



Cabinet Office

Transparency in digital campaigning

Technical consultation on digital imprints

This consultation begins on 12 August 2020
This consultation ends on 4 November 2020

Transparency in digital campaigning

Technical consultation on digital imprints

**A consultation produced by the Cabinet Office.
It is also available at www.gov.uk/government/consultations**

About this consultation

To: Voters, social media and technology companies, political parties, prospective or elected representatives and civil society organisations throughout the United Kingdom.

Duration: From 12/08/20 to 4/11/20

Enquiries (including requests for the paper in an alternative format) to: publiccorrespondence@cabinetoffice.gov.uk

How to respond: Please respond online at:
<https://www.smartsurvey.co.uk/s/digitalimprintsconsultation/>

OR

send your responses via email to:
digital-imprints@cabinetoffice.gov.uk

Please do not send responses by post to the department at the moment as we may not be able to access them.

Response paper: A response to this consultation exercise is due to be published by winter 2020 at www.gov.uk/government/consultations.

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Foreword

The past 20 years has seen significant changes in political campaigning.

An explosion of new channels and digital tools, driven by the internet and data insights, means almost half of all political advertising budgets are now spent on digital activity.

Much of this change is to be welcomed. It has opened up more of a dialogue between those in public life and the people that we represent.

With new technology, new audiences are reached. This is enabling more people than ever to engage in our democracy and campaign for what they believe is right.

Democracy must work for the people - and empowering our citizens to participate makes our country stronger.

However, there is growing concern about the transparency of the sources of political campaigning online, which is starting to have a negative impact on trust and confidence in our elections and democracy. The Government committed in its last manifesto to protect the integrity of our democracy.

That is why this Government will refresh our election laws so that citizens are empowered to make informed decisions in relation to election material online.

An important stride towards delivering on this pledge is introducing a regime for 'digital imprints' - the requirement for digital election material to explicitly show who is promoting it and on whose behalf.

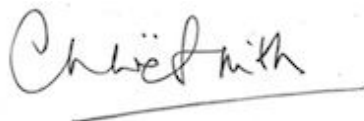
Imprints are already required for printed election material, so extending it to digital election material is a natural next step. It will strengthen public trust and ensure voters are informed about who is behind a campaign.

This consultation outlines the rules for how digital imprints would operate. The proposals would involve the UK introducing some of the most comprehensive digital imprinting rules in the world.

That is why they have been developed by the Government through extensive engagement with the Electoral Commission, devolved administrations and social media platforms.

Our democracy is built on trust and I am confident these proposals will help provide greater transparency in online political campaigning for many years to come.

I am extremely interested in your views on this technical proposal, which as voters, will touch all our lives. I encourage you to take part and look forward to hearing from you.

A handwritten signature in black ink, reading "Chloe Smith", with a horizontal line underneath it.

Chloe Smith MP

Minister of State for the Constitution and Devolution

Introduction

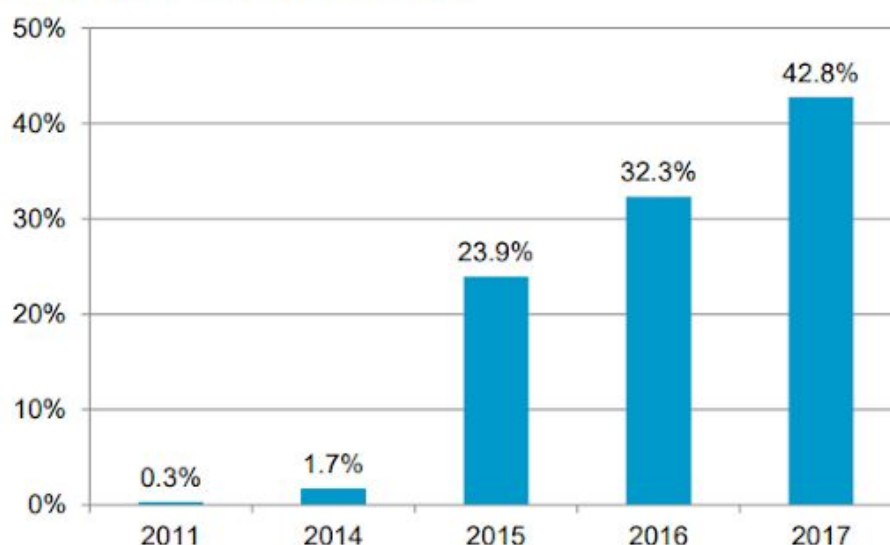
This paper sets out for consultation the proposed technical details of digital imprints. The consultation is aimed at voters, political parties, social media and technology companies, prospective or elected representatives and civil society organisations throughout the United Kingdom.

In line with the Better Regulation Framework Principles, during the consultation stage of this policy-making process, we will undertake proportionate analysis to determine whether a regulatory impact assessment is needed and what level of independent scrutiny will be required. We have added specific sections to the consultation to help inform this.

