Disinformation

THE COST OF LYING CRISIS:

EARP exposes ‘lies for votes’ in ads for the 2022 local elections
1. Introduction and context

This is our third review of election advertising; the first was from the 2019 General Election and the second covered the 2021 local and mayoral elections. Both of those can be found here (link). This report covers political party advertising from the 2022 local elections.

It seems reasonable to suggest, given the broader political context of considerable heat around the integrity of statements inside and outside the House of Commons, together with some pressures from ourselves and others such as Full Fact, that there might be some restraint or circumspection observed in the party political advertising that drove candidate and party profiles in May of this year.

Sadly, though perhaps predictably, the reverse turned out to be the case. We do not claim a quantitative measure of election advertising output because we don’t have the resource to deliver that, but we do think that we cover some significant ground when reviewing which parties are advertising and what they are communicating.

On that basis, we can state with some certainty that new depths are plumbed by political parties in 2022. This tranche of advertising is the worst that we have seen, because it is frequently and consistently misleading - almost risibly so in some cases - because it shows total disdain for voters, and perhaps above all because it displays its absolute certainty that it is above any regulation, impervious to any complaint, and dismissive of any criticism. An issue to which we will return.

1.1. EARP

Meanwhile, these pages set out party political advertising that has been sourced by Reform Political Advertising and reviewed by EARP, the Election Advertising Review Panel. We set up EARP because we felt we needed to establish a broader credibility and to demonstrate, in particular, that it is desirable and possible to establish a process by which election advertising can be reviewed by a broader constituency than our own resources could offer.

We invited six senior people from inside and outside the advertising industry to create an executive that reviews factual claims in election ads and judges whether they are truthfully presented or otherwise. This exercise constitutes a
‘pilot’ for the next General Election, when we plan also to involve established regulatory bodies.

The members of the Executive are:

Dr. Katherine Dommett, Senior Lecturer, Sheffield University

Jake Dubbins co-Chair of the Conscious Advertising Network

Arvind Hickman, Media Editor, Campaign

Will Moy, Chief Executive, Full Fact
Lord David Puttnam, one of the world’s most significant media figures and responsible for the House of Lords’ June 2020 report ‘Digital Technology and the Resurrection of Trust’, agreed to chair EARP and talks here about the extraordinary insensitivity of political parties to this issue and “the need for regulation to be achieved if you have any interest at all in a long-term flourishing democracy.”

2. How it worked

We used three sources for party political election ads:

- The Facebook/ Instagram (Meta) and Google ad libraries
- The media consumption of our own small team and their personal connections around the country
- Supporters sending us material in response to our tweets

We reviewed advertising from all political parties, including those from Northern Ireland (Assembly elections), Wales and Scotland. We should note that the Green Party and Rejoin EU signed our pledge, developed with
Compassion in Politics, in April 2022. Other parties were approached and some individual candidates also signed. They pledged to:

1. Campaign with respect, integrity, and compassion.
2. Communicate honestly, ensuring that claims made in political advertising are fact-checked, reliable, and traceable.
3. If elected, work to achieve the highest possible standards for our politics locally and nationally.

Each advertisement that we judged to be a potential problem was analysed in the context of the rules that apply in a commercial context, i.e. the CAP Code and in particular its Section 3 Misleading advertising. Consistent with the position we established some years ago, we reviewed only factual claims.

Advertisements were then sent to the EARP Executive for their view as to whether the example was a) clearly misleading b) contained only minor transgressions or c) required further discussion. Conclusions for each political party’s advertising are shown in the following pages. (Some advertising appeared before the establishment of EARP; in those cases we have made the judgments in the same way as in previous years.)

As we mentioned earlier, we don’t pretend that this review is of any great depth of material. It is simply not possible with our resource, for example, to assess the plethora of local party campaign leaflets where there would be, no doubt, plenty of work for us. What is very clear, however, is that depth of research in this field isn’t necessary to establish that there’s a major issue with the way in which political parties make claims in advertising.

We conclude by returning to a point made earlier, also addressed by Lord Puttnam in the linked video. Over the past few years of making our case to politicians of all hues, but especially to those in power, we have submitted some several hundred formal and informal complaints and criticisms – often constructive, always in measured tones and unfailingly substantiated with quality evidence from reliable authorities – and all related to obvious, serious inaccuracies in party political communications that are designed to influence voters. Put crudely, lies for votes.

