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Testing the Dutch regulatory landscape against the ethical challenges of political microtargeting with a new analytical framework

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Master Thesis

Testing the Dutch regulatory landscape against the ethical challenges of political microtargeting with a new analytical framework.

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Universiteit
Leiden

Governance and Global Affairs

Abstract

More and more media outlets and politicians are paying attention to the subject of political microtargeting, and with this increased attention comes an increasing awareness around the problems that arise with the use of political microtargeting. These problems relate to ethical questions around the collecting and processing of the personal data of citizens, questions on transparency and accountability of both online platforms and political parties, and questions on how microtargeting fragments the public debate. How should governments handle these problems? What is the best way to regulate political microtargeting?

This thesis contributes to research by establishing a framework for the analysis of policy on political microtargeting that can be used to examine whether the policy in a certain country or area effectively tackles the problems that come with the use of political microtargeting. The result is an analytical framework that offers two sets of criteria, one set on the regulation of online platforms regarding political microtargeting and one set on the regulation of political parties regarding political microtargeting.

This framework is then tested by applying it to the Dutch case in a policy analysis by gathering evidence and judging the Dutch case based on the formulated criteria. Based on these findings, this thesis makes recommendations for improving regulation in the Netherlands, highlighting improvements for clear, technology-neutral, legislation for online platforms, better legislation for a transparent and level playing field for all political parties, requirements for party finance, and increasing the capacity of external oversight. In turn, this thesis shows that the established analytical framework can be effectively used in a policy analysis of a country or area to judge their regulation on political microtargeting.

Keywords: political microtargeting, political parties, online platforms, regulation, code of conduct, transparency, accountability, the Netherlands

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1. Introduction

Over the last decennia, the way political parties advertise and reach their potential voters has changed drastically. Advertising has grown from text and illustrations on paper to cinematic propaganda on television and radio, and ultimately via the worldwide web (Franz, 2020). Recently, a new emphasis for the advertising of political parties is to begin utilizing algorithms on big data to analyze their constituents, helping these parties identify and attract the potential voters with the higher probability to support them, and specifically serve these voters with customized advertisements (Illing, 2017). This practice is known as microtargeting (Barbu-Kleitsch, 2014). A notorious case of this is the 2016 US presidential election Cambridge Analytica fiasco, where data was gathered from millions of Facebook users and used to show vulnerable users advertisements and pages with fake news, to throw the election into chaos (Wylie, 2019).

In the Netherlands, political parties have begun with microtargeting as well (Hamelink, 2018; Messelink, 2018). In the elections for the Tweede Kamer (the Dutch House of Representatives) in 2017, the political party DENK started using microtargeting to successfully try to gain seats in the Dutch parliament. Users of a Lebara SIM card were shown advertisements by DENK on the Internet. These SIM cards are widely purchased by people from immigrant backgrounds for cheap long-distance calls. Users are therefore potentially interested in DENK, the party reasoned (Trigt, 2018). This shows that voter groups are created by using citizens' personal data such as the GPS information of their phone, their network provider (in case of DENK: Lebara), their internet visiting history, their sexual preference, and other points of data points are used to classify voters in groups (Davidson & Delhaas, 2020). This is a serious challenge to democracy as microtargeting allows political parties to send different messages to different voters, and there are many (ethical) concerns regarding the privacy of

citizens and data security (Davidson & Delhaas, 2020; Dobber et al., 2019).

These effects of Microtargeting by political parties are remarkably diverse. Zuiderveen Borgesius et al. (2019) have identified both positive and negative effects for citizens, political parties, and the public debate.

Positive effects include that citizens can experience more relevant political advertisements, and citizens that would otherwise be difficult to reach could be reached through microtargeting and then engaged in politics. However, the privacy of citizens can be infringed by microtargeting. There are also concerns regarding the security of citizens' personal data that political parties and platforms process, and there are signs that voters can be manipulated because of microtargeting by sending them advertisements with very colored messaging. Lastly, certain groups of voters can be completely ignored by microtargeting if political parties expect them not to vote, saving money on not targeting them.

Political parties themselves experience microtargeting both positively and negatively. They could use microtargeting to efficiently reach certain voter groups, but extensive campaigns are very costly. Also, relying on platforms to reach voters could be disadvantageous for political parties, as it gives these intermediaries the authority to set rates and impose terms.

The public debate is most negatively impacted. On the one hand, one could argue that microtargeting leads to a diversification of campaigns and more knowledge about individually relevant topics among voters. However, there are serious negative consequences in the form of a lack of openness about the priorities of political parties and a fragmentation of the public debate.

Political microtargeting also comes with a lot of ethical questions. These have to do with issues encountered when large datasets are collected and analyzed. Since microtargeting uses a lot of data, there is the possibility of individuals being re-

identified by combining data from large datasets. This can eventually cause discrimination. In addition to this, issues like trust and transparency are also important in data ethics when combined with low public awareness of the benefits, opportunities, risks, and challenges associated with data science (Floridi & Taddeo, 2016). Increasingly complex and autonomous algorithms (like microtargeting) are hard to understand, and it is difficult to know who is responsible. These problems relate to challenges of “moral responsibility and accountability of both designers and data scientists with respect to unforeseen and undesired consequences as well as missed opportunities” (Floridi & Taddeo, 2016, p. 3).

Policymakers worldwide have begun to take notice of these negative effects of microtargeting by political parties and have decided to act. The European Union already has regulation in place that concerns (some parts of) microtargeting. The most important existing regulation in Europe is the General Data Protection Regulation (GDPR). Although the GDPR does not specifically mention microtargeting, it does have very rigorous rules for special categories of personal data, such as political opinions (Dobber et al., 2019; *Regulation (EU) 2016/679*, 2016). The European Union also has rules concerning tracking cookies, where companies must ask for permission before installing the cookies (Directive 2009/136/EC, 2009), and the European Data Protection Board has published guidelines on the targeting of Social media users (European Data Protection Board, 2020).

Some individual countries have started setting up regulations for microtargeting by political parties too. For example, in France, digital platforms must provide users with information about who paid for the advertisement and they must provide users with detailed information on how their data is being used (Ryabtsev, 2020). Other countries like the United Kingdom have received policy recommendations by

their national advisors, but these have not yet been implemented (Electoral Commission, 2018). In 2020, The Dutch Ministry of Internal Affairs has announced to be working on a Dutch code of conduct for political advertising. This code of conduct must ensure better transparency to the microtargeting practices of Dutch political parties (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2020c). It has been published on the 9th of February of 2021 and serves as a starting point for regulation on microtargeting (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021).

This thesis aims to research how microtargeting by political parties can best be regulated by the Dutch ministry of internal affairs. Therefore, the following research question is asked: ‘What regulatory approaches should be used to effectively regulate political microtargeting?’. To answer this research question, literature around microtargeting will be critically examined in the Theoretical Background, and an analytical framework for the analysis of policy on political microtargeting is designed including several criteria which can be used to judge policy on. Then, in the Methods & Data section, the method of policy analysis will be explained and Next, in the *Case Description*, it will be explained how the Dutch case around microtargeting, its regulatory context, and all relevant stakeholders are investigated. Then, in the Results, the Dutch case is judged on the criteria that have been formulated to show that the established framework works. Finally, additional avenues of policy are examined to make recommendations for additional regulation in the Netherlands.

2. Theoretical background

As seen in the introduction, Political parties’ use of microtargeting can contribute to several future problems, both in the ethical and in the democratic sense. Literature on microtargeting, algorithms, and

ethics in the use of algorithms will be analyzed to examine these problems.

First of all, literature regarding the underlying technology of microtargeting is summarized. Microtargeting is described by Nickerson & Rogers (2014) as a practice of using machine-learning algorithms, algorithms that improve automatically through experience, to process citizens' personal data to build voter profiles. The data is processed to generate personalized advertisements that speak to the individual citizen. The algorithms examine the personal data of citizens to look for patterns and then apply these patterns to new data. Combined with applications used for political campaigns, citizens can receive advertisements that should be relevant for their preferences, making the campaign much more efficient (and even more efficient over time, as the pattern recognition capabilities of algorithms, continuously improve through self-learning) (Nickerson & Rogers, 2014; Rathenau Instituut, 2020). This can lead to very precise targeting; Dobber (2020): "As technology advances, we will be seeing smarter techniques that can even target people by their personality, among other things by analyzing their use of language. Specific messages could then be created for introverts versus more extrovert profiles".

International IDEA (International Institute for Democracy and Electoral Assistance), an intergovernmental organization that supports sustainable democracy worldwide, identifies four steps in political campaigning that have changed drastically in the last decade because of using algorithms and Big Data within microtargeting (International IDEA, 2018). These are:

1. Collecting data: Big datasets are increasingly available through various means like polling agencies, voter files (in the US) and commercial data from market research firms; data is collected more easily online and large datasets can be stored.
2. Dividing voters into segments: patterns can be recognized by the use of algorithms and collected data is combined with data purchased from commercial market research firms to build detailed profiles.
3. Designing personalized political content for each segment: Hundreds of versions of the same message can be tested on different segments to see what works best.
4. Using communication channels to reach the targeted voter segment with tailor-made messages: the created voter profiles are paired with social media user data to target potential voters with a personalized advertisement.

The Ministry of Internal Affairs will have to think about which steps should be targeted with policy. For example, it could be much more effective to make policies on what data can be collected and used by political parties, then making a policy on what communication methods and what kind of content a political party is allowed to use and distribute.

Next, literature is gathered to see what the side effects of microtargeting by political parties are. As mentioned in the introduction, both negative and positive consequences of microtargeting are reported by Zuiderveen Borgesius et al. (2019), different for citizens, political parties, and the public debate. These effects are summarized here.

Table 1 - Effects of Political Microtargeting

	Positive effects	Negative effects
Citizens	<ul style="list-style-type: none"> - <u>More relevant political advertisements:</u> Tailor-made messages can be extra relevant and therefore more convincing. This way targeted political advertisements can encourage people to acquire more political knowledge. - <u>Outreach to groups that would otherwise be difficult to reach:</u> Disinterested voters rarely receive any information via regular media, but they often visit social-media websites. Microtargeting can show these people tailored advertisements, possibly engaging them to vote. 	<ul style="list-style-type: none"> - <u>Invasion of privacy:</u> To use microtargeting, citizens' data is gathered and stored on a wide scale. This may have a 'chilling effect': when people know that their actions are being watched, people change their actions. - <u>Data security:</u> Hackers that circumvent database security could have access to personal data regarding race, nationality, and political affiliations. Leaking this information may have serious repercussions. - <u>Voter manipulation:</u> A political party could send cherrypicked information to some voters using microtargeting, or show ads to supporters of other parties that say will not be able to vote in their municipality. To have a substantial impact, political advertisements do not have to be factually correct. - <u>Ignoring groups of voters:</u> If they do not expect certain groups to vote, political parties will purposely opt not to target such groups with advertising. Some voters could maybe not receive any information.
Political Parties	<ul style="list-style-type: none"> - <u>Inexpensive (for early adopters):</u> Microtargeting can be cheap in contrast to tv advertisements or print ads. In this way, microtargeting gives minor and emerging parties that cannot fund costly TV ads for elections or volunteer recruitment an option. - <u>Efficient & Effective:</u> Instead of sending a wide audience the same election advertisement, parties can reach their current and future voters with personalized messaging more efficiently. 	<ul style="list-style-type: none"> - <u>Expensive:</u> Certain ways of microtargeting by political parties can only be carried out by employing external experts and buying datasets. For parties with a smaller budget, this may be particularly demanding. The influence of bigger, well-funded groups can be strengthened by microtargeting. - <u>More power to intermediaries:</u> Intermediaries have the individual's information to reach the citizen and the networks. This grants intermediaries the authority to set rates and impose terms, and may even allow them to decide which political parties can use microtargeting.
Public debate	<ul style="list-style-type: none"> - <u>Diversification of campaigns:</u> Voters can only process a limited amount of information. Microtargeting helps voters in this limitation by supplying a new way that may work for them. - <u>More knowledge about individually relevant topics among voters:</u> A political party can educate voters about more relevant issues using microtargeting so that voters can focus their decision on the party with the strongest proposals on topics that are important to them. 	<ul style="list-style-type: none"> - <u>Lack of openness about priorities:</u> If voters receive a large number of ads on one particular issue, they could falsely believe that this topic is a priority for that party. This is troublesome when parties in a coalition have to make concessions. - <u>Fragmentation of public debate:</u> When voters only encounter particular issues that are important to them and reflect their opinions, it becomes very difficult to communicate with other people who have not received the same knowledge.

Zuiderveen Borgesius et al. (2019) have identified some effects that are relevant for the Ministry of Internal affairs, and others that are not as relevant. They claim that micro-targeting costs can be both cheap and high since it might be possible to target a small demographic as a small group in the early stages of microtargeting, but larger parties may later overtake the smaller parties when they have larger budgets and can be used to reach those audiences as well. The costs that political parties incur for their advertising are of little regard to the Ministry for Internal Affairs, so this thesis will ignore these arguments. The violation of privacy is only represented with a chilling effect, although the processing of data itself can also be of significant ethical concern. In general, the effects relevant to citizens and the public debate should be of interest to the Ministry of Internal Affairs. The Ministry of Internal Affairs will have to address all of these issues when creating policy around microtargeting and choose which aspect of microtargeting they aim to change with their policy.

Next, ethical theory regarding the use of big data should be discussed in order to get a better understanding of the ethical problems around microtargeting. According to Floridi & Taddeo (2016), ethical challenges in data science can be classified by three “axes of research: the ethics of data, the ethics of algorithms, and the ethics of practices” (Floridi & Taddeo, 2016, p. 3). They are summarized here:

- The ethics of data: These have to do with issues encountered when large datasets are collected and analyzed. These problems relate to the possibility of individuals being re-identified by combining data from large datasets. This can eventually cause discrimination. In addition to this, issues like trust and transparency are also important in data ethics when combined with low public awareness of the benefits,

opportunities, risks, and challenges associated with data science.

- The ethics of algorithms: These have to do with issues regarding increasingly complex and autonomous algorithms (like microtargeting). These problems relate to challenges of “moral responsibility and accountability of both designers and data scientists with respect to unforeseen and undesired consequences as well as missed opportunities” (Floridi & Taddeo, 2016, p. 3).
- The ethics of practices: These relate to issues related to the practices of people and organizations that handle and process data, including their responsibilities and liabilities. Agreements and practices that protect people’s or groups’ interests from concerns regarding permission, anonymity, and secondary use are the focus of this axis.

These axes are a way to identify various studies related to data ethics. The usefulness of using these axes of data ethics can be doubted because this thesis looks at how the Ministry of Internal Affairs can establish legislation on microtargeting by political parties and is not only an exercise in determining what form of research is relevant to the use of microtargeting in political ads. The axes, however, can also be used to refer to and understand the ethical challenges inside microtargeting and will be used for that purpose.

When only looking at the aspect of algorithms, Mittelstadt et al. (2016) introduce a map of the ethics of algorithms. There are three kinds of ethical concerns regarding these algorithms: epistemic concerns, normative concerns, and concerns regarding traceability. The epistemic concerns consist of inconclusive evidence, inscrutable evidence, and misguided evidence. The normative concerns consist of unfair outcomes and transformative effects.

These aspects shall be summarized.

- Inconclusive evidence: To make choices, algorithms have to use the available data. Inferential statistics and machine-learning are used in the processing of this material, leading to results that are statistically likely but still possibly not definite.
- Inscrutable evidence: The relationship between the data and the decisions made by algorithms to process the data is not always very evident. There can be practical and principled limitations due to a lack of knowledge of the input data and how the algorithm is precisely applied.
- Misguided evidence: The quality of the data processed should be of good quality if algorithms are to produce good decisions. Algorithms could easily produce biased conclusions if data is used that is not neutral.
- Unfair outcomes: The way an algorithm is used can be seen as unfair and unethical. This is because the implementation of whatever decision an algorithm makes can be seen by social norms as discriminatory, as it could affect a certain group of individuals. Thus, although the information could be of very good quality, the decision could still be considered unfair.
- Transformative effects: By classifying data in new and unexpected ways, and basing the actions on these new insights, algorithms can influence the way in which we conceptualize the world.
- Traceability: It is difficult to trace the liability of algorithm-induced harm. This is true for both the cause and the person responsible for the problem within an algorithm.