Policy background

1. Since 2014 the UK has experienced six major electoral events: three general elections (2015, 2017, 2019), two referendums (the 2014 Scottish independence and 2016 UK membership of the EU referendum) and the 2019 European Parliament election. This unusually intense period of electoral activity has provided an opportunity for campaigners to innovate and test out the latest digital channels, tools and strategies.
2. It has seen a rapid rise in digital campaigning to the extent that almost half of political advertising budgets are now spent on digital advertising (chart 1).¹ Spending returns for the 2019 general election have not been finalised yet but it is likely we will see another increase, possibly to the point where the majority of advertising spend is dedicated to digital activity.

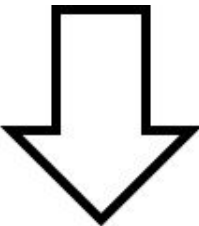
Chart 1: Reported spending by campaigners on digital advertising as a percentage of total advertising spend



Note: This chart shows spending that campaigners reported in their statutory spending returns for UK Parliament elections in 2015 and 2017; Scottish Parliament and National Assembly for Wales elections in 2011 and 2016; Northern Ireland Assembly elections in 2011, 2016 and 2017; and the referendums on EU membership in 2016, Scottish Independence in 2014 and changing the UK's voting system in 2011.

¹ Page 4:

https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Digital-campaigning-improving-transparency-for-voters.pdf

What do we mean by “election material”?	
<p>“Election material” or “digital election material” are terms we use for convenience in this statement to refer to material which can reasonably be regarded as intended to promote or procure the electoral success of registered political parties and candidates, or material that relates wholly or mainly to a referendum.²</p> 	
<i>Paid digital material</i>	<i>Unpaid (or ‘organic’) digital material</i>
<ul style="list-style-type: none"> ● The campaigner pays a digital platform (website, blog, social media) to display advertisements, usually to targeted groups or demographics. ● The advertiser often helps with targeting, based on data insights. ● This model resembles offline advertising which involves paying for advert placement in places such as newspapers or magazines. ● Example: paying for an online advertisement. 	<ul style="list-style-type: none"> ● The campaigner does not pay an advertiser to promote their election material. Instead it could be shared within the campaigner’s organic reach, such as ‘followers’, ‘friends’ or a mailing list. ● There may be costs to the campaigner if they have to pay a creative agency to create the material or pay staff to manage and share the content. This does not constitute paid digital material in the context of digital imprints. ● Example: a political party or candidate ‘shares’ material on their social media page with their followers. The material could take the form of images, videos or text, for example.

3. This realignment of campaign spend towards digital activity is being driven by two factors: return on investment and the ability to target voters based on data insights. Online digital campaigning is relatively cheap (based on the numbers it reaches) and data insights mean campaigners can micro-target, and adapt, their message to the voter, helping them cut through better. In comparison, a traditional campaign leaflet is less targeted and costs more to reach the same number of people.

4. It is important to emphasise that digital campaigning is a positive innovation for engagement in democracy. It makes it easier for campaigners to engage with voters; and for voters to engage in political debate. It opens up democracy, making

² Notwithstanding the meaning in law of the term “election material” in the context of the existing print imprints regime, the intention is for election material to have an all year-round meaning in the context of digital imprints, and not be anchored to the proximity of any particular electoral event.

it more accessible to people, particularly those who may not have traditionally got involved in politics.

5. This technological revolution has changed the nature of our political discourse, empowering the voices of underrepresented groups, who can work together and target their messages in ways unthinkable 20 years ago.
6. Yet despite the growth of digital election material, it does not currently require an imprint. The current print regime, which is contained in the *Representation of the People Act 1983* (“RPA”) and the *Political Parties, Elections and Referendums Act 2000* (“PPERA”), is restricted to “printed documents” and states that the imprint must include:
 - a) the name and address of the printer of the document;
 - b) the name and address of the promoter of the material; and
 - c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).
7. As such voters may not be able to assess who is responsible for promoting digital election material and who it is being promoted on behalf of. The problem is particularly acute when it comes to third party campaigners who may aim for a more general outcome beyond a particular candidate, so it is sometimes less obvious who they represent and on whose behalf they are acting. A thriving democracy is based on participation - but without transparency voters cannot make informed decisions. In short, if voters don’t know who is responsible for election material they are less able to assess the validity of its claims.
8. There is growing evidence that voters want transparency over the political material they are viewing but are struggling to get it. The Electoral Commission conducted research into public opinion on the 2019 general election. It found that only 29% of people could find out who has produced the political information they saw online - despite nearly three quarters (72%) agreeing it was important for them to know this. These findings underline the importance of implementing a digital imprints regime and public support for greater regulation in this area.³

Government response

9. The Government has acted in response to these changes. Following the 2017 general election the (then) Prime Minister commissioned the Committee on Standards in Public Life to review intimidation in public life. The report published by the Committee said social media was changing the way election campaigns are conducted and recommended electoral law be updated so that an imprint is also required on digital election material.
10. With this in mind, the Cabinet Office launched the consultation *Protecting the Debate: Intimidation, Influence and Information* in July 2018. The consultation sought feedback on three proposals, one of which was extending the electoral law requirements for an imprint on campaigning materials to digital material.