In all that time, from all that effort and reasonable advocacy, we have received just three reactions from those in authority, two of which were complaint processes that were either designed to defend the ‘offender’ or whose rules appeared actually to permit transgression ‘in the course of carrying out duties’ and the third of which was a polite reply from a political leader who then
appeared to increase the extent to which their party’s advertising was peppered with falsehoods. Even if they listen, they certainly don’t hear; there is something about injustice from authority that is particularly galling.

So while, as practitioners, we are fully aware of the impact that advertising can have, and the purpose of this review is to examine 2022 election advertising and its flaws, there is a more significant issue or issues behind the deliberate falsifications that we address in these pages. For the voter’s intelligence, the pressure group’s advocacy and the observer’s commentary, there appears to be only total disdain.

3. Political party advertising reviewed

The image of the @ukLabour MP is changed according to the constituency targeted. There is an important difference between not voting for the Borders bill and voting ‘to keep illegal migrants in Britain.’ The MP referenced did not vote as per the claim in the advertising, which makes the claim factually inaccurate and misleading.

Relevant CAP Code clauses are: 3.33 ‘Marketing communications that include a comparison with an identifiable competitor must not mislead, or be likely to mislead, the consumer about either the advertised product or the competing product’ and 3.42 ‘Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.’ The EARP Exec ruled this ad to be misleading.
### Twitter in remit

We regard tweets to be in remit, just as they are for commercial advertisers. The issue of council tax rates is complex. Explanation from Full Fact [here](#). This claim is entirely unsubstantiated; both on the ‘lower’ point and the ‘political games’ point and would be unlikely to survive regulatory scrutiny for that reason. For context, the CAP code 3.7 (extract). ‘The ASA may regard claims as misleading in the absence of adequate substantiation.’ And re comparisons (extract): ‘Superiority claims must be supported by evidence unless they are obvious puffery’. And 3.34 and 3.35 ‘They must compare products meeting the same need or intended for the same purpose.’ The EARP Exec ruled this ad to be misleading.

<table>
<thead>
<tr>
<th>Conservatives @Conservatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>In just 7 days, the choice you face is clear:</td>
</tr>
<tr>
<td><img src="image1" alt="Lower council tax and better services with the Conservatives" /></td>
</tr>
<tr>
<td><img src="image2" alt="Labour and the Lib Dems who waste time and money playing political games." /></td>
</tr>
</tbody>
</table>
#VoteConservative pic.twitter.com/fapgbk61sl
28/04/2022, 11:30

### In Merton/ Wimbledon

The core claim ‘£111 million wasted, mismanaged, or put at risk’ is unsubstantiated. CAP Code 3.3 (extract) ‘Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.’ 3.7 (Extract) ‘The ASA may regard claims as misleading in the absence of adequate substantiation’. 3.42 ‘Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.’ The EARP Exec ruled this ad to be misleading.

<table>
<thead>
<tr>
<th>Merton Conservatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sponsored • Paid for by Wandsworth and Wimbledon Conservatives</td>
</tr>
<tr>
<td>These elections are a choice between a Labour-run Council and a Conservative-run Council. Voting for the Liberal Democrats or any other party will ensure another four years of Labour.</td>
</tr>
</tbody>
</table>

### In Sutton

The core claim ‘£111 million wasted, mismanaged, or put at risk’ is unsubstantiated. CAP Code 3.3 (extract) ‘Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.’ 3.7 (Extract) ‘The ASA may regard claims as misleading in the absence of adequate substantiation’. 3.42 ‘Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.’ The EARP Exec ruled this ad to be misleading.
a) You really can’t compare one borough versus another – different infrastructures, needs, costs, etc.: CAP Code 3.34 re Comparisons with identifiable competitors: ‘They must compare products meeting the same need or intended for the same purpose.’

b) The ‘£1,000 more’ claim is not substantiated and may not be accurate; the ‘base’ council tax, i.e. before precepts etc. in Sutton @ 1,353 the Wandsworth equivalent (Band D, which is the Band normally deployed for these purposes) is £502.60. It may be possible to find - in some bands and using some accumulated rates - a difference of £1,000. If that’s the case, then it should be explained or linked in the ad. The EARP Exec ruled this ad to be misleading.

The claim 'Lowest Council Tax in the UK' does not appear to be accurate; according to the sources we have checked, the 'lowest' title belongs to Westminster City Council. Band D rates in 2021/22 were £827 versus Wandsworth’s £845.