Mittelstadt et al.'s (2016) map can also be used to define the ethical issues around microtargeting in

political advertising. Microtargeting, however, relates to the ethics of algorithms and also to the ethics of data and the ethics of practices. Policies on political microtargeting should consider the ethical issues mentioned above.

2.1 Sociotechnical value map

To be able to see what social and ethical values regulation on political microtargeting should address, a sociotechnical value map is created. This conceptual framework is originally described by Rohracher (2002) and further elaborated on by Pesch (2018). This sociotechnical value map gives a good overview of how technology like microtargeting impacts ethical values that both the public and relevant stakeholders hold. Initially, the approach focuses on examining an emerging technology and making proposals for changing the technology's architecture and the institutional environment surrounding it to accommodate the established principles. The emphasis of the framework on the use of political microtargeting should be on how values affect the regulatory context rather than the technology itself.

Pesch (2018) shows the values of the map by using an empirical analysis that maps the technology and the relevant stakeholders. The technology map examines the technology itself in order to obtain a preliminary understanding of the technology in question and to investigate any potential uncertainty. The stakeholder map relates to the values that the stakeholders relevant to the problem hold. Both maps are constructed by using the literature and are used to create the value map. This map will contain the ethical values that should be incorporated in policies regarding microtargeting.

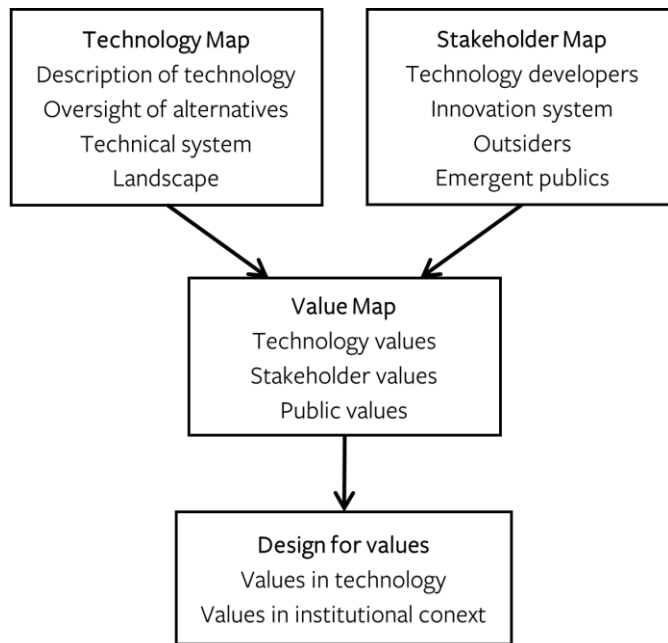


Figure 1 - A Sociotechnical value map (Pesch, 2018, p. 54)

2.1.1 Technology map

The technology map examines the technology as well as its meaning in order to get a better understanding of it and to investigate the related uncertainties. As explained before, microtargeting is the method of creating tailored messages for specific individuals using (machine-learning capable) algorithms that process personal data. The algorithms examine current data and begin to recognize patterns that can then be extended to new data. On the internet, especially on social media sites, this technique is commonly used for advertising purposes. These promotional strategies, such as generic advertising on the internet or using older technologies such as broadcast or print media, coexist with the technology. Machine-learning methods can be developed in the future to be even more accurate. Microtargeting could go as far as studying people’s linguistic usage to target them based on their personality. These algorithms offer a lot of possibilities but can lead to several ethical issues, as seen in the literature by Floridi & Taddeo (2016) and Mittelstadt et al. (2016).

2.1.2 Stakeholder map

The responsibilities and positions of different stakeholders will be summarized for the stakeholder map in order to provide an overview of how these actors will react to future changes. This is done by mainly using the literature of Zuiderveen Borgesius et al. (2019).

The government wants to get a grip on microtargeting; governments have begun creating policies to increase transparency, privacy, security, fairness, integrity in the use of political microtargeting for their online advertisements (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021).

Political parties themselves are in a difficult situation. Microtargeting provides them with a powerful method for reaching out to prospective supporters and new party candidates, and political parties spend millions of euros on the technique (Hazenberg et al., 2018; van de Ven, 2020). However, microtargeting has the potential to be viewed as immoral, and it can be avoided from the point of view of themselves and their voters. Investing in

microtargeting campaigns also runs the risk of allowing intermediaries more leverage.

The platforms have no reason to reduce the use of microtargeting because the practice generates a lot of revenue for them. However, the platforms are under a lot of pressure to control microtargeting, prompting them to advocate for legislation that sets limits for private firms to follow. To prevent alienating the political parties that use the platforms, some platforms have taken measures to enhance the transparency and accountability of their services.

Finally, citizens seem to profit the least from microtargeting. Digital networks and political parties gather and store their personal data, often without their knowledge or consent. This can be considered an infringement of privacy in and of itself. Their data that is being stored on online platforms could also leak, allowing their personal data to be exploited by others.

2.1.3 Value map

As seen in the literature, there are numerous ethical problems regarding the use of algorithms and big data, all relating to microtargeting. Friedman et al. (2008) have created a list of ethically significant human values that are commonly integrated into the technological design, presented in *Appendix C*. This overview is compared to the earlier identified ethical issues from the literature by Floridi & Taddeo (2016), Mittelstadt et al. (2016) and Zuiderveen Borgesius et al. (2019) and the maps that have been created above to create a list of ethical values relevant to microtargeting is compromised.

Values related to the regulation on microtargeting should protect:

- Accountability: A lot of different information is spread on online platforms. For example, disinformation or discriminatory messages. The value of accountability, therefore, has to be addressed when making regulation on political

microtargeting, as political parties and/or online platforms have to be held accountable for their actions.

- Data Security: Hackers can gain access to personal information, data about religion, ethnicity, and political affiliations if the security of the online platforms is breached. Since the processing of personal data is so important for microtargeting, microtargeting policies should include many security measures.
- Informed Consent: Microtargeting algorithms often process personal data without the permission of the individuals whose data is being processed. Regulation around microtargeting on online platforms should take the value of informed consent into account, allowing users to make a deliberate decision about whether or not they want their data processed.
- Privacy: The merging of individuals' data from large databases clearly has privacy implications; the technology has been designed to process personal data. Therefore, privacy is a value that is essential for regulation around microtargeting on online platforms to be addressed.
- Transparency: The algorithms around microtargeting are often very closed source. It is unclear why certain decisions are being made: What data has been used as input for the algorithm and how does the algorithm come to its output? Also, what financial transactions are behind these microtargeting practices? The value of transparency should therefore be addressed by regulation around microtargeting on online platforms.

The values within this map will be used to see if the current regulation on political parties and online platforms protects these values sufficiently, and to see how the regulation could be improved.

2.2 Designing a framework for the analysis of policy on Political Microtargeting

In order to evaluate if policies around political microtargeting are effective, it is useful to create an analytical framework for the policy analysis of political microtargeting. This thesis will use the ethical values identified in the Sociotechnical value map by looking at how they can be incorporated in the regulation of online platforms and the regulation of political parties. When an appropriate area for regulation has been established within these two policy realms, criteria will be formulated. According to Bardach & Patashnik (2016), criteria “are evaluative standards used to judge the goodness of the projected policy outcomes that are associated with each of the alternatives”. These criteria can be used to judge how well the current policies on political microtargeting within the realms of regulation on online platforms and regulation of political parties incorporate the relevant ethical values. An overview of the designed framework can be found at the end of this section, in the Framework summary.

2.2.1 The regulation of online platforms

For the analysis of this thesis, it is important to verify if regulation for online platforms that facilitate microtargeting addresses the values that have been identified by using the sociotechnical value map. To analyze the policies and regulation on the online platforms regarding microtargeting, it is required to look towards the regulation of big data. This is because the primary business of these platforms regarding microtargeting is to process the data of citizens with their algorithms. Issues concerning big data relate to all of the ethical values identified in the sociotechnical value map. To see if the regulation of online platforms related to big data (and therefore microtargeting) addresses all of these values, criteria are formulated. For each

ethical value identified, this thesis formulates a separate criterion for each value:

- ✓ Regulation demands that Accountability in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced.
- ✓ Regulation demands sufficient Data Security from the online platforms so that the personal data of citizens is protected.
- ✓ Regulation demands that online platforms are required to get Informed Consent for citizens before processing their data.
- ✓ Regulation demands that platforms protect the Privacy of citizens by limiting the personal data that is processed.
- ✓ Regulation demands that online platforms provide Transparency in the way they process the personal data of citizens.

These criteria can be used to evaluate the evidence collected in an analysis of the regulation of online platforms regarding political microtargeting.

2.2.2 The regulation of political parties

The regulation of political parties is a delicate matter. As van Biezen & ten Napel (2014) put it: “Given the traditionally private and voluntary character of political parties, the state in liberal democratic societies would not normally intervene in the regulation of their behaviour and organization”. Although there is some regulation for Dutch political parties, such as financial rules, lawmakers are hesitant to introduce new legislation. For example, a State Commission believed that a special regulation of political parties was not desirable, as a General Law on Political Parties could lead to a restriction of the freedom of political association and risk that the rights of political minorities could not be adequately guaranteed (Nehmelman, 2013). To evaluate the options for party regulation, the analytical framework from

Table 2 – Categories of Party Regulation

Area	Principles and values	Rights and Duties	Political System	Meta Rules
Category	Democratic principles	Rights and freedoms Activity and Identity	Extra-parliamentary domain Electoral domain Parliamentary domain Governmental domain Party Finance	External oversight Secondary legislation Media access

Casal-Bértoa et al. (2012) will be used, which is in turn based on the analytical framework created in ‘The Constitutive Codification of Political Parties in Post-war Europe’ (van Biezen, 2012). Where Van Biezen’s original analytical framework is primarily focused on a comparative analysis for constitutions, Casal-Bértoa et al.’s framework is adopted for the use of laws on political parties. It divides party regulation into 11 categories. This paper reclassifies these categories into four areas of policy, as was also done in Van Biezen’s original framework, creating a synergy between the two. The result is displayed in table 2.

To get a better sense of what these categories constitute, every category is briefly explained below. Afterward, it will be discussed what areas of regulation could appropriate for the regulation of microtargeting (Casal-Bértoa et al., 2012; van Biezen, 2012).

- Democratic principles: The principles which define political parties in terms of key democratic principles and values.
- Rights and freedoms: These associate parties with fundamental democratic rights and liberties.
- Activity and identity: Provision intended to limit or ban certain behavioral forms or certain political party ideological foundations.
- Extra-parliamentary Domain: Rules aimed at regulating the internal operational structure of political parties.

- Electoral domain: Provisions aimed at electoral rules, campaign activity, and rules on fielding candidates.
- Parliamentary domain: regulation applicable to parties in parliament, including references to the composition of the legislature, the size of parliamentary groups, or the membership of parliamentary (sub)committees.
- Governmental domain: references to the party in government, mainly referring to the composition of the national government or regional and local executives.
- Party Finance: Laws relating to parties’ finances, including public direct funding, public indirect funding, private funding, expenditure control, monitoring, and public disclosure.
- External oversight: Regulations concerning the form of surveillance and how the parties should be monitored.
- Secondary legislation: Provisions reflecting the hierarchical legal order and requiring more legislative provisions on political parties to be enacted in secondary and administrative legislation.
- Media access: allocation and restriction mechanisms for the use of public and private media during electoral and non-electoral periods.

From the categories, four likely candidates for regulation on political advertising arise. These are: Electoral domain, Party Finance, External oversight, and Media access. The feasibility of regulation

within each of these categories will be discussed below for political microtargeting specifically.

1. At first glance, the electoral domain seems like a very logical fit for creating additional regulation on political microtargeting. Political parties most often use microtargeting in the run-up to elections. However, only creating an addition on microtargeting in the election domain would mean that political parties are free to return to their usual practices when the elections are done. Therefore, only using additional legislation within the electoral domain is not a likely option, but could help.
2. Party Finance has some interfaces with microtargeting by political parties. This is because, perhaps obviously, microtargeting costs money. Therefore, campaign finances must be deployed to be able to microtarget potential voters. Party finance could be a good domain for additional regulation on political microtargeting.
3. External oversight could be a good way to create checks and balances for political microtargeting. Independent supervisory bodies can compare current legislation to the activities of political parties to see if they comply with the law. It will have to be analyzed if the current setup of external oversight on microtargeting by political parties suffices.
4. Media access is mostly used to regulate the amount of airtime that political parties get on traditional media outlets like public radio and television channels (Mediawet 2008). These laws are not suited to include online media and data rules, so will not be further analyzed.

From this discussion, three candidates for regulation on microtargeting remain. These are Electoral domain, Party Finance, and External oversight. For each category, different criteria will be established reflecting the ethical values identified

in the Sociotechnical value map. These criteria will be used to evaluate if and how regulation on political microtargeting within that category functions, and where improvements could be made. This is done by collecting evidence in analysis and comparing it to the criteria. First, all three categories will be examined further.

Regulation within the electoral domain

Political parties can use microtargeting outside of elections as well and every political advertisement is still in some way related to the electoral domain: the goal is either to directly gain support from voters or to strengthen the political organization and indirectly to gain the power needed to exercise their ideals. Therefore, the electoral domain should take ethical values into account. The most important ethical values that have to be incorporated in the electoral domain are Accountability, Transparency, and Privacy. This is because the use of microtargeting by political parties affects the privacy of their members and potential voters. Transparency on which citizens are targeted and how much this is done is worthwhile so that these political parties can be held accountable for their actions. The current regulations within the electoral domain will have to be analyzed to see if they sufficiently address the values mentioned above and to see what improvements could be made.

Insights in Party finance

In one way or another, online political campaigns are financed. There are very few political parties that do not advertise on platforms like Facebook and Google. The finances required for these advertisements could be provided by the political parties themselves, but could also be provided by third parties. Therefore, regulation on party finance is inherently linked to microtargeting by political parties. Because it is important to understand how political microtargeting advertisements are funded and who is responsible, Accountability and

Transparency are the key ethical values concerning party finances. The current regulations on party finance will have to be analyzed to see if they sufficiently address the values mentioned above and to see what improvements could be made.

The capacity of External oversight

As said before, the regulation of political parties is a delicate matter. Governments in mature democracies do not want to give the impression that they want to control the actions of political parties. Therefore, the responsibility of supervision on the regulation of political parties is often placed on the shoulders of external supervisors.

To see how the current field of external oversight holds up to the challenge of monitoring the microtargeting practices of political parties, an evidence-based approach to researching the policy capacity of current external oversight will be used. Wu et al. (2015) have created an analytical framework for identifying the policy capacity of governmental organizations. They define policy capacity as “a set of skills, competencies, resources, and institutional arrangements and capabilities with which key tasks and functions in policy process are structured, staffed and supported”. So, policy capacity combines the individual-level analytical skills of the policy analysts, the competencies, and the resources that a policy department has available for policy research and creation, the capabilities. These competencies and capabilities are set off against individual, organizational and systemic levels, and are measured in an analytical, managerial, and political dimension, as seen in *Appendix B – A Matrix Model of Policy Capacity*. This method is chosen because regulating the microtargeting of political parties will require knowledge and skills from different policy areas and it is useful to investigate how the relevant departments of a government shape up to this task.

To conclude: in order for external oversight on political microtargeting to be effective, the organizations responsible for these supervisory tasks need to have enough capacity.

Admittedly, while External Oversight has been found via Casal-Bértoa et al. (2012)'s and van Biezen (2012)'s frameworks on party regulation, external oversight also serves to supervise the online platforms. Therefore, External oversight will be treated as a separate policy area with a separate criterion in our framework.

Using the three domains examined in the previous subsections, criteria for which the current regulation should be judged are established. For each domain, this thesis formulates a separate criterion on which evidence on the regulation of political parties regarding political microtargeting should be compared to.