11. The consultation said digital technology had “transformed campaigning with an increasing risk that the provenance of campaign material is less clear” and “allowing voters to see who is behind digital electoral material will help them to assess the credibility of campaign messages and make an informed choice on the arguments presented.”⁴
12. The feedback to this consultation, published in the Government response, indicated broad support for this proposal and in May 2019 the Government committed to introducing a digital imprints regime, noting “extending this [imprints] to include digital communications is essential for promoting fact-based political debate and tackling disinformation online”.⁵ As part of this the Government also announced plans to bring forward a technical proposal on the scope of the regime.
13. Since May 2019 the Government has engaged intensively with the Electoral Commission, the police, the devolved administrations, social media companies and other stakeholders on the potential scope of the regime.
14. The 2019 general election highlighted the lack of consistency in the print imprint rules across the United Kingdom. Specifically, the imprint rules for print material have never been fully extended to Northern Ireland. The Government now intends to address this and legislate so that all printed election material in Northern Ireland will require an imprint. This will bring consistency to the rules governing printed election material across the United Kingdom.
15. A digital imprints regime was in place for the 2014 Scottish Independence Referendum and the Government has drawn from that experience in the development of this technical proposal.
16. There have been calls for the Government to move to introduce digital imprints more quickly. The Government is committed to implementing digital imprints but is mindful that this is a complex issue that requires a considered approach that is effective, proportionate and does not infringe on free speech or democratic participation.

Policy objectives

17. There has been extensive public, parliamentary and media interest in what a digital imprints regime should aim to achieve and look like. This consultation provides the opportunity for the Government to set out not just the scope of the proposed regime, but also the underlying policy objectives that inform its design.
18. It is important to highlight from the outset that the policy objectives of the digital imprints regime mirror those of the print regime, which is contained in PPERA and RPA. Whilst the print regime may have been designed at a time when internet

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730209/CSPL.pdf

⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/799873/Protecting-the-Debate-Government-Response-2019.05.01.pdf

usage was lower and social media did not exist in the way it does now, the principles and aims behind it remain as relevant today as ever.

19. The existing imprints regime promotes transparency for voters, so they are clear who is responsible for printed election material, and helps the Electoral Commission enforce the spending rules. The primary aim of the digital imprints regime is to mirror this so voters seeing or hearing digital material benefit from the same transparency as those reading leaflets posted through their letterbox. This transparency will help citizens to better understand the origins of campaigning material and thus be able to make a political choice with greater confidence.
20. The secondary aim of the digital regime is to help the regulator better identify and monitor who is producing election material and enforce the spending rules. The Electoral Commission have said that imprints on digital election material will help them enforce the spending rules because they will have a clearer picture of who may need to register and submit a spending return after an election or referendum. The police also enforce the spending rules and use the imprint to help them do so.
21. It is important to emphasise these objectives: transparency and assisting the enforcement of the spending rules. The intention is not to create a regime which will police the accuracy or truthfulness of content. Policy or political arguments which can be rebutted by rival campaigners or an independent free press as part of the normal course of political debate are not regulated. The Government does not support the creation of a new body to regulate the content of political statements.
22. The Electoral Commission has addressed this issue, saying: “We are not in a position to monitor the truthfulness of campaign claims, online or otherwise. However, changing the law so that digital material has to have an imprint will help voters to assess the credibility of campaign messages. Voters will know who the source is and be more able to decide how credible it is.”⁶
23. Through increased transparency digital imprints will though support the effectiveness of other existing rules that relate to the content of election material such as defamation and the electoral offence of making false statements about a candidate.
24. There are also wider issues around political advertising more generally (of which election material is one subset) - for example issue-based advertising from third party organisations or campaign groups. We welcome feedback on whether digital imprints should be expanded beyond what is considered election material, to wider online political advertising.
25. This proposal for digital imprints is a proportionate response to the issue of transparency online. Imprints will improve transparency online, meeting demand for greater clarity on who is behind digital election material and empowering citizens to make informed decisions. Improving transparency in politics at home is vital, but is also only one aspect of our focus and sits alongside the Government’s wider work to promote trust and confidence in our democracy. We will continue, in parallel, our

⁶ Page 9

https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Digital-campaigning-improving-transparency-for-voters.pdf

work to protect the UK from foreign interference and to counter disinformation. We are bringing forward new legislation to provide the security services and law enforcement agencies with the tools they need to disrupt hostile state activity. We established the Counter Disinformation Unit to improve our capabilities to identify and respond to harmful false information online and we are developing an online media literacy strategy to support the public to question what they read and protect themselves online.

Other relevant law

Intermediary liability for third party content

26. The proposals will limit the liability of online service providers that host user generated content in line with the UK's existing liability regime, which was established in 2002 and is implemented in relevant legislation on a case by case basis.⁷ These limited liability provisions will apply in relation to content published on a platform that requires an imprint and does not have one.
27. This regime has a 'notice and take down' rule, where the platform must remove infringing content expeditiously once they have actual knowledge of it, or risk incurring liability. Intermediaries who fail to remove content without an imprint once they have actual knowledge of it will be committing an offence and be liable to a fine.

Enforcement of the regime

28. Like the printed regime, the digital imprints regime will apply all year round. Enforcement of the regime will match the approach taken towards printed material, which distinguishes between election material in support of candidates, and material in support of registered political parties and referendums. The table on the following page outlines this.

