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A Polarization-Containing Ethics of Campaign Advertising

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Abstract: This paper establishes moral duties for intermediaries of political advertising in election campaigns. First, I argue for a collective duty to maintain the democratic quality of elections which entails a duty to contain some forms of political polarization. Second, I show that the focus of campaign ethics on candidates, parties and voters—ignoring the mediators of campaigns—yields mistaken conclusions about how the burdens of the latter collective duty should be distributed. Third, I show why it is fair to require intermediaries to contribute to fulfilling this duty: they have an ultimate filtering position in the campaign communication process and typically benefit from political advertising and polarization. Finally, I argue that a transparency-based ethics of campaign advertising cannot properly accommodate a concern with objectionable polarization. By contrast, I outline the polarization-containing implications of my account, including a prohibition on online targeted advertising, and intermediaries' duties to block hateful political advertising.

Keywords: campaign ethics, political ethics, pernicious polarization, collective duties, gatekeepers, adversarial ethics

1 Introduction

What role should mediators have in promoting the democratic values of election campaigns? The recent emerging literature on moral issues in democratic election campaigns (see, e.g., Bagg and Tranvik 2019; Beerbohm 2016; Lipsitz 2004; Medvic and Miller 2002; Thompson 2018) mostly focuses on the moral duties of the speakers of campaigns—candidates, parties, and other political stakeholders—while more elitist approaches in political philosophy have implications for voters' duties of

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acquiring and processing information in election campaigns (e.g., Brennan 2012; Caplan 2006). However, both literatures ignore that direct communication between candidates and voters (e.g., at caucuses) represents a smaller share of election campaigns. Modern democratic campaigns are overwhelmingly mediated communication contexts, actively shaped by third parties mediating between candidates and voters, i.e., the press, media, social media platforms, and so forth. This should raise our suspicion as to why the speakers and audiences of campaign communication should be the only ones sharing the moral burdens of democratic election campaigns. This paper focuses on the duties of third parties: mediators or intermediaries in election campaigns.¹

Modern democratic election campaigns are not only mediated and mediatized, but—given the present-day co-occurrence of capitalist economic and democratic political systems—they take place in market economies. The media, i.e., the mediators of campaign messages, are typically (though not exclusively) market players, i.e., profit-oriented actors who serve as gatekeepers of electoral campaigns by making their scarce media platforms available to campaign speakers. In other words, democratic election campaigns are overwhelmingly conducted through *political advertising*. While this may seem self-evident, this paper aims to show that paying due attention to this fact will lead us to reconsider the ethics of democratic campaigns. By political advertising, I mean conveying messages with the aim of persuading voters, using scarce resources, on scarce platforms and media outlets.²

In this paper I am not concerned with the moral obligations of the mediators of political advertising in general. Instead, more narrowly, I will inquire into the moral duties of political advertising intermediaries in maintaining the democratic quality of democratic election campaigns. Even more specifically, I am interested in the duties of the mediators of political advertising to mitigate tendencies of polarization that threaten the democratic quality of elections. At the same time, my inquiry is rather general in the sense that it is not restricted to a particular kind of intermediary. While various disciplines concerned with the regulation of new technologies focus on social media platforms as a specific kind of intermediary or, for example, ‘deepfake’ videos as a specific campaign technology (see, e.g., Kerne and Risse 2021; Kim et al. 2018; Leerssen et al. 2019; Rini 2020), I focus here on the role of intermediaries of political advertising in general. The use of specific media types or campaign

1 I will use these terms interchangeably.

2 On this definition, non-profit political advertising is not conceptually ruled out. Yet political advertising conceptually necessarily uses scarce platforms or outlets, as this partly underpins the competitive nature of election campaigns. For example, airtime in television advertising is scarce, as are available billboards for posters, or the visual fields of a Facebook newsfeed available for ads.

technologies also raises specific moral issues for political advertising in campaigns, of course—but these lie outside the scope of this paper. Finally, I examine here the duties of intermediaries in relation to political advertising specifically in the context of election campaigns, as my present inquiry is normatively grounded in the democratic functions of election campaigns.

I will argue that if we are to take seriously the role of political advertising intermediaries in democratic electoral campaigns, we need to reconsider the distribution of the collective duty to contain objectionable polarization and maintain the democratic quality of the campaign—primarily between candidates or their parties, voters, and the intermediaries of political advertising. Campaign ethics should not restrict itself to identifying the duties of candidates, parties and voters but should also specify the duties of the intermediaries of political advertising. In this paper, as a first step in realizing this research agenda, I will show that an ethics of political advertising in campaigns grounded in the moral ideal of transparency—along with the popular legal regulatory ideal it underpins—is insufficient to address the democratic wrongs of polarization in election campaigns, and consequently it understates the moral duties of intermediaries.

The structure of my paper is as follows. In *Section 2*, I lay out justifications for a collective moral duty to maintain the democratic quality of election campaigns and show how this duty undergirds a concern with containing some forms of polarization in politics. In *Section 3*, I show that contemporary campaign ethics, by ignoring the intermediaries of political advertising, provides a flawed approach to the distribution of the aforementioned collective moral duty. In *Section 4*, I present two arguments to show that it is fair to impose on intermediaries of political advertising a significant share of the burdens of fulfilling this moral duty. These arguments are based on the role of intermediaries in the campaign communication process and on their dual nature, stranding the spheres of market and public political discourse. In *Section 5*, I reconstruct an ethics of political advertising based on the ideal of transparency—popular with regulators. In *Section 6*, I show why such an ethics draws insufficiently robust conclusions about the moral duties of intermediaries, and I draw three implications from my account that illustrate what kinds of duty intermediaries of political advertising in election campaigns have, once we go beyond the insufficient moral ideal of transparency. *Section 7* concludes.