The criteria for the regulation of political parties regarding political microtargeting:

- ✓ Regulation on political microtargeting within the electoral domain demands Accountability and Transparency from the way that political parties use microtargeting.
- ✓ Regulation on party finance demands Accountability and Transparency from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements.

The criterium for External Oversight on political microtargeting:

- ✓ External oversight has enough capacity to effectively supervise microtargeting by political parties.

2.3 Framework summary

In this section, an analytical framework for the analysis of policy on political microtargeting has been designed. The framework contains criteria for the regulation of online platforms, the regulation of political parties, and External oversight regarding political microtargeting have been formulated.

These criteria can be compared with evidence within a policy analysis to see whether regulation on political microtargeting is effective at incorporating the ethical values that were identified in the sociotechnical values map and to examine what improvements can be made to the regulation. An overview of the framework is shown in table 3.

Table 3 - Analytical framework for the analysis of policy on political microtargeting

Policy subject		Evidence to be examined	Criteria used to judge existing policies
Online Platforms		Big data regulation on the behavior of online platforms	<ul style="list-style-type: none"> ✓ Regulation demands that <u>Accountability</u> in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced. ✓ Regulation demands sufficient <u>Data Security</u> from the online platforms so that the personal data of citizens is protected. ✓ Regulation demands that online platforms are required to get <u>Informed Consent</u> for citizens before processing their data. ✓ Regulation demands that platforms protect the <u>Privacy</u> of citizens by limiting the personal data that is processed. ✓ Regulation demands that online platforms provide <u>Transparency</u> in the way they process the personal data of citizens.
Political Parties	Electoral domain	Legislation on election- and promotion rules	✓ Regulation on political microtargeting within the <u>electoral domain</u> demands <u>Accountability</u> and <u>Transparency</u> from the way that political parties use microtargeting.
	Party finance	Legislation on party finance	✓ Regulation on party finance demands <u>Accountability</u> and <u>Transparency</u> from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements.
External oversight		Reports on the capacity of external oversight	✓ <u>External oversight</u> has enough capacity to effectively supervise microtargeting by political parties.

3. Methods & Data

In this section, a policy analysis will be done on the regulation of political microtargeting to test the framework that was created in the last section. According to Bardach & Patashnik (2016), a policy analysis is both a social and political activity, as policies influence the lives of citizens and the process and results of policy analysis usually involve professionals and interested parties. The European Training Foundation (2018) describes policy analysis as “the process of systematic investigation of the implementation and impact of existing policies (ex-post analysis), and options for new policies (ex-ante analysis)”. These analyses are complementary and are often done together. Ultimately, the goal of policy analysis is to facilitate the choice of sound policy with a view to improvement. Next to the choice of time policy analysis is also shaped by the choice of focus and associated level of detail.

In order to evaluate the current situation around a certain policy subject, evidence has to be gathered. Evidence can be any piece of information on which the source is given and can be independently verified. There are two types of evidence, quantitative and qualitative. “Quantitative evidence is objective information about the real world that is mostly expressed in numbers. Qualitative evidence could also be expressed in numbers, but in essence, it is mostly a narrative about the qualities of the object of study and may include subjective information, opinions or judgments about an issue” (European Training Foundation, 2018). After collection, the evidence must be described before it can be interpreted. Describing the evidence helps the readers understand the empirical foundation of the analysis.

As a next step in the policy analysis, the evidence that has been collected has to be interpreted. This can be done by formulating criteria and comparing these to the collected evidence. Since policy

decisions can have a significant impact, the bigger the consequences of a decision, the richer are the evaluative criteria needed to deal with it. After comparing the evidence to the criteria, findings can be presented as a final result of the analysis. A finding is a statement that provides an explanation of the evidence provided in the analysis and identifies an issue that can and should be addressed through a policy decision. These findings can then be used to make policy recommendations on the policy subject at hand (European Training Foundation, 2018).

Now that the method of policy analysis has been laid out, a country whose policies around political microtargeting will be examined has to be selected as a case to test the framework that was created. This thesis uses a single case study because it “produces extra and better theory” and allows for “a deeper understanding of the exploring subject” (Gustafsson, 2017), which is very useful when testing out an analytical framework. Another factor that that this thesis had to be written within a limited timeframe, which is very hard to do with multiple case studies if an in-depth analysis is required.

For this thesis, the country of The Netherlands is selected. The Netherlands is a country that has already taken concrete steps to regulate political microtargeting. These first regulatory steps have been implemented before the latest Dutch election in March of 2021, which means that observations from that election can be used for this analysis. Another interesting aspect of the Dutch case is that the Netherlands has different policy levels; it can establish its own national legislation, but also has to adhere to European policies like the GDPR.

Now that a case has been established, an explanation is given the way on how the policy analysis uses the Dutch case. The analysis will mostly follow a process approach, where a somewhat bigger picture is analyzed by focusing on (policy) processes and stakeholder involvement. This is

done by following the method laid out by the European Training Foundation (2018), gathering mostly qualitative evidence. How each step of the policy analysis is followed and why and how the data sources for the evidence are used will be laid out. An overview of the designed framework is used can be found in the Applied framework summary at the end of this section.

To recap, the four steps of policy analysis as described earlier are:

1. Framing and understanding the problem
2. Case Description - Collecting and describing the evidence
3. Results - Interpreting the evidence
4. Policy recommendations - Formulating suggestions for improvement

The first step of the analysis, Framing and understanding the problem, has been completed in the Introduction of this thesis. Here, the problems caused by political microtargeting were highlighted with a concrete example, and literature that further elaborates on the ethical issues has been shown in the Theoretical background.

For the second step, Case Description, evidence is collected by examining the Dutch landscape around political microtargeting. This is done by initially describing all stakeholders relevant to the problem in the Dutch context, including the political parties and the online platforms. This is done by using data sources like parliamentary documents, news articles, and policy reports. These data sources have been found and selected by backtracking the parliamentary- and media discussion around political microtargeting that has led to the publishing of the Dutch Code of conduct on political advertising, which represents the first step of regulation in the Netherlands on political microtargeting. This leads to a collection of policy reports, parliamentary motions, statements by the minister, opinion pieces of journalists, and position

papers of online platforms that shape the narrative of the lead-up to actual regulation of political microtargeting in the Netherlands. Together, these documents are used to be able to paint the broad context in which the debate around political microtargeting takes place. This is important, as this context matters when making recommendations in the fourth step of the policy analysis and gives the readers a good idea of how different stakeholders could react to certain changes in the policies around political microtargeting.

Next, the regulatory context around political microtargeting in The Netherlands is established by identifying the relevant existing legislation and regulation on the national and European levels, as both levels influence political microtargeting in the Netherlands. The basis for this selection is the established analytical framework, where ‘evidence to be examined’ defines what existing regulation should be studied. For the regulation of online platforms, this is done by studying policies relevant to big data and microtargeting. These are: General Data Protection Regulation, the ePrivacy Directive and the Guidelines on the targeting of Social media users, and the commitments that online platforms made in the Dutch code of conduct for political advertising.

For the regulation of political parties, this is done by studying policies in the areas of the Electoral domain, Party Finance (as seen in the established framework). These are the electoral law, the law on party finance, and the commitments that political parties made in the Dutch code of conduct for political advertising.

Lastly, evidence on External oversight is gathered by examining the capabilities of the organizations like the Autoriteit Persoonsgegevens, which is the main supervisor on the compliance of privacy regulation. The selection of this evidence is supported by consulting an expert, as seen in *Appendix D – Interview Sam van der Staak, head of Europe at International IDEA*. Van der Staak led the

negotiations around the Dutch code of conduct on political advertising with the online platforms and Dutch political parties. In this interview, Van der Staak identifies what current regulation is relevant and gives his perspective on current and possible future regulation on political microtargeting.

Lastly in the regulatory context of the Case Description, existing policy recommendations in the Netherlands and Europe on the subject of political microtargeting are identified to get an idea of how different policy experts think the problems with political microtargeting should be tackled. These are important as they help to support the policy recommendations this thesis makes in the fourth step of this analysis.

Together, these different sources create a complete pool of evidence of the Dutch landscape around political microtargeting, which is used to extract findings around how the current policies in the Netherlands handle political microtargeting.

For the third step, Results, the evidence collected in the second step will be interpreted by using the analytical framework that was designed in the Theoretical Background. This is done by comparing the evidence gathered on the Dutch case to the criteria that were formulated, to see if the current regulations on political microtargeting stand up to their task and to analyze where gaps in the current regulation are.

For the regulation on online platforms, this is done by judging if the relevant legislation (the GDPR, ePrivacy Directive, and the Guidelines on the targeting of Social media users) holds up to the established criteria around the values of Data security, Informed Consent, and Privacy. To judge how the regulation holds up to the criteria around Transparency and Accountability, the implementation of the commitments that online platforms made in the Dutch code of conduct for political advertising is analyzed. To do this, the transparency tools that Facebook and Google have

set up are examined. These are different advertisement libraries where the platforms show how political parties use microtargeting on the online platforms.

For the regulation of political parties, the evidence is compared to the criteria that have been established on how the regulation in the Electoral domain and around Party Finance considers the ethical values of Accountability and Transparency, and how External oversight can effectively supervise this. For the Electoral Domain, this is done by analyzing the electoral law and by conducting interviews with different political parties on how they have interpreted and implemented the Dutch code of conduct for political advertising. The selection of political parties for these interviews is made in *Appendix E – Selection Criteria for research on microtargeting behavior of Political Parties*. For Party Finance, the law on party finance is examined, and annual financial reports of political parties are analyzed to see how much Transparency parties offer around the financing of their online campaigns.

Lastly, for External Oversight, the capability reports on the Autoriteit Persoonsgegevens and the processes around establishing new supervisory bodies are compared to the criteria.

A full overview of how this analysis is done can be seen on the next page in the Applied framework summary.

For the fourth and last step, this thesis will make policy recommendations for the Dutch government based on the findings in the third step. These recommendations serve to improve regulations in the Dutch context and also show that the analytical framework that has been formulated in this thesis can be used to design and improve regulations for other countries as well. The recommendations that have been collected in the second step will be used to support the recommendations this thesis makes.

Applied framework summary

An overview of the analytical framework that is applied to the Dutch Case is given below.

Table 4 - Analytical framework for the analysis of policy on political microtargeting applied to the Dutch case

Policy subject		Evidence to be examined	Criteria used to judge existing policies	Analysis is done by:
Online Platforms		<ul style="list-style-type: none"> - GDPR - ePrivacy Directive - Guidelines - Commitments made by online platforms in the Dutch code of conduct on political advertising 	<ul style="list-style-type: none"> ✓ Regulation demands that <u>Accountability</u> in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced. ✓ Regulation demands sufficient <u>Data Security</u> from the online platforms so that the personal data of citizens is protected. ✓ Regulation demands that online platforms are required to get <u>Informed Consent</u> for citizens before processing their data. ✓ Regulation demands that platforms protect the <u>Privacy</u> of citizens by limiting the personal data that is processed. ✓ Regulation demands that online platforms provide <u>Transparency</u> in the way they process the personal data of citizens. 	<ul style="list-style-type: none"> - Analyzing how the GDPR, ePrivacy Directive, and the Guidelines on the targeting of Social media users hold up to criteria around Data security, Informed Consent, and Privacy. - Analyzing how the advertisement libraries of Facebook and Google hold up to criteria around Transparency and Accountability.
Dutch Political Parties	Electoral domain	<ul style="list-style-type: none"> - Dutch electoral law - Commitments made by political parties in the Dutch code of conduct on political advertising 	<ul style="list-style-type: none"> ✓ Regulation on political microtargeting within the <u>electoral domain</u> demands <u>Accountability</u> and <u>Transparency</u> from the way that political parties use microtargeting. 	<ul style="list-style-type: none"> - Analyzing the text of the electoral law. - Conducting interviews with different political parties to analyze how they have interpreted and implemented the Dutch code of conduct for political advertising.
	Party finance	<ul style="list-style-type: none"> - Law on the financing of political parties 	<ul style="list-style-type: none"> ✓ Regulation on party finance demands <u>Accountability</u> and <u>Transparency</u> from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements. 	<ul style="list-style-type: none"> - Analyzing the text of the law on the financing of political parties. - Analyzing the implementation of the law on the financing of political parties by looking at the annual financial reports of political parties.
External oversight		<ul style="list-style-type: none"> - Reports on the capacity of the Autoriteit Persoonsgegevens 	<ul style="list-style-type: none"> ✓ <u>External oversight</u> has enough capacity to effectively supervise microtargeting by political parties. 	<ul style="list-style-type: none"> - Analyzing the capacity reports on the Autoriteit Persoonsgegevens. - Analyzing the processes around establishing new supervisory bodies.

4. Case Description

In the Netherlands, the market for microtargeting for political advertising, perhaps obviously, exists because political parties within the country want to use the practice to target their potential voters. These parties invest a big chunk of their advertising funds on microtargeting campaigns (Wassens, 2019), with some parties spending millions on these campaigns. Political parties gather data from users that visit their websites and follow these users via Facebook trackers (Hazenberget al., 2018; van de Ven, 2020). There is a fair resistance to this behavior with some parties in Parliament submitting motions. For example, a motion by Middendorp (VVD) and Kuiken (PvdA) demands legislation on creating an archive of political advertisements using microtargeting including details such as funding (Tweede Kamer der Staten-Generaal, 2020). Mark Thiessen, who has led election campaigns for the VVD in the past, puts the dilemma political parties face into words: “We all suffer from a prisoner’s dilemma. You wish everyone would choose for the common good, but the temptation to choose for yourself is too great” (Davidson & Delhaas, 2020).

Because political parties have to face this dilemma and their choice has an impact on the privacy of citizens, the Dutch government has decided to create legislation to help them. The branch of government that is politically responsible for the rules around political advertising and election rules is the Ministry of Internal Affairs (Kiesraad, 2018). Kajsa Ollongren, the current Minister of Internal Affairs, wanted an independent organization to create a Dutch code of conduct for political advertising and has started research efforts on the subject (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2020c, 2020b). The Autoriteit Persoonsgegevens, the Dutch Data Protection agency, has also begun with examining microtargeting (Autoriteit Persoonsgegevens, 2019). Such reports are a direct indicator that the department is trying to get a grip on microtargeting, and of course, these

activities are partially in response to Dutch Parliament demands, such as the aforementioned motion in Parliament.

A report from the Staatscommissie Parlementair Stelsel, a state commission that made recommendations on improvements to the Dutch parliamentary system, has made an important recommendation regarding the online advertisements of political parties. The commission states: ‘Political parties that campaign on the Internet must comply with more precise rules. It must be clear who the sender of political advertisements is and who paid for them’. The state commission wants to include existing and new rules in a new “Wet voor de Politieke Partijen” (WPP), or Political Parties Act (Staatscommissie Parlementair Stelsel, 2018).

In a reaction to this report, the Dutch Cabinet endorses the advice of the State Commission to draw up legal regulations on digital campaigning and microtargeting. The government is currently exploring ways in which regulation of national political parties on these issues is possible and desirable, and wants to create adequate regulations for political parties to provide solutions to the new issues of digital vulnerabilities and digital campaigning. All this will be formalized in the new WPP, including the legal requirements on the transparency of digital campaigning and microtargeting insofar as it affects political parties. The independence of political parties is recognized in this regard (Tweede Kamer der Staten-Generaal, 2019).

Social networking sites like Facebook and Instagram and Search Engines like Google are the key stakeholders behind the technologies of microtargeting. Facebook Inc. is used in this thesis as the stakeholder representing the operators of the microtargeting platform since they own both Facebook and Instagram, both big platforms with the same policy on campaign advertising. The company defines political advertisements as

“made by, on behalf of, or about a candidate for public office, a political figure, a political party or advocates for the outcome of an election to public office; or about any election, referendum, or ballot initiative, including “go out and vote” or election campaigns; or about social issues in any place where the ad is being placed” (Facebook, 2020a). Advertisements are required, with criteria differing by region, to go through an authorization process. In their whitepaper titled “Protecting Elections: Empowering People’s Voice through Authenticity, Transparency and Accountability” (Facebook, 2020c), Facebook appears to maintain the impression of respecting values like transparency and accountability in their messaging to the political advertising business. In recent years, the company seems to actually have implemented changes that are in line with this intention of transparency and accountability. For example, their library for political advertisements shows details like the number of views, general demographics of the viewers, and costs of the advertisement (Facebook, 2020b).