⁷ The Electronic Commerce (EC Directive) Regulations 2002 <http://www.legislation.gov.uk/ukSI/2002/2013/contents/made>

Who enforces the imprint rules?		
	Election material in support of candidates	Election material in support of political parties and referendum campaigns
Definition	The imprint rules cover campaigning for a particular candidate standing in a particular electoral area (e.g. ward or constituency). This includes negative campaigning.	The imprint rules cover campaigning for one or more political parties or groups of candidates, including doing so by campaigning against other parties or candidates. They also include campaigning at referendums.
Enforcement	The police (although the Electoral Commission issues guidance to candidates).	The Electoral Commission.
Approach to digital election material	The Electoral Commission will continue to provide advice and guidance on the rules to candidates, but decisions on investigation and prosecution of imprint offences will remain a matter for the police and prosecution authorities. They will continue to work closely with the Electoral Commission on this.	The Electoral Commission will publish guidance to aid compliance with the imprint requirement and follow its published enforcement policy, which states that they will enforce when it is proportionate to do so and in the public interest.
Penalty	The police and prosecuting bodies can take the matter to the courts which can impose a potentially unlimited fine.	The Electoral Commission can impose a fine of a maximum amount of £20,000 per offence.

The technical proposals

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Definitions

Before reading the technical statement please familiarise yourself with the following definitions as it will contextualise the proposals for you.

“Election material” - “Election material” is a term we use for convenience in this statement to refer to material which can reasonably be regarded as intended to promote or procure the electoral success of registered political parties and candidates or material that relates wholly or mainly to a referendum. Notwithstanding the meaning in law of the term “election material” in the context of the existing print imprints regime, the intention is for election material to have an all year-round meaning in the context of digital imprints, and not be anchored to the proximity of any particular electoral event. We distinguish between two types of “election material”:

- *“Paid material”* - this is paid for advertising where a campaigner pays another organisation or individual, for example a social media company or an ‘influencer’, to promote or display their digital election material, often targeted at particular groups or users. This could include ‘in kind’ payments such as providing a service free of charge where otherwise it would have incurred a cost.
- *“Unpaid or ‘organic material’”* - this is digital election material shared to a community such as a campaigner’s ‘friends’ or ‘followers’. Regardless of whether there was a financial cost associated with the creation of the content, this relates to content where there is no cost related to its promotion or distribution.

“Registered” - when we use this term we are referring to electoral entities who are registered with the Electoral Commission or a local authority (via the returning officer). This means the Commission or relevant local authority already has a degree of information and oversight of their activities, for example their name and address. Holders of elected office (ranging from MPs to local councillors) and candidates are not registered with the Electoral Commission. During the election period candidates will complete and deliver their nomination papers to the returning officer for the election who will prepare and publish a statement of persons nominated for the poll.

“Candidate” - when we use this word we are referring to an individual standing for elected office within the meaning of section 118A of the *Representation of the People Act 1983* or equivalent legislation.

“Third party campaigners” - individuals or organisations that campaign, but are not contesting the election as a political party or candidate. There are two types:

- “Registered third party campaigners” - under PPERA, campaigners must register with the Electoral Commission before they spend over £20,000 on regulated activity in England or £10,000 in Scotland, Wales or Northern Ireland. A registered campaigner must be a UK-based entity or an individual registered on the UK electoral register. They are then subject to transparency measures such as donation and spending reporting.⁸
- “Unregistered third party campaigners” - campaigners who have not spent above the registration thresholds on regulated activity do not need to register with the Electoral Commission.

Technical statement

Proposal 1 - Extension of regime

Proposal

- The imprints regime should extend to digital election material. This includes but is not limited to: written text; videos; digital posters or banners; animated or moving images; static images; and audio recordings.
- The types of digital platforms that would contain such material are likely to be: social media platforms; video sharing platforms; content of websites or equivalent apps; website advertising; search engines; some forms of email; digital streaming services; and podcasts.

Explanation

- There was consensus in the responses to the *Protecting the Debate: Intimidation, Influence and Information* consultation in 2018 that the regime should be future-proofed for further technological change.
- As such, the digital technologies covered by the regime should be as broad as possible given the pace of technological change.
- We want to catch all relevant communication channels, from social media adverts to podcasts, websites and messaging services.
- The Electoral Commission has a statutory power under section 10 of PPERA to provide advice and assistance to others on electoral matters. They already provide this for the print regime and would do the same for digital election material once the law has been extended. The police, prosecuting authorities and the courts will also have a role in interpreting the law.

⁸ A campaign activity is a "regulated activity" if it can reasonably be regarded as intended to influence voters. The costs of a regulated activity will count towards the campaigner's spending for that election if it is spent during the regulated period. Examples of campaign spending include: payment for the production of a video or image to be posted online, paying for digital advertising space, hosting rallies and events, press conferences, transport, canvassing and market research.