2 Polarization and the Duty to Maintain the Democratic Quality of Election Campaigns

Contemporary political ethics dedicates considerable attention to the moral duties of candidates and parties related to election campaigns. Campaign ethics often

focuses on issues thematized in public discourse, such as negative campaigning (i.e., campaign communication based on criticism of other candidates or parties, e.g., Lau and Rovner 2009), discussing candidates' private lives in campaigns (Mokrosinska 2015), lying and making false promises (Rowbottom 2012), or campaigns that fail to produce any substantive promises or political commitments (Beerbohm 2016, 400–403). These issues can be examined on a variety of normative grounds: for example, a general moral prohibition of lying (e.g., Kant [1797] 2017; Shiffrin 2014), or a moral justification of privacy (e.g., Lever 2012; Mokrosinska 2015), and so forth. I will assume, though, that the moral norms of campaign communication are (also) grounded in the specific functions that election campaigns should play in democracies. For the purposes of this paper, I do not commit to a single moral function of democratic election campaigns. Instead, I will briefly review here three such functions—in ascending order of the normative richness of their underlying conceptions of democracy—and show that at least certain kinds of polarization interfere with each of these functions. Hence, an ethics of political advertising in campaigns should entail a polarization-containing concern. As the structure of the argument suggests, this is a 'mid-level', ecumenical concern supported by different foundational principles, and it yields more specific requirements for political advertising to be explored in the sections below.

First, least ambitiously, democratic election campaigns may contribute to the competitiveness of elections. Competitiveness, in turn, serves to contain oligarchic tendencies in political competition which ultimately aim to reduce competition and entrench the power relations of the day, turning a democracy into an oligarchy. Realist and elitist approaches to democracy (e.g., Schumpeter 1949) are keen to emphasize this, and some recent work in campaign ethics—notably, Bagg and Tranvik (2019)—also focuses on a related function of campaigns as a ground of moral requirements for candidates.

Second, democratic election campaigns may serve to ensure voters' informed and free decision-making (Kelley 1960, esp. 2, 19–21; Thompson 2018). This, in turn, may be a necessary condition for the realization of more fundamental democratic values beyond a mere anti-oligarchic commitment, such as collective self-determination or individual political autonomy. For these values to be realized, voters should have sufficient information both about 'pre-political' facts (such as the probabilities of different outcomes of the climate catastrophe or epidemiological facts about a disease) and facts about the political landscape itself. Campaigns are a predominant source of the latter kind of information: e.g., What are the main issues at stake in a given election? Which values are candidates or parties committed to? What alliances has a candidate or party formed or is likely to form? What is the opinion of a candidate on a particular issue? How do different parties interpret the challenges that society faces? And so forth.

Third, most ambitiously, theories of democratic campaigning may contribute to establishing and maintaining adequate relationships between candidates, parties and voters. Beerbohm's (2016) theory, for instance, focuses on the accountability of candidates (representatives) and parties to voters as the cornerstone of the adequacy of this relationship. He sees candidates' practices of promising and vouching to voters as necessary for the development of accountability relationships. Campaign promises make candidates accountable during and after their term in office: the moral ground for holding candidates accountable is the special relationship between the candidate and the electorate created by promises the former makes to the latter. Vouching, by analogy, grounds candidates' accountability for their political judgement. When candidates vouch for the truth of a statement, they publicly commit themselves to some assessment of a politically significant situation—for example, the effective means of improving education policy, or the likelihood of drifting into war. Thus campaigns, through promises and vouching, serve to create relationships of accountability between voters and elected representatives, thereby ensuring the electorate's control over representatives' activities. For Beerbohm, the significance of accountability relationships is closely related to the democratic role of representatives, as such relationships may be seen as necessary conditions for the realization of more fundamental democratic values—in particular, political equality between elected officials and voters, or collective self-determination—in representative democracies. Yet accountability relationships, on his account, can realize these values only once they gain their particular content through candidates' promising and vouching to voters.

What kind of polarization threatens, then, the above functions of democratic campaigns? Political scientists and philosophers describe several related but distinct phenomena under the label of 'polarization': the fact that political opinions are held and represented as ready-made and rigid 'packages' rather than as flexible combinations of freely combinable elements of political discourse (Milačić 2021, 2; Lipset 1959); a growing distance between substantive political views within the political community ('political polarization' according to Aikin and Talisse 2020, 32); the increasing extremism of any particular political view ('belief polarization' in Aikin and Talisse's terminology); or the increasing 'friend versus enemy', 'us versus them' dynamic in political discourse (McCoy and Somer 2019) which expresses an inimical approach to political disagreement, or 'acute[ness of] political tensions' (Svolik 2019, 24) regardless of the substantial severity of disagreement (Bagg and Tranvik 2019, 981; Müller 2016, 44–49).

Not all of these kinds of polarization are morally objectionable—at least not generally so. The availability of ready-made packages may help informed decision-making in some circumstances (Lipset 1959), and the very explicitness of partisan

disagreements and power relations that polarization brings can also be informative for voters. At least some level of political polarization, taking the shape of clear and stable partisan divides, may even help stabilize political competition (Rosenbluth and Shapiro 2018). Further, some argue that an ‘us versus them’ political dynamic is a suitable or even necessary means to revitalize valuable avenues of political change (for the *locus classicus*, see Laclau and Mouffe 2001). On a leftist populist understanding, building a pronounced political frontier—thereby polarizing the political community—is necessary for a political project which aims to give political representation to interests that have been systematically ignored in a political era which relies on and feeds a political consensus that camouflages power relations (Laclau 2005; Mouffe 2018). Partisan struggles, then, are essential to democracy—and polarization is instrumentally valuable. Even further, some political theories may consider polarization as not only instrumentally valuable but conceptually necessary, as they conceive of politics in terms of constructing political identities vis-à-vis contrast groups (Laclau 2007).³

However, while some forms of polarization may be necessary and valuable in democratic politics, other forms of it are morally objectionable. At least excessive ‘friend versus enemy’ / ‘us versus them’ dynamics in election campaigns interfere with *all* of the functions of democratic campaigns outlined above. Excessive or *morally objectionable forms of polarization* are those which involve presenting legitimate social and political associations or competitors in electoral competition as illegitimate competitors or not genuine or equal members of the political community (in McCoy and Somer’s (2019) terminology: ‘pernicious’ polarization). As Chantal Mouffe puts it, “[t]he agonistic confrontation is different from the antagonistic one [...] because the opponent is not considered an enemy to be destroyed but an adversary whose existence is perceived as legitimate” (Mouffe 2018, 45–46).⁴

³ Relatedly, some theories of representation have recently emphasized the significance of political representation constructing the constituency represented (e.g., Disch 2021; Mouffe 2018; Saward 2010). This also assumes a key role for polarization in democratic politics.