Facebook wants to avoid regulations on political advertising through these steps because they earn a lot of money with microtargeting. As of October 2020, political advertising has brought in \$ 2.2 billion in revenue since May 2018 (Canales, 2020). However, their actions are not seen as sufficient by a large number of people, and others find the new policies an infringement on freedom of expression. Mike Isaac, a New York Times author (2019), puts it like this: “Facebook wants to avoid alienating the groups and candidates who depend on its platform for fund-raising and organizing. So, in trying to find a way to please everyone on the issue, Facebook has managed to please no one”. This frustration has led Mark Zuckerberg, CEO of Facebook, to call for government policy on microtargeting, stating that private firms should not take decisions that balance social values and hoping for regulation that sets limits to guide private businesses (Zuckerberg, 2020).

4.1 Regulatory context

Now that the context in the debate around political microtargeting in the Netherlands has been established, the current regulatory context has to be examined to get a clear picture of how political microtargeting is (to be) regulated. This includes regulation on both the national and European levels, as both have power in The Netherlands. First, European regulation relevant to microtargeting will be identified. Second, Dutch legislation and the first step towards specific regulation on political microtargeting, the Dutch code of conduct on political advertising, will be examined. Third, this thesis examines policy recommendations around the subject of political microtargeting to get an idea of what policy developments are being made.

4.1.1 European Regulation

The most important existing regulation in Europe is the General Data Protection Regulation (GDPR). The regulation has gone into force in May of 2018. It aims to greatly improve the privacy of citizens by introducing new and improved civilian rights such as data ownership and data portability. It also includes mandatory high security for companies and institutions that handle the personal data of citizens in order to protect this data, it aims to minimize the collection of new data, and it introduces practices like citizens having to give consent for their data to be processed (ICO, 2019; *Regulation (EU) 2016/679*, 2016). Although the GDPR does not specifically mention microtargeting, it does have rigorous rules for special categories of personal data, such as political opinions. The processing of these special categories is not allowed, but there are some exceptions. For example, political parties can process the personal data of their own members in some situations. Another option is to ask citizens for their permission to process their data. In this case, explicit consent has to be given and automatic registration and the ability to deny permission are not allowed (Dobber et al., 2019; *Regulation (EU) 2016/679*, 2016).

Microtargeting often uses tracking cookies to collect more information on a citizen. The European Union also has rules about these tracking cookies, where companies must ask for permission before installing the cookies (Directive 2009/136/EC, 2009).

The European Data Protection Board has published the Guidelines on the targeting of Social media users. The goal of these Guidelines is to clarify the roles and responsibilities of social media providers and the parties who target the users of these platforms. The Guidelines note that consent and legitimate interests usually constitute the two legal bases on which targeting can be used. However, it depends on each particular case if these are applicable. For example, if cookies, data pixels, or social plugins are used to gather data, the aforementioned ePrivacy Directive will apply and consent will have to be obtained from the users (European Data Protection Board, 2020).

4.1.2 Dutch Legislation: Electoral law and Party Finance

In the Netherlands, two major pieces of legislation concerning political parties could have an impact on online campaigns and microtargeting: the electoral law and the law on the financing of political parties.

First, the electoral law is examined. This law contains provisions on the right to vote and the elections of members of both national chambers, as well as of members of provincial councils and municipal councils. This includes the method of nominating candidates, the registration of parties, the method of voting, the determination of election results, and the beginning and end of membership of a representative body (Kieswet, 1989). This law has little impact on the method of campaigning, so is not very relevant for the research on microtargeting.

Next, the law on the financing of political parties is explained. Political parties can draw from a number of funding sources. These are internal sources of parties are membership fees, “party tax” of people’s representatives, and fundraising, but also external sources like donations, sponsorship income, and (government) subsidies. Parties may also have reserves at their disposal. A large part of the expenditure of political parties goes to election campaigns. Every political party in the Eerste and Tweede Kamer must send an annual financial statement to the Minister of Internal Affairs. This financial overview includes all donations to the party and its subsidiary institutions. It also provides an overview of all debts (Wet financiering politieke partijen, 2013).

In the explanatory memorandum of the law, the minister states that, in principle, political parties are free to determine themselves how they obtain financial resources and how they spend them, as long as this is done in a verifiable and transparent manner. The voter must be enabled to form an opinion about it. Financial contributions are therefore permissible, provided principles of transparency are met. These standards for transparency of party funding should be captured within the law (Memorie van Toelichting - Wet Financiering Politieke Partijen, 2011). In the actual law, article 26.c states that ‘the financial report must include, in accordance with standards considered acceptable in public life, an account of costs and revenues with accompanying notes relevant to the determination of the grant’ (Wet financiering politieke partijen, 2013). This does not contain any mention of specific campaign finances.

4.1.3 The Dutch code of conduct on political advertising

On February 9th of 2021, the Dutch Ministry of Internal affairs sent the Dutch code of conduct on political advertising to the Tweede Kamer (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2021). International IDEA, the

aforementioned intergovernmental organization that supports sustainable democracy worldwide, has drafted the code of conduct on political advertising by order of the Ministry of Internal Affairs.

The key takeaways from the Dutch code of conduct are summarized below:

- The code of conduct is the result of the consensus on transparent and ethical behavior in the online environment of the aforementioned political parties and online platforms.
- The code of conduct presents 'voluntary rules of conduct for online platforms and political parties on online political advertisements in the Dutch context'. It is a 'guide to good behavior' and compliance is not enforceable.
- The code of conduct 'anticipates future Dutch legislation and announced European regulations on this topic', and does not replace it. Therefore, it seems to fulfill the pre-law function as mentioned by Peters & Pagotto (2006).
- The formulated goal for the code of conduct is as follows: *'This code of conduct helps protect several core values surrounding online political advertising and elections, including transparency, privacy, security, fairness, integrity and a level playing field'*.
- The code of conduct mainly concerns paid online advertisements but also speaks of transparency and disinformation in non-paid online advertisements.

(Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021).

The Dutch code of conduct contains a total of 25 commitments from both political parties and online platforms. These commitments have been translated and are listed in *Appendix A - Commitments online platforms and political parties in the Dutch code of conduct*. Because the code had to be implemented before the elections of March 2021, topics that require more in-depth debate or significant administrative effort are not

included. These include debates on definitions, additional omissions around transparency, individuals that purchase advertisements, improved monitoring mechanisms, and optimization of tools and algorithms for online political ads.

One of the definitions that remain unclear is that of microtargeting. Sam van der Staak, the head of Europe at International IDEA who led the negotiations around the Dutch code of conduct, explains that the way that parties view the practice of microtargeting differs greatly: for one, it is very acceptable, for the other, it is unacceptable (van Loon & Wassens, 2021). Because a middle had to be found between those extremes, a vague commitment cornering microtargeting has been included in the code: 'Political Parties commit to [...] maintain ethical boundaries when linking different datasets and uploading them to online platforms for the purpose of microtargeting' (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021). Where exactly that ethical boundary lies does not become explicit.

The code is broader than just microtargeting and was drafted in collaboration with political parties and online platforms. The code of conduct aims to increase the transparency of political advertisements. All political parties that are currently represented in the Tweede Kamer have been approached to participate in the process of the creation of this code of conduct.

The agreements to which political parties and online platforms commit to include transparency and safeguarding the integrity of elections, avoiding misleading content, transparency about (payment to) intermediaries for placing advertisements, and combating foreign interference. The process resulted in a code of conduct signed by 11 political parties (GroenLinks, PvdA, PvdD, SP, ChristenUnie, D66, CDA, DENK, SGP, 50PLUS and VVD). The code has also been

signed by 4 internet companies and their underlying services: Snap (Snapchat), Facebook (Facebook and Instagram), Google (Search advertisements and Youtube), and TikTok (TikTok), (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021).

An interesting observation before even diving into the code itself is that the only two missing signatures of parties represented in the Tweede Kamer in February 2021 are those of the two populist right-wing parties, Forum voor Democratie and the PVV, with Forum being the most notorious for extensive microtargeting (Beune & Davidson, 2020; Wassens, 2019). A spokesperson for Forum voor Democratie explains the absence of their signature as follows: ‘Such a code of conduct is a form of cartel politics that we do not want to participate in: we do not make backroom deals with other parties about how we are going to organize the campaign’ (van Loon & Wassens, 2021).

Van der Staak explains that the difference in the way parties handle microtargeting lies mainly in the number of data files they link to their campaigns: ‘linking email addresses to files that you purchase from private parties and then linking profiles of voters to them, that’s microtargeting and there have to be limits to that’ (van Loon & Wassens, 2021). These limits are currently mostly determined by the GDPR, but leave much room for microtargeting.

In the interview conducted with van der Staak for this thesis, which can be read in *Appendix D – Interview Sam van der Staak, head of Europe at International IDEA*, he explains that, even if the stipulation regarding microtargeting is a bit vague, it is still important to include it in the code of conduct. Van der Staak: ‘I did think it was important to include the provision about an ethical framework, to remind parties to think about this. Have an internal discussion about what those ethical boundaries mean to your party. The

parties may not think the same, but at least you have an ethical framework that people can be held to internally. Just naming this problem is important to get a discussion going’. An interesting question leads from this: How have political parties engaged in the conversation about these ethical boundaries within their party, and what boundaries did they decide on? For parties D66 and GroenLinks, in 2019, a motion was passed at a D66 party congress that included restrictions for microtargeting. GroenLinks only wants to use data that is fixed within Facebook, such as gender and location (van Loon & Wassens, 2021).

In terms of judicial power, the code of conduct serves as a first step in the regulation of microtargeting in the Netherlands. In this way, Peters & Pagotto (2006) would classify the code of conduct as soft-law with a pre-law function: the code of conduct serves as the preparation of hard law. Druzin (2017) researches why soft law, like a code of conduct, has power. He concludes that, while one could assume that soft law has limited strength because it lacks specific coercive mechanisms, soft law actually can have a lot of power. Soft law usually has voluntary guidelines with weak or no monitoring mechanisms. However, soft law documents can exercise significant adoption and compliance pressure when network effects are in play, a fact that can be used by policymakers. Soft-law instruments enable actors to coordinate around shared values through clarification. As Druzin (2017) states: “Just making the rules clear often yields a meaningful impact in terms of compliance”. It is useful to codify existing practice, by clarifying the rules for participants who are already prepared to comply but unable to coordinate successfully.

4.1.4 Existing policy recommendations

Next, existing policy recommendations for handling political microtargeting are examined. These recommendations will be used to support

the policy recommendations that this thesis will make after interpreting the evidence.

A team of researchers from the Delft University of Technology has analyzed the influence of the digital world on parliamentary democracy for the time around the 2018 Dutch municipal elections, including microtargeting (Hazenberg et al., 2018). They make four recommendations to the Dutch government:

1. Demand fuller openness from data brokers on how they precisely use our information, similar to the regulation proposed by the UK commission on political microtargeting. Next to forcing more openness, fining companies for failing to comply with the rules is the most effective way to bring the number of microtargeting trackers down to the legal level.
2. Create a code of conduct to ensure public coordination for online political campaigning. A code could contain the requirement of advertisements have to be entered in a public library, should prohibit manipulation, and could require openness about the funding of the advertisements.
3. In the long term, the governments should assist in the building of digital infrastructure that can facilitate targeting that is compliant with the General Data Protection Regulation.
4. Political parties should regain control over their political microtargeting capabilities and take it away from the big technology companies.

The Ministry of Internal Affairs has asked the Rathenau Institute to research the impact of technological developments on the production and dissemination of disinformation and into measures that can be taken to limit their possible negative effects. The Rathenau Institute also addresses microtargeting, and makes several recommendations (Rathenau Instituut, 2020):

- The Monitoring of the usage of advertisement technology: Platform companies can build monitoring possibilities into their services in order to prevent abuse of the advertising technology they provide.
- Reduce technical possibilities of advertisement technology: Platform companies may impose restrictions on advertisers in their targeting and target group selection and monitor the responsible use of their ad tech offered by them.
- Provide transparency to Internet users: Platform companies can provide Internet users with more insight into the use that advertisers make of advertising profiles.

In the UK, the Electoral Commission published a report in 2018 about digital campaigning. In this report, the commission makes several recommendations for the UK's governments and legislatures, social media companies, and campaigners to follow to increase the transparency of digital campaigns:

- Recommendations to the UK Government (Electoral Commission, 2018):
 - All digital advertisements should contain an imprint of who the source is.
 - Campaign budgets should show separate categories for spending on digital campaigns.
 - Continue the ban on foreign campaign funding, clarify it and enforce it.
 - Increase the maximum fine for political campaigns that break the rules.
- Recommendations to Social media companies:
 - Work with the Electoral commission to improve their internal policies.
 - Label political advertisements to make the source clear.
 - Assure that advertisement libraries follow UK rules.
- Recommendations to political campaigns:
 - Provide meaningful invoices from their digital suppliers to improve transparency.

5. Results

In this section, the analytical framework from the subsection Designing a framework for the analysis of Policy on Political Microtargeting will be applied to the Dutch case. This is done by comparing the evidence gathered in the Case Selection to the formulated criteria. The regulation of online platforms, the regulation of political parties, and the external oversight on these two regarding political microtargeting will be judged, respectively.

5.1 Applying the criteria for regulation of the online platforms

To verify if the current regulation for online platforms that facilitate microtargeting addresses the ethical values that have been laid out in the Sociotechnical value map, the following criteria have been formulated:

- ✓ Regulation demands that Accountability in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced.
- ✓ Regulation demands sufficient Data Security from the online platforms so that the personal data of citizens is protected.
- ✓ Regulation demands that online platforms are required to get Informed Consent for citizens before processing their data.
- ✓ Regulation demands that platforms protect the Privacy of citizens by limiting the personal data that is processed.
- ✓ Regulation demands that online platforms provide Transparency in the way they process the personal data of citizens.

Regulation in the Dutch context that protects the values of Data Security, Informed Consent, and Privacy is examined. As seen in the subsection *Regulatory context*, a regulation addressing these values has been drafted on the European level: the General Data Protection Regulation. This regulation gives citizens the right to protect their

data. These are rights such as the possession of data and portability of data. The GDPR also requires parties who process personal data to make use of high levels of security and to seek the consent of citizens when their data is processed. This regulation is converted to the Dutch Algemene Verordening Gegevensbescherming (AVG), which accurately seems to protect the values of Data Security, Informed Consent, and Privacy.

These values are even further addressed in European regulation on tracking cookies and the Guidelines on the targeting of Social media users, specifically addressing how Informed Consent has to be implemented. The problem in addressing these values, in this case, does not seem to be in the regulation, but in the actor responsible for the supervision of the AVG, the Dutch Data Protection Authority, the Autoriteit Persoonsgegevens. This problem will be addressed further in the subsection The capacity of Dutch External oversight on political microtargeting.

Next, the regulation that addresses the values of Accountability and Transparency is examined. The Netherlands does not have a regulation like France, where digital platforms must provide users with detailed information on how their data is being used (Dobber et al., 2019). However, the Dutch code of conduct on political advertising does contain commitments from online platforms that address the values of accountability and transparency. These can be viewed in *Appendix A - Commitments online platforms and political parties in the Dutch code of conduct*.

An example of this is that the online platforms should ‘ensure transparency and control in the placement of online political advertisements, require and maintain registration and verification of political advertisers’ and ‘provide transparency about online political ads, including spending and reach’. They should also implement policies to counter hate speech. With such provisions, the code aims to provide more transparency around

microtargeting by political parties, which in turn increases the Accountability of online platforms and political parties. However, some of these commitments are still very vague. What does it mean to ‘apply relevant transparency mechanisms’ or to ‘provide transparency about online political ads’?

