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Double Clicking on Digital Politics:

A Comparative Study of Digital Political Advertising in Latin America and the UK[1]

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Abstract

Online political campaigning has become an increasingly prominent aspect of modern elections, with candidates and parties relying on digital political advertising to reach voters. Despite the benefits of digital political advertising, there are concerns about regulating these ads, particularly regarding transparency, accuracy, and accountability. This paper explores the current state of digital political advertising and the regulatory frameworks established to address these concerns, focusing on the "ethics agreements" signed between platforms such as Meta, WhatsApp, Google and Twitter with the electoral authorities in Argentina, Colombia, Mexico, and Peru. The paper also analyses the UK as an extra-region case where the electoral authority did not sign any agreements. The paper analyses the strengths and weaknesses of existing regulations and identifies areas where policymakers can make further improvements. The article also discusses the implications of these electoral agreements for the future of political campaigns and the democratic process in Latin America, as well as the influence of AI in the electoral processes. The research concludes by offering recommendations for policymakers and stakeholders to ensure that any agreement between electoral authorities and platforms must uphold the highest standards of transparency to protect the integrity of the election process when digital political advertising is the main product addressed by these agreements.

Introduction

This paper explores the current state of digital political advertising and the regulatory frameworks established to address these concerns, focusing on how electoral authorities manage online political campaigning. In some Latin American countries, such as Argentina, Colombia, Mexico, or Peru, these authorities signed "ethics agreements" with platforms such as Facebook, WhatsApp, and Twitter.

On the other hand, we also encountered the case of Chile[3] , where electoral authorities chose not to follow this approach, following the example of more established democracies like the UK. In the UK, electoral authorities have developed various strategies to overcome the challenges of outdated regulatory frameworks, which will be analysed later in this paper. However, there has been no occurrence of signing ethics agreements in the country.

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[3] *Chile is a case that differs from the cases studied here because of two particularities. First, its electoral authority, the Servel - Servicio Electoral (Servel) is an autonomous body that administers, monitors and controls the electoral and plebiscite processes, as well as compliance with the rules on transparency, limits and control of electoral spending, among other functions. Secondly, its policy regarding the digitalization of the campaigns was not to sign electoral agreements.*

The digital era revisited

Analysing the literature on digital political advertising and the relevant regulatory frameworks reveals three key themes. First, there is literature that studies political information in the digital era. Susskind (2018) argues that future politics seek to answer the following question: to what extent should our lives be directed by digital systems, and in what terms? The author believes that "how we collect, store, analyse, and communicate our information, in essence, how we organise it, is closely related to how we organise our politics" (Susskind, 2018, p. 19). Neuman (2016) argues that we need efficient evidence to understand how the media affect the information environment and believes that we should analyse the polysemy of messages and reject most arguments about information overload. Moore (2018), in Democracy Hacked, argues that the new information environment created by powerful Internet platforms has made it easier for hostile actors to manipulate our democracies.

Second, an emerging theme is that human gatekeepers no longer govern online platforms; algorithms govern them. An algorithm takes a set of data and analyses it in a way that answers a specific question or problem, often trained by machine learning. Consequently, only some humans know how a computer system processes data and how results and outputs are obtained. A classic approach to this phenomenon is in O'Neil's book "Weapons of Mathematical Destruction"(2017). She says that algorithms define their reality and use this reality to justify their results. Noble (2017) shows how data sets reflecting racist tendencies in society are presented as neutral search results in Google. All this affects the information environment around elections.

Finally, studying surveillance and privacy, Zuboff (2019), in "The Age of Surveillance Capitalism," says that once surveillance capitalists can understand who we are, they try to modify our behaviour. This calls into question citizen freedom because prediction about our behaviour increases the value of our data and efforts to study it. Hankey, S., Morrison, J. K. and Naik, R. (2018), in the book "Data and Democracy in the Digital Age", argue for the theory of 'dataism', which means that extensive big data systems know people better than they know themselves, the authority will shift from humans to algorithms.

The *platformisation* of the public sphere

The platformisation of the public sphere is a process whereby a digital platform becomes a mediator of conversation, access to information, and other forms of social interaction that were previously organised via different mechanisms. Today in Latin America, although there are studies on civic technology, online mobilisation, e-government, transparency, and new media; and, regardless of specific reports[4] , case studies, and individual research, the region is still far behind in understanding the impact of digital innovations on the size and quality of the public sphere as well as the dynamics within it.

Content regulation is critical to the platformisation of the public sphere. Platforms' self-regulatory frameworks dictate content policies. During the pandemic, platforms developed new content policies to reduce misinformation and engage authorities to prioritise "official content". The electoral products discussed below also observed the proactive involvement of platforms.

Digital platforms impact the public sphere. This phenomenon occurs through two primary avenues: content policies and recommendation algorithms. In the first case, many corporate content policies attempt to conform to various national laws. What happens when federal legislation is not adequate to international human rights standards? In that case, companies are faced with the choice of aligning with this non-compliance or not being able to operate in certain jurisdictions. In the case of recommendation algorithms, these have a deterrent control for individuals to obtain information through various sources, as the platform will repeatedly suggest content similar to what they usually consume (Sunstein, 2017). More precisely, factors that undermine freedom of expression indirectly undermine freedom of association and public demonstration, which could affect electoral outcomes.

Meanwhile, "Big Techs" undergo a process of "self-regulation". Greater efforts are required from governments and electoral institutions to establish a robust regulatory framework. This framework should effectively safeguard citizens from potential harms arising from algorithmic data utilization, all the while upholding the vital principle of online freedom of expression. In this challenging context, we ask what governments are doing about a specific moment in the democratic cycle: political campaigns, and provide evidence on how democratic institutions are threatened by online political campaigning.

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[4] *See Asociación por los Derechos Civiles (www.adc.org) and TEDIC. (15 de junio de 2023). Desinformación: desafíos en el contexto electoral (https://www.tedic.org/desinformacion-desafios-en-el-contexto-electoral/)*

Three edges of the phenomenon of the *platformisation* of the public sphere

Social networks have become an inescapable element of electoral campaigns. They have become central to the dissemination of messages, the interaction between candidates and voters, and the channelling of campaign funds. To address the problem of digital platforms and electoral competition, we must attend to three aspects: information (Susskind, 2018; Moore, 2018), **the algorithms that intervene in the digital space** (Nobel, 2017; O'Neil, 2017), and the **interaction between platforms and democratic institutions** (Zuboff, 2019). Based on these three dimensions, we have compared the regulatory frameworks in four presidential campaigns in Latin America (Argentina, Mexico, Peru, and Colombia), the 2019 UK general election, and the decisions of electoral institutions around digital platforms. How has the problem been addressed? What is the scope of regulation for electoral integrity (Norris, 2019)? Our research sheds light on this conflicting phonema and we believe that this issue cannot be left out of the debates on electoral reforms and integrity. Some Latin American countries have taken small steps, including: 1) financial regulation of parties' digital campaigns; and 2) commitments to using social networks in campaigns. In the UK, the Electoral Commission and the Parliament changed their model for 2022.