⁴ This need not entail, though, that we should see all political opponents—notably, including extreme right anti-democratic political forces—as legitimate adversaries. “The category of *enemy* does not disappear; [...] it remains pertinent with regard to those who, because they reject the conflictual consensus that constitutes the basis of a pluralist democracy, cannot form part of the agonistic struggle. The question of the limits of pluralism is therefore a crucial one for democracy to address and there is no way to escape it. Asserting the constitutive character of social division and the impossibility of a final reconciliation, the agonistic perspective recognizes the necessary partisan character of democratic politics. By envisaging this confrontation in terms of adversaries and not on a friend/enemy mode, [...] it allows such a confrontation to take place within democratic institutions” (Mouffe 2018, 46, emphasis in original). However, while far right extremists who fail to see others as legitimate competitors or as genuine or equal members of the political community

Objectionable polarization threatens democratic pluralism and electoral competition through attempts to monopolize political power (Bagg and Tranvik 2019). Objectionable ‘us v. them’ dynamics also threaten informed electoral choice by contributing to the epistemic fragmentation of the electorate into opinion bubbles with little critical exchange between them (cf. Sunstein 2002), or even undermine the willingness to take some adversaries’ perspectives into consideration as relevant to political decision-making. Finally, the ensuing fragmentation of the electorate also impedes the formation of adequate relationships between candidates and voters because it interferes in diverse ways with making the former accountable to the latter (Beerbohm 2016). Hence, all the above foundations normatively ground a campaign ethics concerned with containing at least one sense of polarization.⁵

In what follows, by the *democratic quality* of election campaigns, I mean their capacity to maintain democratic pluralism against oligarchic tendencies, enable voters’ informed and free decision-making, and allow candidates or parties to establish adequate relationships with voters. In the following sections, I will examine which actors in an election campaign are subject to the moral duty that ultimately serves to maintain this quality. Maintaining the democratic quality of elections includes a polarization-containing concern but also extends beyond it. While the account of the ethics of political advertising I argue for below is motivated by this more general concern with the democratic quality of election, I will focus in this paper only on the specific polarization-containing concern that the more general concern entails, as well as on some of the specific requirements of political advertising that follow from this narrower concern.⁶

In this paper, I treat campaigns as distinct, insular communication units. On the one hand, this is a standard assumption of campaign ethics: election campaigns have specific purposes that they need to fulfill within a narrow timeframe before elections (Thompson 2005, 192–198). In this respect, they are distinct from (within) political discourse as a whole. On the other hand, arguably, electoral campaigns are both normatively guided by the same fundamental democratic ideals as political discourse as a whole and factually embedded in it (see e.g., Parkinson and Mansbridge 2012). Campaigns also share, to a considerable extent, the general malaises of political discourse (Habermas 2021; McCarty 2019). Accordingly, the

may thereby turn themselves into illegitimate political competitors, it does *not* follow that they should not be treated as genuine or equal members of the political community.

5 In Section 6, I describe these dynamics in more detail; my aim here is merely to foreshadow how some forms of polarization are relevant to my inquiry.

6 By democratic election campaigns, I mean election campaigns that are, descriptively speaking, held in democracies—and hence should have democratic quality as defined above—and that, evaluatively speaking, do have democratic quality as defined above. The context will always make it clear whether I use the label descriptively, evaluatively, or in both senses.

norms of campaign ethics can often be understood as partial responses to more general crises of democratic political discourse—even if these responses must also take into account the specific function and factual circumstances of campaigns and cannot fully remedy the general crises of democratic political discourse.⁷

3 The (Misguided) Model of Direct Campaigning

Existing accounts of campaign ethics typically conceive of campaign communications as involving two parties: the candidate or political party (i.e., the speaker) and the voter (audience). In other words, campaign ethics generally characterizes election campaigns as communication contexts without mediating agents. This is what I refer to in this paper as the ‘direct (campaign) model.’

Campaign ethics aimed at informed voter decision-making surprisingly tend to assume the direct model. Different theories of political ethics that focus on informed voter choice mostly differ in whether they place the burden of informed decision-making on candidates (or parties) or on voters, and in how the burden is shared between these two types of actor.⁸ Some theories overwhelmingly require voters to acquire and process the information necessary to make informed decisions—and, if they are unable or unwilling to do so, to refrain from voting (see Brennan 2012; Caplan 2006). Other theories emphasize that voters typically have very limited resources, including leisure time, to acquire and process politically relevant information under modern capitalist conditions of production (Downs 1957). It is therefore necessary to alleviate voters’ burdens of acquiring and processing such information (Christiano 1996, cf. Parkinson and Mansbridge 2012). However, the direct model merely implies that if voters’ overall epistemic burden cannot be reduced, then at least part of it should be shifted from voters to candidates or parties during campaigns. As for parties and career politicians, this might seem to be fair burden-sharing, since, unlike voters, parties can more typically rely on extensive resources, and career politicians can devote their work time to promoting informed voter decision-making. Nonetheless, the direct model continues to distribute the burden between voters and candidates or their parties alone.

⁷ Notably, for example, according to Thompson (2018), campaigns should not be expected to have a deliberative function at all (230). Yet it does not follow that an ethics of campaigning has no consequences for the deliberative quality of political discourse beyond campaigns—especially if it is concerned with containing polarization.

⁸ On the notion of informed decision-making as a *collective* duty incumbent on the political community, see also Mráz (2020), 270–272, 274.

The other campaign ethics discussed above—which respectively focus on competitive elections and adequate representative-electorate relations—are also paradigmatic examples of the direct model. They place all the burdens of maintaining the democratic quality of election campaigns on candidates or parties and idealize away the mediated nature of campaigns.