The code does get concrete sometimes, like when it says to ‘Keep out political advertisements from outside the European Union’ or to include spending in the overview of advertisement details, but the majority of the commitments rely on the online platforms to act as good faith actors for the code to be successful. The question is if and how these commitments are actually followed. This will be judged based on analyzing the advertisement libraries of Facebook and Google.

Looking at the summary data of a political advertisement within the advertisement library of Facebook, which is shown in *Appendix F – Summary Data Facebook Advertisement Library*, Facebook only shows percentages of the gender, location, and age of the viewers of an advertisement, not the reason for why they were targeted. Also, whether political parties have coupled additional databases or have specifically targeted persons is not clear in the Advertisement library of Facebook. The advertisement library does show a range in the amount of money spent on advertisements (Facebook, 2020b), but interestingly, Van der Staak reports in the conducted interview: ‘I have spoken to parties who cannot reconcile the picture painted by the platforms with their accounts. It is just believing what the platforms say is true.’

For Google platforms such as the Google Search engine and Youtube, the Google Transparency Report provides information about the groups the advertiser has chosen to target rather than just information about the audience of an advertisement, an example of which can be seen in *Appendix G – Summary Data Google Transparency Report*. This information is much

more insightful than the method Facebook uses because it reveals the targeting strategy set by the political parties themselves. Google only allows the targeting of groups for election advertisements limited to location, age, and gender. However, context targeting such as advertising placements, topics, keywords for sites, apps, pages, and videos is also allowed, and the details on how political parties are using this kind of context targeting are not given in the Google Transparency report (Google, 2020).

Concluding on the advertisement libraries, it seems both Facebook and Google provide some Transparency and Accountability. However, Facebook’s solution seems more limited, as it only shows the percentages on the age, gender, and location of the audience of a political advertisement, and does not show how political parties have chosen to target these people. This means that political parties cannot be held accountable, as their targeting goals are not known. Google’s solution does show what the intention of the political parties was in targeting, and only allows the targeting of groups for election advertisements limited to location, age, and gender, and allows contextual targeting. However, this solution is also limited as details on the contextual targeting are not published.

With this analysis done, the Criteria for the regulation of online platforms regarding political microtargeting can be reflected upon. First, the criteria for data security, informed consent, and privacy will be addressed.

- ✓ Regulation demands sufficient Data Security from the online platforms so that the personal data of citizens is protected.
- ✓ Regulation demands that online platforms are required to get Informed Consent for citizens before processing their data.
- ✓ Regulation demands that platforms protect the Privacy of citizens by limiting the personal data that is processed.

The ethical values of Data Security, Informed Consent, and Privacy seem to be sufficiently addressed by European regulation, which is in force in The Netherlands.

The GDPR offers great Privacy protection by severely limiting the personal data that is allowed to be processed and demands that online platforms that process personal data have a very strong level of Data Security.

The Guidelines on the targeting of Social media users specifically address that Informed Consent has to be given by citizens before their data can be processed by online platforms on social media. The problem with the protection of these values seems to be more on the side of external oversight.

Concluding:

- » This thesis judges that existing regulation demands sufficient Data Security from the online platforms so that the personal data of citizens is protected.
- » This thesis judges that existing regulation demands that online platforms are required to get Informed Consent for citizens before processing their data.
- » This thesis judges that existing regulation covers Privacy extensively.
- » The solutions that the online platforms offer do not offer decent Transparency and Accountability because they show a very limited amount of information in their advertisement libraries.

Next, the criteria for accountability and transparency are addressed.

- ✓ Regulation demands that Accountability in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced.
- ✓ Regulation demands that online platforms provide Transparency in the way they process the personal data of citizens.

The values of Transparency and Accountability are mostly addressed by the Dutch code of conduct on Political microtargeting, in which online platforms make several commitments that reflect these values. However, these commitments oftentimes remain vague about what the actual requirement should be, so there are big differences in the way these online platforms offer Transparency and Accountability, with Google being more successful than Facebook.

In Google's solution, the actions, and choices that political parties take and make can at least partly be identified, thus there is some level of Accountability and Transparency.

Facebook's solution only offers some Transparency by showing some characteristics of the audience of an advertisement and therefore a small amount of insight into how data is processed, but this still does not show what kind of personal data has been used in the microtargeting of citizens. Moreover, political parties cannot be held accountable because their choices cannot be traced.

Concluding on the criteria for the regulation of online platforms:

- » This thesis judges that existing regulation does not demand enough Accountability in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced.
- » This thesis judges that existing regulation does not demand that online platforms provide Transparency in the way they process the personal data of citizens.
- » The solutions the online platforms offer also do not offer enough Transparency and Accountability because they show a very limited amount of information in their advertisement libraries, so additional regulation is required.

5.2 Applying the criteria for regulation of the political parties

To verify if the current regulation for political parties that use microtargeting addresses the ethical values that have been laid out in the Sociotechnical value map, the following criteria been formulated:

- ✓ Regulation on political microtargeting within the electoral domain demands Accountability and Transparency from the way that political parties use microtargeting.
- ✓ Regulation on party finance demands Accountability and Transparency from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements.
- ✓ External oversight has enough capacity to effectively supervise microtargeting by political parties.
- ✓ The analysis on how the Dutch case compares to these criteria is done in three subsections. one for each different domain will be addressed. First, the effects of the regulation within the electoral domain are analyzed. Second, reporting on online campaigns in Dutch party finance is examined to see if budgets on online campaigns are present.

5.2.1 The effects of the regulation within the Electoral Domain

As seen in the subsection Dutch Legislation: Electoral law and Party Finance, the Dutch electoral law contains provisions on the right to vote and the elections of members of political seats. This includes the method of nominating candidates, the registration of parties, the method of voting, the determination of election results, and the beginning and end of membership of a representative body (Kieswet, 1989). This law has little impact on the method of campaigning, so is not very relevant for the research on microtargeting.

An important aspect of the current regulation on political microtargeting is the Dutch code of conduct, as explained in section The Dutch code of conduct on political advertising. The code of conduct is the result of the consensus on transparent and ethical behavior in the online environment of the political parties, and helps to protect *‘several core values surrounding online political advertising and elections, including transparency, privacy, security, fairness, integrity and a level playing field’*. Starting from these goals, it would seem like this code of conduct could serve to demand transparency and accountability from political parties regarding microtargeting. However, because compromises between political parties had to be made in order to draft the code of conduct, only vague commitments cornering microtargeting have been included. For example, political parties should *‘maintain ethical boundaries when linking different datasets and uploading them to online platforms for the purpose of microtargeting’* and commit to not *‘use psychological profiling for targeting political ads’*. The code remains unclear on what the actual boundaries should be, but it does serve as a base of discussion and implementation. This is further emphasized by different texts in the code, as it states that it presents *‘voluntary rules of conduct for online platforms and political parties on online political advertisements in the Dutch context’*. It is *‘a guide to good behavior’* and compliance is not enforceable. This makes it difficult to see if political parties handle in the spirit of the code of conduct.

One way this thesis aimed to see how the actual implementation of the code of conduct has been done was to analyze the microtargeting behavior of the political parties via the advertisement libraries of the online platforms. However, as seen in the analysis on the online platforms, the insights that these libraries offer do not offer enough transparency to see what actions political parties take on the platforms. For example, it is

not possible to see if political parties *'maintain ethical boundaries when linking different datasets and uploading them to online platforms for the purpose of microtargeting'*, as the advertisement libraries do not offer any insight into how many datasets political parties have supplied, even though they do offer the capability of linking databases on the front end that parties use.

Another way this thesis aimed to see if political parties were handling in the spirit of the code of conduct was to interview a selection of political parties. The selection for these parties was made in *Appendix E – Selection Criteria for research on microtargeting behavior of Political Parties*. The selection was based on whether parties signed the code of conduct or not, whether they were progressive or conservative, and whether the parties already had existing internal policies concerning microtargeting. From these criteria, four parties were chosen. VVD, D66, PvdA, and FvD. These four parties (and more) were contacted for an interview. FvD has not replied to multiple attempts at contact. The party CDA was added to the selection in absence of FvD. The PvdA did react positively to a potential interview but has failed to react to numerous attempts at the follow-up scheduling and questions. Interviews with both VVD and CDA have been held, and D66 has responded to questions in writing.

The reaction of D66 can be seen in *Appendix H – Reaction D66 to questions on political microtargeting*. They have formulated clear boundaries for themselves when it comes to their microtargeting practices. Benjamin Buurman, Digital Marketing Manager of the National Office of D66: 'We select a target audience, which always includes more than 100.000 users, based on location and sometimes on age, but never by gender, orientation, origin, religion. Because we use Facebook Ads, we make use of their algorithm and optimizations of our audience. This is not what we influence ourselves. We only use First-

Party Data. We do not upload member data or other data sources'. It seems D66 takes a strong stance on microtargeting, only using location and sometimes age as targeting criteria and not coupling any of their databases to be able to target potential voters more precisely.

The interview with the CDA can be read in *Appendix I – Interview Henk Nieweg, Senior Political Data Strategist at CDA*. Nieweg explains that his campaigns have made more than 10.000 different advertisements. They have targeted mainly by province, age, and gender, and some additional socio-demographic characteristics that they look at in detail, mainly provided by Facebook data. Nieweg does not see this as microtargeting: 'We've targeted by socio-demographic characteristics, and we've done that maybe a little more finely tuned than targeting by a particular newspaper or a particular area, but you're still dealing with blocks of thousands of people'.

The interview with the VVD can be read in *Appendix J – Interview Benjamin van Es, Campaign Manager at the VVD*. Contrary to other conservative party CDA, the VVD does not create advertisements for different small groups. Van Es has a clear vision of how his party should target: 'We as VVD make sure that our main message is the same everywhere, and where we need extra support or votes we enlarge our target audience. We do not create hundreds of small messages with information that other people do not get to see', 'We do not make selections based on small voter groups. Van Es explains that the VVD only couples one database: 'We exclude our members from receiving ads anyway by linking our database, and that's also the only database we link. We also apply retargeting, where you target people who have previously interacted with VVD-pages'.

Both the CDA and VVD distance themselves from the practices of the 2016 Trump campaign. Buurman (D66) also gives examples of how microtargeting could be used to manipulate

voters, but explicitly distances his party from those examples.

All parties seem to agree that the influence that the code of conduct had on the election campaign for the Tweede Kamer in March of 2021 is minimal. This is mainly because it had to be drafted and signed within two months. D66 already had its internal policies that were far stricter than the code of conduct. Van Es (VVD) says that the code had no influence at all. 'We steered well on that the code of conduct would not be too restrictive'. Nieweg mentions that the code of conduct is less far-reaching than the GDPR, so not much further tweaking to their campaign was needed.

Both the CDA and the VVD mention additional legislation around political microtargeting could help with leveling the playing field for all political campaigns. Nieweg (CDA): 'Personally, I'd rather have (European) legislation that we have to take into account, then you create a level playing field that parties can't get out of'. Van Es (VVD) acknowledges this: 'What is tricky is that the code of conduct is not binding, some parties have not signed it'. However, Van Es also mentions that there might be other priorities when creating legislation around campaigns, like restricting campaign financing and polling shortly before election day.

Regardless, van Es mentions that any new legislation should be technology-neutral. Van Es (VVD): 'This code of conduct did succeed in doing just that: it named the ethical aspects of microtargeting but did not focus on what technique it should or should not be done with.'

From the way that Van der Staak explains how the process around drafting the Dutch code of conduct on political advertising went, and from the opinions of the campaign managers, the code of conduct was drafted at a very late stage in the campaign. So late in fact, that its influence on the actual way the campaigns were conducted is minimal to non-existent, at least for the parties that were interviewed. Indeed, during

negotiations, political parties even softened the provisions of the code of conduct so that their existing campaign plans could fall within the to be established frameworks. This does not mean that the code of conduct is useless. As Van der Staak says: 'Just naming this problem is important to get a discussion going'. This is true, as Nieweg (CDA) mentions that 'Within the campaign team, we certainly discussed the provisions of the code of conduct'. 'Ideally, we would have dwelled on this at length and organized an evening with members, the Tweede Kamer fraction, etc., but there simply wasn't time'. Now that there is a lot of time until the next election cycle, it seems like this is the time to continue the discussion.

5.2.2 Reporting on online campaigns in Dutch Party Finance

As seen in the section Theoretical background, the most important ethical values concerning party finances are Accountability and Transparency. To see if regulation in online campaigns provides enough details to figure out how much money is spent on microtargeting, legislation on party finance is analyzed. This legislation has been presented in Dutch Legislation: Electoral law and Party Finance. The law on the financing of political parties is relevant to campaign finances. The letter of the law states that 'the financial report must include, in accordance with standards considered acceptable in public life, an account of costs and revenues with accompanying notes relevant to the determination of the grant' (Wet financiering politieke partijen, 2013). This does not address the financing of campaigns, not to mention online campaigns.

To analyze this further, this thesis will look at the implementation of the law on the financing of political parties. This is done by examining the actual financial reports that parties produce. In these reports, there is great variance in the way that campaign finances are reported. This thesis has analyzed each annual financial report of all

political parties represented in the Tweede Kamer in 2019 and observes the following mentions of campaign finances in these reports of political parties (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2020a).

- VVD: Mentions of a permanent campaign, election campaign, and media. Campaign finances are broken down to which election they belong, and the media budget mentions specific costs for social media activities.
- PVV: No mention of any campaign finances. Most costs are not broken down at all.
- PvdA: Campaign Costs are broken down at the national and local level, and split on to what election they belong to. No mention of specific costs for the online campaign.
- CDA: Campaign finances are broken down into different election cycles. No mention of specific costs for the online campaign, but costs for radio and TV advertisements are mentioned.
- SP: Costs are mentioned for membership recruitment and retention, and there is little mention of campaign finances. No mention of specific costs for the online campaign, but costs for radio and TV advertisements are mentioned.
- GL: Campaign finances are broken down into personnel and publication costs. No mention of specific costs for the online campaign.
- D66: Mentions of election campaigns broken down into local, regional, and national levels. There is a specific mention of social media costs.
- CU: Campaign finances are broken down into different election cycles, including a written explanation. Other than that, a budget item on radio, TV and new media is shown.
- PvdD: Campaign finances are broken down into different election cycles. No mention of specific costs for the online campaign.
- 50plus: Campaign finances are broken down into different election cycles. No mention of specific costs for the online

campaign, but costs for radio and TV advertisements are mentioned.

- SGP: Mentions of budget for ‘activities in the context of election campaigns. No further breakdown is given.
- DENK: Mentions of budget for campaign costs and activities. No further breakdown is given.
- FvD: A clear breakdown of the campaign- and recruitment costs is given. Costs for media are mentioned, but no specific mention of online campaign finances is given.

Concluding on these reports: only the VVD and D66 specifically report the online campaign activities as a separate budget item in their annual financial reports. The annual financial report of the PVV seems to be the least transparent of the reports of all the political parties that were represented in the Tweede Kamer in 2019.

5.2.3 Conclusion on the criteria for the regulation of political parties

With this analysis, the Criteria for the regulation of political parties regarding political microtargeting can be reflected upon. First, the criteria for the electoral domain, party finance, and external oversight will be judged.

- ✓ Regulation on political microtargeting within the electoral domain demands Accountability and Transparency from the way that political parties use microtargeting.

It seems that the existing legislation and regulation, namely the electoral law and the Dutch code of conduct on political advertising, do not demand actual transparency or accountability from political parties. The code of conduct does address these values, but the commitments that political parties make in the code regarding microtargeting remain vague and its compliance is not enforceable. The actual implementation of the Dutch code of conduct on political advertising remains unclear.

- ✓ Regulation on party finance demands Accountability and Transparency from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements.

The law on the financing of political parties in itself demands little to no transparency on campaign finances, as *‘the financial report must include, in accordance with standards considered acceptable in public life, an account of costs and revenues with accompanying notes relevant to the determination of the grant’*. This is very visible in an annual financial report like that of the PVV, in which the party only reports the absolute necessary according to the law. In the annual reports of the other parties, more transparency is given on campaign finances by the parties, but the only parties that specifically mention costs for online campaigning are the VVD and D66.