The tax cut claim is juxtaposed with the Mayoral Precept increase and assigned to 'Wandsworth Labour.' Our understanding is that the Mayoral precept applies to all councils. Additionally, a comparison is drawn between two different aspects of local and regional taxes: one for a given set of services and the other for a different set. The rule that is required to be observed by most advertisers is that marketing communications ‘must compare products meeting the same need or intended for the same purpose.’ (CAP Code rule 3.34)
There is no particular pattern to Conservative party advertising misdemeanours (certain parties favour particular techniques). If some of their advertising is madness, there doesn’t seem to be much method in it. From an advertising practitioner’s perspective the ‘campaign’ isn’t held together by e.g. a consistent look/feel, or line, or direction. Just, in the cases we highlight, a cynical disregard for any kind of integrity in their communications.

Shortly after the publication of this document, the Liberal Democrats were in touch to point out that the Telegraph page referenced below did in fact appear. We were unable to find it at the time of research and that is our fault. We have apologised to the Lib Dems for this error and issued a correction for this specific oversight.

In Merton/ Wimbledon
The numbers, while correct, refer to GE results. Voting patterns tend to be different Local v General. The (Merton) borough is actually Labour controlled. The advertiser uses the term ‘across Wimbledon’. Wards are here, and the results for those in 2018 (last local election) here, showing Conservative hold in the Wimbledon wards, and the Lib Dems not close in some cases. The claim ‘Labour voters are backing the Lib Dems to beat the Conservatives’ seems fanciful at best.

The EARP Exec ruled this ad to be misleading.

If in doubt, borrow (or steal) credibility

Checking the front covers of the Telegraph on the day concerned brings a different story. Googling the headline itself takes you to a platform called the daily advent, which carries the advertised line. Clicking on ‘learn more’ takes you to the Telegraph article ‘NI should be scrapped in its entirety say Tory MPs.’ We can find no evidence of the costs of £1k per annum for every adult attributed by the advent article to the IFS. More robust analysis suggests significantly less anyway. The EARP Exec ruled this advertising to be misleading.
The central claim ‘Lib Dem led councils top the tables’ etc. checks out. The references to Conservatives/ Labour/ Greens do not appear to have any meaning at all, aside from, presumably, the opportunity to score political points. There are no Green-led councils as far as we are aware, though they have had minority control in some, so the relative positions of the other parties seem to be pure invention. If genuine, it would anyway need to be substantiated in ‘regular’ advertising. CAP Code 3.42 ‘Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.’ The EARP Exec did not reach a unanimous conclusion on this advertising.

Lib Dems in Lewes

The EARP Exec decided not to rule on this advertising. It is included here for the record.

RPA commentary

The Lib Dems may be innocent of the charge leveled by Labour that they wish to ‘legalise drugs’ (see below), but they clearly find it difficult to give up dodgy bar charts, though they do appear to be experimenting with other Class A techniques. SEE CORRECTION ABOVE
Maths issue

Full Fact investigated this £2620 claim in a post of 21st April 2022, concluding:

“This estimate is based on unreliable assumptions, and excludes the impact of wages and benefits, which are rising overall. Independent estimates suggest the average household will be worse off in 2022/23, but by significantly less than Labour’s figure of £2,620.” And: “Labour reached its figure of £2,620 by adding together several estimates for different cost rises, some of which are unexplained or unreliable. Crucially, it also did not offset these costs against rises in benefits or wages.”

We regard this advertising to be grossly misleading, though it was not submitted to the EARP Exec as it pre-dated its establishment, by which times other figures were in use by the Labour Party (see below)

Council tax claims
Full Fact looked at a very similar claim in 2019. The issue here - as much as the 'not very meaningful' claim itself - is that there is no substantiation. Clicking ‘learn more’ on the ad does not lead to clarification but does request your data.

CAP Code 3.3 (extract) ‘Marketing communications must not mislead the consumer by omitting material information. Material information is information that the consumer needs to make informed decisions in relation to a product.’ The EARP Exec ruled this advertising to be misleading.

What have they been smoking?

Extract from the Independent story on the issue:

‘But the Labour ads falsely claim Ed Davey’s party wants to “legalise drugs”, a different policy. A second version features the text “LEGALISE DRUGS” on a yellow background, next to a headline clipped from The Independent. The headline, which is actually from 2015 when Nick Clegg was leader, says “All drugs should be decriminalised, say the Lib Dems” – not supporting the claim in the rest of the advert.’

