



Friday, August 21st, 2020

Chief Electoral Officer of Canada
Elections Canada
By email: consultations@elections.ca

To Whom It May Concern:

IAB Canada on behalf of its members, would like to thank you for providing us with the opportunity to respond to your discussion paper “The Regulation of Political Communications under the Canada Elections Act”. The Canadian online advertising industry is more prepared than ever, to help navigate the issues that were tabled within the document and to look more closely at whether existing provisions in the Act meet the challenges that have arisen in recent years, largely due to new communications technology. As representatives of the Canadian digital advertising industry, we hope that our feedback and participation will be useful.

During the last Federal Election, IAB Canada on behalf of most of the digital publishers in Canada affected by C-76, worked closely with the team at Elections Canada. Liaising between industry stakeholders, responsible for developing and maintaining registries and Ottawa, we managed to bridge a major communications gap on the guidelines that resulted from the amended Elections Act. Our work dealt specifically with the registry requirements of Bill C-76 and the complexities surrounding issues ads. Given the absence of a centralized mechanism from Elections Canada to identify which issues would fall under regulation, IAB Canada moved quickly to build an effective technical solution to ease compliance in the context of a dynamic digital media marketplace. Through this project we also managed to increase critical facetime for industry members with the Elections Canada team to provide added clarity on the registry guidelines.

It is our hope that we can continue to work with government to help educate and modernize resources that will mitigate unintended consequences of incoherent policy changes. Moving forward, IAB Canada and its membership strongly recommend that Elections Canada remove the burden from publishers of monitoring issue advertising altogether. Additionally, we find that Elections Canada should develop and maintain a centralized registry for political advertisers to lessen both the financial responsibility and the risk of falling out of compliance for digital media publishers in Canada. Such a centralized registry would provide consistency, clarity on required fields and greater access and transparency for citizens.

We acknowledge the complexities of developing a registry of this nature and urge Elections Canada to consult with industry to determine the appropriate requirements, best practices and process flows to ensure its successful implementation. Building out a digital infrastructure must involve inputs from industry as there will inevitably be access points required from many IAB Canada members.

We look forward to productive discussions as we collectively work toward modernizing our mutual digital capabilities to bring Canada to the forefront of global digital innovation and economic growth while simultaneously protecting the electoral process.

About IAB Canada:

Established in 1997, IAB Canada is a not-for-profit association exclusively dedicated to the development and promotion of the rapidly growing digital marketing and advertising sector in Canada. IAB Canada represents over 250 of Canada's most well-known and respected stakeholders in the digital advertising and marketing sector, including advertisers, advertising agencies, media companies, digital media publishers and platforms, social media platforms, adtech providers and platforms, data companies, mobile and video game marketers and developers, measurement companies, service providers, educational institutions, and government associations operating within the space. Our members include numerous small and medium sized enterprises.

Companies in the digital advertising and marketing sector offer a wide range of highly innovative products and services, including valuable service offerings to individual Canadians. This sector is intensely competitive, and the long-term success of our members is fundamentally predicated on their ability to continually design, develop, offer and improve valuable digital products and services.

Our members represent over 80% of the estimated \$8.5 billion industry in Canada. IAB Canada has a long history of creating programs that are designed to promote the responsible growth of the online advertising industry in Canada. Notably, IAB Canada was the founding member of the self-regulatory Ad Choices Program developed to enable industry compliance within the PIPEDA framework and continues to lead the charge on the modernization of privacy compliance in Canada.

IAB Canada is the only organization fully dedicated to the responsible growth of digital/interactive advertising in Canada by delivering:

- Globally accepted digital ad standards;
- Advocacy for the Canadian digital advertising industry to the Canadian government;
- Trained human capital, through globally standardized courses, certification and custom workshops;
- Original Canadian digital marketing research; and,
- Information to the industry and enhanced communication between members.