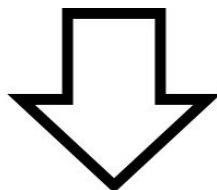
Proposal 2 - Material subject to the regime

Proposal

- **The first test** as to whether material requires an imprint is the same as for the print regime under existing legislation. The question is: whether the material can reasonably be regarded as intended to promote or procure the electoral success of registered political parties and candidates, or whether (in the case of a referendum) the material relates wholly or mainly to the referendum.
- This test is likely to rule out the vast majority of digital content from requiring an imprint, because most content has nothing to do with promoting electoral success. However, even if the material passes this test, that does not necessarily mean it requires an imprint, because there is an additional second test.
- **The second test** is dependent on who you are and whether you are paying for the material to be advertised. Digital imprints will apply in relation to digital election material in the following circumstances:
 - registered political parties, registered third party campaigners, candidates, holders of elected office and registered referendum campaigners - in respect of both paid and unpaid (or 'organic') material.
 - unregistered third party campaigners - in respect of paid material only.
- Only by satisfying the second test will digital election material require an imprint. Election material that is not in scope of the second test does not need to include an imprint.
- The regime is intended to cover the following elections:
 - parliamentary elections in the UK;
 - referendums in the UK to which Part 7 of PPERA applies;
 - local government elections in England and Northern Ireland (including Mayoral Combined Authority, Greater London Authority, Local Authority Mayoral election);
 - elections to the Northern Ireland Assembly;
 - elections of police and crime commissioners (England and Wales only).
- We will also consider how the imprints policy may apply to different types of statutory local referendums.
- Notwithstanding the meaning in law of the term "election material" in the context of the existing print imprints regime, the intention is for election material to have an all year-round meaning in the context of digital imprints, and not be anchored to the proximity of any particular electoral event.
- The regime cannot cover elections to the Scottish Parliament or to the Welsh Parliament or local government elections in Wales and Scotland, as these are devolved matters. Rules for these elections will therefore have to be made by the Scottish and Welsh Governments respectively.

Test 1: are you promoting election material?

Can the material you are posting reasonably be regarded as intended to promote or procure the electoral success of registered political parties and candidates, or in the case of a referendum, does the material relate wholly or mainly to the referendum?



YES.

You may require an imprint.
Move to test 2.

NO.

You do not have to include an imprint on your material.

TEST 2: who are you and are you paying to promote the material?

Material	Entity				
	Registered political party	Candidate(s)	Holder(s) of elected office	Registered third party campaigner(s)	Unregistered third party campaigner(s)
Paid	Imprint required.	Imprint required.	Imprint required.	Imprint required.	Imprint required.
Unpaid	Imprint required.	Imprint required.	Imprint required.	Imprint required.	No imprint required.

Explanation

- As much as possible we want to remain aligned with existing definitions in electoral law about election and referendum material. We think it allows us to accurately identify material that may require an imprint.
- The main publishers of election material are expected to include political parties, individual candidates, holders of elected office, third party campaigners and referendum campaigners. It is proposed that members of the public expressing their personal political views in a private capacity will not be required to include an imprint.

- Those who will not be required to include an imprint include:
 - anyone not publishing election material;
 - unregistered third party campaigners promoting unpaid or 'organic' material.

Proposal 3 - Details on the imprint

Proposal

- The details that must be provided in the imprint for digital material will be the same as for the printed regime, with the exception that a printer's address will not be required.
- The digital imprint will therefore need to include:
 - the name and address of the promoter of the material; and
 - the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

Explanation

- The Government believes that the current details on the imprint remain central to the twin objectives of the policy: improving transparency of election material for voters and assisting the enforcement of the spending rules.
- On the first objective, providing details of the promoter and on whose behalf they are promoting the material allows voters to better contextualise and judge the truthfulness of the information being presented.
- On the second objective, the physical address requirement remains an important part of the imprints regime. It allows the regulator, police and prosecution authorities to identify, and serve notice on, the campaigner for enforcement purposes. Without a physical address law enforcement bodies cannot do this with legal certainty, which would hamper their ability to enforce the regime and campaign spending rules. An email or other electronic type of address would not enable this, which is why it would not be permissible.
- Most promoters (for example, the election agent) and candidates will have constituency or other office addresses that they can use for the digital imprint, just as they do for printed material.
- However we are conscious that some election agents, independent candidates and campaigners will not have an office address and may feel uncomfortable using their home address online. There is no requirement for a home address to be included in an imprint. In these circumstances a PO Box will be permitted as an alternative address.
- The Government has made a number of statutory instruments that remove the requirement that each candidate's home address must be published during the election process and be included on the ballot paper at local and mayoral elections. The changes were designed to tackle intimidation of candidates at elections and were in line with the provisions already in place for candidates at parliamentary elections where candidates at those elections may choose to require that their home address is not made public and does not appear on the ballot paper.

Proposal 4 - Location of the imprint

Proposal

- In considering where the imprint will appear, we want the law to focus on platform-neutral solutions to ensure that it is future-proofed for rapid changes in technology. This means that the imprint will apply to any kind of digital election material on any platform.
- The imprint must be located so that it is displayed as part of the material where that is reasonably practicable.
- However if it is not reasonably practicable to display it as a part of the material then the imprint:
 - a) must be located in an alternative location which is readily accessible to the user directly from the election material. For example, the details of the imprint could be located in the 'bio' or 'about' section of a social media page, or another prominent location that users can easily view and access. Locating the imprint in a location that is difficult to find would not be acceptable;
 - b) must be directly accessible from the material e.g. via a link. Many social media platforms already allow users to link to the profile pages of the publisher by clicking on their name.