The Lib Dem policy from their website states: ‘The Liberal Democrats want to introduce a legal, regulated market for cannabis.’

We regard this advertising to be grossly misleading, but it was not submitted to the EARP Exec due to its relatively late appearance.
More about lying

The issue is that these numbers (both the ‘15’ and the ‘1,060’) carry no substantiation or source. CAP Code 3.9 (extract) ‘Marketing communications must state significant limitations and qualifications.’ Section 3 of the CAP Code and related guidance covers substantiation/evidence in some depth but does not state evidence/source must be provided in the advertising. We would observe that it is common practice to do so in the commercial arena when there is e.g. a significant retailer claim versus competition. We do not address the accusation in this advertising that the Conservatives lie. The EARP Exec did not reach a unanimous conclusion as to whether this advertising is misleading.

RPA commentary

We refer you to our blog here. In brief, the first point we should make is that there appears to be a great deal more Labour party advertising than has been the case in previous local elections. There also appears to be a great deal more misleading advertising from Labour. In mitigation, in our conversations with the party, some significant figures have expressed support in principle for some form of regulation and we are planning further discussions in that regard. They recognise, no doubt, that the principle losers in a game of misleading advertising will be those who have less to spend. Meanwhile, it remains the case that the examples above related to the drug-crazed Lib Dems and the ‘£2620 worse off’ claim are massively disappointing.

4. Conclusions

We can draw the following conclusions from this exercise:
4.1. There remains an alarming amount of grossly misleading election advertising from all main parties that attempts to secure our vote with deceitful misrepresentation of their own achievements or others’ incompetence, when what is actually exposed is the cynical exploitation of a ridiculous regulatory gap.

4.2. That it is perfectly possible, contrary to some objections, to establish a body of people who can make sensible and reasonable judgments about questionable election advertising. Just as happens in, for example, New Zealand, where election advertising is successfully regulated by the (U.K.) ASA equivalent. We do not pretend that we are similarly ‘official’ in any way, which makes the case even more strongly: if we can do it, then anyone can.

4.3. Having said that, we recognise that there also emerges from this exercise some unresolved issues that must be addressed before the next General Election. While we may have our foot further in the door, there is no evidence that those in power will soon be prepared to discuss our objective: a code of conduct for election advertising, agreed by political parties, that will be regulated by an independent body of ‘relevant experts’ (from the House of Lords recommendation referenced earlier).

4.4. Indeed, the evidence is pointing in the opposite direction, from three sources. First, the government is legislating in the Online Safety Bill for ‘scam ads’ but protecting its own interests in that regard behind a shield of ‘matters of democratic importance’; second, the recently announced Online Advertising DCMS consultation exempts ‘political advertising’ and third, the Elections Bill makes, to use a technical legal term, an absolute pig’s ear of the requirement to include an imprint in digital election material, such that a political party is not required to identify itself, a situation exploited on at least two notable occasions by the party responsible for the legislation.

4.4. Within the whole context above, we must also reach a decision about elements of our May 2022 review process. For example, should claims be required to be sourced in election advertising, when that is not per se a requirement of the CAP Code? While this aspect is somewhat ‘nuts and bolts’ for most, and we apologise for interrupting this otherwise sparkling narrative, brief consideration suggests that they should indeed: the commercial advertising self-regulatory system is largely built around a careful analysis of complaints and associated evidence over a significant period of time. Such a process would not work well for election advertising conducted over a few weeks where our goal is a one-hour takedown of advertising in breach.
4.5. Whatever the process and its constituent parts, it has become very clear indeed that the likes of the advertising shown in these pages that has sullied the screens of voters in May 2022 simply cannot be permitted to continue to happen. Voters are generally not fooled by it; many dislike it intensely and most (nine out of ten according to our YouGov research) think that it should be ‘a legal requirement for factual claims in advertising to be accurate.’ For our own part, we are ‘mad as hell, and we’re not going to take this any more.’

4.6. We close with sincere thanks to those volunteers and supporters who helped along the way and especially to the EARP Executive who gave freely of their time and brains to provide us with mature and sound judgments in a difficult arena. And finally to the Chairman of the Exec Lord David Puttnam, without whom this may have been possible, but not as possible and certainly not as impactful. There may still be some way to go, but it seems, with the help of the aforementioned and with the main opposition party starting to listen, we’re making progress towards the demise of lies in advertising for votes in elections.

May 5th 2022