

**Open Policy Forum on Regulation of Transparency of
Online Political Advertising
Event Summary Report**

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Overview

The Interdepartmental Group on the Security of Ireland's Electoral Process and Disinformation organised an Open Policy Forum on 6 December 2018.

The discussion topic was regulation of transparency of online political advertising. The event followed on from a recent public consultation on the same issue.

A variety of speakers participated including from: media and political spheres, online companies, the advertising industry, academia, civil society and the EU Commission.

There were over 100 participants in attendance; this included broad representation from across the main stakeholder groups.

The Forum focussed on identifying and discussing possible policy solutions that respect the right to freedom of expression and relevant EU law while promoting the transparency necessary to open political discourse in a democracy that will protect electoral processes from hidden influences and disinformation.

Summary of Event

Opening Remarks

The Minister for Communications, Climate Action and Environment, Richard Bruton, TD, provided the opening remarks at the Forum. The Minister welcomed the participants and underlined the importance of the topic for discussion. Setting the overall context for discussions, the Minister acknowledged there are both benefits and drawbacks to the role of online communications in political debate. He noted the risks posed by disinformation spread online is an issue that is shared globally. However the Minister emphasised that the need to protect the fundamental right of freedom of expression should be at the fore of any solutions proposed.

Presentations

Where We Are Right Now

Triona Quill, Department of Communications, Climate Action and Environment

To help set the context for discussion, Ms Quill provided an overview of the current regulatory framework for media in Ireland.

Barry Ryan, Department of Housing, Planning and Local Government

Mr Ryan provided an overview of electoral legislation in Ireland with a particular focus on provisions relating to political advertising.

Session 1: Advertising in the Political & Electoral Sphere

Dr Alessio Cornia, Dublin City University

Dr Cornia's presentation centred on:

- Usage of social media for news information
- Concerns over political targeting practices
- Difficulty of building empirical evidence on the effects of online disinformation.

John Paul Phelan, TD, Minister of State for Local Government & Electoral Reform

Minister Phelan focused on the following:

- The fundamental importance of public trust in the electoral system
- The need to balance freedom of expression and transparency
- An update on plans to establish an Electoral Commission.

Gavin Sheridan, CEO Vizlegal, and previously Director of Innovation at Storyful

Mr Sheridan's presentation discussed the following:

- The problems with opacity on online platforms
- His recent real-time investigation into an online advert – which he noted enabled a good understanding of the main problems
- The opportunity for Ireland to build a model approach for other countries to follow.

Orla Twomey, CEO of Advertising Standards Authority for Ireland

Ms Twomey discussed the following issues:

- The learnings on regulation of advertising that ASAI can bring to the discussion
- Political advertising being outside the ASAI's remit, and in this context, if ASAI had a regulatory role, whether it would be appropriate for an advertising regulator to intervene in the democratic process.
- A deep understanding of how the online ecosystem is necessary for a solution to be effective.

Session 2: The Legal Field

James Lawless, TD

Mr Lawless's presentation focused on the following:

- The ways that manipulation of information online can occur as political strategy
- The current landscape in Ireland and the pressing regulatory gap
- The objectives and provisions of his Online Advertising and Social Media (Transparency) Bill 2017

Dr Eoin O'Dell, Associate Professor of Law, Trinity College Dublin, The University of Dublin

Dr O'Dell's presentation covered the following:

- The extent to which the right to freedom of expression restricts the government's ability to regulate political advertising, both offline and online.
- Dr O'Dell noted that political speech sometimes needs to be anonymous to communicate effectively
- The main justification for regulation is the potential of disinformation online to distort the electoral playing field
- The regulatory approach should be narrow, tailored and focused, in addition to being proportionate and limited in its effect.

Liam Herrick, Executive Director, Irish Council for Civil Liberties

Mr Herrick's presentation addressed the following issues:

- Civil society is a fundamental part of democracy
- The challenges faced by civil society under current electoral legislation
- Positive duty of the state to ensure enabling environment for civil society
- Regulation must not disproportionately affect core fundamental rights
- Broadly support transparency measures but advise caution with respect to issue-based advertising

Session 3: Online Communications & Advertising

Liz Carolan, Transparent Referendum Initiative

Ms Carolan's presentation included the following:

- Work of the Transparent Referendum Initiative during the recent referendum and its main findings with regard to online adverts during the referendum period
- Examples of online adverts that were problematic and untraceable
- The central value that electoral legislation places on money and information
- What we need to do to solve the problem, i.e. redesign the electoral infrastructure.

Niamh Sweeney, Head of Public Policy, Ireland, Facebook

Ms Sweeney's presentation covered the following:

- Facebook would welcome clarity in this space, with respect to electoral legislation, to ensure clarity of their obligations, taking into account the competing interests and rights of all main stakeholders
- Facebook is trying to introduce greater transparency and tackle disinformation. The platform has introduced a number of transparency measures to address this, and plans to introduce more in the near future.
- Commitment to ensure transparency of political advertising as a signatory of the EU Code of Practice on Disinformation.