The implicit factual assumption of the direct model is that the candidate has complete control over the content of her own campaign.⁹ This assumption is fundamentally flawed as a description of 21st century democratic electoral campaigns. On the one hand, intermediaries directly shape the content of campaigns. What content reaches the electorate in an election campaign does not only depend on the candidates but also on journalists who interview them, the press outlets that unconditionally publish political advertising or refuse to do so, and on the conduct of other intermediaries as well. On the other hand, intermediaries of political advertising also contribute indirectly, collectively, to the formation and maintenance of a political culture and social expectations that fundamentally affect the character of election campaigns. For example, where the market decisions of social media platforms give rise to a widespread practice of (online) targeted political advertising, this changes the quantity and quality of information that voters receive, as well as the conditions under which candidates make promises and vouch for the truth of certain statements.

The above factual premise of the direct campaign model also leads to a morally misguided ethics of campaigns, for the following reason. The moral duty to maintain the democratic quality of campaigns is *a collective duty*—a duty that aims at achieving or maintaining a certain state of affairs. The distribution of this collective duty—i.e., what individual duties it entails—depends on the number and resources of the individuals available to contribute to fulfilling the collective duty in question (Feinberg 1968; Karnein 2014; Stemplowska 2016; cf. Murphy 2003).¹⁰ In the previous section, I outlined three democratic functions of election campaigns—namely, the prevention of oligarchic rule, informed electoral decision-making and an adequate

⁹ So much so that Beerbohm's (2016) theory, for instance, does not even consider the existence of political parties and their role in campaigns, even though parties also play a mediating role in democratic election campaigns, actively shaping the latter (for a *locus classicus* see Schattschneider [1942] 2004; see also White and Ypi 2016).

¹⁰ For an analogous example from democratic theory, consider the collective duty to create and maintain the conditions necessary for citizens' political equality—see e.g., Mráz (2021) and Mráz (2022b). Further, consider Ceva and Mokrosinska's (2022) argument that the news media should take up certain moral burdens of revealing corruption in institutional environments where other institutions fail to do their job (see esp. 387). They label their account as "empirical" and "contingent" as one's moral duties on this account depend on how others fare in discharging their share of the collective duty to uphold some overarching value of an institutional order (377, 390).

relationship between candidates and voters – which underpin both the democratic quality of campaigns and the collective duty to maintain this quality. In the following section, I will argue we should place the onus of fulfilling this collective duty not only on candidates (or voters) but, at least in part, also on the intermediaries of political advertising.

4 The Mediatized Campaign Model and the Ethics of Campaign Advertising

A different descriptive model of election campaigns, the ‘mediatized (campaign model),’ offers a factually more accurate characterization of election campaigns and allows us to map the moral duties of intermediaries of political advertising. In this paper, I do not seek to describe these duties comprehensively, but only to establish the morally significant general features of mediatized and market-based electoral campaigns, and the implications of these features for the duties of the intermediaries of political advertising regarding polarization in election campaigns. However, the mediatized campaign model can also yield implications beyond political advertisements and concerns with polarization.

One of the two core assumptions of this model is that political advertising has a key role to play in every modern democratic campaign. Thus, some factual features of the so-far ignored role of intermediaries in political advertising are also central to campaign ethics. First, intermediaries can influence whether and how political messages reach their target audience in election campaigns: to whom, where, in what context, what content is delivered, and whether it reaches the electorate or a subset of the electorate at all. For example, a print media outlet may decide to whom it sells its advertisement pages, or to whom it offers which one(s) of these (given their size and position). Social media platforms can create an algorithm which determines whom an advertisement will reach, or they can refuse to publish certain political advertisements based on their ‘community standards.’ This raises the question as to how intermediaries of political advertising should (or should not) use these powers.

Second, intermediaries also have decisive power over political advertising as they are the *ultimate links* in the chain of campaign communication which leads from candidates or parties to voters. This relative position gains significance because other actors chronologically further upstream in the chain of campaign communication are unlikely to be motivated to refrain from ordering, producing or seeking to publish political advertisements that undermine the democratic quality of the election campaign.

Crucially, candidates or parties commissioning political advertisements must compete with one another in democratic campaigns. Therefore, even if they are

morally committed to the democratic quality of campaigns, they are unlikely to be sufficiently motivated to maintain it. This is not necessarily due to their excessively or exclusively self-interest-based motivation. When candidates or parties suffer a competitive disadvantage in an election campaign, they are likely to lose in the struggle for political power. This means they do not only jeopardize their own self-interest but also lose valuable opportunities to represent voters whom only they could adequately represent. Hence, candidates' or parties' moral reasons to contribute to maintaining the democratic quality of the campaign may not only be in tension with their self-interests but also with other *moral* reasons and duties that apply to them in relation to their roles in political representation (cf., e.g., Dovi 2007; Mráz 2022a). The latter duties have a partisan and specifically political character in the sense that they are owed to candidates' and parties' own constituency, and arise as special obligations grounded in roles of political representation. For all these reasons it is unfair to impose the entirety of the collective moral burden of maintaining the democratic quality of campaigns on candidates or parties. Further, for the same reasons, it is also unlikely, as a matter of speculative empirical prediction, that rational candidates and parties would be willing to bear these burdens in excess. Consequently, there are good reasons, both normative and descriptive, to shift a significant part of the burden of maintaining the democratic quality of election campaigns to the ultimate links in the campaign communication chain—i.e., the intermediaries of political advertising.¹¹

Moreover, it is also due to their ultimate filtering position in the chain of campaign communication that it is not unfair to require intermediaries to contribute to maintaining the democratic quality of campaigns specifically through content-based decisions (more on this in Section 6 below). Were it not for this role, intermediaries may have a disjunctive duty to either contribute directly (personally

¹¹ The argument thus assumes that the intermediaries of political advertising are motivated by self-interest, partisan political (politico-moral) interests (related to representation), and the public interest (the democratic quality of election campaigns). In this sense, candidates/parties and intermediaries are in the same situation: there is a tension between their different motivational bases (self-interest, moral reasons—and, in case of candidates or parties, partisan politico-moral reasons too). The difference lies within the motivational base of the two actor-types beyond self-interest. While the moral and politico-moral reasons that apply to candidates are complex and fraught with internal conflicts, the moral reasons that apply to the intermediaries of political advertising are free of internal conflicts—since intermediaries are not obliged to represent anyone. Therefore, when comparing candidates and advertising intermediaries, we find that the latter have fewer motives (or none) that compete with the duty to maintain the democratic quality of campaigns than the former. Note, finally, that while for-profit advertising intermediaries may also have partisan political motives, this is neither necessary nor desirable in a democracy in the same way as the partisan political motives of candidates or parties are. Thus, in judgments of fairness, such motives of for-profit advertising intermediaries need not (and should not) be considered.

and ‘in kind,’ as it were) or, alternatively, indirectly—for instance, by offsetting the adverse effects of political advertising on the democratic quality of campaigns through financial contributions to the activities of pro-democracy civil society organizations.