As Rommele and Von Schneidmesser (2016, p.426) argue, e-literature on electoral campaigns has identified three phases of the campaign: the pre-modern, the modern and the professionalised phase. Currently:

> "The election campaign has entered a fourth phase, characterised by new applications of communication technologies, quantitative data, immediate communications, a reinvented citizen-politician relationship that offers more emotional access and lower barriers to active citizen roles in campaigns. We root for change in the citizen-media nexus, with changes in media use and production being a major driver of this development. The 'Mediatized Campaign' classification emphasises the role of media use and related changes in political and social institutions." (Von Schneidmesser, 2016, p.426)

In the era of mediatised campaigns, the role of digital political advertising is crucial.

What is an ad? Generally, an ad is a piece of propaganda designed by a political actor. Unfortunately, this definition is too general and does not allow identifying the nature of online ads. For this study, we consider following Edelson et al. (2019), defining an ad as "a

record in an archive with a unique ID assigned by the platform". As the authors say, each platform has slightly different information associated with each record; each has three categories of related information: content, context, and results. The contents of an ad consist of any text, images, and videos seen by an ad viewer. Context of the ad is the information specified by the advertiser about how, when, where, and by whom they want the ad to be seen and how much they are willing to spend for the ad to be seen. We must point out that the advertiser specifies the content and context of the ad at the time of ad creation. The results show who interacted with the ad, when those interactions happened, and how much was ultimately spent on the ad. Not all this information is available about each record in any archives. Still, the library archive makes all this information available (Edelson et al., 2019).

The specificity of fourth-generation campaigns lies in the convergence of new and old actors. On the one hand, party politics and the competition between candidates; on the other hand, the democratic governmental authorities must guarantee electoral integrity, regulating financial aspects, the use of public space, party and candidate advertising spaces, and also the guiding principles for the operation of networks and digital platforms, which are gaining ground in comparison with traditional media (Waisbord, 2020). And, as we discuss below, the third-party campaigners.

Elections and Social Media

Latin America faces the same dilemma as other democracies: to seek a solution to the problems that undermine proper public debate through legal regulation of social networks or to promote self-regulatory mechanisms through ethical but not necessarily legislative codes.

The self-regulation model has been recommended by international organisations (Organization of American States - Inter-American Commission on Human Rights [OAS-IACHR], 2019) since, given that the concept of fake news is so vague and imprecise, any type of legal prohibition on content that is labelled in this way may constitute a severe offence against freedom of expression. This is why the tendency to legislate in this region is lower than in Europe, where countries such as Germany and France have actively promoted and sanctioned laws that force social networks to remove content from their platforms in the face of complaints from other users who feel aggrieved. Thus, Latin American countries tend to enter agreements with online content platforms and interme- diaries through their electoral bodies. At the same time, most new legislation tends to create new bodies (or programs within existing bodies) to supervise or ensure the proper development of public debate.

Electoral institutions and oversight

The 2018 Brazilian presidential election campaign significant major role in initiating debates around digital campaigning in Latin America. During the campaign, candidate Jair Bolsonaro denounced the elections as fraudulent, and his campaign amplified fake news to support this narrative through social networks and websites linked to the candidate (Ruediger and Grassi, 2020; Abdala, Scherlis, Tchintian, 2020).

As a result, in 2021, the Brazilian Superior Electoral Court launched the Permanent Program to Combat Disinformation. This program operates within the framework of Electoral Justice through Ordinance 510/2021 and finds its precedents in Ordinance 949/2017, which created the Consultative Council of Internet and Elections. The Consultative Council in 2017, a year before Bolsanaro's claims of election fraud and the subsequent circulation of fake news; however, in practice, its remit was rapidly adapted to respond to fake news during the 2018 campaign. Before the elections, the Brazilian Superior Electoral Court had already entered into cooperation agreements with all political parties, telecommunications entities and platforms such as Google and Facebook to prevent disinformation, promote digital education and identify and combat fake content.

Other countries followed this approach in the region. Presidential elections in Argentina, Mexico, Peru and Colombia involved ethics agreements that attempted to increase the monitoring of political campaigning.

Methodological approach

This paper uses a comparative approach to understand online political campaigning across Latin America. It begins from the premise that case studies can provide a theoretically rich initial step in understanding novel political phenomena (Mabry, 2008). Comparative approaches also offer a solid ground for forming new hypotheses, as well as for simplifying, ordering and giving and, to streamline, provide and give explanatory coherence to reality, using description and explanation as ways of approaching reality (King, et. al., 2009).

The paper takes a regional selection of cases (Mainwaring & Perez-Liñan, 2005) of presidential campaigns and summarises an extra-region case study, the UK, to avoid biased conclusions.

The main question we introduce in the discussion is how political online campaigns impact electoral authorities' possibilities of monitoring the integrity of the electoral process. And the main objective is to understand how, along with the platformisation of political campaigns, new debates on how to regulate digital platforms, new legislation and transformations of democratic institutions are being introduced.

The specific objectives are:

- To inform on the relationship between electoral authorities and digital platforms
- To understand the innovations in addressing the problems generated by the presence of digital platforms in the online sphere
- To address the scopes and gaps of regulatory frameworks
- To determine whether the platforms and electoral authorities develop the electoral products collaboratively.

We collected data from electoral authorities' web pages on 'Ethics Agreements' and studied the electoral products developed by META to capture the relationship between democratic institutions and digital platforms. For weighting the financial aspects of the campaigns, we looked at the ads that the registered accounts of the presidential candidates in Argentina, Colombia, Mexico and Peru made during the campaign period, available in the META Ads Library.

Latin America and the UK
¿Different Regions, Different Problems?

Latin American Democracies: Regulation of Online Political Advertising

The signing of 'ethics agreements' is the path that most Latin American countries decided to take. This section will describe the ethics agreements approach to tackle disinformation and spending transgressions signed in Argentina, Colombia, and México y Perú.

