

# The system of electoral regulation remains ill-equipped for the digital age – action is needed from government, regulators, companies and civil society



**Katharine Dommert** looks at the possible avenues for regulatory reform in the field of digital campaigning and explains what action is needed from a number of different actors.

Digital technology has become essential to elections. The rise of this technology has been fast, as around the world political parties and campaigners have embraced tools that we were unfamiliar with just a decade ago- Facebook advertising, YouTube videos, digital campaign groups, online fundraising, memes and digital badges. Yet, despite the rapid pace of change, the systems of electoral oversight and regulation have largely failed to adapt to the use of technology. Within the UK in particular, despite repeated calls for change, the system of electoral regulation remains ill-equipped for the digital age.

The precise reason for the lack of change is difficult to identify. For those interested in elections and regulation it's clear that, for years, policymakers, regulators, charities, think tanks, academics and others have been calling for change. Responding to the lack of progress, and eager to think about possible avenues for reform, in early 2020 we gathered together a group of regulators, platform representatives, third sector actors and academics for a two-hour workshop to discuss the topic of 'Regulatory Innovation'. Sponsored by the *Political Quarterly*, and hosted by the House of Lords Select Committee for Democracy and Digital Technology, the Turning Institute, and the Crick Centre, this workshop led to the production of a special PQ issue (details below). Culminating in a [concluding piece](#), Helen Margetts and I assert that there is an urgent case for regulation, but recognise that far from being a simple solution, there is a need for different actors to respond to the challenge posed by digital technology. Making four recommendations, we argue that there is a need for a multi-layered approach to the oversight of elections.

## **Recommendation 1: wholesale rewriting of electoral law, with an increase in powers to the Electoral Commission.**

First, thinking about what needs to change, we assert the importance of action from Government. Despite widespread calls for change, the government has to-date committed to little action to change electoral law. Although there have been recent moves to implement the idea of a digital imprint (a proposal first made over a decade ago), wide-ranging electoral reform to tackle the rise of digital technology is not on the agenda. Instead, there have been recent [calls](#) to abolish the Electoral Commission, the very body tasked with upholding electoral law. This is particularly problematic as without change there is a danger that confidence in the electoral process will start to be eroded, having possible implications for electoral participation and perceived legitimacy.

As a result, we propose a wholesale rewriting of electoral law. Recognising calls from the Electoral Commission for an increased remit and expanded power, and the important role that other regulatory bodies – such as the Information Commissioners Office and Advertising Standards Agency – could play in overseeing elections, we argue that there is a need for all regulators with responsibilities around elections to be equipped with the powers they need to offer oversight. Whilst electoral regulation is rarely the top of the political agenda, we argue that the case for change is incontrovertible, and should no longer be subject to political delay.

## **Recommendation 2: The creation of a regulation liaison committee, that brings together the key regulators involved in electoral regulation to address key issues of electoral regulation and oversight.**

In addition to action from government, regulators themselves can also take action. Far from being powerless, there are several ways in which they can adapt to equip themselves to address digital technology. As outlined in a report from [Nesta](#), regulators can endeavour to practice 'anticipatory regulation' that aims to be flexible, collaborative and innovative. Some regulators are already showing signs of this approach, with greater collaboration between different parts of government, and efforts to upskill staff with digital expertise. Such actions are vital to ensuring that regulators continue to adapt and reflect contemporary electoral practices, but they also help to pool expertise, equipping regulators to tackle potentially controversial and difficult topics. We recommend that there should be greater collaboration between key regulators involved in electoral regulation, a task that could be achieved through the creation of a 'regulation liaison committee' that looks specifically at (digital and non-digital) election issues.

**Recommendation 3: platforms should expand and regularise their efforts towards transparency and develop systems for accountability and oversight, overseen by national advisory groups.**

Third, we also spotlight the role of companies in this space. Digital platform companies, such as Facebook and Google, have perhaps the most immediate power to act and change how digital is used at elections. Indeed the frequent policy changes around political advertising in recent years, show how these companies can change the rules of the political game and improve transparency. Whilst often criticised for not taking action (or acting too late), these companies have already made important changes. We recommend that the welcome, but modest, initiatives towards platform transparency should be expanded and regularised, moving from transparency to accountability by creating national oversight bodies for electoral processes that involve regulators, researchers and civil society organisations nominated by national governments.

**Recommendation 4: A public awareness campaign to enable citizens to understand and scrutinise electoral processes.**

Finally, we also argue that action can be taken by those beyond government and the commercial world. Digital technology is an inherent part of our daily lives, meaning that citizens and civil society can also play an important role in shaping expectations and usage of these tools. Many civil society groups have already done impressive work raising awareness of the ways in which digital technology is used in elections (for example, [Who Targets Me](#), [Privacy International](#) and the [Open Rights Group](#)). Similarly, the media have raised awareness of digital campaigning practices. These efforts need to continue to improve citizen understanding. We therefore argue that there is value in pursuing a public awareness campaign designed improve citizens' understanding of electoral processes and to improve their digital skills both inside and outside of election periods. This task should be led by civil society groups and funded by regulators, providing a crucial supplement to the other actions outlined above.

**Conclusions**

Whilst the case for increased regulation of digital campaigning is widely accepted, the workshop that inspired this special issue and our recommendations show that we cannot rely on any one actor to bring about change alone. Rather the government, regulators, companies and civil society need to be part of a multi-layered response to the rise of digital technology – with each actor key to securing change ahead of the next election campaign.

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Note: the above summarises the author's [co-authored piece](#) with Helen Margetts in the *Political Quarterly*. It draws on articles published in the special issue by [Katharine Dommett](#), [Sam Power](#), [Jacob Rowbottom](#), [Lisa-Maria Neudart](#), and [Ben Wagner](#).

**About the Author**



**Katharine Dommett** is Senior Lecturer at the University of Sheffield. Her research looks at digital campaigning and party politics. She recently served as special advisor for the House of Lords Democracy and Digital Technology Committee, whose final report can be found [here](#).

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