

Canada's Election Laws Aren't Ready for Social Media Influencers

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Social media influencer marketing – when an influencer is paid or otherwise compensated to share certain messages – is increasingly popular in political campaigns around the world. In Canada, social media influencers have been called to [volunteer their voice during the COVID-19 pandemic](#) and [paid as part of government marketing strategies](#). Influencer marketing is [growing in popularity in the US](#) among prominent political parties and advocacy groups as a core part of their communication strategies. In the [US](#), [Philippines](#), [India](#), [Brazil](#) and [Nigeria](#), to name a few, social media influencers are being strategically used in disinformation campaigns, to spread hate and harassment, and to secretly influence election outcomes.

The appeal is clear: influencers tend to have deep knowledge of their followers and fans, and those followers and fans feel socially connected to the influencers even when they have never actually met, which means influencers can tailor messages to those followers and fans. The assumption is that influencers are seen as a [more trustworthy source](#) because their followers and fans choose to receive messages from them.

But these influencers can also be used to [evade laws](#) such as transparency measures and spending limits, or to distance a campaign from a message - as might be desirable for attacks on opponents, for disinformation, and for hate and harassment.

Canada's federal election laws are not ready for what's coming as social media influencers become more integrated into campaign communications. We need to start with a public discussion about how we identify and categorize social media influencers and their roles. Then we need to ensure loopholes are close so that influencers can engage productively in campaigns.

Ad registries and placement costs

Ahead of the 2019 Federal Elections in Canada, the [Election Modernization Act](#) came into effect. As part of a larger collection of changes, a [digital ad registry was mandated for all digital platforms with a minimum number of monthly unique visitors](#). In 2019 Google and YouTube opted [not to allow any election advertisements](#) while Facebook did, creating their [Ad Library](#). A number of news organizations also met the threshold and created [ad registries](#).

The ad registries include “partisan” and “election” advertisements and include a copy of the posted advertisement and information on who paid to promote it. Some platforms choose to add information on whom the ad was targeted and how much it cost. These registries represent a [needed increase in transparency](#) around political advertising and micro-targeting on social media.

However, ad registries rely on the advertisements to have been placed using the platforms' own advertising system and ignore the various ways those systems could be circumvented. This is partly because our definitions of what counts as political advertisements and paid promotion are rooted in an understanding of a pre-social media environment.

A key concept is the "[placement cost](#)" which current election laws are designed around. For an online message to be considered a political ad, it has to have a placement cost, paid by the political actor to the platform to purchase a "sponsored" or "boosted" ad. In practice, platforms technically distinguish whether the online message is sponsored, boosted, or otherwise made available via their own advertising systems — rather than natively posted by a user who paid no fee to the platform. Ads can't make it into the registry unless they are tagged that way. But people can pay to promote political online messages outside those systems, for example, by hiring social media influencers.

Our changed media environment

In the broadcast era, *placement* of messages and *promotion* of messages were largely one and the same. A political party might choose to pay a placement cost to have a TV advertisement played at a particular time of day. The placement of that advertisement would be on a particular network at a particular time. Paying for that placement disseminates the political party's messages to whichever viewers that network has at that time.

A social media equivalent is using a platform's official advertising system to place an advertisement. Some things are different, of course. Compared to a television spot, social media advertising systems offer more [nuanced targeting options](#) and it is possible to make many more versions of each advertisement and tailor it to those specific audiences. This is where the new transparency measures in online ad registries come in handy. But the general process is the same: the party would pay a placement cost to have their advertisement sent out to some set of viewers.

But, using the official advertising systems is only one of multiple ways to place and promote content online. Plus [placing and promoting content are not necessarily done in the same step on social media](#).

Campaigns could pay a marketing agency to increase likes on a post the campaign made for free, improving its prioritization in social media feeds. This is a paid strategy to get a message out to a wider audience but does not have the traditional placement cost and can be hard to track, raising concerns about how to ensure adequate transparency. Some agencies use botnets and trollfarms to do this, but real people are the preferred route as platforms have begun clamping down on what Meta calls "[inauthentic coordinated behaviour](#)."

And so campaigns are getting creative. Social media influencers are a new way to circumvent political ad registries, skirt spending limits, and get by platforms' terms of service.

While influencers may be [compelled](#) to disclose payment on some platforms such as Instagram, it is not the case on [all of them](#). Regardless, it can be difficult for a user to know when an influencer they follow has received compensation. What's more, compensation may not have been offered directly for a particular post, making it hard to trace and hard to report.

Influencers often receive sample products, gifts, and expenses-paid trips as informal compensation for reviewing or talking about a given organization or topic. It is currently unclear how similar activities would be treated for political parties and third parties aiming to engage influencers in their communication strategies. Influencers may not even know they should be reporting income and gifts, let alone know how to report or understand the [implications](#) of not doing so.

If the goal of ad registries is to collect all paid political speech on platforms, there is a concerning loophole with influencer marketing. Indeed, social media influencers can be dissemination and promotion agents for paid political content.

One of the trickiest parts of dealing with social media influencers in politics is that they may genuinely want to express political opinions during campaigns independent of compensation. They may see themselves as activists or simply engaged citizens who happen to have an online following. Their content could look a lot like paid promotion without in fact being paid or compensated in any way. This makes deciding on whether regulations should be updated, whether platforms should modify their community standards, and what transparency standards social media influencers should be held to be very challenging. We need to have these discussions now, ahead of the next elections.