The other core assumption of the ethics of campaigning on the mediatized model is that the phenomenon of political advertising is at the crossroads of the public sphere and the private market. The foregoing clearly shows that political advertising forms an integral part of the public sphere, which triggers the application of certain democratic duties. However, political advertising is typically, even if not always, governed by private market conditions as well: intermediaries in political advertising usually maintain the scarce infrastructure necessary for the publication of political advertisements—such as advertising columns, frequency licenses for television broadcasting, server storage space—on a for-profit basis. Moreover, intermediaries of political advertising typically do not carry only political advertisements but also a wider range of advertisements.

It may seem that the moral duties of intermediaries in political advertising weaken if such intermediaries are not situated purely in the public sphere. Yet I aim to show that our reasons to impose campaign-related moral duties on them are, in one respect, not weakened but strengthened by their dual links to the public sphere and the private market, in contrast to intermediaries belonging exclusively to the public sphere. Imposing duties to maintain the democratic quality of campaigns on for-profit intermediaries is not unfair also because they profit from political advertising. According to the *beneficiary pays principle*, anyone who benefits from a given activity or practice is, *ceteris paribus*, obliged to share the burdens arising from that activity or practice. Similar moral considerations are also applicable in other domains: for example, the ‘polluter pays principle’ in environmental ethics can be reduced to the beneficiary pays principle (Shue 2014, 182–186; Page 2012), as can the distribution of the liability to pay damages in tort law, or the strict liability imposed on those who benefit from the operations of hazardous industries and services (Coleman 1976; cf. Keating 2014). In democracies operating in a market economy, the press, media services and platforms that carry political advertisements clearly benefit from their publication, especially as the time constraints of election campaigns periodically make platforms of political advertising a rather scarce commodity (Thompson 2005, 192–198).¹² It would therefore be unfair if the

¹² Of course, political advertising, where it is not prohibited outside campaign periods, can be published after an election campaign too, for example. Nonetheless, it is not suitable then to contribute to the democratic functions of elections: anti-oligarchic political dynamics, informed and free electoral choice, or adequate relationships between candidates (representatives-to-be) and voters.

intermediaries of political advertising did not share in the burdens of fulfilling the collective moral duty to maintain the democratic quality of election campaigns while they benefit from the existence of this practice and from participating in it.

The beneficiary pays principle is not applicable to all beneficiary of all benefitting practices, but it is applicable to intermediaries of political advertising for the following reasons. First, they voluntarily take on the role of intermediaries: their relevant benefits are not public goods that they non-excludably benefit from. Second, the relevant benefits do not concern the satisfaction of basic needs or interests. Profit-oriented intermediaries of political advertisement are primarily economic actors who have a vast economic, social and political influence on others' lives, create significant risks for others through their activities, and gain substantial and non-basic benefits from such risks.

Further, intermediaries of political advertising do not merely benefit from the existence of the practice of competitive election campaigns and political advertising within them. They also benefit, to some extent, from the polarization of campaigns: the increased intensity of political competition and the concentration of resources in the hands of a limited number of competitors largely contributes to making political advertising profitable. As explained earlier, though, polarization carries considerable risks to the democratic quality of election campaigns. In effect, the risk of contributing to objectionable polarization makes political advertising in election campaigns a hazardous activity—hence it is not unfair to require those benefitting from it to manage the risks.

The above considerations may be challenged from at least two directions. First, the intermediaries of political advertising, as profit-oriented actors, operate in a competitive environment—just like candidates and parties. Why, then, is it fairer to place the moral burden of maintaining the democratic quality of the campaign on them? And why are they expected to comply with related moral (or even legal) duties more than candidates and parties?

The burdens at stake are not unfair if the intermediaries of political advertising are the last point of intervention in election campaigns, and imposing the relevant duties on intermediaries is more likely to maintain the democratic quality of campaigns than imposing them (only) on candidates, parties or voters. The latter comparative condition holds, as I argued above, because candidates and parties are often not interested in maintaining the democratic quality of campaigns even if they are otherwise morally motivated (too). They shirk other duties when fulfilling those would impede them in fulfilling their duties of representation. By contrast, intermediaries of political advertising do not face similar conflicts of duties. Indeed, their moral duty to maintain the democratic quality of the campaign does not compete with other duties similar to candidates' duties of representation. This is precisely

why they are more likely than candidates and parties to abide by competition-limiting norms.¹³

Second, one may object, intermediaries do not always broadcast political advertising on a for-profit basis in election campaigns. Public service broadcasters may be obliged to broadcast political advertising free of charge in election campaigns. Even intermediaries that are private market actors—for instance, commercial television channels—may be legally obliged to broadcast political advertisements of a certain duration free of charge. Is it justified to require broadcasters of political advertisements to contribute to maintaining the democratic quality of the campaign, although they do not benefit from political advertising?

The argumentation above yields an affirmative answer. This is because the for-profit nature of political advertising was only one of the two sufficient conditions—besides their ultimate filtering position—of fairly burdening intermediaries with (some of) the moral duties to maintain the democratic quality of elections. The fairness of these duties is thus normatively overdetermined for profit-oriented political advertising. Yet intermediaries of non-profit political advertising should also share in these duties, as they are no less positioned as the ultimate links in the chain of campaign communication with a power to shape the democratic quality of campaigns. However, it might be unfair to impose the *same* moral burdens on intermediaries of for-profit and non-profit political advertising, as intermediaries do not benefit from political advertising in the latter case. Consequently, the non-profit nature of some political advertising may not undermine but only shape the content and extent of the relevant duties of its intermediaries. As for public service media, though, this consideration of fairness is irrelevant since its duty to maintain the democratic quality of the campaign is entailed by its duties of public service.

