



## Dutch Code of Conduct Transparency Online Political Advertisements

*This Code of Conduct was drafted by the International Institute for Democracy and Electoral Assistance (International IDEA) in consultation with political parties represented in the Dutch House of Representatives and online platforms, at the request of the Ministry of the Interior and Kingdom Relations.*

### 1. Introduction: Why this code of conduct?

#### **The growing importance of online political advertising**

Dutch elections have traditionally inspired great trust among broad sections of the population. Surveys as well as the traditionally high voter turnout support this vision, especially for national elections. At the same time, the way in which the key players in elections, political parties and candidates communicate with citizens has changed in recent years. This is largely due to the emergence of online campaigning, with more and more political parties using the method as a part of their election campaigns. In particular, the use of online political advertisements via online platforms has become an integral part of the way in which many political parties communicate with voters.

While these techniques offer important advantages for interactions with and information provision to voters, in recent years a worldwide discussion has emerged about the dangers of their unethical use. Incidents with online platforms collecting large amounts of voter data can adversely affect the privacy of citizens. Foreign funding of political advertisements can damage the integrity of elections.

The Netherlands seems to have been spared from significant incidents so far. Nevertheless, a discussion has arisen among voters and political parties on how to prevent risks. In particular, the importance of transparency of online advertising is emphasized. Transparency provides insight into the origin and financing of online messages for all those involved and makes it clear to every voter why they see a particular message.

#### **House of Representatives' unanimous appeal for transparency**

In October 2020, the Netherlands House of Representatives unanimously adopted the Middendorp / Kuiken motion, including a request to the Minister of the Interior to regulate the transparency of online advertisements. The Minister responded by letter on 16 November, mentioning the initiative for this Dutch Code of Conduct Transparency Online Political Advertisements. This code of conduct comprises voluntary rules of conduct for online platforms and political parties about online political advertising in the Dutch context, in view of the parliamentary elections on 17 March 2021. The code of conduct thus anticipates upcoming Dutch and European legislation on this theme.

#### **Objective and core values**

By means of this code of conduct, Dutch political parties and online platforms jointly aim to uphold the integrity of Dutch elections. They do so by recognizing the important role of online political advertisements in preserving the safety and fairness of Dutch elections. Furthermore, through the code of conduct, political parties and online platforms contribute to guaranteeing voter privacy and freedom of expression, and to providing a better level playing field for political parties in election campaigns, without detracting from widely accepted marketing or campaign strategies. These core values are at the basis of the Dutch democratic



election process. Signatories believe that online communications by and about political parties and candidates should reflect these values at all times. They want to raise awareness of the wider public through this code. Above all, the signatories would like to underline that, at a time of increasing digitization of election campaigns, they attach great importance to maximizing citizen trust in the election process.

This code of conduct contributes to preserving several core values around online political advertising and elections, including transparency, privacy, safety, fairness, integrity, and a level playing field.

### **Scope**

The code of conduct primarily covers paid online political advertising. In addition, the signatories recognize the important role of unpaid (so-called organic) content for fair and democratic online political campaigns. Political parties and candidates also voice positions and visions to the general public through online organic content. Lack of transparency about who posts and distributes organic content is also relevant in this light. In addition, a growing debate on disinformation increasingly questions the content of online communication, as well as the way in which decisions are made regarding whether it is harmful. For these reasons, this code of conduct partly covers unpaid political reporting.

In view of the 2021 elections to the House of Representatives and a feasible implementation of this code during related election campaigns, it does not cover issues that require further debate or entail substantial administrative effort. This may include debates on definitions, additional transparency requirements, individual advertisement buyers, enhanced monitoring mechanisms and optimization of tools and algorithms regarding online political advertising in view of enhancing the integrity of elections.

### **Signatories**

Participation in the code of conduct is open to online platforms and political parties in a broad sense. On the side of online platforms, this concerns both platforms that allow paid political advertisements and platforms that only offer organic content. On the side of political parties, this concerns all political parties that have registered for the elections to the House of Representatives in March 2021. Online platforms and political parties, as sellers and buyers of online political advertisements, recognize a joint responsibility over their transparency and integrity. The code is a result of their consensus on transparent and ethical behavior in the online environment.

### **Implementation**

The code of conduct is a guideline for good behaviour. Participation is voluntary and cannot replace existing or future legislation and regulations. Compliance is therefore not enforceable. This does not exclude the fact that the code of conduct fulfils an important signalling function. The code of conduct appeals to the individual responsibility of political parties and online platforms to conscientiously fulfil their joint and separate responsibilities.

The code of conduct is public and available online. The public nature of the code of conduct allows the involvement of media, researchers, voters and others in tracking it. In addition, it places an important responsibility on the signatories to promote compliance internally in their organization. After all, they are the owners of this code and, at the same time, they are key stakeholders of a straightforward election process marked by integrity.