Ryan Meade, Public Policy & Government Relations Manager, Google Ireland

Mr Meade spoke about the following:

- Google have a global focus on providing users with the best information possible about elections, and protecting elections from attack
- Google would welcome legal clarity on the obligations of online advertisers in respect of elections and referendums in Ireland
- Google's commitment to ensure transparency of election advertising as a signatory of the EU Code of Practice on Disinformation
- Transparency measures that Google are committed to introducing in advance of the 2019 European Parliament elections.

Suzanne McElligott, CEO, IAB Ireland and Board Member, ASAI and IAB Europe

Ms McElligott's presentation focused on the following:

- Overview of the work of IAB as the industry organisation for digital advertising and various frameworks developed to assist the industry
- The multitude of various organisations in the online advertising space – it is a complex ecosystem
- The involvement of IAB Europe in the EU Code of Practice on Disinformation
- The key issues that we must focus on in this space.

Joe Lynam, EU Commission

Mr Lynam focused on the following issues:

- The dangers and risks posed by online disinformation to democracy and political institutions
- The efforts of the EU Commission to tackle disinformation, under 4 key themes:
 - Detect: The introduction of a rapid alert system on disinformation across Member States
 - Respond: The Commission will aim to respond proactively to deter and discredit fake news stories
 - Prevent: The EU Code of Practice on Disinformation and the potential to legislate if this voluntary approach does not work.
 - Educate: The Commission's commitment to improve media literacy.

Main recurring topics

Global Issue

- The threat of disinformation is a global issue that requires a global response
- Learn from other countries' experience and findings
- Potential for Ireland to lead internationally on building a proactive, model framework in response to the issue, for other countries to follow.

Fundamental Right to Freedom of Expression

- Any proposed solution must not obstruct the fundamental right to freedom of expression.

Urgency of Issue

- Important that a short-term measure is developed in advance of the European and local elections next May.

Current Legislative Concerns

- The definition of a political advert is a challenge for various actors, including, in particular, civil society and non-governmental organisations.
- Should a definition be narrowly tailored or apply broadly across mediums.

Regulatory Model

- Current traditional media regulatory framework – worth considering if elements can apply to the online context
- Development of a fit-for-purpose governance model for regulation will be very important
- Be aware of risk of over-regulation – any solution must be rational and proportionate
- Efforts of online companies – new self-regulatory tools and voluntary compliance with the EU Code of Practice on Disinformation.

Industry Response

- Welcome clarity – cannot solve problem alone and cannot be 'arbiter of truth'
- Committed to releasing data on advert volume and spend
- Platforms have obligations for transparency but not for regulation or policing

- New transparency tools being introduced in advance of the European Elections 2019 – Google plan to release a transparency tool introduced for the US mid-term elections in October. Facebook plan to release an advert library.

Online Ecosphere

- A long-term policy solution must be systemic and future thinking in approach, in order to account for the constant and fast paced evolution of the online ecosphere. It must be adaptable and flexible to change.
- Also important to consider disinformation in the wider media landscape; it does not only occur online.
- New threats also include disinformation spread via private messaging applications.

Conclusions

Dr Kevin Rafter, Head of School of Communications, Dublin City University

Dr Kevin Rafter of Dublin City University wrapped up the Forum by summarising the different viewpoints and suggestions heard throughout the day¹. He also set out, in his view, the main steps for the Government to take on the issue.

The issue of transparency in political advertising is not new, but the prevalence of online advertising, combined with the changing pace of technology and the constant evolution of the online ecosphere, amplifies and exposes the regulatory gap in this area.

It is of course, as Dr Rafter noted, important not to forget the value of political advertising to the democratic process. It allows political representatives direct access to the electorate without an intermediary. It is important that this conduit is free of undue influence and interference. The State has a duty to protect Irish citizens from potential public harm, and therefore has a role to play to ensure that this is the case.

Notwithstanding the pace of change online, we must allow for patience, to make sure that we develop a policy that is rational, evidence based and proportionate to the risks.

We must also take on board and consider the many different perspectives on this important matter and make sure our policy is reflective, insofar as is possible, of the concerns and issues raised.

Next Steps

We will take away the discussions and learnings from the Forum, and develop these into a policy proposal on regulation, to put forward to Government in early 2019.

Some important considerations for developing the proposal include:

- Minimum standards or principles for transparency
- Type of regulation
- Entities subject to the regulation
- Time-frame for development of regulatory policy
- Measures to implement in the short-term and long-term – that have capacity to adapt to rapid change
- Regulatory impact assessment required, and how long would this take?
- Ownership of responsibility for regulation
- Governance and operational structures
- Alignment with EU Action Plan on Disinformation and best practice internationally
- Potential to collaborate cross-nationally with other Governments

¹ See above section on recurring topics for this summary.

Appendix 1 – Interaction Analytics Report

Recurring Topics



Popular Question Topics

- Is it sufficient to only focus on transparency?
- Safeguarding the Local and European Elections and Referenda next year.
- Data that online companies will make available on spend etc.
- Will disinformation spread via private messaging apps be considered?