5 Transparent Political Advertising: The Ideal of Accountable, Non-Opaque Intermediaries

While contemporary campaign ethics is essentially based on the direct campaign model, the regulation of election campaigns and political speech in general in several democracies takes mediatized campaigns for granted and seeks to regulate the

¹³ However, this is not to deny that competition and self-interest can generate problems for the democratic role of intermediaries. See Herzog (2022) for an argument as to why media ethics should include an ‘ethics of sportsmanship.’

behavior of the intermediaries of political advertising accordingly.¹⁴ However, regulations and regulatory proposals are typically based on the principle that the role of the intermediary, once it cannot be eliminated, should be as transparent as possible. In this section, I briefly reconstruct this ideal.

On the one hand, the ideal of transparency entails the requirement that the operation of intermediaries should be *accountable* to voters—the target audience of political advertising.¹⁵ This implies that intermediaries should pro-actively disclose who requests the publication of any political advertisement, i.e., on whose behalf an intermediary communicates. This, in turn, prevents candidates or parties—or others supporting them—from hiding behind the intermediary, and thus empowers voters with the knowledge necessary to identify who is communicating to them. Likewise, accountability requires online social media platforms as intermediaries to disclose the grounds on which the audience are targeted with a particular advertisement. For example, a social media platform must disclose the selection criteria used to deliver a political advertisement to a particular user by targeted advertising: i.e., when a specific content is conveyed exclusively to a specific audience.¹⁶ Information about who communicates to whom brings the epistemic situation of the audience closer to the implicit ideal of unmediated campaigns.

On the other hand—and somewhat in tension with the former requirement—the ideal of transparency also requires that intermediaries should conduct their activities so that the campaign comes as close as possible to an unmediated, direct campaign. In other words, the intermediary must be so *non-opaque* that it should neither shape nor distort the message conveyed—as if, metaphorically

14 A more established element of democratic campaign regulation is the regulation of the content of political advertising in the print press or other traditional media (e.g., television). For example, Ofcom, the UK media and telecommunications regulator, regulates in detail the manner, duration, and even time slots of the television broadcasting of political advertisements in campaigns. See *Ofcom Rules on Party Political and Referendum Broadcasts*, Effective 31 December 2020. See, in particular, §14-§26. However, the regulation of social media platforms as intermediaries is now also increasingly common in democracies, even if their regulation is not necessarily specific to political advertising or to election campaigning. For example, Germany obliges social media platforms to remove hate speech and fake news within 24 hours. See *Netzwerkdurchsetzungsgesetz* vom 1. September 2017 (BGBl. I S. 3352), § 2, 9. For EU level regulation in progress, see below.

15 By accountability, I mean that intermediaries offer an account of various aspects of the advertising process, and not that voters are able to *hold* intermediaries accountable (i.e., sanction) them. For these two senses of accountability in democratic politics, see Philp (2009), 32.

16 This position is strongly reflected in EU legislation and in the advocacy positions of some NGOs. See European Commission: *Proposal for a Regulation of the European Parliament and of the Council on transparency and targeting of political advertising*. COM(2021)731 final (25 November 2021). For the transparency requirements related to targeted political advertising, see, in particular, Article 12(3) to (8) of the proposal. Cf. e.g., Civil Liberties Union for Europe (2022), 5.

speaking, it were indeed no more than a medium through which the candidates' or parties' messages merely pass through. This requirement implies that the intermediary should remain passive in certain respects. Namely, it should refrain from distorting the campaign, by content-based editorial choices—for example, by refusing to carry certain political advertisements—or by choosing the context or timing of a political advertisement, or even by applying differential pricing to different political actors, thus amplifying some political messages and suppressing others.

Altogether, the ideal of transparency assumes that it is sufficient for maintaining the democratic quality of the campaign if intermediaries provide procedural accounts of each advertisement and refrain from distorting its message—and from engaging with its content.

6 The Duties of Intermediaries Beyond Transparency

The requirements of transparency—viz., accountability and non-opacity—are insufficient, however, for intermediaries of political advertising to fulfil their share of the collective duty to maintain the democratic quality of campaigns. In this section, I show why, and I argue for their additional duties in mediatized election campaigns, based on the account outlined in the previous sections, with a focus on their duties related to containing objectionable polarization.

Generally, as explained earlier, there is no reason to believe that it is sufficient for intermediaries not to (further) deteriorate the democratic quality of campaigns and unnecessary for them to improve it. Whether in online or offline campaigning, candidates, parties and other campaigners are primarily concerned not with maintaining the democratic quality of campaigns but with winning elections—in part, for moral reasons related to their roles in political representation. It is not sufficient, therefore, for intermediaries to *refrain* from interfering with campaigns. As the ultimate links in the chain of campaign communication, only intermediaries can save, as a last resort, the democratic quality of campaigns. These implications become particularly salient once we examine how the transparency of political advertising fails to adequately address objectionable polarization as a threat to the democratic quality of election campaigns.

First, a *prohibition on targeted political advertising* on online social media platforms follows from the account laid out above.¹⁷ Intermediaries play an active

¹⁷ This requirement is already reflected, at least to a limited extent, in EU-level regulatory proposals and the legal advocacy of some civil society organizations. See European Commission: *Proposal*

role in targeted advertising, as they must identify the target audience—typically based on personal data provided by the users of a social media platform. This allows the same candidate, party or other campaigner to deliver different messages through political advertising to different audiences, different groups of voters.

Targeted political campaign communication does not only exist in online social media, of course: a candidate in a national election may communicate different messages in person at a caucus held in a well-off capital city and another one held in an economically less developed rural setting—or place different advertisements in newspapers targeting these different populations. Such targeting of messages is not an evil in itself, and it can also bring benefits. Targeted advertising can lower voters' costs of acquiring information specifically relevant to their political preferences and views. Further, it also allows for much more effective partisan mobilization.

