EEB 12
Bil Etholiadau a Chyrff Etholedig (Cymru)
Elections and Elected Bodies (Wales) Bill
Ymateb gan: Reform Political Advertising
Response from: Reform Political Advertising

This note represents Reform Political Advertising's submission to the Local Government and Housing Committee in the context of the Stage 1 scrutiny of the general principles of the Elections and Elected Bodies (Wales) Bill.

## Reform Political Advertising

As our name implies, we are focused on a particular aspect of electoral behaviour: we campaign for factual accuracy in electoral advertising, a position that is supported by nine out of ten voters in Wales; we propose a regulatory solution that we will go on to show is relatively straightforward and eminently manageable.

We are a small non-profit and politically neutral organisation founded by two people from the advertising industry - Alex Tait and Benedict Pringle. We have some seven thousand five hundred followers on Platform X, formerly Twitter; recent posts have been viewed more than one hundred thousand times. Chair of our Electoral Advertising Review Panel is Lord David Puttnam.

Our aims are supported by a few political parties, the Green party among them, and we are known to some senior politicians and cross-party groups such as the Compassion in Politics APPG. We have also exchanged with Liz Saville-Roberts. While we remain in discussion at those senior levels, we have yet to secure the formal agreement to our proposals of either of the two main political parties in Westminster; and the General Election looms.

We know that the issue of accuracy in electoral advertising is important to voters: our 2019 YouGov research found that 87% of UK voters thought that 'it should be a legal requirement that factual claims in political advertising must be accurate.' (Data for Wales showed the same finding). Electoral Commission (EC) Public Opinion Tracker research 2022 found 'just under half of people (46%) say they think political campaigning online is untrue or misleading.' (We don't have access to data for Wales). Additionally, the EC's report on the 2019 General Election found: 'Voters raised concerns directly with us and other regulators about both printed and digital material that some campaigners were using at the election. They were concerned about the presentation, labelling or layout of campaign material that they thought was misleading, and also about the messaging and content of some campaigns.'

You can find out more about us here; in particular, our reviews of electoral advertising across various elections and by-elections can be found here. Some examples from Wales can be found under p.11 of our May 2021 review of local, mayoral, Scottish and Welsh parliamentary elections.

## Political communications in 2023

Veracity in political communication has - at almost this precise point in time - reached an absolutely critical stage. While recognition that the status quo is unacceptable has anyway been building (amongst both politicians and voters), the arrival of three relatively recent influences brings us to this 'tipping point'. Those are:

1.  In June of 2020, a House of Lords cross party committee, to which we gave evidence, unanimously recommended that political advertising should be regulated in its factual content. The government rejected the proposal, largely on the grounds that it would have 'a chilling effect on free speech'. This despite the proposed regulation being specifically confined to factual accuracy of content.

2.  AI. Arguably, the hottest political communication issue of this decade and certainly the hottest of the next. Open AI CEO Sam Altman has urged regulation for electoral disinformation, saying "it is one of my areas of greatest concern" and Professor

Wooldridge, director at the UK's Alan Turing Institute, said AI-powered disinformation was his main concern about the technology "Right now … it is number one on the list."

While the Bletchley summit laid some important ground, it didn't - and didn't plan to - deal with more urgent and shorter-term matters and there is no evidence that there will be any attention paid to electoral disinformation prior to the next General Election. The Online Safety Act, for example, does not deal with misinformation, and political advertising is specifically exempt from the DCMS Online Advertising Programme. This government has a sorry record for integrity in this and other contexts and it looks like it will stay that way.

3. Other administrations are dealing with the issues we have set out above. On 7<sup>th</sup> November, i.e. just three days ago at the time of writing, the European Commission 'welcomed the political agreement reached between the European Parliament and the Council on the Regulation on transparency of political advertising.' Under these new rules, political adverts will need to be clearly labelled and the use of sensitive personal data will be banned. All online political ads will be available in an online ad repository. Sponsoring ads from outside the EU will be prohibited three months before elections. More here.

On AI specifically, the EU's Artificial Intelligence Act is expected to be finalised by early next year; the G7 group of countries has (very recently) published The International Guiding Principles on Artificial Intelligence, which include: 'Develop and deploy reliable content authentication and provenance mechanisms, where technically feasible, such as watermarking or other techniques to enable users to identify AI-generated content.' On 29 March 2023, the UK government published its white paper a pro-innovation approach to AI regulation, the UK's proposed regulatory framework for AI. In the US, President Biden on October 20, 2023 signed an Executive Order on the 'Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.'

*Our crucial point is that this Elections and Elected Bodies (Wales) Bill represents probably the last chance before the General Election to address the coming together of AI technology with the long and regrettable tradition of misinformation in electoral advertising. This collision of malign forces will pose unprecedented problems for voters, unless addressed with some technical innovation, some advertising insight and, above all, with some urgency. We set out solutions below.*

### Specific proposals

- Much of the Terms of Reference are relatively broad and beyond our remit, though we would point to 'any potential barriers to the implementation of the Bill's provisions', when the Bill will 'Create a requirement for a voter information platform that can host candidate and voter information for Senedd and ordinary principal council elections.'
- So, it is this particular aspect of the Bill that we address. The 'voter information platform' should carry the requirement that parties and candidates' and third parties' paid and unpaid publicity material is included and authenticated under a separate but connected 'Register of Political Advertising.'
- Such advertising should also be subject to a simple code of conduct to be agreed by all political parties. Such a code (we have drafted a version for discussion) will address only factual claims and proper identification processes. (In the context of the latter, requirements of the Elections Act 2022 and the Representation of the People Act 1983 for digital and 'hard copy' material respectively should be amended - as part of the code - to require identification of the political party as well as candidate and promoter. This is a bizarre or convenient loophole which has been exploited on a number of occasions).

- Administration of the code should be the remit of an Electoral Advertising Review Panel' or similar, to be staffed by a 'panel of experts' (from the House of Lords recommendation referenced earlier) which might include, for example, representatives from Ofcom, the ASA and of course The Commission.
- In the course of the 2022 local elections, we piloted a process that was able to identify and rule on advertising within 24 hours. In light of progress in AI in particular, we foresee a system whereby advertising that reaches the relatively few channels in which it appears and from relatively few sources might be 'AI checked' for accuracy and, if necessary, blocked from appearing or at least providing an immediate alert system for the administrators. This kind of technological inspection of advertising has been pioneered by the ASA in a number of regulation-sensitive sectors.
- In the event that proposals outlined above have some traction in the context of the Bill, we would like to bring forward additional advertiser certification systems that we believe will also provide important reassurance to voters, most of whom will be exceptionally cautious in the face of dire AI warnings and an already well-established cynicism towards political advertising.

## Conclusion

It's time, in fact well beyond time, to clean up the electoral advertising 'act.' We have shown that voters are deeply disappointed and cynical as a result of the morass of misleading political communications, grown steadily worse over the past few years in an environment in which leadership almost seemed to encourage distortion or obfuscation. This Bill represents a very important opportunity to address these failings and to do so in an innovative and professional manner. It may not be the first such system in the world (a number of administrations outside the U.K. have some regulation of political advertising) but if proposals above or close to them are to be followed, it will be the best.

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RPA 10th November, 2023