Ethics agreements

In Argentina, the National Electoral Chamber (CNE) has signed agreements with various media entities and platforms to contribute to mitigating the adverse effects of disseminating false content and disinformation tactics during the electoral process. The agreement was signed on May 30, 2019, and renewed on August 1, 2021. Participants in the agreement include the CNE, political groups, associations and companies such as ALAI (Latin American Internet Association), Google, Facebook, Twitter and TikTok. Under this agreement, the participating technology companies recognise the complexity and tension arising during electoral processes due to disseminating inaccurate information or fake news. Within their possibilities and tools, they agree to collaborate with the competent authorities in this process, respecting democratic values and freedom of expression. Through this commitment, they seek to promote transparency and truthfulness in disseminating information related to the elections, thus guaranteeing the integrity of the electoral process in Argentina.

In Colombia, the National Electoral Council (CNE) has signed an agreement with Twitter to promote an adequate flow of information between the electoral authorities and the platform. The agreement, signed on May 14, 2019, took place in the context of the 2019 Elections in Colombia. This agreement between the CNE and Twitter has several purposes. First, it seeks to enable Twitter to be used as a medium to share timely and valuable information for users related to the elections. In addition, CNE used the Twitter platform to raise public awareness about relevant information for citizens and parties involved in the electoral process. Also, it seeks to promote broader information for all stakeholders during the Elections, including media literacy initiatives.

As part of this agreement, Twitter committed to providing the CNE with access to Periscope Producer for the live transmission of events required by the CNE and for gener-

ating Twitter conversations with the audiences of these events. It will also advise the CNE on developing a bot for Twitter users. In addition, Twitter is committed to training the CNE in using tools such as Periscope, Moments, Twitter Mirror, Q&A, Tweetdeck and Best Practices. It will also implement and launch a custom hashtag to be used by the CNE and the general public to identify content related to the Elections and facilitate access to relevant information about the Electoral Process. Twitter will promote, at its discretion, CNE activations through its official channels and participate in Digital Education initiatives determined by the CNE. The CNE commits to use the Periscope Producer and open TV broadcasts to disseminate content of interest. CNE assumes sole responsibility for content broadcast via Periscope Producer and other Twitter feeds used by CNE. In addition, CNE will organise and communicate workshops for its staff, journalists, civil society, political organisations and other interested parties to promote media literacy initiatives and adequately disseminate the Twitter Rules. The CNE will designate a lead liaison to ensure the timely and consistent execution of the above activities and Twitter.

In Mexico, in 2018, the National Electoral Institute (INE) entered into agreements with Facebook, Twitter and Google to counteract the adverse effects of bots, trolls and fake news during election days, as well as to disseminate official information and promote informed citizen participation. In the case of the agreement with Meta (Facebook), "ten tips" for detecting fake news were published in the leading Mexican newspapers, in addition to offering training to INE officials on the platform's operation and best practices for political communication. It also created products designed to encourage participation, such as the "Electoral Megaphone" and the "Informed Elector" button, which provided information on the electoral process and resources for locating polling places. Facebook provided support in the transmission of the presidential debates through Facebook Live. In the collaboration agreement between Google and INE, several actions were included, such as making accessible the information generated by INE, offering voters the service of locating their polling place through Google Maps, providing guidance on how to vote, creat-ing reminders of relevant dates of the electoral process and broadcasting the candidates' debates live through YouTube. In addition, Google facilitated access to public information about the candidates and their proposals through its search engine and disseminated the preliminary election results through the PREP (Preliminary Electoral Results Program).

For its part, the agreement signed with Twitter allowed the creation of a bot for INE to transmit verified information about the election and provide training to the institute's staff. Twitter also advised INE on the effective use of tools such as Periscope and Moments, implemented unique emojis to be used during debates and election-related activities, and gave visibility to public information disseminated by INE through its official accounts. In addition, Twitter participated in media training convened by INE. It is important to note that in all these agreements and memorandums of understanding, INE has made it clear that

collaboration with the different platforms and companies does not involve sharing or using personal data held by any of the parties, thus protecting citizens' privacy.

In Peru, the National Jury of Elections (JNE), the National Registry of Identification and Civil Status (Reniec) and the National Office of Electoral Processes (ONPE) have collaborated with Facebook, WhatsApp and Instagram, intending to promote citizen participation and protect the integrity of elections. The collaboration has been mainly with the National Office of Electoral Processes (ONPE) and has included various actions on Facebook platforms. However, it is essential to remember that the ONPE does not require political parties to report the money invested in platforms and digital political advertising in their reports. The training was held on February 19, 2021, in which ONPE and Meta (Facebook's parent company) representatives participated. During this training, topics related to using Facebook, WhatsApp and Instagram platforms to promote citizen participation and ensure the integrity of elections in Peru were addressed.

Institutional contexts

Argentina's political parties' financial law[5] establishes spending limits, reporting and auditing expenditures during an election campaign. In national elections, the expenses incurred by an *"agrupación política"* may not exceed the multiplication of eligible voters by the amount corresponding to the electoral module established by the Law of General Budget of the National Administration. Article 53 confirms that the parties must give a detailed report of public and private contributions received ten days before the election ends, indicating the origin and amount. In addition, they must report the expenses incurred and foreseen until the end of the campaign.

Chapter III of Law 26.215 encompasses electoral advertising across social networks and digital platforms. It establishes a registry in the CNE of official social media accounts, Internet sites and other communication channels of pre-candidates and candidates, political groups and their highest authorities. The reports submitted to the CNE must also include the audiovisual material of the campaigns on the Internet, social networks, messaging campaigns on the Internet, social networks, messaging and any other digital platform. Article 43.13 of the financing law provides a form of distribution of public resources destined for investment in digital political advertising. Thus, 35 per cent must be earmarked for digital journalistic sites that generate digital content following a criterion similar to that of the federal co-participation.[6] The regulation revolves around limits and monitoring who finances the ads.

When we look into the legal documents that regulate electoral campaigns in Colombia[7], we notice that there are no specific mentions of the use of social networks in electoral processes. This process is due to the need for an updated regulation; in this regard, a reform of the electoral code (the current one is from 1986) is being discussed in the Colombian Parliament.

Article 265 of the Constitution bestows upon the CNE a range of key responsibilities, including overseeing and supervising the electoral process, appointing and dismissing the National Registrar of Civil Status, adjudicating appeals against decisions made by its delegates during general scrutinies, providing advisory input to the Government on

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[5] *Law 26.215. Ley de Financiamiento de los Partidos Políticos. (2006)*

[6] *"In 2018 takes the first step in this matter with the signing of the agreement and establishes some things that later passed to the modification of the law 26.215 (for example, the registration of official accounts of the candidates that basically had for object to also have to be seen as context data)" from the Interview with an officer of the NEC (June, 2023)*

[7] *Political Constitution of the Republic of Colombia of 1991; Electoral Code of 1986; Law 996. Ley de Garantías Electorales. (2005); Law 1475. Ley de Partidos Políticos. (2011).*

within its jurisdiction, ensuring adherence to regulations concerning political parties and movements, allocating funds for electoral campaign financing, conducting comprehensive scrutiny of national elections, conferring legal recognition to political parties, regulating the involvement of parties in state media, facilitating collaboration in internal party consultations for candidate selection, and formulating its internal regulations.