This code of conduct is a public document, and as such available to the media and the greater public for monitoring of its implementation. Signatories to this code of conduct are also invited to collaborate with researchers on political advertising libraries and make available any additional data to support such research<sup>12</sup>, as far as it does not concern confidential information. Lastly, competent authorities that are involved in monitoring elections are also playing a role in monitoring online political advertising in the framework of the integrity of elections.

## 2. Legal framework

This code of conduct is voluntary and in no way intends to create a legal framework. The code is however part of a broader legal and policy framework and aims at supplementing it. This code should be read in accordance with relevant national and European laws and regulations. Various legal and policy documents underpin the code. The most important ones include:

- Article 4 of the Dutch constitution, regarding the right to vote ;
- the Law of 28 September 1989, including new provisions regarding the right to vote and elections ;
- the Law of 7 March 2013, including rules regarding the subsidization and supervision of political parties (Wet financiering politieke partijen);
- the General Data Protection Regulation (GDPR), 24 May 2016 ;
- the EU Code of Practice on Disinformation, October 2018 ;
- the Motion of the Middendorp and Kuiken Members, 15 October 2020; and
- the Letter to Parliament on Measures to combat disinformation towards the House of Representatives elections, 16 November 2020.

## 3. Commitments online platforms and political parties

### 3.1 The signatories of this code of conduct, representing political parties and online platforms, jointly commit to:

1. The responsibility to use online political advertisements conscientiously so as to maintain the integrity of elections.
2. Promote and adhere to transparency of online political advertisements, to the extent possible.
3. The need to avoid the dissemination of misleading content, hate speech and messages that incite violence.

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<sup>1</sup> Example: The University of Amsterdam created a dashboard gathering information from political advertising libraries of three online platforms 'Nederlands verkiezingsobservatorium-dashboard', see <https://politieke-advertenties.nl>

<sup>2</sup> Such as details about online advertising intermediaries, payments to 'online influencers', expenditures and targeting. The data can be made available in an anonymised or non-anonymised way.



### **3.2 Political parties commit to:**

4. Strictly adhere to online platforms' advertisement policies and mechanisms and provide faithful information for registration and verification processes; respond to inquiries regarding ad authorization and verification processes.
5. Maintain ethical limits to linking different data sets and uploading them to online platforms for the purpose of microtargeting.
6. Refrain from psychological profiling for targeting purposes in online political advertising.
7. Refrain from contracting or engaging intermediaries to place political ads without attribution to the party.
8. Refuse direct purchases of political advertisements by foreign actors in support of the political party (with and without attributing them to the party); refrain from receiving foreign funding to pay for online political advertisements, other than from party members living abroad.
9. Refrain from unethical online behavior such as disseminating online content in view of voter dissuasion, disinformation about the voting process, using fake accounts or automatic bots to manipulate voter opinions, trolling, unfounded accusations or cyber-bullying.
10. Refrain from deliberately posting, disseminating, or promoting misleading content; refrain from using distorted audio-visual messages, including deep fakes.
11. Contribute to safety of the electoral process by refraining from posting, disseminating, or promoting content that incites violence or hate speech.
12. Raise awareness on the code of conduct internally and promote compliance among candidates, campaign staff, party sections and other bodies, and affiliated institutions (neveninstellingen).
13. Discuss implementation of the code of conduct at meetings of political party presidents and/or directors; to continue the discussion between and within political parties after the elections to the House of Representatives in order to further elaborate on details and implementation.

### **3.3 Online platforms commit to:**

14. As far as online platforms offer political advertising, develop and enforce relevant transparency mechanisms.
15. Provide relevant advertiser and advertisement details in publicly available libraries with easily downloadable and comparable data.
16. In order to ensure transparency and scrutiny of political advertisement placements, require and enforce registration by and verification of political advertisers.



17. Report adequately and clearly on “paid for by” and spending range.
18. Ban cross-border political advertisements from outside the European Union.
19. Establish transparency on online political advertisements, including on spend and reach.
20. Raise awareness on this code of conduct by drawing the attention of relevant employees to the commitments made; ensure that situations that could affect compliance negatively are addressed in a timely manner.
21. Put in place a user-friendly response mechanism to answer questions or address issues related to the Dutch elections; have clear and transparent rules for placing and removing messages and advertisements; respond quickly and accurately to enquiries about placement and removal of messages and advertisements by competent authorities and political parties.
22. Develop and enforce platform policies on the safety and privacy of users and electoral integrity in relation to online political advertising; remove political advertisements or any content that incite violence or hate speech within the shortest possible period of time once identified.
23. Consider countering any inaccurate information on the electoral process, such as voter, voting process and polling station information, in case such information is identified.
24. Consider sharing experience and lessons from previous elections in other countries with Dutch political parties and relevant election authorities.
25. Consider conducting a post-election review on the Dutch electoral campaign and compliance with the code of conduct; consider the possibility of publishing a report in case there have been any relevant incidents in relation to the Dutch elections and the correlated platform actions.