

## **Campaigning for controversy**

The UK's ban on political advertising in the broadcast media may not last after a series of court cases that have challenged it

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Photographs of a candidate for the US Senate flash up on a screen. He is seen drinking champagne as a voiceover announces that the aspiring senator allowed school funds to be misappropriated "while teachers' salaries were cut along with our children's dreams". His legislative record is scrutinised as the words "Lied, Lied, Lied" glow at the foot of the screen. Lest any viewer has yet to grasp the point, the voiceover helpfully asks: "Would you vote for a millionaire who has lied to you?"

Anyone who has killed time in an American hotel room flicking through the myriad of TV channels will immediately recognise scenes such as this. So-called "attack ads" are the most extreme and often the most unethical face of political advertising.

In the UK, the Communications Act 2003 prohibits radio and TV advertising by or on behalf of political organisations - defined widely to include any group whose principal aim is "to influence public opinion on a matter of controversy". In consequence, campaigns by the likes of Amnesty International and the RSPCA are also kept off air. Recently, Ofcom barred the Make Poverty History charity from broadcasting adverts highlighting child mortality rates in the developing world.

The prohibition may not last. In the High Court last week, a British animal rights group sought a declaration that such a ban is incompatible with the right to freedom of expression under Article 10 of the European Convention on Human Rights. Animal Defenders International acted after its My Mate's a Primate campaign TV advert was banned.

While similar challenges have foundered in the past, expectations have been raised by a 2001 decision of the European Court of Human Rights (ECoHR) on a similar complaint by a Swiss-based animal rights group. The ECoHR considered arguments for the prohibition in the broadcasting media: first, if such adverts are allowed, political debate will be dominated by the most wealthy in society; second, the independence of the broadcasters may be compromised by the mere fact of broadcasting the advertisements or, more indirectly, other coverage may be influenced by editorial fears of offending high-spending advertisers.

The ECoHR said such concerns were not unique to the broadcast media. The Swiss animal rights group was only seeking to provoke a healthy public debate on factory farming. In the ECoHR's view, a blanket ban on political advertisements in the broadcast media could not be justified.

There are serious arguments in favour of a more relaxed approach. As Andy Mayer has noted on the website [opendemocracy.net](http://opendemocracy.net), the current law suggests that "while we are perfectly capable of reasoning our way through sales promotions for face cream and personal loans, dangerous ideas such as voting Conservative, being nice to whales or supporting victims of torture should be heavily regulated". There is nothing to stop such adverts being streamed on the internet, shown in cinemas or published in newspapers.

Yet many would not welcome a step towards the American model. It may prove difficult to draw an effective line between campaigning groups and political parties, and it may also precipitate an "arms race", in which competing opinions bid for airtime and the highest bidder wins.

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This leaves two big policy questions. Can and should efforts be made to separate the more deserving advertisements from the less, or is that approach unfair discrimination? Should the marketplace of ideas be dominated by wealthy vested interests, merely because they have the means to shout loudest and longest?

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