Regarding electoral campaigns, electoral publicity and access to the media: article 35 of Law 1475 establishes that *"propaganda through the means of social communication and public space may only be carried out within the sixty (60) days before the date of the respective vote, and that which is carried out using public space may be carried out within three (3) months before the date of the respective vote."* It establishes the right of political parties, political movements, social organisations and significant groups of citizens to receive free spaces on social media according to the number of elected representatives during the two months before the voting. The allocation of spaces is made using a lottery that seeks to guarantee equality among the different campaigns, considering the duration and the broadcasting slots according to the nature of the election. It is specified that the unused spaces will be lost and that the campaigns' beneficiaries must assume the production costs. In connection with this, it establishes the limit for the number and duration of radio and television broadcasts and the number and size of advertisements in written publications and billboards allowed for each campaign.

The legal document regulating electoral campaigns in Mexico is the General Law of Institutions and Electoral Procedures 2014. There are no specific mentions of the use of social networks in electoral processes.

Articles of interest on electoral campaigns, electoral advertising and access to media:

- Article 242 establishes definitions and regulations related to electoral campaigns in Mexico. It defines electoral campaigns as the activities carried out by political parties, coalitions and candidates to obtain votes. Campaign acts include public meetings, assemblies and marches to promote candidacies. Electoral propaganda includes writings, publications, images and expressions used to present the candidacies. Both propaganda and campaign activities must promote the presentation and discussion of the programs and actions of the political parties. It is established that the annual reports of public servants are not considered propaganda as long as they are broadcast once a year on regional stations and channels, do not have electoral purposes, and are not carried out during the electoral campaign period.

- Article 243 establishes that political parties, coalitions and candidates are subject to limits on the expenditures they may make during electoral campaigns regarding electoral propaganda and campaign activities. These limits are agreed upon by the General Council, the authority regulating and supervising the electoral process.

Regarding the concepts included within the spending limits, four main categories are mentioned:

- Propaganda expenses: They include expenses incurred in items such as banners, banners, flyers, banners, sound equipment and political events held in rented places, as well as any other means used to promote candidacies.

- Campaign operating expenses: Include expenses related to temporary personnel, leasing of movable and immovable property, transportation of material and personnel, travel expenses and other similar expenses necessary to carry out the campaign.

- Propaganda expenses in printed media: Refers to the costs incurred in newspapers, magazines or other printed media to insert advertisements or any type of propaganda to obtain votes. The contracting party, candidate, and the printed press must identify that it is paid advertising or insertion.

- Expenses for the production of messages for radio and television: These include the expenses for the hiring of professional services, the use of technical equipment, locations or recording and production studios, as well as any other cost related to the creation and broadcasting of electoral messages on radio and television.

It is important to note that expenses incurred by political parties for their ordinary operations and the support of their governing bodies and organisations are not considered within the campaign limits.

The General Council is responsible for establishing the campaign expenditure limits, and specific rules are applied depending on the type of election. In the case of the presidential election, the maximum campaign expenditure ceiling is determined as twenty per cent of the public campaign financing established for all parties in that year. For the elections of deputies and senators, formulas are established to calculate the expenditure ceilings based on the presidential campaign expenditure ceiling and the number of districts covered by the corresponding entity.

Article 251 stipulates that campaigns will have 90 days for the presidential election and 60 days for the renewal of the Chamber of Deputies. Meetings and public acts of campaigning, propaganda or electoral proselytism are prohibited during the three days before election day. A complete copy of any survey or opinion poll on electoral matters is required to be delivered to the Executive Secretary of the Electoral Institute. Likewise, publishing or disseminating the results of surveys or opinion polls during the three days before the election is prohibited. It is established that sample surveys must follow scientific criteria issued by the General Council of the Electoral Institute.

In Peru, the governing legal framework for electoral campaigns stipulates that political parties or 'agrupaciones independientes' are permitted to utilize their names alongside the alliances to which they are affiliated for the purpose of electoral propaganda during campaigns and advertising[8]. Political organisations, independent lists and alliances must submit to the National Jury of Elections, within 60 days before the elections, a projection of the funds to be used during the electoral process and the source of financing. They may only contract electoral propaganda on radio, television and other media from sixty to two calendar days before election day. In addition, within 60 days after the official electoral proclamation, all parties involved must submit to the National Jury of Elections a sworn statement detailing the expenses destined for the corresponding electoral campaign, and the Jury has the power to carry out the necessary investigations to verify the accuracy of the financial transfers related to such campaign.

On social media and electoral campaigns, the Law of Political Organizations, in its Article 37.- Indirect public financing, says, *"From sixty (60) days up to two (2) days before the holding of. Following the provisions of this law, political parties and alliances with registered candidates have free access, by the provisions of this law, to radio and television broadcasting media, privately or State-owned open signal, national cable channels of national scope, radio stations, public or private, and to contract daily advertising on social networks. The National Office of Electoral Processes (ONPE) receives, as a budget allocation, together with the budget for the electoral process, the amount for access to radio and television and the payment of advertising in social networks in each election. The prices agreed with the media should be those considered for a social tariff. The radio and television media are prohibited from contracting electoral propaganda for political organisations and their candidates through their treasurers, campaign managers, authorities, candidates, or third parties. In using the electoral slot, political parties, electoral alliances, and the National Office of Electoral Processes (ONPE) must ensure that it is carried out under criteria of equality, parity and non-discrimination between men and women."*

In the Law of Political Organizations, Article 38, on Duration and frequency of indirect public financing establishes that:

"In general elections, each radio and television station broadcasts the electoral slot between six (06:00) and twenty-three (23:00) hours. Half the time available must be duly valued and distributed equally among all political parties and alliances with candidates registered in the electoral process. The other half of the duly valued time is distributed proportionally to the representation of each political party in the Congress of the

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[8] *Organic Law of Elections; Law of Political Organizations (updated in 2016); The ONPE published a compendium of these documents: Peruvian Electoral Compendium.*

Republic. Political parties participating for the first time in an election have a time equivalent to that of the party with the lowest allotment. In the case of social networks, daily advertising may be contracted in up to three of them. The space contracted for advertising on social networks is distributed equally among all political parties and alliances with registered candidates. The National Office of Electoral Processes (ONPE) will make available to political parties and electoral alliances a module within the Digital Financing Portal (PDF) with the catalogue of times and spaces available for contracting advertising on radio, television and social networks. All formal media outlets nationwide, regardless of their reach, rating or tuning, may register in the catalogue as suppliers. Each political party or electoral alliance will directly choose, according to their preferences and the economic allocation that corresponds to them, the times and spaces available in the Digital Financing Portal (PDF) by the regulations issued by the National Office of Electoral Processes (ONPE) for such purpose. The time spaces not used by political parties and alliances in the electoral slot shall be destined for disseminating electoral education, as determined by the National Office of Electoral Processes (ONPE)."