Explanation

- It is important the imprint rules provide a solid basis for transparency for all kinds of digital election material, however it is distributed, and are flexible enough to adapt to technological change and newer forms of social media.
- These proposals are predicated on the expectation that in the majority of instances the imprint must be displayed as a part of the material. Examples of where this is likely to be the case include:
 - a) detachable forms of material that are posted on social media, sent via email or other forms of electronic communication. Examples include but are not limited to: written text; videos; digital posters or banners; animated or moving images; static images; and audio recordings.
 - b) social media platforms where it is practicable to do so given the space available surrounding the election material i.e. a post on a social media site that does not limit the number of characters to the point where including the imprint in the material would not be reasonably practicable.
- The Government is aware that in some instances it will not be practical, due to the nature of the design of some platforms, to make an imprint accessible as a part of the digital election material. This is why the proposed rules state that the imprint should be a part of the campaign material where reasonably practicable.

Proposal 5 - Appearance of the imprint

Proposal

The promoter of the material is responsible for ensuring that the imprint is:

- a permanent part of the election material, embedded and visible/audible (as appropriate) where reasonably practicable on all pieces of published material;
- clearly readable, legible or audible regardless of the platform (e.g. mobile or laptop) it is being accessed on; and
- replicable when reshared; it must not distort during the process of re-publishing or 'sharing'.

Explanation

- It is essential that voters can easily access and view the imprint, regardless of the device they are using or how it is being presented.

Proposal 6 - Re-publishing of election material

Proposal

- Many platforms allow users to re-publish or 'share' material that did not originate from them with others such as their 'followers' or 'friends'.
- It is important for those in scope of the regime to be aware that each piece of content they are publishing, including re-publishing, is a form of material to which the obligation potentially attaches.
- Generally re-publishing digital election material does not require a new imprint.
- However, there are two exceptions to this rule, which may require the campaigner re-publishing the material to include a new imprint:
 - The first is if the campaigner **substantively alters** the election material they are re-publishing and they, or the activity, is in scope of the rules as set out in the second test. For example, if they crop a digital election poster or alter the message(s) on it.
 - The second is if the campaigner is **re-publishing unpaid election material from unregistered third parties**. Whilst the original publisher of the content is out of scope of the regime, the campaigner re-publishing may not be.

Explanation

- Most of the time campaigners will not have to add an imprint to material being re-published.
- However, if they are substantively altering the content of the material, or it originates from someone outside the scope of the regime who is promoting election material, they must attach an imprint (if indeed the test for requiring a digital imprint is met by the campaigner re-sharing the material).

Proposal 7 - Territoriality

Proposal

- Digital election material will be subject to the regime regardless of the country it is being promoted from.

Explanation

- The original print imprint rules were introduced in a different time. Digital technology is not confined to borders and it makes the production, targeting and dissemination of election material immeasurably more efficient and cost effective than traditional leafleting.
- As highlighted in the introduction to this consultation, there has been a digital revolution in how campaigners spread their message to voters. Government too must respond appropriately to these changes.
- It would be inconsistent if overseas voters, who have a legitimate right to be involved in UK elections, did not have to adhere to the imprint requirements. It would reduce transparency for UK voters viewing digital election material promoted from abroad and would fail to future proof the regime.
- The Government is aware of the obvious enforcement challenges that will arise with this approach. We are exploring how this could be effectively enforced.
- This proposal is likely to primarily focus on paid for election material coming from overseas, which some platforms already ban, because there are unlikely to be registered parties, candidates or campaigners for UK elections based overseas.

Supplementary note on compliance with these proposals

- The promoter of the material - namely, the person causing it to be published - will be guilty of an offence and liable to a fine where material is published in contravention of the requirement for it to have a digital imprint.
- Only those who are subject to the requirement to include an imprint will be liable to penalties for non-compliance.
- Platforms should be encouraged to facilitate compliance for campaigners by establishing their own platform-specific solutions for including an imprint that satisfies the requirements of the regulations.
- Many platforms have already developed approaches to including similar information to that of imprints as part of some election material. For example, some have developed “paid for by” disclaimers to show who has paid for advertising about UK elections and “election labels” for specified political candidates.
- It is important to remember that the regulator will have an essential role in establishing guidance on how to apply these rules.

Questionnaire

Introduction

Thank you for taking the time to complete this consultation. This survey is being run by Constitution Group Analysis, on behalf of the Elections Division in the Cabinet Office. If you have any questions or are unable to access the survey link, please do get in touch and we will be on hand to help at: digital-imprints@cabinetoffice.gov.uk. Our privacy notice, which covers these consultation questions, can be found [here](#). If you have read and understood the attached Privacy Notice, please mark 'Yes' to begin.

About you

Please choose from the list below:

- Member of the public
- Social media platform or technology company
- Other private business
- Civil society organisation
- Political party
- Political campaign group
- Current holder or prospective holder of elected office
- Public body
- Trade association or representative body
- Other

If you are a member of an organisation, please provide its name. If not, please reply N/A.

