance Systems in Asia* (International IDEA 2019) and *The Integrity of Political Finance Systems in Africa* (International IDEA 2019) as well as led the 2020 update of International IDEA's Political Finance Database. Prior to joining International IDEA in 2018, Yuki was a policy analyst at the Organisation for Economic Co-operation and Development (OECD) in Paris where he managed various projects on political finance, lobbying, conflict of interest and other public sector integrity issues. He also has a wide range of public sector experience in both Japan and the UK. He holds a PhD in Political Science from University College London, UK.

Alberto Fernández Gibaja is a Senior Programme Officer at International IDEA. His work focuses on the crossroads between political participation, innovation and technology. His expertise and research cover new forms of citizen engagement in decision-making, public policies and politics surrounding the role of technology in democracy, and the protection of the integrity of political processes. Previously, he worked as a Governance Officer for the United Nations Integrated Mission in Timor Leste. He has also worked at the Club of Madrid, the Sierra Leone Red Cross Society and the Jordanian Regional Center for Conflict Prevention. He holds an MA in International Studies from Uppsala University.

About International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with the mission to advance democracy worldwide, as a universal human aspiration and enabler of sustainable development. We do this by supporting the building, strengthening and safeguarding of democratic political institutions and processes at all levels. Our vision is a world in which democratic processes, actors and institutions are inclusive and accountable and deliver sustainable development to all.

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As the number of Internet and social media users increases, political parties and candidates are spending significant amounts of money on online campaigning. It not only helps them to reach out to more voters with comparatively lower costs, but also allows them to communicate more targeted messages to voters when compared with other traditional campaign tools. Despite the growing use of online campaigns, appropriate regulation of online expenditures is almost non-existent around the world. In fact, online expenditure is one of the key weaknesses of political finance systems and regulatory frameworks.

Appropriate regulation of online expenditures will not only protect the integrity of the political process, but also thwart negative effects, such as disinformation and polarization and, more generally, prevent inauthentic activities that usually characterize online campaigns. As online expenditure is a relatively new phenomenon, its regulation is not straightforward and there is no conclusive evidence on what works. This report outlines some of the challenges that policymakers, legislators and oversight agencies face when drafting and implementing laws to include online expenditure within the scope of regulated political finance. It also provides recommendations for policymakers, social media platforms, political parties, candidates and campaigners, as well as civil society actors, on the steps that they can take towards closing the regulatory gap.



International IDEA

Strömsborg
SE-103 34 Stockholm
Sweden
Telephone: +46 8 698 37 00
Email: info@idea.int
Website: <https://www.idea.int>

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