In these institutional contexts, what actions have digital platforms taken to enhance transparency in the electoral process? To address this question, we examine the electoral products developed by platforms.

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Electoral products

InIn 2019, Meta announced a global policy on Transparency in Political Ads, with know-how from tests conducted in the UK, US and Brazil. At that time, two requirements were incorporated into the ad policy: 1) the obligation for advertisers to verify their identity and geolocation before launching an ad, and 2) ads in the library have to be made available to the public for seven years.

The electoral advertisement policy has evolved specific guidelines and requirements for those launching political advertisements. These are:

- Creating an ads manager profile oriented to political, social and electoral issues.

- Inclusion of the "Paid for" label in cases where the paid advertisement includes: statements in favour of a candidate, politician, party or official; the name or image of a political figure, official, candidate or the mention of a political office; he name of a page that includes within itself the name of a political figure (e.g. "Governor ....."); demonstration for or against the change of a law or policy; demonstration in favour of or against legislation; calls for action by citizens seeking to have them contact elected officials or government agencies;

- Voting information (e.g., how to consult the voting list, voting hours, etc.).

- If the ad is not labelled "Paid for by" and contains political content, it will be rejected in the review. If it passes the review with this error, it will be removed when it is identified once it is published.

To determine whether an ad relates to social, electoral or political issues, ad proposals are automatically reviewed to check if they violate the company's advertising policies. In addition, since they are related to sensitive topics, they are checked by people from the country or region where the information is to be published. In this process, the following are analysed: image, text, general content of the page that publishes it, and the account from which the ad is posted. For advertisers to reduce their violation of the company's ad policies, the company offers training for these groups.

While Meta considers that it is the advertiser's responsibility to ensure compliance with laws regulating content and political advertising when creating an ad, they offer a dedicated page where guidelines can be consulted. However, it is worth noting that currently, the available information on this page is limited to policies applicable to the United States.

What were the available electoral products during each presidential election?

- Mexico 2018 Presidential Elections: To protect the integrity of the 2018 elections in Mexico, Meta provided training to national and state election authorities on best practices on the platform. Moreover, Meta amplified its independent fact-checker program by bringing on board Reuters, the world's largest news provider. In addition, in collaboration with UN Women and the National Electoral Institute (INE), it launched two guides with tips so that women in politics, including candidates, have more options to prevent and report acts of gender-based political violence on social media. For election day, Meta platforms displayed notifications at the top of the News Section of users in Mexico, with reminders and information about the location of polling stations.

- Argentina 2019 Presidential Elections: Announced that the ad library will be in place for the 2019 presidential elections in Argentina, and political ads will be tagged with "paid by" tags. To implement this, it becomes a requirement for those who want to launch political advertising to confirm their identity and identify themselves as responsible for the published ad. In the Argentine case, the accounts paying for the ads must operate in Argentinian pesos. There needs to be more information about applying voting information centre policies or fact-checking practices, which were announced for the midterm elections in 2021.

- Peru 2021 presidential elections: As part of the collaboration with the National Office of Electoral Processes (ONPE), Meta consolidated the mandatory use of the transparency tool for political and electoral ads; all advertisements about politics or elections on Facebook and Instagram must be identified with the label "Paid for by", and all advertisers will go through an authorisation process to confirm their identity and residence in Peru. As part of the Facebook Journalism Project, Meta supported with technology and resources PeruCheck, the content verification consortium that brings together more than 25 local media outlets and organisations with the mission to combat disinformation in the Peruvian elections. In addition, it extended the alliance with Verificador and AFP in Peru to check information on Facebook and Instagram.

  Likewise, Facebook included voting day reminders, which redirected people to the ONPE page, and an informed vote directed citizens to the Voto Informado page of the Jurado Nacional de Elecciones to access more data about the electoral process in Peru. Finally, during the election weekend, Meta made available a multidisciplinary team (using a combination of artificial intelligence and human review) to provide rapid response and detect possible violations of the platform policies (e.g., attempts to suppress the vote, content that calls for violence or the dissemination of false information).

- Chile 2021 Presidential Elections: For the Chilean elections and associated political events such as the presidential debates, they announced the appointment of an interdisciplinary content review team dedicated to identifying content policy violations on the company's platforms. In terms of transparency in electoral advertising, the tools announced are the same as in the case of Argentina: the inclusion of the "Paid for by" disclaimer on ads and the activation of the ad library accessible to all citizens. Regarding advertisers' identity, the requirement of identity and residence verification within Chile is incorporated for those who want to launch campaigns. In this case, no obligations were foreseen regarding the currency in which the advertisements must be paid. Additionally, they reaffirm the existing alliance with Fast Check CH and AFP in Chile to verify the electoral information circulating on Facebook and Instagram. Pop-ups corresponding to official electoral information sites such as SERVEL are also included.

Preliminary findings

- The lack of regulations regarding control procedures in campaigns, which assign an active role to electoral authorities, is a common factor in the cases studied. However is important to note that ethics agreements are not the sole option for preserving democratic dialogue and the integrity of the electoral process. For instance, the Servel in Chile did not adopt this monitoring model.

- Latin American electoral authorities based in the judiciary have limited avenues for formally monitoring digital political campaigning on platforms. Such authorities tend to lack the statutory powers required to compel platforms to remove content, meaning the decision to take down content is left to the platforms along their terms and conditions (Estrada 2023). However, we still need a theory to explain the actions of Latin American electoral authorities based outside the judiciary. We identified high interference authorities (Mexico) and non-interference authorities (Chile) without clearly understanding what variables distinguished the two types.

- The control processes of advertising spending by political parties and candidates are transformed permanently. It requires institutional capacities and the openness and clarity of the information available on the platforms.

- Electoral products are not detailed in 'Ethics Agreements' but are the elements through which platforms operationalised their commitments.

- Self-regulation is closely associated with the electoral digital products developed by platforms. However, for example, the Ad Library designed by META in the absence of regulations and formal connections to electoral authorities has yet to prevent transgressions effectively.