Of course, with the current text of the law, it is hard to determine how much transparency should be given by the political parties, as it states their reports should be *‘in accordance with standards considered acceptable in public life’*. However, it is clear that a report offers little material on which the party can be held accountable for their actions.

Concluding on the criteria for the regulation of political parties:

- » This thesis judges that existing regulation on political microtargeting within the electoral domain does not enough demand Accountability and Transparency from the way that political parties use microtargeting.
- » This thesis judges that existing regulation on party finance does not demand Accountability and Transparency from the finances of the online campaigns of political parties

5.3 Applying the criterium for external oversight

As seen in the section Regulatory context, an important piece of legislation concerning microtargeting by political parties is the GDPR. Compliance with the GDPR is supervised by the Autoriteit Persoonsgegevens. Its main responsibility is researching how organizations deal with citizen’s personal data. They are also responsible for giving policy advice on privacy aspects of policies. The technical, administrative, and political resource capacity of this organization will be investigated in order to see how the Dutch external oversight on microtargeting by political parties holds up.

The Autoriteit Persoonsgegevens seems to have very limited capacity to carry out its duties (Accountant, 2019). A recent report ‘Research tasks and financial resources at the Autoriteit Persoonsgegevens’ by KPMG (2020) suggests that the privacy-watchdog has to double or even triple its staffing levels to be able to fulfill all of its tasks. *‘Fulfilling the first priorities leads to an estimated capacity of 173 FTE to 275 FTE’* and *‘In addition to first priorities, fulfilling the second priorities gives an estimated total capacity of 275 FTE to 326 FTE’* (KPMG, 2020, pp. 19–20).

The Autoriteit Persoonsgegevens does seem as if they have some of the required competencies, as they are able to do some research on the topic of microtargeting in political advertising (Autoriteit Persoonsgegevens, 2019) and the report by KPMG mentions that ‘AP is an organization that is learning and moving forward. Based on the experience gained, work processes are becoming more crystallized and various functions that are currently still in their infancy (such as operations, strategy, and policy) will be further fleshed out over time’. However, the main problem is that the capabilities of the organization to act on their supervisory tasks seem to be severely limited.

However, the Autoriteit Persoonsgegevens is not the only supervisory in the regulation mix.

Currently, the supervision of the law of the finances of political parties is vested in the Minister of the Internal Affairs in the form of The Committee on Supervision of Financial Affairs of Political Parties, the members of which are appointed by the Minister of Internal Affairs. This committee provides annual advice on the accountability of all political parties based on these documents. They seem to be able to do this accurately, as reports on the supervision of the finances of political parties are accurately published yearly. This could also be because the rules around party finance are not extensive, as seen in Reporting on online campaigns in Dutch Party Finance.

The link to political microtargeting and this committee currently is not very strong, since there are no specific rules on the financing of online campaigns. In the government's response to the evaluation of the Law of Party Finances, they have announced that whether this form of supervision is still appropriate will be researched in the preparations for a new Political Parties Act. If the range of duties of the supervisory authority is greatly extended and politically sensitive subjects such as the regulation of (digital) election campaigns and microtargeting, the establishment of a separate, independent supervisory authority is a realistic option. However, the advantages and disadvantages of this have yet to be properly weighed against each other (Tweede Kamer der Staten-Generaal, 2019).

In the interview conducted with Van der Staak for this thesis, he also stipulates this as a possibility: 'I think a supervisor of political microtargeting should be capable of operating politically. That does not make the Autoriteit Persoonsgegevens, our Data Authority, the most logical problem owner. The Kiesraad, the Dutch electoral council, is operating more and more politically, so they could be an option. A ministry is always controlled by politicians, so perhaps a new independent supervisor would be

the best option'. A new supervisory body could also be the best option because the responsibility for the problem is currently hard to pin down. Van der Staak: 'At present, it is not clear exactly who is responsible for the supervision of political microtargeting. This is because the topic interfaces with many policy areas like elections, party funding, and privacy. It falls in between all of these areas and so there is no real problem owner.

With this analysis, the criterium for external oversight on political microtargeting can be reflected upon.

- ✓ External oversight has enough capacity to effectively supervise microtargeting by political parties.

There is currently no specific, supervisory body on political microtargeting, but the government is considering a new supervisory body that is responsible for the external oversight of the new Political Parties Act, which will include legislation on political microtargeting. In the meantime, it is clear that the Autoriteit Persoonsgegevens, the authority responsible for the supervision of the protection of values relating to political microtargeting such as Data Security, Informed Consent, Privacy, has some of the required competencies, but has severe limits to its capabilities such that their capacity is not sufficient.

Concluding on the criteria for external oversight on political microtargeting:

- » This thesis judges that External oversight in the Netherlands does not have enough capacity to effectively supervise microtargeting by political parties.

Now that all criteria of the established analytical framework have been compared to the Dutch Case, a complete overview of all of the results this analysis has produced can be given. This is done on the next page in table 5.

5.4 Overview of the results of applied framework

Table 5 – Complete overview of the results of the framework for the analysis of policy on political microtargeting applied to the Dutch case

Policy subject		Examined evidence	Criteria used to judge existing policies	Analysis has been done by	Conclusions
Online Platforms		<ul style="list-style-type: none"> - GDPR - ePrivacy Directive - Guidelines - Commitments made by online platforms in the Dutch code of conduct on political advertising 	<ul style="list-style-type: none"> ✓ Regulation demands <u>Accountability</u> in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced. ✓ Regulation demands sufficient <u>Data Security</u> from the online platforms so that the personal data of citizens is protected. ✓ Regulation demands that online platforms are required to get <u>Informed Consent</u> for citizens before processing their data. ✓ Regulation demands that platforms protect the <u>Privacy</u> of citizens by limiting the personal data that is processed. ✓ Regulation demands that online platforms provide <u>Transparency</u> in the way they process the personal data of citizens. 	<ul style="list-style-type: none"> - Analyzing how the GDPR, ePrivacy Directive, and the Guidelines on the targeting of Social media users hold up to criteria around Data security, Informed Consent, and Privacy. - Analyzing how the advertisement libraries of Facebook and Google hold up to criteria around Transparency and Accountability. 	<ul style="list-style-type: none"> » This thesis judges that existing regulation does not demand enough <u>Accountability</u> in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced. » This thesis judges that existing regulation does not demand that online platforms provide <u>Transparency</u> in the way they process the personal data of citizens. » The solutions the online platforms offer also do not offer enough <u>Transparency</u> and <u>Accountability</u> because they show a very limited amount of information in their advertisement libraries, so additional regulation is required.
Dutch Political Parties	Electoral domain	<ul style="list-style-type: none"> - Dutch electoral law - Commitments made by political parties in the Dutch code of conduct on political advertising 	<ul style="list-style-type: none"> ✓ Regulation on political microtargeting within the <u>electoral domain</u> demands <u>Accountability</u> and <u>Transparency</u> from the way that political parties use microtargeting. 	<ul style="list-style-type: none"> - Analyzing the text of the electoral law - Conducting interviews with different political parties to analyze how they have interpreted and implemented the Dutch code of conduct for political advertising. 	<ul style="list-style-type: none"> » This thesis judges that existing regulation on political microtargeting within the electoral domain does not demand enough <u>Accountability</u> and <u>Transparency</u> from the way that political parties use microtargeting.
	Party finance	<ul style="list-style-type: none"> - Law on the financing of political parties 	<ul style="list-style-type: none"> ✓ Regulation on party finance demands <u>Accountability</u> and <u>Transparency</u> from the finances of the online campaigns of political parties so that it is clear how political microtargeting advertisements are financed and who is responsible for these advertisements. 	<ul style="list-style-type: none"> - Analyzing the text of the law on the financing of political parties. - Analyzing the implementation of the law on the financing of political parties by looking at the annual financial reports of political parties. 	<ul style="list-style-type: none"> » This thesis judges that existing regulation on party finance does not demand <u>Accountability</u> and <u>Transparency</u> from the finances of the online campaigns of political parties.
External oversight		<ul style="list-style-type: none"> - Reports on the capacity of the Autoriteit Persoonsgegevens 	<ul style="list-style-type: none"> ✓ <u>External oversight</u> has enough capacity to effectively supervise microtargeting by political parties. 	<ul style="list-style-type: none"> - Analyzing the capacity reports on the Autoriteit Persoonsgegevens. - Analyzing the processes around establishing new supervisory bodies. 	<ul style="list-style-type: none"> » This thesis judges that External oversight in the Netherlands does not have enough capacity to effectively supervise microtargeting by political parties.

6. Policy recommendations

Using the analysis and the judgments made on all of the criteria within the analytical framework, this thesis goes on to make policy recommendations that the Dutch government should consider. The existing policy recommendations shown in the Regulatory context will also be referred to.

For the regulation of online platforms regarding political microtargeting, clear legislation on the advertisements libraries of online platforms should be created to improve Transparency and Accountability. These rules should demand that the online platforms show what actions and choices regarding microtargeting political parties take and make on the platforms. Also, rules should demand Transparency in the way that citizens' data is processed. For example, by clarifying what personal data is allowed to be used by political parties to target citizens. This is in line with the policy advice made by Hazenberg et al. (2018) and the Rathenau Instituut (2020). An additional way to improve transparency is to require imprints in advertisements as suggested by the UK's Electoral Commission (2018). It is important to consider that there also is great value in keeping policies technology-neutral, as Van Es (VVD) mentioned so that they are not outdated every time an online platform comes up with new technology.

Relevant to the regulation of online platforms is oversight related to the values of Data Security, Informed Consent, and Privacy. Findings from this thesis show that the capacity of the Dutch data authority, the Autoriteit Persoonsgegevens, is severely lacking. To effectively protect these three values, the Dutch government should increase the budget of the Autoriteit Persoonsgegevens.

For the regulation of political parties regarding microtargeting, new legislation within the electoral domain should increase Accountability and Transparency by creating clear rules on what parties

can and cannot do regarding microtargeting. This should be established in 'hard law', so that there is a level playing field between all political parties, regardless of whether they signed a code of conduct. This is because the Dutch code of conduct on political advertising leaves a lot of room for interpretation. The Dutch legislators could also consider making it mandatory for political parties to publish exactly what they are doing regarding microtargeting. This, however, could also be solved by setting more stringent requirements for advertisement libraries of the online platforms.

The regulation around party finance could be improved to demand more Transparency from the money that is spent on online campaigns. This advice is also given by the UK's Electoral Commission (2018). However, although such rules could indeed offer some more Transparency, improving the accuracy of the financial reporting of the advertisement libraries could be much more effective.

The last recommendation that this thesis makes is to greatly improve the currently severely lacking capacity of external oversight. Also, the Dutch government should clarify who is responsible for the oversight on the Transparency of political microtargeting, as this is currently unclear. This thesis welcomes the idea that a new independent supervisor on the new Political Parties Act could be the best solution for this problem.

As seen in the subsection Regulatory context, it is clear that laws concerning political microtargeting will find a place within a new Political Parties Act. Since the Minister of Internal Affairs has announced that this law will also contain regulation on digital campaigns and microtargeting, this will include all regulations within the electoral domain, both also the domain of Party Finances. The recommendations that this thesis makes on those domains will therefore have to land in this new Political Parties Act.

7. Discussion

This thesis aimed to contribute to academic scholarship by creating an analytical framework that can be used for the analysis of policy on political microtargeting in a certain country. The established framework has been shown to be effective, as clear policy recommendations have been created by applying the analytical framework to the Dutch Case. The researcher is confident that the established framework can be applied to any country to examine whether its policies can effectively tackle the problems that come with the use of political microtargeting.

However, it must be acknowledged that, because a single case is used to test the analytical framework, there are limitations to the achieved results. By using The Netherlands as a case, this thesis provides a good overview of how the analytical framework can be used in a certain country. However, the policy recommendations made for the Netherlands should not be generalized to other countries. This is a clear limitation of the single case study. Policy recommendations could perhaps be generalized if more countries are investigated by using the formulated analytical framework.

What is clear about the Dutch case is that a lot of interesting conclusions can be made by applying the framework. Existing European regulation like the GDPR keeps microtargeting from being abused, and the Dutch code of conduct on political advertising aims to expand this protection of abuse by creating stipulations on political microtargeting specifically. However, since the GDPR is only effective in the European Union, the researcher expects that the results of applying this framework to countries outside of the EU will be a lot different.

Some clear insights were gathered on how the political parties that responded to the interview, CDA, D66, and VVD, target their constituencies, but

the influence that the code of conduct had seemed to be negligible.

The intentions and actual actions of the other parties can only be speculated on. A simple explanation for the progressive parties is that they and their constituency find it important to create policies around the ethics around big data and microtargeting, as also seen in the interview with Van der Staak and from the way that D66 limits their use of targeting. For more conservative parties, participation in the code of conduct is not as easily explained. It could be that they do not want to risk that hard law is created on the subject that limits their ability to target voters. This is also seen in the way that the VVD handled the negotiations on the drafting of the code of conduct. Another explanation can be that compliance and participation with soft law can work because of network effects. If a few parties participate and comply, it might look weird that other parties do not also agree with the code of conduct. Interestingly, network effects can also have a negative impact as seen with the reaction of political party FvD in the article by van Loon & Wassen (2021). They specifically turn against network effects, calling participating in such a code of conduct ‘cartel politics’.

Reflecting on the literature, it seems that a lot of the effects of political microtargeting that Zuiderveen Borgesius et al. (2019) identify are true, and the campaign managers of political parties that were interviewed are aware of this. Van Es (VVD) and Buurman (D66) both mention that the privacy of citizens should be taken very seriously. Nieweg (CDA) hints at the positive effects of microtargeting, as he explains that his 2021 campaign has published 10,000+ different ads, and is proud of the diversity that this brings to the campaign. However, he does not classify this as microtargeting, as their targeting methods are ‘still

dealing with blocks of thousands of people’, and CDA, D66, and VVD all distance themselves from the malicious practices regarding microtargeting like voter exclusion and manipulation. This question is: how can this be monitored? Of course, there can be a debate on how ‘micro’ targeting should be, but this really should not matter for the policies around transparency of the practice. Without clear insight into what the actual actions of political parties on the online platforms are, it remains impossible to effectively research how the privacy of citizens is impacted.

8. Conclusion

More media outlets and politicians are paying attention to the subject of political microtargeting, and with this increased attention comes an increasing awareness around the problems that arise with the use of political microtargeting. These problems relate to ethical questions around the collecting and processing of the personal data of citizens, the question of transparency, accountability of both online platforms and political parties, and questions on whether or not microtargeting fragments the public debate.

This thesis contributes to research by establishing a framework for the analysis of policy on political microtargeting that can be used to examine whether the policy in a certain country or area effectively tackles the problems that come with the use of political microtargeting. This was done by using a sociotechnical value map to identify which (ethical) values are affected by political microtargeting, and using these identified values together with existing theory on policy analysis, the regulation of online platforms, and the regulation of political parties.

The result is an analytical framework that offers two sets of criteria, one set on the regulation of online platforms regarding political microtargeting and one set on the regulation of political parties

regarding political microtargeting. These sets can be used to judge the policies in a certain country or area.

This framework is then applied to the Dutch case. This was done by following four steps of policy analysis: framing and understanding the problem, collecting, and describing the evidence, interpreting the evidence, and formulating recommendations. Evidence on the Dutch case was gathered from various sources, from existing policy documents, articles, and reports to interviews conducted by the researcher. Combined, these sources make up a complete picture of the Dutch landscape around political microtargeting. This evidence picture is then analyzed by using the framework and judging the Dutch case based on the formulated criteria.

The findings for the Dutch case are not very encouraging. The results of the analysis that was conducted by applying the established analytical framework are as follows:

- » This thesis judges that existing regulation does not demand enough Accountability in such a way that the actions and choices that political parties take and make on the online platforms regarding microtargeting can be traced.
- » This thesis judges that existing regulation does not demand that online platforms provide Transparency in the way they process the personal data of citizens.
- » The solutions the online platforms offer also do not offer enough Transparency and Accountability because they show a very limited amount of information in their advertisement libraries, so additional regulation is required.
- » This thesis judges that existing regulation on political microtargeting within the electoral domain does not enough demand Accountability and Transparency from the way that political parties use microtargeting.