However, when it comes to *offline* political advertising, voters at least have a reasonable opportunity to reflect on the context in which a campaign message is conveyed to them. Thus, they can be aware that the message is tailored to their context and preferences, and they have an opportunity, even if limited, to compare it with campaign messages targeting other groups of voters. Further, in offline political discourse, campaign messages cannot be completely fragmented: typically, only larger target groups can be identified and targeted with specific messages, which also facilitates the comparison of advertising and campaign messages to different groups.

In the case of targeted *online* political advertising, the ideal of transparency—and specifically, its requirement of accountability—is intended to counterbalance the enhanced opportunities of targeted advertising. However, making targeted online advertising transparent (accountable) by revealing its targeting criteria is clearly insufficient to address its effects on objectionable polarization. Deliberately polarizing yet transparent targeted political advertising online can still be considerably more effective and efficient in inducing objectionable polarization than untargeted online or even targeted offline advertising, for two reasons.

On the one hand, it is unreasonable to expect the average voter to check and maintain awareness of the targeting criteria of each political ad received. True, recipients of political advertisements need information about who has targeted them with an advertisement, and on what basis they were targeted. Otherwise, they could not draw conclusions about which groups they are seen part of and

for a Regulation of the European Parliament and of the Council on transparency and targeting of political advertising. COM(2021)731 final (25 November 2021). On a narrow scope ban on targeted political advertising, see, in particular, Article 12(1) to (2) of the proposal. For advocacy supporting a broader scope ban on targeted political advertising, see Civil Liberties Union for Europe (2022), 6.

addressed. Nonetheless, online mediatized campaigns expose voters to an unprecedented volume and intensity of political messages. Unless they live their lives as full-time voters, they cannot be reasonably expected to process the metadata received alongside online political advertising and to evaluate each ad individually on that basis (see Downs 1957). On the other hand, even if they could, such information may be of little value to voters. Social media platforms allow for fine-tuned targeting almost without limits, which fragments political discourse to an unforeseen extent. Voters would only be able to form sufficiently informed opinions about a candidate's or party's *further* relevant views, promises and vouchings if they spent unreasonable resources on learning about who else the latter target and with what kinds of message.

Online targeted advertising, no matter how transparent, thus allows for candidates and parties to engage in micro-targeting as they pick audiences for their polarizing messages who are the most open to them, and divide the electorate with polarizing messages without the target audience enjoying a reasonable opportunity to reflect on the source, context and aim of such messages in light of their target audiences. The expected effect is an increased level of objectionable polarization, which in turn threatens democratic pluralism through presenting legitimate political opponents as illegitimate and voters' informed decision-making through the creation of information bubbles. Further, even adequate relationships between candidates and voters are threatened because, on the one hand, objectionable polarization can demotivate voters to collectively demand coherent promises from candidates, and on the other hand, such polarization also disincentivizes voters from holding office-holders accountable together through voting.¹⁸ Thus, the collective duty to maintain the democratic quality of election campaigns entails a duty of intermediaries of online advertising that goes beyond transparency: they should refrain from targeted political advertising.

Second, the account above implies moral duties not only for online but also for offline intermediaries of political advertising, beyond the requirements of transparency. Campaign intermediaries must take an active role in filtering out *hateful political advertising* both offline and online. By 'hateful,' I mean campaign advertising that is not only offensive but also presents legitimate political adversaries as

¹⁸ Even if micro-targeted political advertising did not contribute to polarization, it could still more directly diminish the relative unity of the electorate that is required, on Beerbohm's (2016) account, for accountability—as the latter presupposes at least some consistent campaign promises addressing the electorate. In lack of any, or if they contradict each other, the electorate *as a whole* loses its ability to hold elected officeholders to account, and hence also loses control over those who exercise political power. Yet objectionable polarization acts as a catalyst of such crises induced by micro-targeted political advertising.

illegitimate aspirants for political power or presents social groups as not genuine or equal members of the political community—for example, racist, xenophobic political advertising. Candidates, parties and other campaigners are usually too strongly motivated to win, even at the expense of hateful campaign advertising. Hateful political advertising in campaigns increases objectionable polarization, and thereby discourages some voters from participating in politics (Ansolabehere and Iyengar 1997; Beerbohm 2016. 403–404; Lau and Rovner 2009). In this respect, its adverse effects are similar to those of microtargeting in online political advertisement. Hateful content polarizes politics and incentivizes voters to withdraw from it. This effect of depoliticization may not be distributed equally, and hence may well contribute to the entrenchment of political power, threatening democratic pluralism and competitive elections. Further, hateful campaigns leave less time and space for substantive campaign content, and hence harm informed electoral choice too. Finally, the number of voters who actively hold officeholders to account through their votes decreases as polarization disincentivizes electoral participation. This, in turn, leads to elected representatives having to make promises and vouch only to a narrower group of voters to win elections. This adversely affects the accountability of representatives, and thus adequate candidate-voter relationships. Altogether, hateful political advertising undermines the democratic quality of election campaigns in multiple ways through contributing to polarization.

Realizing the ideal of transparency—including requirements of accountability and non-opacity—is insufficient to address the democratic wrongs of hateful political advertising. Of course, transparency might have a limited ameliorative effect: for example, those who commission hateful political advertisements cannot hide in anonymity; intermediaries should disclose their identity, which might provide a mild counterincentive against commissioning, for instance, racist or xenophobic political advertisements. (However, candidates and parties often try to keep themselves at arm's length from a third person commissioning hateful political advertising that benefits them, and only finance such advertising indirectly.¹⁹) Yet transparency offers insufficient remedy to the wrongs of some candidates or parties keeping voters away from the ballot box by means of hateful political advertising.

Even if hateful political advertising is legally prohibited, candidates and parties are still likely to see the sanctions imposed on such messages as a campaign cost—especially in a political culture that tolerates or even rewards such content (cf. Kis 2008). Thus, intermediaries of political advertising as the last filters have a crucial role to play in maintaining the democratic quality of election campaigns. They should actively oppose such content, even by refusing to carry or broadcast it.

¹⁹ For the problem of social media platforms operating as 'stealth media' in political advertising, see Kim et al. (2018). See also Leerssen et al. (2019).