United Kingdom: Between Old And New Rules

The 2019 UK General Election

The case of the UK demonstrates some of the challenges posed by digital political advertising in the European context. It also illustrates how some legislation designed to respond to these challenges can potentially negatively affect democratic functioning.

The 2019 UK general election was a snap election contested on the 12th of December between Boris Johnson's incumbent Conservative Party and Jeremy Corbyn's Labour Party. The election resulted in a large Conservative majority. The role of digital campaigning in the election has been the subject of significant discussion amongst British policymakers and has resulted in controversial new electoral legislation.

The UK's electoral authority is the Electoral Commission (EC). Established in 2001 as an independent body, it regulates party and election finance and sets standards for all UK elections and referendums. In 2009 it was granted supervisory and investigatory powers and the ability to apply various civil sanctions. The EC has paid specific attention to digital campaigning since its creation, with a 2003 report recommending that governments extend the 'imprint' requirement (mandatory information regarding who produced the content) to cover digital campaigning materials.

In the 2019 general election, the EC did not have formal ethics agreements with major social media platforms. Instead, it applied existing electoral regulations without specific binding agreements with the major platforms

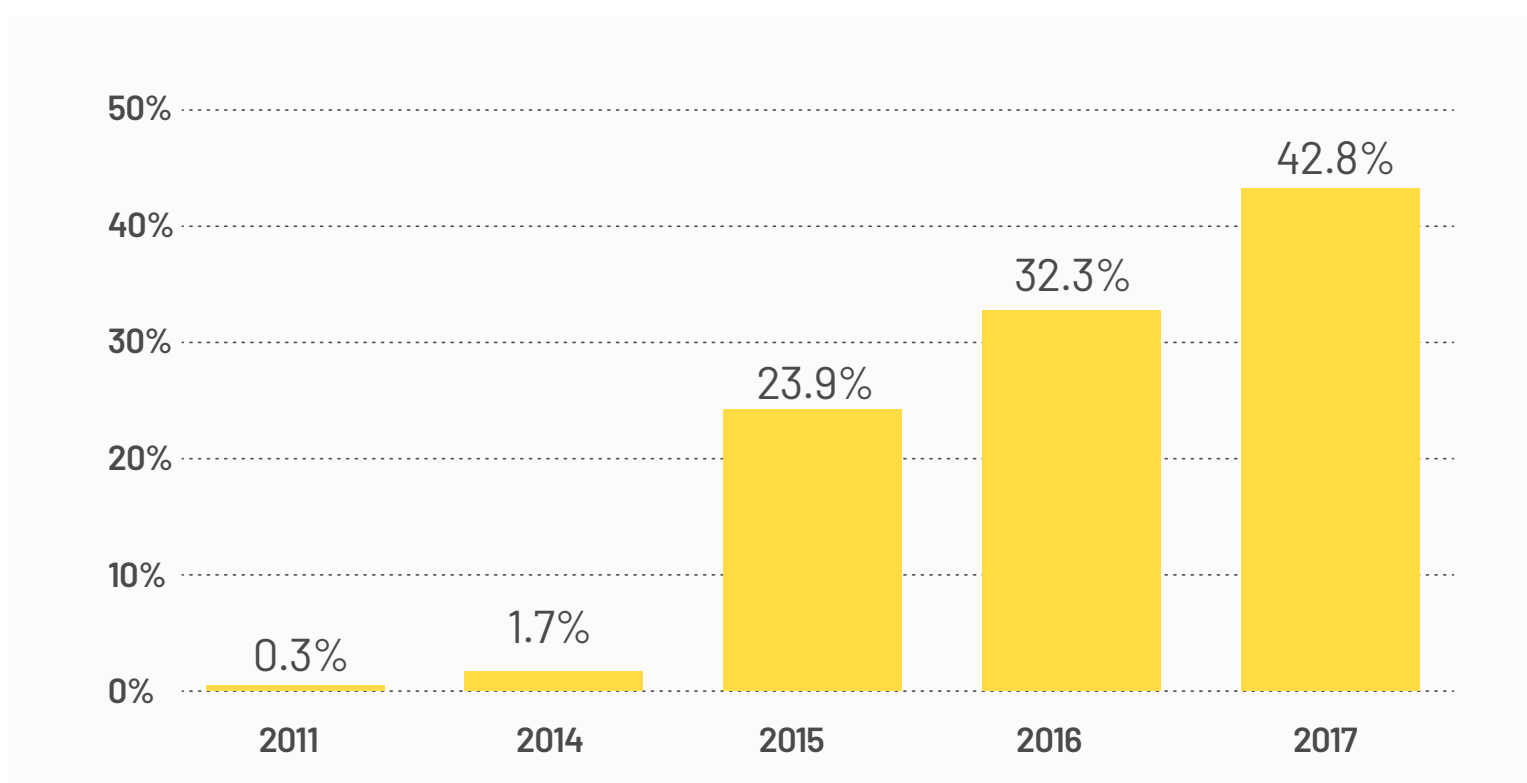## The Wild West of Digital Political Advertising

For decades, the UK banned the major social avenue for political advertising. The Communications Act 2003 bans the broadcasting of political advertising on television or radio. Instead of purchasing broadcast advertising, electoral parties are given party political broadcasts that allow them to share their message with the public. Broadcasters are also obliged to report the news accurately and impartially. This is enforced by the communications regulator, Ofcom.[9] However, no such ban applied to physical advertising, and as digital political advertising began to rise to prominence, the ban was also not extended to this medium. As Dr Nick Anstead[10] said in his evidence to the APPG on Electoral Campaigning Transparency:

"I would argue that really without any kind of meaningful debate or discussion, we have overturned a consensus that has existed for about 50 years on not allowing commercial advertising or commercial advertising or mass commercial advertising on the primary advertising medium of the day into politics. So, for a long time, we agreed that radio and television advertising... would be forbidden, and would not be legal in the United Kingdom. But now political parties and campaigners have access to a new media— social media advertising— where they can spend literally millions of pounds on targeted political advertising."(quoted in APPG on Electoral Campaigning Transparency 2020)

The appeal of digital political advertising must be seen in this context. In the last two decades, it has gone from being a fringe art of campaigning expenditure to the main budget line for nearly all parties.

Figure 1

Reported spending by UK election campaigners on digital political advertising as a percentage of total advertising spend (reproduced from Electoral Commission, 2018)


This trend has only continued. Analysis by the Electoral Reform Society demonstrates that digital political advertising spending rose by over 50% in the 2019 GE compared to 2017. The parties spent £6 million on Facebook and £3 million on Google alone, with even more spending occurring via third-party campaigners, as will be discussed below (Electoral Reform Society, 2020).