- » This thesis judges that existing regulation on party finance does not demand Accountability and Transparency from the finances of the online campaigns of political parties.
- » This thesis judges that External oversight in the Netherlands does not have enough capacity to effectively supervise microtargeting by political parties.

Based on these findings, this thesis has made four recommendations for the Dutch government, which reflect the research question: *'What regulatory approaches should be used to effectively regulate political microtargeting?'*.

These are:

1. Clear, technology-neutral, legislation should be made on the requirements of the transparency tools of online platforms to improve both transparency and accountability. These are currently only implied.
2. The government should create clear rules on what political parties can and cannot do regarding microtargeting, as the current Dutch code of conduct on political advertising leaves a lot of room for interpretation and should also consider mandatory publishing of the way political parties use microtargeting. This promotes a level playing field and more transparency.
3. Party finance laws could also be improved by including requirements for online campaign budgets, but this should not be a priority.
4. What should be a priority is increasing the capacity of external oversight, both on the fronts of data regulation and the ethics around microtargeting, perhaps with a new supervisor.

By completing the four steps of policy analysis that have been laid out, this thesis has shown that the established analytical framework can be effectively used in a policy analysis of a country or area to judge

their microtargeting regulation based on the evidence gathered, and has answered the research question

Recommendations for further research

As stated before, the framework that was created in this thesis can help to analyze the rules and regulations in a country regarding microtargeting. This framework was successfully applied to the country of The Netherlands. It would be very interesting to see how this framework holds up to other countries. This way, if multiple case studies are done by investigating a lot of countries by using the framework, policy recommendations could be generalized. This would be a very useful insight for all policymakers and could help in unifying policies around political microtargeting, making it easier for online platforms to comply with regulations.

It would be especially interesting to see the results of applying the analytical framework to countries outside of the European Union, since there seem to be fewer checks and balances on political microtargeting in the United States, for example.

Another interesting area for further research is to analyze how the analytical framework that this thesis formulated holds up when looking at supranational policy levels, instead of only the national level that is influenced by supranational policies. An example of this could be to apply this framework for policies at the level of the EU.

An interesting area that can be researched further is the views and internal policies of political parties concerning microtargeting. As seen in the subsection The effects of the regulation within the Electoral Domain, this research has not managed to get a response from a lot of political parties. Getting a good idea of how political parties decide on the ethical boundaries they set for themselves could

serve as a basis for actually formalizing the rules around the ethics of political microtargeting.

The criteria within the established analytical framework were based on using a sociotechnical value map and the literature of Zuiderveen Borgesius et al. (2019), Floridi & Taddeo (2016), and Mittelstadt et al. (2016) combined with Friedman et al. (2008) list of ethically significant human values. This leads to a selection of the values of Accountability, Data Security, Informed Consent, Privacy, and Transparency, which are incorporated into the criteria. This is proven to be effective but its list could be further expanded.

A research suggestion to expand this list is to do survey research on what values citizens think regulation around political microtargeting should take into account. This way, the government can know more precisely what concerns around political microtargeting their citizens find most important, and should therefore give priority when creating new policies on political microtargeting.

9. Acknowledgements

For this last part, I will switch to writing in the first person, as this section represents a personal reflection on the process of writing this thesis.

I chose the subject of political microtargeting because it brings together a lot of my areas of interest: public administration, IT, and politics. This turned out to be a very good choice, as I've had a lot of fun in pulling information from all of these areas when writing the thesis.

In the beginning, it was interesting to find a balance between public administration and something that could be considered political science. However, I think that I've managed to pull the result back to the public administration side, as I focus on how a government should tackle the problems within the policy area of political microtargeting.

As the first word of gratitude, I would like to thank my supervisor at Leiden University, Alex Ingrams. Alex has been a great beacon of support during the writing process. I have found our periodical discussions on the direction the thesis was going to be very fruitful! Alex, your feedback has been of great guidance and has continually allowed me to critically assess what could be improved.

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Last but not least, I would like to thank my trusty proofreaders, Iris and Ruud. Your feedback allowed the thesis too to be more easily readable to layman's eyes and to (hopefully) be free of grammatical errors and spelling mistakes. Thank you!

As it does for many people, this Master thesis probably represents the end of my academic career. Although this Master program went by fast and smoothly, this was very different from my earlier academic endeavors in my (attempts at) Bachelor's programs. This is probably partly because I may have learned to incorporate discipline and priorities in my weekly schedule, but the fact that there were few distractions this year because of a certain pandemic also contributes. Regardless, it has been a fun (and long) ride, and I would like to thank both my Universities, Leiden and the TU Delft, for their great education programs.

-Marcel Harinck

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11. Appendices

Appendix A - Commitments online platforms and political parties in the Dutch code of conduct

This is the translated version of the ‘Commitments online platforms and political parties in the Dutch code of conduct’.

- 1. The Dutch political parties and online platforms that signed this code of conduct jointly commit to:**
 - 1.1. The responsibility to use online political ads conscientiously to ensure the integrity of elections.
 - 1.2. Promote and comply with transparency of online political advertisements as much as possible.
 - 1.3. The need to avoid the distribution of misleading content and messages that incite violence or hate speech.

- 2. Political parties commit to:**
 - 2.1. Strictly adhere to the advertising policies and mechanisms of online platforms and provide truthful data for registration and verification of advertisements; respond to authorization and verification requests for advertisements.
 - 2.2. To maintain ethical boundaries when linking different datasets and uploading them to online platforms for the purpose of microtargeting.
 - 2.3. Not to use psychological profiling for targeting political ads.
 - 2.4. Refrain from placing or distributing political advertisements through intermediaries without reference to the party.
 - 2.5. Refuse the direct purchase of online political ads by foreign actors placed in the name of the political party (both with and without reference to the party); not receive funding from abroad for political online ads, except for contributions from members residing abroad.
 - 2.6. Not engage in online unethical behavior, such as distributing online content to discourage voting, disinformation about the voting process, using fake accounts or automated bots to manipulate voter opinions, trolling, unsubstantiated allegations, or cyberbullying.
 - 2.7. Refrain from willfully posting, distributing, or recommending misleading content; not using distorted audio-visual messages, including deep fakes.
 - 2.8. Contribute to the safety of the electoral process by refraining from posting, distributing, or recommending content that incites violence or incites hate.
 - 2.9. Publicize this code of conduct internally and encourage compliance among candidates, campaign team members, chapters and other party bodies and ancillary institutions.
 - 2.10. To discuss the implementation of the code of conduct in the party chairmen’s meeting and/or party directors’ meeting; to continue the discussion between and within political parties after the House of Representatives elections to further elaborate details and implementation.

- 3. Online platforms commit to:**
 - 3.1. For online platforms that allow political ads, develop, and apply relevant transparency mechanisms.
 - 3.2. Provide relevant data on advertisers and ads in publicly accessible libraries from which data can be easily downloaded and compared.

- 3.3. In order to ensure transparency and control in the placement of online political advertisements, require and maintain registration and verification of political advertisers.
- 3.4. Accurately and clearly report on "paid for by" data and cost levels.
- 3.5. Keep out political advertisements from outside the European Union.
- 3.6. Provide transparency about online political ads, including spending and reach.
- 3.7. Promote awareness of this code of conduct by bringing the commitments to the attention of relevant platform employees; ensure that situations that may negatively impact compliance are addressed in a timely manner.
- 3.8. Establish a user-friendly response mechanism to answer questions or solve problems related to the Dutch elections; have clear and transparent rules for posting and removal of messages and advertisements; respond quickly and accurately to questions about posting and removal of messages and advertisements from competent authorities and political parties.
- 3.9. Develop and implement policies for both the security and privacy of users and the integrity of elections regarding online political ads; remove political ads or other content inciting violence or hate speech as soon as possible once such information is identified.
- 3.10. To consider countering misinformation about the electoral process, such as about voting procedures or polling places once such information is identified.
- 3.11. To consider sharing experience and lessons learned in elections in other countries with Dutch political parties and relevant election authorities.
- 3.12. To consider conducting a post-election evaluation of the Dutch elections and compliance with this code of conduct; to consider the possibility of publishing a report of relevant incidents, if any, related to the Dutch elections and the platform's response to them.

(Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & International IDEA, 2021)

Appendix B – A Matrix Model of Policy Capacity

As seen in Wu et al. (2015)'s "Blending skill and resources across multiple levels of activity: Competences, capabilities and the policy capacities of government". Modeled after Wu et al 2010 and Tiernan and Wanna 2006.

Level	INDIVIDUAL	ORGANIZATIONAL	SYSTEMIC
Dimension			
<i>Analytical</i>	<p>Analytical Capacity Knowledge of policy substance and analytical techniques and communication skills</p>	<p>Technical Capacity <u>Capability</u> in data collection; Availability of software and hardware for analysis and evaluation; Storage and Dissemination of operational information (eg. client need, service utilization; budget, human resources.); E-services.</p>	<p>Knowledge System Capacity Availability and sharing of data for policy research and analysis; <u>availability</u>, quality, and the level of competition of policy advisory services in and out of government; presence of high quality educational and training institutions and opportunities for knowledge generation, mobilization and use access to information</p>
<i>Managerial</i>	<p>Managerial Capacity strategic management, leadership, communication, negotiation and conflict resolution, financial management and budgeting</p>	<p>Administrative Capacity Funding, staffing, levels of Intra- and inter-agency communication, consultation, and coordination.</p>	<p>Governance Capacity Levels of Inter-organisational trust and communication; Adequate fiscal system to fund programs and projects;</p>
<i>Political</i>	<p>Political Acumen Capacity Understanding of the needs and positions of different stakeholders; judgment of political feasibility; Communication skills</p>	<p>Political Resource Capacity Access to key policy-makers; Effective Civil Service bargain. Politicians' support for the agency programmes and projects.</p>	<p>Legitimation Capacity Level of public participation in policy process; Public Trust; Presence of rule of law and transparent adjudicative system</p>

Appendix C – Human Values Often Implicated in System Design

As seen in Friedman et al. (2008)'s *“Value sensitive design and information systems”*.

Human Value	Definition
Human Welfare	Refers to people’s physical, material, and psychological well-being
Ownership and Property	Refers to a right to possess an object (or information), use it, manage it, derive income from it, and bequeath it
Privacy	Refers to a claim, an entitlement, or a right of an individual to determine what information about himself or herself can be communicated to others
Freedom from Bias	Refers to systematic unfairness perpetrated on individuals or groups, including pre-existing social bias, technical bias, and emergent social bias
Universal Usability	Refers to making all people successful users of information technology
Trust	Refers to expectations that exist between people who can experience good will, extend good will toward others, feel vulnerable, and experience betrayal
Autonomy	Refers to people’s ability to decide, plan, and act in ways that they believe will help them to achieve their goals
Informed Consent	Refers to garnering people’s agreement, encompassing criteria of disclosure and comprehension (for “informed”) and voluntariness, competence, and agreement (for “consent”)
Accountability	Refers to the properties that ensures that the actions of a person, people, or institution may be traced uniquely to the person, people, or institution
Courtesy	Refers to treating people with politeness and consideration
Identity	Refers to people’s understanding of who they are over time, embracing both continuity and discontinuity over time
Calmness	Refers to a peaceful and composed psychological state
Environmental Sustainability	Refers to sustaining ecosystems such that they meet the needs of the present without compromising future generations

(Friedman et al., 2008)

While some of these values are closely related to one another, each value has its own meaning and concept within its own domain, so it is justified to treat them separately.

Appendix D – Interview Sam van der Staak, head of Europe at International IDEA

The interview with Sam van der Staak, head of Europe at International IDEA, who led the negotiations around the Dutch code of conduct., was conducted on the 12th of March 2021. The interview was conducted and transcribed in Dutch. Parts that have been explicitly used in the research have been translated to English in the thesis itself.

The interview has been formatted as follows:

[Researcher]: [Question by the researcher]

[Name Respondent]: [Response to the question]

Transcription

Wat opvalt aan de gedragscode is dat niet alle partijen die nu in de Tweede Kamer zitten de code hebben ondertekend. Hoe is dat proces verlopen en hoe kijk je aan tegen de partijen die niet hebben willen tekenen?

We hebben alle partijen aangeschreven. Er was een kamerbrede motie aangenomen, wat ons hielp bij het uitvoeren van de taak die we van het Ministerie hadden gekregen: een gedragscode opstellen waarbij alle partijen werden betrokken.

Het gedrag van die partijen was erg verschillend. De PPV heeft bijvoorbeeld helemaal niet gereageerd op ons verzoek en heeft de code ook niet ondertekend. FvD heeft wél gereageerd en veel input gegeven, maar uiteindelijk toch besloten om niet mee te willen tekenen. Andere partijen hebben niks van zich laten horen maar op het eind toch getekend. Dat zijn vooral de kleine partijen geweest. Daar zie je denk ik een belangrijk verschil: voor de grote partijen staat er veel op het spel, het gaat om grote budgetten in de campagne, én de grote partijen hebben meer capaciteit. De kleine partijen hebben veel minder capaciteit en moeten voor hun campagne echt keuzes maken. Een goed voorbeeld hiervan is de ChristenUnie. Zij hebben gezegd: we vinden het een belangrijk initiatief, maar we kunnen er niet aan bijdragen. Ze vinden het onderwerp wel belangrijk, maar hebben hun prioriteiten anders gesteld.

Verwacht je dat de partijen die de gedragscode niet hebben ondertekent zich anders gaan gedragen in de campagne?

De PVV doet sowieso niet zo vaak mee met dit soort gemeenschappelijke initiatieven, dus daar zou ik niet te veel achter zoeken. Bovendien doet de PVV weinig aan microtargeting, dus het belang is ook niet zo groot. Het is natuurlijk speculatie, maar bij FvD is het waarschijnlijk meer een strategische positionering geweest, ze hebben geen zin in de eventuele moeilijkheid die erbij komt kijken als ze ter verantwoording worden geroepen omdat ze die code hebben getekend. Bovendien vindt hun achterban dit misschien ook niet belangrijk, dat zie je wel meer deze campagne: alleen komen opdagen bij interviews waarmee je je eigen kiezer kan bereiken.

Wél hebben we echt rekening met ze proberen te houden, er staat bijvoorbeeld een toezegging in over dat tweets niet zomaar verwijderd moeten worden en dat de regels daarover duidelijk moeten zijn. Ik denk dat ze zich dus prima in de code kunnen vinden, en dat ze niet in een vervolgstadium afgeschreven moeten worden. Natuurlijk kent de gedragscode wat vage definities. Maar er is al bepaald waar de discussie hierover gaat plaatsvinden: tussen partijvoorzitters en partijdirecteuren.

Denk je dat het proces anders was gelopen als de gedragscode niet net voor de campagne was opgesteld? Wellicht omdat zulke strategische campagnebeslissingen dan minder een rol spelen of omdat er simpelweg meer tijd was.

Absoluut. Één van de weinige voordelen van dat dit proces zo dicht op de campagne zat was dat er tijdsdruk op zat. De partijen moesten op een gegeven moment beslissen om mee te doen of niet, er was geen ruimte voor nóg een ronde onderhandelen. Toen heeft gelukkig de meerderheid mee getekend, met zelfs in de laatste minuten nog aanmeldingen. Maar je hebt gelijk: er stonden in eerdere versies echt concretere bepalingen in over wat wel en wat niet mocht, maar de campagne was al begonnen, dus daar konden veel partijen zich niet meer aan committeren. Ze wilden ook eerst met elkaar spreken, maar daar was geen tijd voor nu.

Zou er dan gelijk een proces moeten beginnen voor een nieuwe stap naar wetgeving of een tweede versie van de code?