IAB Canada would like to submit comments addressing four core areas of the “The Regulation of Political Communications under the Canada Elections Act” discussion paper:

1. Challenges Related to the Political Communications Provisions
2. Issue Advertising
3. Identifying the Communicator
4. Fairness in the Sale of Communications

Challenges Related to the Political Communications Provisions

Should a distinction between advertising and other communications be maintained? Or should all communications, or all paid communications, be subject to regulation (reporting, taglines and limits)?

Yes, a distinction should be made between advertising and other types of communication. Paid advertising is in all circumstances, deliberate, planned and trackable in online channels. While we understand that unpaid advertising is also widely available through online channels, it is important to delineate between the two for the sake of maintaining accurate records. Conflating the two activities can create unsurmountable technical challenges as well as obfuscate activity reporting due to misidentification and source tracking. Furthermore, the combining of the two activities could result in complications (and delayed solutions) due to concerns over freedom of speech.

Should regulation be limited to the election period and pre-election period?

Yes.

Issue Advertising

Should the CEA cease to regulate issues-based communications and restrict its regulation to communications that specifically mention a party or candidate?

IAB Canada would highly recommend that CEA cease the regulation of issues-based communications as it creates a level of complexity that is extremely difficult for all stakeholders to manage.

Should elements indicating whether issue advertising promotes or opposes a party or candidate be included in the CEA? What would such elements be?

IAB Canada has no recommendation of the identifiers or definitions for political ads. We would recommend industry collaboration to provide appropriate notice if publishers and platforms are expected to make modifications to accommodate any revised definition of political advertising.

Identifying the Communicator

Which communications should be subject to a tagline or other identification requirement? During what period (election period or outside election period)?

Political ads should include a clearly identifiable tagline at all times. Citizens should be able to easily identify a political advertisement. The tagline and identification should be standardized and appropriate for the digital channel.

Should the tagline or identification requirement include certain specified information, such as the name of the agent, the address or the phone number? Or should it vary to take into account the size and technology of the message?

The tagline should indicate that the advertiser is a regulated entity under CEA and should provide citizens with the ability to seek further information on the CEA registry about the party and the campaign.

Should electoral communications such as phone calls, text messages and advertisements be subject to record-keeping requirements? If yes, should the record keeping be with an agency such as Elections Canada, with the communications companies, or with political entities?

IAB Canada stakeholders would expect all forms of advertising to be held to the same standards as online advertising.

Should the records be publicly available for inspection?

Yes, through the CEA maintained registry.

Fairness in the Sale of Communications

Should the provision in s. 348 of the CEA, ensuring equitable and fair-priced advertisements on broadcast media and in print media, be expanded to all forms of media? If yes, please expand upon what such a provision might look like.

This provision cannot be extended to online platforms. Most online advertising is priced and purchased at market value. Pricing is based on market demands and variances in targeting layers. The more refined the inventory purchased, the higher the cost. It would be impossible to determine “fair market” pricing on granular aspects of digital advertising such as specific keywords on a specific day. For example, buying ads against the term “umbrella” becomes significantly more expensive on a rainy day. Traditional media is priced differently and should be treated differently.

Should a provision relating to fair and equitable access be expanded to unpaid access to communications, such as Internet search engines? If yes, please expand upon what such a provision might look like.

Similar to our commentary around user-generated content, it would be very difficult to regulate organic content that appears on search engines. Search engines use algorithms that are designed to display content based on relevance to specific terms searched, recency of the content, popularity and many other factors.

Summary

On behalf of IAB Canada, and all of its members, we thank you for the opportunity to submit our responses to the important questions being asked by the Elections Canada in regard to the regulation of political communications under the Canada's Election Act. We look forward to continuing a collaborative approach to modernizing our digital capabilities to bring Canada to the forefront of global digital innovation and economic growth while simultaneously protecting the electoral process.

If you have any questions or require any further information, please do not hesitate to reach out directly.

Sincerely,

A handwritten signature in black ink that reads "Sonia Carreno". The signature is written in a cursive, flowing style and is set against a light gray rectangular background.

Sonia Carreno
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