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9 The Office of Communications is the UK regulator responsible for broadcasting and telecommunications. It was founded in 2002, and has a range of statutory powers.

10 Associate Professor in the Department of Media and Communications, London School of Economics

Figure 2

Electoral Reform Society analysis of digital political advertising spend by the three largest parties in the 2019 general election (reproduced from Electoral Reform Society, 2020)
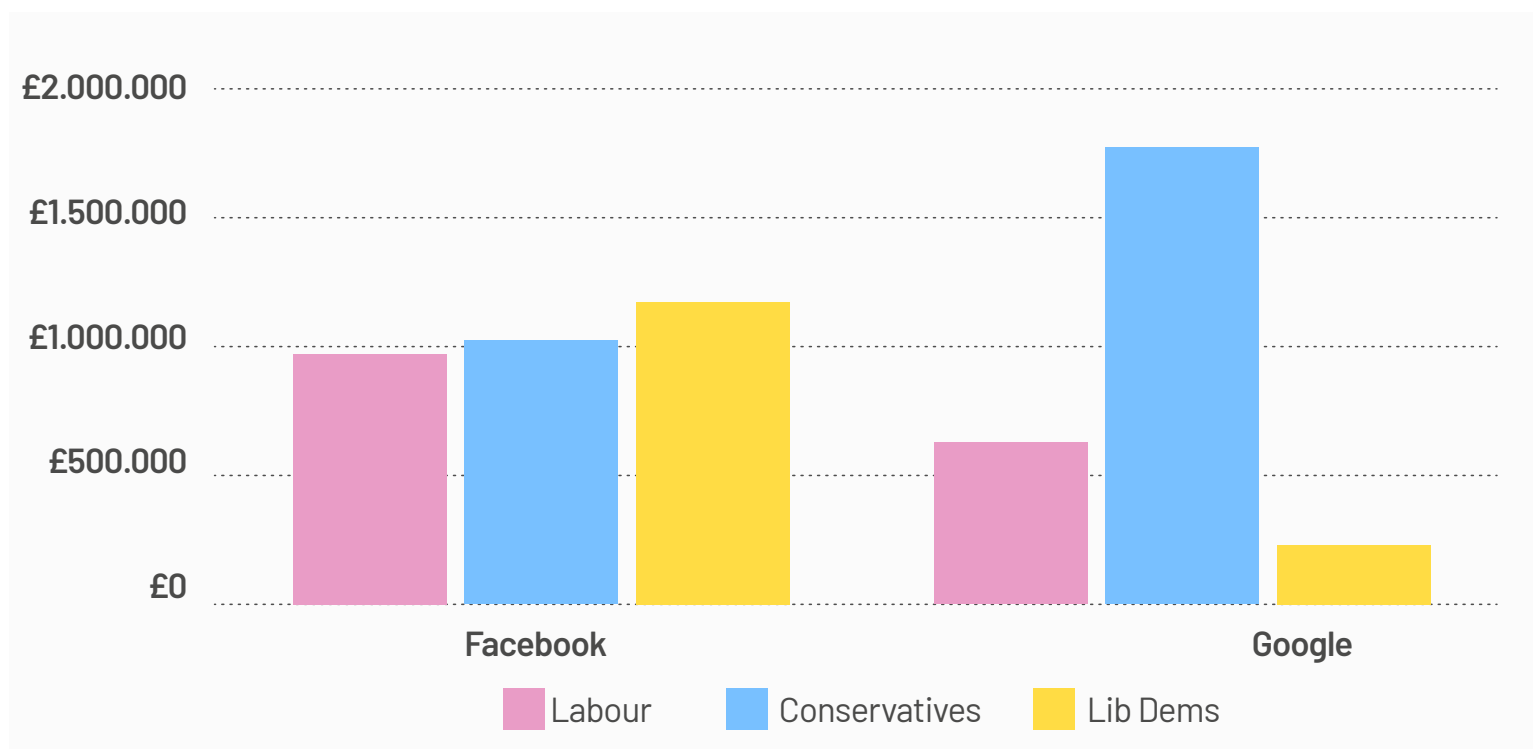
This massive increase in spending and significance has yet to be matched by a commensurate expansion of regulatory guidelines or powers. This has led the Electoral Reform Society to brand digital campaigning as "an unregulated Wild West" (Electoral Reform Society, 2019). In the 2019 General Election, a series of crises demonstrated the dangers of this approach. For instance, the Conservative party: purchased the domain labourmanifesto.co.uk to attack Labour's manifesto and consistently paid for it to be the top search result for terms such as 'Labour manifesto' on Google; edited interview footage of then Brexit Minister Kier Starmer to make it appear like he could not answer simple questions about Labour's Brexit position; and rebranded the Conservative party press Twitter account as 'Factcheck UK' to tweet supposedly impartial factual corrections during a televised leader's debate.

Research by the EC has demonstrated how incidents like these coincided with widespread concerns about media bias to undermine faith in the democratic process. In a survey of the UK public, they found that 58% agreed that "campaigning online is untrue or misleading"; 60% disagreed that "information available online about politics is trustworthy"; asked to prioritise concerns about the election, 67% cited "media bias", and 52% said "inadequate control of political activity on social media"; and 72% agreed that vital for them to know who produced the political information they see online, but only 29% agreed that they could currently find this out (Electoral Commission, 2020). However, this problem was not entirely created by the parties contesting the election.

Third-Party Campaigners

The 2019 election also saw the emergence of short-term 'campaign groups' that spent vast amounts of highly-aggressive digital political advertising only to vanish as soon as the election was concluded. Many of these were operated by individuals with close connections to the governing Conservative party and their digital political advertising agency Westminster Digital. Policymakers have expressed concern that these lightly regulated groups are acting as a channel to introduce dark money into British politics, with the APPG on Electoral Campaigning Transparency saying that "the unlimited ability of one individual to fund dozens at a time means the rules are ripe for abuse" (2020).

The groups were classified as 3rd party campaigners, and electoral regulation obliges them to register some basic information with the EC. During the election, there were 64 registered groups, with the Facebook API reporting 88 organisations as non-party campaign groups. Together, these groups placed 13,197 adverts on Facebook at a calculated cost of £2,711,452 (Electoral Reform Society, 2020). Some groups' funding was relatively transparent: for instance, the anti-Brexit 'Best for Britain' group registered large donations from a range of public figures. But an investigation by OpenDemocracy found that over £700,000 was spent by groups that did not declare a single individual donation above £7,500 – meaning their funding sources were completely opaque (Geoghegan, 2021).

