

International Affairs

So, Elections Canada, can I talk about the environment or not?

13 September 2019

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It all started as if it often does: with media furor surrounding a miscommunication.

August 2019 saw several Canadian media outlets [report](#) on a statement made by Elections Canada officials at a training session, which warned environmental activist groups that messaging regarding the climate crisis may be considered partisan advertising because of skepticism of a man-made environmental crisis on the part of Maxime Bernier, leader of the People's Party of Canada (PPC). This was widely condemned as a move that would effectively silence environmental activists during the crucial electoral period and rob them of their ability to persuade Canadians to elect leaders who would help advance the fight against climate change.

This, however, was a misunderstanding. Stéphane Perrault, Canada's chief electoral officer, issued a public statement on 20 August stating that the Canada Elections Act would not prevent any organization from talking about any

issues or publishing information, thus effectively bringing an end to fears of Elections Canada violating the freedom of speech of these organizations during the writ period.

Though this may have been much ado about nothing, the issues raised are important. Every social movement and cause has political undertones. This is a fact that Elections Canada must reckon with when deciding how to best regulate the political arena to reduce the disproportionate disadvantage of some parties.

According to Elections Canada, individuals and organizations that are not seeking election but want to continue their activism throughout the election period are referred to as "third parties" and may have to register as such to ensure their spending adheres to the [legal limits](#). These regulations exist to reduce the disadvantages felt by parties with less money so that they stand a fighting chance in elections. Paid advertising by environmental organizations or any other group is

considered issue advertising – which would require the group paying for the advertising to register as a third party with Elections Canada.

While in the aftermath of the Elections Canada scandal this summer many Canadians expressed fear about the suppression of free speech, these regulations attempt to protect another tenet of our system – equality of chance. In 2018, the [Elections Modernization Act](#) was passed to better regulate third-party spending in federal elections. This was in response to increased threats of third-party interference in the upcoming election, particularly of the foreign variety. The act requires “a third party to register with Elections Canada if it incurs expenses of \$500 or more for conducting regulated activities.”

These regulated activities can include partisan activities like strategic voting campaigns, election surveys, and partisan or election advertising – that last one being the subject of the present controversy. Partisan advertising can include, according to the [Elections Canada website](#), “advertising that takes a position on an issue that is associated with a candidate or party, without referring to the party, candidate or other actor. This is sometimes called ‘issue advertising’ and is not regulated during the pre-election period.”

Therefore, based on the outlined regulations, organizations that distribute advertisements that implore citizens to ensure the climate crisis is a priority when they vote can be considered issue advertising. Although it is not explicitly mentioned, the PPC is a highly visible party whose skepticism of human-driven climate change is woven into its platform; therefore, advertisements of that nature could disadvantage the PPC.

You could argue, depending on your persuasions, that this is not necessarily a bad thing; nevertheless, it brings to the fore what Elections Canada’s regulatory priorities should be in trying to keep our elections fair. Freedom of speech and a wealth of opinions, expressed by parties and third-party participants alike? Or a political arena that does what is possible to limit the unfair advantage enjoyed by wealthier parties to help Canada more convincingly keep the appearance of a multipartite system? It must be clarified that, in their current iteration, Elections Canada’s regulations do not limit the messaging of third-party organizations beyond paid advertising. Emails, text messaging, canvassing are still fair game. So perhaps expensive free speech in the form of advertising campaigns is stifled to equalize the financial playing field for different parties as much as possible, but free messaging is completely unaffected.

With all this said and done, some questions remain for the environmentally-concerned. Should the platform of such a small party have such a profound effect on the advertising ability of environmental organizations, particularly for a subject as pressing as the climate crisis? Questions of this nature require some perspective. If the paid advertising of environmental organizations could go unregulated, this would mean that other third parties would also have to be afforded that same luxury. I would wager a guess that the fossil fuel industry has more money to spare for advertising campaigns than Greenpeace. This also brings forth arguments about how we decide the importance of one issue over another, which would require Elections Canada to make value judgments and possibly end up guiding the electoral process. This would be a decidedly partisan power and could undermine the whole concept of fair elections.

In the same vein, though the PPC may be insignificant in terms of [polling numbers](#), its platform cannot be completely dismissed when regulating the political space during the election period. How would Elections Canada decide at what point a party's views become significant? How would they justify creating those limits while simultaneously attempting to create an

election period that promotes diverse multipartisan discussion?

For the regulation of third-party spending in Canada, there is a clear tension between the preservation of equality of chance and of freedom of speech. In this case, however, it was justifiable for Elections Canada to prioritize equality of chance because the regulations as written are unable to stifle speech in a meaningful way in the digital age. (Incidentally, this does call into question the goal of the Elections Modernization Act to reduce foreign third-party interference in the election, which [Stéphane Perrault himself](#) has deemed inadequate to these ends... but that is a debate for another day.)

While media blow-ups about misunderstandings are constant and at times irritating, taking the time to investigate them reveals holes in our knowledge of our electoral system and allows us to reflect on what democracy should look like. Though I might disagree strongly with Mr. Bernier, the same regulations that protect his party from being overwhelmed by the purchasing power of unregulated third parties protect the interests of the ideas that I hold dear.