

# Lobbying and the Online Influence Industry

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## Reactionary Regulation of Data Driven Political Campaigns

The extent and sophistication of online political campaigning during democratic processes was largely overlooked until lacunas in election regulation were identified around digital advertising following the 2016 Brexit referendum and US Presidential elections.

Since then, both research and regulation have largely focused on the three main issues identified in the 2016 election: election advertising, mis/disinformation and foreign interference (Siapera & Kirk, 2022). Despite the increased focus on digital political communication as well as national and EU efforts to regulate media to protect the integrity of democratic processes, one of the most well-known forms of shaping policy has been absent from the discourse. Lobbying is the process of individuals or groups communicating directly or indirectly with public officials to advocate for policy reform. However, in the European Commission's expanded definition of political advertising it is understood as paid-for direct and indirect communication on regulatory and public policy and is now subject to certain transparency requirements.<sup>1</sup>

The expanded scope of how political advertising is defined in the proposed regulation of the European Parliament and Council on the transparency and targeting of political advertising (2021) goes beyond election campaigning and formal political actors (such as political parties, government departments and agencies). Although not explicitly including lobbying, the definition addresses “advertising published or disseminated directly or indirectly by or published or disseminated directly or indirectly for or on behalf of a political actor.” (p16) and “publication or dissemination by other actors of a message that is liable to influence the outcome of an election or referendum, legislative or regulatory process or voting behaviour should also constitute political advertising” (p17).

Lobbying – directly or indirectly communicating with certain public officials with a view to influencing public policy – is a longstanding and somewhat controversial part of how policy is developed and deployed (Greenwood & Dreger, 2013; Laboutková & Zák, 2016). With the emergence of sophisticated advertising technologies, the possibilities of microtargeting to facilitate both direct and indirect communications with public officials about political and policy issues have significantly expanded. Monitoring and regulation of lobbying activities online however have not.

This research explores the regulation of ad tech in political communications and considers the relationship between lobbying and ad technologies in Ireland. It aims to examine the extent to which transparency regulations address lobbying, to identify how to better enable monitoring across public transparency databases, and initiate questions around whether enhanced regulation might be needed to ensure the integrity of democratic processes beyond elections.

## Political Influence Beyond Elections

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<sup>1</sup> Such as information about the payer, beneficiary, spend, distribution across different demographics etc.

Lobbying is broadly defined as the act of exerting influence over political choices by calling for changes in public policy or by means of either direct or indirect communication with elected politicians or designated political institutions (SIPO, Online). Lobbying can be problematic and is regulated to ensure transparency in the process (Green & Dreger, 2012), in Ireland it is addressed under the Regulation of Lobbying Act 2015. However, whether or not a communication is ‘lobbying’ is self-assessed along four main criteria:

- You are communicating either directly or indirectly with a ‘Designated Public Official’ and;
- That communication is about “a relevant matter”;
- That communication is not specifically exempted: and
- You are either an employer, representative body, advocacy group, third party being paid by a client or an individual discussing land development or zoning.

Internationally there have been clear examples of lobby groups campaigning on policy issues using digital advertising. Eco-Bot.net identified a surge in social media adverts from oil companies during the international environmental summit COP26 (Del Naja and Posters, 2021, Williams, 2021). If lobbyists want to raise an issue in public or governmental discourse, harm a competing lobbyist’s message, or campaign on an issue, digital media and ad technologies offer a plethora of options to pursue such goals.

To some extent campaigning on certain topics is addressed under the regulation of issue-based advertising. The Code of Practice on Disinformation calls for transparency and labelling of issue or cause-based adverts (European Commission, 2022), while the Digital Services Act places restrictions on the types of personal data that can be used to microtarget political adverts. However, studies have consistently highlighted the lack of clarity in definitions of what constitutes an ‘issue’ and the process of categorising content as issue-based or not (Kirk et al., 2019; Nenadić & Bleyer-Simon, 2021; Kirk & Teeling, 2022). Broadly speaking issue-based advertising can be defined as “a form of paid-for advertising which advocates for broad political and legislative issues rather than specific candidates or political parties” (Nenadić & Bleyer-Simon, 2021, p4), however definitions in the European Commission remain ill defined and exclude commercial adverts. Additionally European regulation is to some extent ill prepared to respond to emergent, grassroots political movements (Siapera & Kirk, 2022). While Dommett (2019) highlights the challenges of defining what constitutes ‘political’ in reference to the new data driven political communication practices that have emerged and also what constitutes ‘advertising’ in light of developments like the influencer economy. Studies on the transparency initiatives by Meta, Twitter, Microsoft and Alphabet highlight the inconsistencies in labelling political and issue-based adverts and the lack of clarity over how content is labelled as issue-based (Kirk et al, 2019; Kirk & Teeling, 2022).