Please provide your name and email address if you are happy to do so (optional). We may use these contact details to follow up with you regarding your consultation response.

- Your name:
- Email address:

In section 9, we have included questions to monitor the regulatory burden of this regime on business (for example, technical, administrative, legal and communication costs associated with compliance). Would you like to answer these questions?

- Yes
- No

Proposal 1: Extension of regime

For full details on this proposal, please refer in the consultation document to Proposal 1 - Extension of Regime.

Question 1: Do you agree or disagree with this proposal for the extension of the imprints regime to digital election material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 2: Please provide any further detail to explain your response here.

Question 3: Do you agree or disagree that this regime will improve the transparency of digital election material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 4: Please provide any further detail to explain your response here.

Question 5: What do you consider to be the main benefits of the digital imprints proposal?

Question 6: Do you have any other comments on this proposal?

Proposal 2: Material subject to the regime

For full details on this proposal, please refer to Proposal 2 - Material subject to the regime.

Question 7: Do you agree or disagree that the regime should be extended to registered political parties, registered third party campaigners, candidates, holders of elected office and registered referendum campaigners - both paid and unpaid (or 'organic') material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 8: Please provide any further detail to explain your response here.

Question 9: Do you agree or disagree that the regime should be extended to prospective office holders (both paid and unpaid, or 'organic', material)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 10: Please provide any further detail to explain your response here.

Question 11: Do you agree or disagree that the regime should be extended to unregistered third party campaigners promoting paid material only?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 12: Please provide any further detail to explain your response here.

Question 13: Do you agree or disagree with the distinction made in this proposal between paid and unpaid material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 14: Please provide any further detail to explain your response here.

Question 15: Do you agree or disagree that the regime should be expanded beyond what is considered election material (as set out in this proposal), to wider online political advertising?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 16: Please provide any further detail to explain your response here.

Question 17: Do you agree or disagree that the digital imprints rules should apply to all forms of elections and referendums (beyond those already listed in the proposal and excluding devolved elections and referendums)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 18: Please provide any further detail to explain your response here.

Question 19: Do you have any other comments on this proposal?

Proposal 3: Details on the imprint

For full details on this proposal, please refer to Proposal 3 - Details on the imprint.

Question 20: Do you agree or disagree with the proposal on the details to be contained within the imprint i.e. the name and address of the promoter of the material and the name and address of any person on behalf of whom the material is being published?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 21: Please provide any further detail to explain your response here.

Question 22: Do you have any other comments on this proposal?

Proposal 4: Location of the imprint

For full details on this proposal, please refer to Proposal 4 - Location of the imprint.

Question 23: Do you agree or disagree with the proposal for the location of the imprint - that the imprint must be located as part of the material where it is practical to do so and where it is not practical, must be accessible from the material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 24: Please provide any further detail to explain your response here.

Question 25: How do you think digital platforms can facilitate campaigners to include imprints?

Question 26: Do you have any other comments on this proposal?

Proposal 5: Appearance of the imprint

For full details on this proposal, please refer to Proposal 5 - Appearance of the imprint.

Question 27: Do you agree or disagree with the proposal for what the imprint should look like - permanent, embedded and visible/audible, clearly readable/legible/audible and replicable?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 28: Please provide any further detail to explain your response here.

Question 29: What would campaigners need from digital platforms in order to comply with the rules?

Question 30: Do you have any other comments on this proposal?

Proposal 6: Re-publishing of election material

For full details on this proposal, please refer to Proposal 6 - Re-publishing of election material.

Question 31: Do you agree or disagree with the proposal for the re-publishing or 'sharing' of material?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 32: Please provide any further detail to explain your response here.

Question 33: Do you have any other comments on this proposal?

Proposal 7: Territoriality

For full details on this proposal, please refer to Proposal 7 - Territoriality.

Question 34: Do you agree or disagree with the proposal that the regime will apply to all election material regardless of where it has been promoted from?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 35: Please provide any further detail to explain your response here.

Question 36: Do you have any other comments on this proposal?

Section 8: Enforcement

Question 37: Do you agree or disagree that the relevant authorities are in a position to effectively enforce digital imprints?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 38: Please provide any further detail to explain your response here.

Question 39: Do you agree or disagree that civil sanctioning powers should be extended for use in relation to offences committed concerning election material in support of candidates?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Question 40: Please provide any further detail to explain your response here.

Question 41: Do you have any further comments on this section?

Section 9: Regulatory costs and benefits to business

As part of our duty to monitor the regulatory burden on business, we have included the following questions for businesses to answer in order to estimate the cost of compliance with the new regime. Please also answer these questions if you represent a political party or the third sector. When answering this section, please consider all cost implications of this policy which include, but are not limited to: technical, administrative, legal and communication costs.

Question 42: If you are a business, what size of business are you?

- Micro (0-9 employees)
- Small (10-49 employees)
- Medium (50-249 employees)
- Large (250+ employees)
- N/A

Question 43: If you are a business, what was your yearly turnover in the last financial year?