An objection to this more expansive understanding of the positive duties of intermediaries of political advertising to shape the content of advertisements may find it undesirable that intermediaries themselves become political actors by refusing to carry hateful political advertisements. This is precisely because such intermediary activism can distort political competition and thus ultimately undermine the democratic quality of political discourse—or, more narrowly, of the campaign—rather than improving it. For example, large social media companies could amplify the speech of politically preferred candidates, thereby undermining rather than promoting equality of opportunity and democratic pluralism in the campaign. Such acts rely on transforming economic power into political power in a morally objectionable way (Cagé 2020; Christiano 2012)—and could increase rather than contain objectionable polarization.

On the one hand, the objection rightly points out that when intermediaries play an active role in shaping campaign advertising, they incur political accountability: they expose themselves to legitimate criticism from campaigners and voters when they abuse their filtering role. On the other hand, I have argued that intermediaries should apply specific, non-arbitrary moral criteria to filter political advertisements—among them, the criterion of ‘hateful’ advertisements that I focused on. There may be more or less agreement among voters, candidates and parties over the content of this criterion, as well as about whether it is a legitimate ground for filtering political advertisements. Given wide agreement, it is unlikely that intermediaries’ decisions on whether and how to convey political advertisements are perceived as politically motivated, or that they would increase objectionable polarization and deteriorate the democratic quality of campaigns.

However, given little agreement about the criteria that intermediaries should use to filter political advertisements, intermediaries’ decisions may be more readily perceived—whether rightly or not—as politically motivated. This perception may, in itself, lead to further objectionable polarization. In other words, political polarization in the sense of marked substantive disagreement on the content of democratic principles may fuel excessive ‘friends versus enemies’ / ‘us versus them’ political dynamics. Thus, some forms of pre-existing polarization set conditions on how further objectionable polarization can be prevented or contained. Similar conclusions may be drawn for contexts in which the media market is monopolistic or oligopolistic and intermediaries are perceived as politically aligned. For example, if a television channel that is widely perceived as having right-wing sympathies refuses to carry a left-wing candidate’ political advertisement that is considered hateful based on otherwise consensual criteria, this is likely to be perceived as politically motivated interference in the election campaign. Consequently, such an intervention may further polarize the campaign and thus lead to a deterioration of its democratic quality.

In already polarized political contexts with little agreement on the moral criteria of filtering political advertisements or with a heavily concentrated and politically polarized media market, however, intermediaries still need not remain passive if adequate background institutions exist. In order to maintain the democratic quality of election campaigns, then, an independent body—such as an electoral commission—should be authorized to decide on the publication of contentious political advertisements. In such institutional contexts, intermediaries can and should maintain the democratic quality of election campaigns by actively monitoring the advertisements their customers request them to publish, and if the need arises, they should also set in motion the institutional mechanism suitable to yield a more impartial decision in the eyes of the political community on the publication of any given advertisement. Thus, even if intermediaries delegate, in effect, the publication decision to an external actor, they are still morally obliged to make use of the available legal procedures to this end – and not merely as neutral actors, but, if necessary, actively standing up against the interests of their (potential) clients in order to protect the democratic quality of election campaigns.

Third and finally, polarization-containing duties of intermediaries are not restricted to filtering political advertisements but may also extend to *providing platforms* for them.²⁰ As platforms for conveying political advertisements are scarce, and for-profit intermediaries benefit from advertising, such intermediaries should also provide platforms for less established voices with fewer resources who can contribute to the diversity of campaign discourse. Providing platforms for candidates and parties standing up for suppressed or unrepresented voices can prevent antidemocratic extremists from undertaking the task of representing these voices—and hence contribute to containing objectionable polarization (see Mouffe 2018). This requirement may well entail a duty even for private, for-profit intermediaries to provide platforms for at least less established voices, and at least as long as insufficient public intermediaries are available—even if this does not imply a duty to provide scarce advertising space or time free of charge or without limits.

7 Conclusion

In this paper, I have argued that the ethics of democratic election campaigns should recognize that political advertising plays a central role in such campaigns, and hence that modern democratic election campaigns are overwhelmingly mediated and mostly market-based. This recognition grounds a more complex ethics of campaigns which takes into account the special normative and factual features (moral

²⁰ I thank an Editor of this journal for pressing me to address this point.

reasons and incentives) of various campaign actors—candidates, parties, voters, intermediaries—and determines accordingly what their role should be in maintaining the democratic quality of election campaigns. The extent and fairness of the relevant moral duties of the intermediaries in political advertising crucially depends on their position as ultimate filters in the campaign communication process, as well as on the fact that they typically benefit from the existence and intensity of election campaigns.

A concern with mitigating polarization of a specific kind—namely, excessive ‘friends versus enemies’ / ‘us versus them’ dynamics in campaign discourse—plays a central (though non-exclusive) role in determining the content of the duties of intermediaries of political advertising. Objectionable polarization of this kind threatens competitive elections and democratic pluralism, informed and free voter choice, and adequate relationships of accountability between voters and their elected officeholders. The containment of objectionable polarization is thus crucial for maintaining the democratic quality of elections. Hence, intermediaries should take active steps to do their share in fulfilling the collective duty to contain it. This entails duties that go far beyond realizing a thin ideal of transparency.

The findings of this paper apply to democratic election campaigns. On the one hand, the argument assumes that the intermediaries of political advertising can operate sufficiently independently of the direct influence of political power, on at least a relatively healthy intermediary (media) market. On the other hand, my argument also assumes that political advertising is embedded in the broader context of democratic and democratically regulated political discourse. Further research is necessary to explore the implications of a more complex campaign ethics that takes the mediating role of political advertising seriously, for candidates, parties and intermediaries of non-democratic election campaigns in hybrid regimes and electoral autocracies (Diamond 2002; Levitsky and Way 2010).

Finally, even in a democratic context, it requires further complex consideration to what extent and how the polarization-containing ethics of political advertising offered here should be enforced in the form of legal authorizations and obligations. This study offers a justificatory account for *pro tanto* moral duties, which can support proposals for campaign regulation only in conjunction with a number of further, potentially conflicting moral and public policy considerations. Nevertheless, the moral requirements outlined above also serve at least as partial normative guidance for a democratic campaign regulation.

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