Transparency is essential to the legitimacy of lobbying (Holman & Luneberg, 2012; Greenwood & Dreger, 2013; Laboutková & Žákm 2016). Recent lobbying reforms in Ireland have only considered the digital in the deployment of an online public archive of lobbying activities (Irish Statute Book, 2015; Department of Public Expenditure and Reform, 2022). The approach to regulating lobbying is similar to that of political advertising in current regulation – the aim is transparency so that policy makers can be held accountable if there is undue influence (Keeling et al, 2017). But in the digital age, transparency alone is not sufficient to ensure the integrity of the democratic process – transparency must facilitate accountability (Allen & Lundblad, 2021) which interrogates the character and quality of information or its legibility, (Lessig, 2009) provided as well as how meaningful it is for monitoring. The need to monitor online advertising is not necessarily rooted in concerns about underhand motivations of lobbyists but rather because vulnerabilities in information systems is the

inevitable outcome of advanced unregulated ad technologies embedded in or underpinning the largely entertainment platforms we use. Communication online is not necessarily to a mass audience but to multiple audiences with very specific characteristics that have been meticulously profiled to present optimal adverts that trigger a reaction.

By comparing public transparency databases, we can better understand the relationship between lobbying and ad technologies with a view to establishing whether there is a need for further regulation that moves beyond transparency and achieves more meaningful accountability.

### **Cross-referencing Public Databases**

Using the official public register of lobbying activities on lobbying.ie the records from 2019-2021 were extracted and the list of named actors that lobbied (SIPO, 2022) was cross-referenced with Facebook's Ad Library (Facebook, 2022a) over the same period of time. Twitter, stating that they would no longer take political advertising, no longer hosts a public archive of advertising that can be interrogated for problematic advertising patterns while Alphabet do not label issue-based adverts (Kirk & Teeling, 2022). The two databases were compared to establish if registered lobbyists had advertised on social media and if so, what topics were advertised. However, based on previous studies that found Facebook Ad Report sometimes omitting content that is listed online in the Ad Library, the online Ad Library was searched for the names of Lobbyists listed in the Lobbying.ie database.

The data from lobbying.ie states that there were 102 individual lobbyists over the three years. Facebooks Ad Report (Facebook, 2022b) identifies 1204 individual advertisers and more than 17k adverts. Previous studies such as ElectCheck19 (Kirk et al, 2019) found that many people will advertise just once, perhaps to try it out. One-off adverts make up a substantial portion of the Ad Library and so to focus on patterns of behaviours, only advertisers that place five adverts or more were cross referenced. As a result, 257 advertisers listed in Facebooks Ad Library (Facebook, 2022a) were cross-referenced with the lobbying register to establish if lobbyists advertise and if so do any address socio-political issues.

### **Lobbying and Digital Advertising**

Out of 102 lobbyists listed, 27 were also listed in Facebook's Ad Report, while a further 21 were not listed in the Report but were found by searching the online Ad Library. A total of 48 lobbyists used online adverts. The labelling of the adverts as political or issue based was not consistent - while each of the adverts that appeared in the report were labelled as political or issue-based, others found in the Ad Library (Facebook, 2022a) were not. This points to the question of whether the content of adverts intends to shape legislative or policy issues. However, it should be noted that this in itself is a rather limited understanding of how the manipulation of the media environment can work and does not account for the sophisticated ways in which topics can be raised in salience and framed through a range of activities.

The motivations behind the ad content are not exactly clear. However, the content of some ads inherently involves discussing political or social issues. Such as when an advocacy group for a defined health condition, or a specific part of the environment, or business sector advertising campaigns or fundraising efforts. In these cases, the adverts are overtly aiming to raise issues in salience and highlight their importance to society. In other cases, it is not so clear what the motivations or effects of the content on political discourse might be. For example, one lobbyist that

had multiple adverts about their advocacy groups rights, the need to know about specific rights and informing about policy changes did not carry any disclaimers on Facebook. On the other hand, some lobbyists' adverts do not address any policy issue but are overtly commercial, e.g., launching a new product or services are labelled as political or issue based. In short, there are significant inconsistencies in how lobbying activities or lobbyists are treated in the regulations regarding political and issue-based advertising. While some adverts addressing national policy issues go unlabelled and omit any identifying and microtargeting details, others that discuss non-policy issues are subject to higher levels of disclosure.