- less than or equal to £5 million;
- greater than £5 million and less than or equal to £10 million;
- greater than £10 million and less than or equal to £25 million;
- greater than £25 million and less than or equal to £50 million;
- greater than £50 million and less than or equal to £100 million;
- greater than £100 million and less than or equal £350 million;
- greater than £350 million
- N/A

Question 44: If you are a business, do you anticipate there will be any financial or other costs associated with the proposed regime?

- Yes
- No
- N/A

Question 45: If you answered “yes” to the previous question, what do you anticipate the cost to your organisation will be?

- less than or equal to £1,000;
- greater than £1,000 and less than or equal to £10,000;
- greater than £10,000 and less than or equal to £100,000;
- greater than £100,000 and less than or equal to £1 million;
- greater than £1 million
- N/A

Question 46: Will these costs be one-off or ongoing?

- One-off
- Ongoing
- Both
- N/A

Question 47: If you have more information on costs, please add it here. For example, information on direct transition costs (start-up costs, training and familiarisation), direct ongoing costs (complying with the regulation) and indirect impacts on business (productivity, profits and barriers to entry). Where possible, please provide any calculations and frequency of these. If you have any evidence on the benefits of this legislation to business or wider society, please also add it here.

Question 48: Do you have any further comments on this section?

Contact details and how to respond

For information about how we treat your personal data when you respond to our consultation, please see the **Privacy Notice at Annex A**.

Please respond online at: <https://www.smartsurvey.co.uk/s/digitalimprintsconsultation/>

OR

send your response via email to: digital-imprints@cabinetoffice.gov.uk

Please do not send responses by post to the department at the moment as we may not be able to access them.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact Cabinet Office at the above address.

Extra copies

If you would like paper copies of this consultation or require an alternative format version of this publication please contact: publiccorrespondence@cabinetoffice.gov.uk.

Confidentiality

If you want the information that you provide to be treated as confidential, please explain to us why you regard the information you have provided as confidential. We will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Cabinet Office.

Annex A – Privacy Notice for Cabinet Office consultations

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation (GDPR).

Your data

Purpose

The purpose for which we are processing your personal data is to obtain the opinions of members of the public, parliamentarians and representatives of organisations and companies about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest. If you leave contact details we may contact you with further questions.

The data

We will process the following personal data: name, address, email address, job title (where given), and employer (where given), as well as opinions.

We will also process additional biographical information about respondents or third parties where it is volunteered.

Legal basis of processing

The legal basis for processing your personal data is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller. In this case that is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Sensitive personal data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

The legal basis for processing your sensitive personal data, or data about criminal convictions (where you volunteer it), is that it is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department. The function is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Recipients

Where individuals submit responses, we may publish their responses, but we will not publicly identify them. We will endeavour to remove any information that may lead to individuals being identified.

Responses submitted by organisations or representatives of organisations may be published in full.

Where information about responses is not published, it may be shared with officials within other public bodies in order to help develop policy.

As your personal data will be stored on our IT infrastructure it will also be shared with our data processors who provide survey management, email, and document management and storage services.

We may share your personal data where required to be law, for example in relation to a request made under the Freedom of Information Act 2000.

Retention

Published information will generally be retained indefinitely on the basis that the information is of historic value. This would include, for example, personal data about representatives of organisations.

Responses from individuals will be retained in identifiable form for three calendar years after the consultation has concluded.

Where personal data have not been obtained from you

Your personal data were obtained by us from a respondent to a consultation.

Your rights

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.

You have the right to object to the processing of your personal data.

International transfers

As your personal data is stored on our IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the UK. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses, or through an adequacy decision in respect of the territory in question.

Contact details

The data controller for your personal data is the Cabinet Office. The contact details for the data controller are: Cabinet Office, 70 Whitehall, London, SW1A 2AS, or 0207 276 1234, or publiccorrespondence@cabinetoffice.gov.uk.

The contact details for the data controller's Data Protection Officer are: Data Protection Officer, Cabinet Office, 70 Whitehall, London, SW1A 2AS, or dpo@cabinetoffice.gov.uk.

The Data Protection Officer provides independent advice and monitoring of Cabinet Office's use of personal information.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or 0303 123 1113, or casework@ico.org.uk. Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Impact Assessment

A regulatory impact assessment (RIA) is a tool used to inform policy decision-making. It uses cost-benefit analysis, as set out in the Green Book, to ensure good practice in developing policy based on robust evidence.

There exists a general threshold for independent scrutiny of Regulatory Impact Assessments (RIAs) where the equivalent annual net direct cost to business (EANDCB) is greater than $\pm£5m$. For measures below this threshold, proportionate cost-benefit analysis should be undertaken to inform decision-making, as well as demonstrating that the impact of a measure is below the $\pm £5m$ EANDCB threshold.

In line with the Better Regulation Framework Principles, during the consultation stage of this policy-making process, we will undertake proportionate analysis to determine whether a regulatory impact assessment is needed and what level of independent scrutiny will be required. We have added specific sections on anticipated costs and benefits to the consultation questions to help inform this. This will help inform the assumptions we will use to conduct future cost-benefit analysis.

This document is available in large print,
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