Many of these groups were pro-Conservative outriders. 'Right to Rent, Right to Buy, Right to Own' spent over £65,000 attacking Labour's housing policies as anti-Landlord. 'Parent's Choice' spent £50,000 attacking Labour's policy on private schooling. 'Capitalist Worker' spent £50,000 on targeting young men with anti-Labour messages. The 'Campaign Against Corbynism' spent over £100,000 attacking Labour's leadership. 'Fair Tax' spent more than £72,000 criticising Labour's plan to tax the wealthy during the election, of which £30 went on administrative costs and the rest on Facebook advertising (Geoghegan, 2021).

The Platform Response

Amid the 'Wild West' of missing regulation and Third Party campaigners, the major social media platforms attempted to introduce some transparency measures to increase public faith in digital campaigning (presumably, also to protect a lucrative income stream). Similar to the cases in Latin America, Facebook, Google, Twitter and Snapchat introduced advertising libraries that allowed members of the public to see what was being advertised, approximately how much was spent on each advert, and some very broad details about how the adverts were targeted.

The EC published a report that details their concerns about these transparency measures (Electoral Commission, 2020). First, they argued that different platforms used different definitions of political advertising, some of which may not match the legal definition. Second, they said that 'paid for' disclaimers on the adverts did not serve as digital imprints because they could be unclear. Third, they said that unpaid content was not present in ad libraries – and yet unpaid content could also be shared organically, making it analogous to advertising content. The Electoral Reform Society added further concerns to this list. Notably, Facebook and Google only share very limited targeting info in the ad library, meaning that it was hard to see precisely what audiences advertised were directed at; and that the spending ranges used in the library were imprecise. In sum, voluntary self-regulation was not sufficient to prevent the corrosive effects of digital campaigning on the democratic process.

2022 Elections Act

The 2019 election did result in major legislative changes. The 2022 Elections Act received Royal Assent and entered the statute after a rapid legislative process. It contained three major provisions: first, the creation of a new responsibility for election campaigners to include imprints in their digital campaign materials that detailed the provenance of the material; second, the introduction of Voter ID measures; and third, it took steps to undermine the independence of the EC from the government.

Digital Imprints

Section 54 of the Elections Act 2022 introduces digital imprints, which the EC have recommended since 2003. This is a minor step forward in regulating the 'Wild West' of digital political advertising, but it leaves the issues raised about funding and targeting above untouched.

Voter ID

Opponents of the government widely criticised the requirement for Voter ID to cast a ballot as gerrymandering – but it was also phrased that way by senior Conservative MP Jacob Reese Mogg, who argued that "parties that try and gerrymander end up finding their clever scheme comes back to bite them, as dare I say we found by insisting on voter ID for elections," thereby tacitly admitting that the act introduced Voter ID to try and tilt the electoral balance.

EC Independence

The steps taken against EC independence revolve around a newly created government's ability to set the regulator's priorities and monitor their compliance with that agenda. The EC board wrote to the government ministers responsible for the bill in advance of its passage through the House of Lords, objecting to the draft legislation and stating that the bill would make the EC "subject to government influence" by allowing the government to set a Strategy and Policy Statement for the EC to follow. A parliamentary committee, including the government's election minister, would if the commission gives "due regard" to the document. The board argued that this would provide "a mechanism, driven by the then governing party, enabling that party's ministers to shape how electoral law is applied to them and their political competitors" (Electoral Commission, 2022). Their protests were in vain.

A number of factors severely undermine the fairness and freedom of the UK's democratic system: from the plutocratic control of communications and the public sphere to the formation of a distinct class of social elites through private educational institDigital digital political advertising seems to be becoming another such factor by facilitating the spending of vast sums of 'dark money' on aggressive attack material that is selectively targeted to small audiences, thereby undermining the public sphere. As the Electoral Reform Society has argued, "it is currently 'exceedingly difficult' if not impossible to uphold the principles of the UK's foundational electoral legislation." This exceeding difficulty has only escalated after undermining the EC's independence in the 2022 Elections Act. It now seems highly likely that the 2024 general election will see the problems caused by digital political advertising get worse before, perhaps, they get better.

Summary and Implications

In response to the expanding role of social media platforms in elections, there is a need for innovative approaches to address the challenges arising from outdated electoral laws and regulations. The following policy recommendations are proposed to enhance transparency, accountability, and the overall integrity of the electoral process.

Ethics agreements are a valid second-best alternative to no regulation: In cases where parliaments face a deadlock in updating electoral laws, ethics agreements can serve as a valuable mechanism to channel the relationship between electoral authorities and digital platforms. These agreements enable electoral authorities to establish written commitment with social media platforms, addressing existing legislation's shortcomings. By fostering cooperation and transparency, ethics agreements can help regulate the use of social media platforms in elections effectively. However, for this to be true, accountability on 'Ethics Agreements' has to be improved.

Visibility of Third Parties: While third parties play a significant role in political processes, it is crucial to identify and ensure the visibility of their funding in the electoral arena. By implementing clear regulations and reporting requirements, electoral authorities can enhance transparency and accountability, reducing the undisclosed financing influence funding on the electoral process.

Inclusion of Electoral Products: The definition, design, and impact of electoral products should be included within the 'ethics agreements' scope. By addressing concerns related to the fairness and integrity of these products, electoral authorities can better regulate their use and ensure a level playing field for all candidates and parties.

Granularity in Ad Library: To enhance transparency in electoral advertising, there is a need to increase the level of granularity in the ad library. This includes providing detailed information about targeting criteria and actual spending rather than using generalised spending brackets. Improved granularity will enable stakeholders to understand the influence and impact of political ads, contributing to a more transparent electoral landscape.

In conclusion, these policy recommendations aim to address social media platforms' evolving challenges in the electoral process. Ethics agreements offer a mechanism to overcome legislative deadlocks and establish transparent agreements with platforms. Ensuring the visibility of third-party funding promotes transparency and reduces the risk of undue influence. Including electoral products in ethics agreements fosters fairness and integrity in the electoral process. Increasing granularity in the ad library enhances ~~transparency and~~ accountability in electoral advertising.

Furthermore, it is recommended to conduct further research on the balance between freedom of expression and effective regulation of content moderation[11] . Understanding the complexities of this debate will enable electoral authorities to navigate the challenges associated with content regulation effectively. Additionally, exploring the expertise and specific knowledge required regarding electoral products, their effectiveness in relation to laws, and electoral processes will contribute to more informed decision-making.

Implementing these recommendations allows electoral authorities to foster a more transparent, accountable, and fair electoral environment in Latin America, promoting trust and confidence in the democratic process.

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[11] *Gaspard Estrada (2023:)"The will to combine "freedom of expressions" with the regulation of media exposure of candidates (...) prevents this norm from being applied effectively".*

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