Aside from the issue of registered lobbyists advertising and the inconsistencies on labelling as political or issue-based adverts, two parallel issues emerged regarding firstly, how platforms identify and label issue-based adverts and secondly, that lobbyists registered in other countries advertise on political and social issues in Ireland.

Firstly, the lack of clarity over exactly who should register as a political advertiser on social media platforms highlights the lack of monitorability of discourses around socio-political, legislative and policy issues across social media platforms. Additionally, even though Meta does seek to label issue-based adverts, the criteria are unclear. And in general, the registration system whereby social media platforms require an advertiser to provide more detailed information if they place a political advert places the responsibility on advertisers to know and be open about their motivation. In addition, it requires the advertiser to consider whether content could shape political outcomes. However, there are few clear definitions provided either in regulation or by platform community standards beyond those associated with formal political structures such as political parties or election candidates. Secondly, while the focus of this study was on the register of lobbying in Ireland, it was noted when analysing the Facebook' Ad Report (Facebook, 2020b) that non-Irish companies that lobby in the UK and US also advertised on socio-political issues such as the environment and abortion rights.

### **Direct and Indirect Communications with Target Audiences?**

One of the ways in which lobbying, and ad tech may collide is in the options selected by advertisers for microtargeting their content. While digital advertising companies offer a wide range of microtargeting options it is not possible to determine if or what characteristics of audiences that advertisers have selected. Mainstream digital media platforms such as Google and Facebook do not provide a breakdown of characteristics beyond ages, genders and locations although options such as job titles and industries can be targeted and customer audiences can be curated.

While regulation has to some extent enhanced the transparency in political and electoral advertising, the extent to which digital lobbying, targeted digital advertising that would constitute direct or indirect communication on a policy issue with an audience that includes or aims to include designated public officials occurs is not clear.

Similar to persistent problems with transparency in political advertising, much of the data necessary to meaningfully understand and evaluate the impact of advertising campaigns that might constitute lobbying is unavailable. It is not possible to identify if the distribution of adverts by lobbyists constitutes direct or indirect communications. This is to some extent problematised by lobbying being a self-assessed activity and there is an absence of guidelines on digital communications (Greenwood & Dreger, 2013).

Although, the broader approach to regulation political and issue-based advertising is highly limited and rooted in analogue understandings of the media system. Siapera and Kirk (2022) contextualise the regulation of political advertising in the hybrid media system (Chadwick, 2017) arguing a need to reconsider political communications and how they are regulated to preserve the integrity of democratic processes. New digital communications technologies have transformed how actors can raise issues in salience and frame debates online (Siapera & Kirk, 2022). The promotion of political and issue-based content can be ‘paid-for’ in many ways that are not accounted for in current regulatory frameworks.

### Transparency Policy and Achieving Accountability

The purpose of this short study was to explore the relationship between lobbying and ad technologies within the framework of regulating to enhance transparency for accountability. Two key issues that can be supported by enhanced policy emerged; firstly clarity around the definitions of digital activities in reference to the self-declaration process in lobbying regulation and secondly, the alignment of public transparency databases to better facilitate monitoring and accountability. The definition of lobbying could be expanded to explicitly include online advertising activities or processes might require registration on the lobbying register. The self-declaration process for lobbyists in Ireland relies on the public understanding and evaluation of their activities in reference to criteria outlined on lobbying.ie. However, there is no information provided about ad technologies and how using them might require public disclosure. In order for meaningful supports to be developed, more comprehensive research into how ad technologies are being used would be required. However, it must be recognised that there is a lack of detailed disclosure from digital media platforms and companies about their advertising services and this presents a significant challenge. None the less some guidelines about how the use of online advertising could constitute lobbying activities and thus registration would help address this issue to some extent. The second area where policy could be enhanced is in reference to aligning public transparency databases to facilitate meaningful monitoring of activities. Both the need for transparency in political advertising (Dommett, 2019; Kirk & Teeling, 2022) and the need for transparency in political lobbying (Holman & Luneberg, 2012; Greenwood & Dreger, 2013; Laboutková & Žák 2016) are based on maintaining the integrity of policy-making processes (Holman & Luneberg, 2012). While transparency can facilitate monitoring and accountability transparency initiatives in different sectors need to be more clearly aligned. The information included in public lobbying databases should be expanded to include a wider range of data and the information should be consistent across databases. For example, the names of companies across all databases should be identical, or company registration numbers should be included to ensure accuracy of identification. Where online lobbying has occurred requiring detailed description of the processes used, third party advertising companies, advertising technologies used, databases of users, microtargeting details as well as financial details.

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