Ik denk dat het erg belangrijk is dat er een evaluatie komt. Dat kan van onderzoekers zijn, de partijen zelf, het ministerie, etc., dat maakt niet zo veel uit, maar er is nu iets in gang gezet: er zijn afspraken gemaakt die een gedeelde visie vormen. Dit debat gaat de komende tijd nog veel aandacht krijgen, en een gezamenlijke visie is essentieel om te zorgen dat er straks geen wetgeving ligt waar slechts enkelen zich in kunnen vinden. Dit is het startpunt, en nu moet je de discussie verder gaan voeren wat wij als Nederland willen, anders worden de regels gedicteerd vanuit Brussel of door de platforms.

Iemand moet daar natuurlijk initiatief voor nemen. Wellicht kan dat een nieuwe slimme minister zijn, of een partij als GroenLinks die zich sowieso hier al hard voor maakt, maar ook een kamerlid wat dit onderwerp belangrijk vindt kan het initiatief nemen.

Op dit moment is staat een bepaling in dat er ethische grenzen worden gehanteerd bij het koppelen van databases bij microtargeting. Is er een logische actor die richting aan deze ethische grenzen?

Er gaan hier in ieder geval richtlijnen vanuit Brussel komen. Er wordt veel gesproken over dat er een definitie moet komen van wat microtargeting precies is en wat politieke advertenties zijn. Dan ga je al snel naar een ethisch begrippenkader toe. Er zijn veel mensen die zeggen dat microtargeting compleet moet worden verboden, dus er gaat veel over gebeuren.

In de Nederlandse situatie heb ik wel het idee gekregen dat dit niet als loze kreet wordt gebruikt. Partijen die meer aan de marktkant van het politieke spectrum zitten denken dat microtargeting ethisch verantwoord is, dat zeggen ze niet omdat het hen nu goed uitkomt. Ze vinden dat het technieken zijn die de markt gebruikt om op een legitieme manier consumenten geïnteresseerd te krijgen ook voor hen beschikbaar zouden moeten zijn.

De andere kant die meer sceptisch over microtargeting is vindt dat ook vanuit hun eigen waarden. Ik vond het wel belangrijk om de bepaling over ethische kaders op te nemen, om partijen eraan te herinneren dat ze hierover na moeten denken. Ga de discussie intern aan over wat die ethische grenzen voor jou zijn. Daar zullen partijen dan niet hetzelfde over denken, maar dan heb je in ieder geval een ethisch kader waar intern ook mensen aan gehouden kunnen worden. Het benoemen alleen al is belangrijk om een discussie op gang te krijgen.

Kan je wat meer over de opdracht vertellen?

De opdracht was om een gedragscode op te stellen en daarbij goed te luisteren naar de partijen. We hebben de kamerbrief van de minister gekregen, en dat was het minimale. We zijn begonnen met politieke onlineadvertenties als kern, en daarna zijn we gaan verbreden. Zo wilden partijen het over verschillende onderwerpen hebben die er ook in moesten, zoals organische content, hatespeech, en fake accounts. Vervolgens hebben we een eerste ambitieuze versie aan alle partijen gestuurd. Daarna zijn we door feedback van de partijen gaan strepen om tot een gemeenschappelijke deler te komen. Dat heeft drie rondes gekost. Sommige partijen vonden het document in de eerste ronde al goed, en anderen pas na de derde ronde.

Over de platforms, Google, Facebook, SnapChat en Tiktok, hoe hebben die meegedaan met de onderhandelingen? Waren daar nog spanningen tussen platforms en politieke partijen?

De code bevat natuurlijk verschillende secties voor de platforms en de partijen. De discussies over de bepalingen in die secties hebben eigenlijk volledig onafhankelijk plaatsgevonden. Dat was voor ons, ook binnen de tijdsdruk, makkelijk, maar in de toekomst is het wellicht ook handig dat die politieke partijen en platforms samen aan tafel gaan zitten. Een belangrijk verschil tussen de manier van omgaan met de discussie is dat de platforms het heel serieus namen en heel technische hadden bekeken. Er werd bijvoorbeeld een heel team van juristen uit de VS ingeschakeld om ernaar te kijken. De partijen hebben die capaciteit niet en kijken er meer met een politiek oog naar. Voor de platforms is de belangrijkste beweegreden is wat voor precedent het zet voor hun capaciteit. Dure toezeggingen van bijvoorbeeld 1 FTE aan capaciteit in Nederland om dit te doen was te veel, omdat dat dan misschien in de toekomst in elk EU-land zou moeten gebeuren.

Deze gedragscode is een eerste stap in Nederland. Wat voor andere instrumenten zie jij voor je om de waarden waar de gedragscode voor staat te waarborgen?

Het debat kan denk ik opgesplitst worden:

- Wat doe je aan microtargeting? Hoeveel en wat voor bestanden mag je aan elkaar koppelen, welke algoritmes mag je gebruiken? Moeten deze algoritmes transparant zijn?
- Hoe zit het met partijfinanciering? Wat mag er uit het buitenland worden gefinancierd? Mag financiering van derden? Daar ligt wetgeving voor klaar.
- De macht van de platforms: wie is de baas over de platforms en hoe gaat de content moderation? Op Europees niveau komt de digital services act die daar veel meer in gaat sturen.

Qua instrumenten: Je hebt natuurlijk dit soort instrumenten als een gedragscode, maar ook andere soorten van vrijwillige transparantie, bijvoorbeeld van GroenLinks en D66 die in hun statuten bepaalde restricties aan microtargeting hebben opgenomen. Ook monitoring door media, onderzoekers en NGO's is erg belangrijk, door veel content en aandacht komt er ook bij het publiek meer bewustzijn. Zolang dat niet gebeurt zullen partijen ook geen drang voelen om hun gedrag te veranderen.

Als laatste het toezicht door de overheid. Daar moet duidelijk nog heel veel in geïnvesteerd worden. In juni hebben we een soort rondetafelgesprek gehad met Dataautoriteiten, ministeries en kiesraden en dergelijk.

Daar kwamen duidelijk twee grote dingen naar boven:

- De situatie is erg complex, instanties hebben vaak geen idee waar ze moeten beginnen.
- Het is niet duidelijk we er precies voor verantwoordelijk is. Het is niet alleen verkiezingen, het is een beetje partijfinanciering, het is een beetje privacy, dus het valt tussen alles in en dus is niemand de eigenaar.

Is er een logische probleemeigenaar?

Ik denk dat het in ieder geval een verantwoordelijk kan zijn die politiek kan opereren. Daarmee is een Autoriteit Persoonsgegevens niet meteen de meest logische probleemeigenaar. De kiesraad opereert wel steeds meer politiek, dus is een optie. Het zou een ministerie kunnen zijn, maar die worden altijd politiek aangestuurd, dus misschien is een onafhankelijke toezichthouder beter. Ook wordt er in Nederland gesproken over een nieuw orgaan wat partijfinanciering moet gaan controleren. Dat wordt dan bij binnenlandse zaken weggehaald en gaat op zichzelf staan. Die nieuwe club zou ook een mogelijke probleemeigenaar zijn.

Graag loop ik wat maatregelen uit het buitenland met je langs:

- **Op elke afbeelding een digitale markering van wie de advertentie komt**

Ik hoor veel positieve signalen hierover. Het is volgens mij vooral een middel om te voorkomen dat berichten via derden direct getraceerd kunnen worden. Ook bij misleidende berichten kan dit helpen. Natuurlijk heb je wel al bij advertenties dat je dit al kan zien in de achterliggende systemen, maar voor organic content zou dit een mooie oplossing zijn.

- **Transparantie geven in je begroting hoeveel geld er aan de digitale campagne wordt besteed.**

Dat lijkt me een goede maatregel. Via de platforms kan je natuurlijk al het een en ander zien, maar het lijkt er nu op dat die cijfers niet helemaal correct weergeven wat er daadwerkelijk wordt uitgegeven. Ik heb partijen gesproken die het door de platforms geschetste beeld niet kunnen rijmen met hun eigen boeken. Het is gewoon maar geloven wat de platforms zeggen dat klopt.

Het dilemma voor wetgevers en platforms is de ambiguïteit van waar de regels zouden moeten liggen. Als de overheden regels bedenken trekken de platforms alles uit de kast om dat te verzwakken en anders precies te kunnen voldoen aan wat regels, daar de randen opzoeken, maar zeker niet meer te doen. Overheden willen daarom graag dat de platforms zeg maatregelen zetten, omdat het technische veld ook steeds verschuift en regels snel kunnen verouderen. Afgelopen maanden is er wel steeds meer consensus dat er regels moeten komen, want als we het aan de platforms laten gebeurt er niet genoeg

- **Gebruikers van platforms moeten gedetailleerd inzicht krijgen in wat er met hun gegevens gebeurt in de dataverwerking.**

In Canada was de wetgeving zo streng dat de platforms hebben gezegd: we stoppen ermee. Het kost veel te veel tijd om te implementeren, en uiteindelijk is leveren politieke advertenties ook niet zoveel op. Als ze microtargeting wil faciliteren moet je dus zorgen dat je wetgeving niet te streng is. Dat is ook het lastige van deze wetgeving: het raakt zo aan het eigenbelang van politieke partijen. We moeten deze discussie dus niet alleen niet als een probleem van en door de platforms, maar vooral kijken naar de politieke discussie.

Appendix E – Selection Criteria for research on microtargeting behavior of Political Parties

All political parties that were represented in the Tweede Kamer before the elections of March 2021 are set off against three criteria: whether they have signed the Dutch code of conduct, whether they are progressive or conservative, and whether they have existing internal policies regarding microtargeting.

PARTIES ↓	CRITERIA →	CODE OF CONDUCT	PROGRESSIVE / CONSERVATIVE	EXISTING INTERNAL POLICY
<u>VVD</u>		<u>Signed</u>	<u>Conservative</u>	<u>No</u>
<u>PVV</u>		Did not sign	Conservative	No
<u>CDA</u>		Signed	Conservative	No
<u>D66</u>		<u>Signed</u>	<u>Progressive</u>	<u>Yes</u>
<u>GL</u>		Signed	Progressive	Yes
<u>SP</u>		Signed	Mixed	No
<u>PVDA</u>		<u>Signed</u>	<u>Progressive</u>	<u>No</u>
<u>CU</u>		Signed	Mixed	No
<u>PVDD</u>		Signed	Progressive	No
<u>50+</u>		Signed	Mixed	No
<u>SGP</u>		Signed	Conservative	No
<u>DENK</u>		Signed	Progressive	No
<u>FVD</u>		<u>Did not sign</u>	<u>Conservative</u>	<u>No</u>

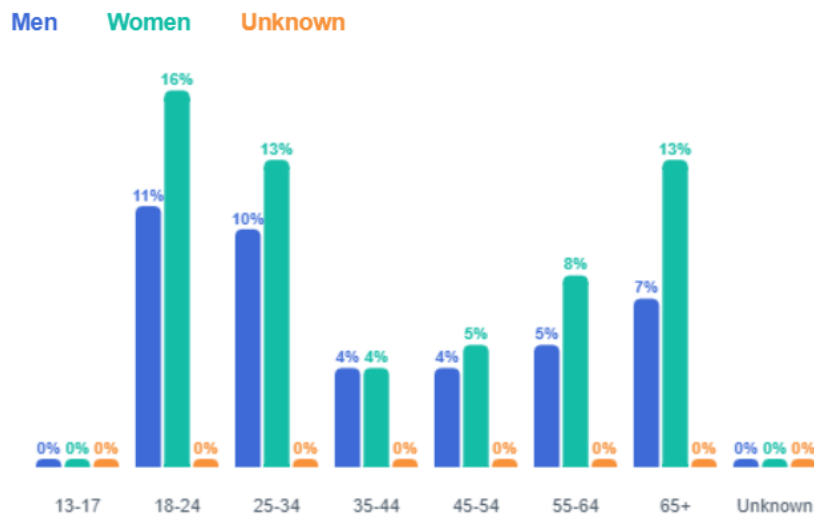
From this table, a diverse selection of the VVD, D66, The PvdA and FvD is picked.

Appendix F – Summary Data Facebook Advertisement Library

In this appendix, all details for an advertisement on the Facebook advertisement library are shown below. An advertisement by D66 has been used as an example. Even though the front-end that political parties use to target citizens allows them to select all sorts of criteria and other data, as seen in the Facebook advertising targeting options (Facebook, 2018), these criteria and which and how much databases are coupled is not visible in the summary data of the advertisement below.

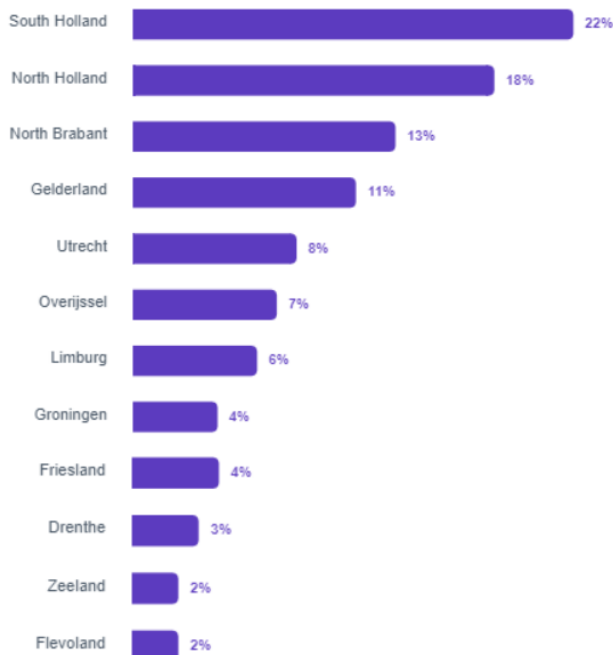
Who Was Shown These Ads

The age and gender breakdowns of people who saw these ads.



Where These Ads Were Shown

The regions where people who saw these ads are located.



Amount Spent

The estimated total money this advertiser spent on these ads.

[Learn more](#)

Amount Spent

€10K - €15K (EUR)

Impressions

The number of times these ads were seen on a screen. This may include multiple views by the same people.

[Learn more](#)

Impressions

>1M

Appendix G – Summary Data Google Transparency Report

In this appendix, all details for an advertisement in the Google Transparency Report are shown below. An advertisement by GroenLinks has been used as an example. Google only allows the targeting of groups for election advertisements limited to location, age, and gender. However, context targeting such as advertising placements, topics, keywords for sites, apps, pages, and videos is also allowed, and the details on how political parties this kind of context targeting are not given on the Google Transparency report.

Ad by GroenLinks

Ran for 21 days First served Dec 2, 2020, 3:15 PM GMT+1 Last served Mar 17, 2021, 8:30 PM GMT+1



Amount spent	Impressions	Format
€500 to €30k	100k–1M	Video

Targeting criteria for this ad

For election ads, advertisers may apply age, gender, and location as targeting criteria.

Age

✓ 18-24 ✓ 25-34 ✓ 35-44 ✓ 45-54 ✓ 55-64 ✓ 65+ ✓ Unknown

Gender

✓ Male ✓ Female Unknown

Location

● Areas targeted



Appendix H – Reaction D66 to questions on political microtargeting

These questions have been asked to Benjamin Buurman, Digital Marketing Manager of the National Office of D66. The correspondence conducted and transcribed in Dutch. Parts that have been explicitly used in the research have been translated to English in the thesis itself.

The interview has been formatted as follows:

[Researcher]: [Question by the researcher]

[Name Respondent]: [Response to the question]

Transcription

De gedragscode spreekt van het aanhouden aan ethische grenzen bij het koppelen van data. Hoe heeft D66 deze ethische grenzen voor zichzelf bepaald en wat zijn deze grenzen voor D66?

Eigenlijk stel ik bij dit soort vragen altijd eerst een wedervraag: 'wat is jouw definitie van microtargeting?'. Want voor de een begint het wanneer je überhaupt Facebook Ads gebruikt en voor de ander light dat weer anders.

We selecteren een doelgroep -welke altijd meer dan 100K gebruikers bevatten- op basis van locatie en soms op leeftijd. Nooit op geslacht, geaardheid, afkomst, geloof.

We gebruiken geen opties zoals 'levensgebeurtenissen'.

Doordat we Facebook Ads gebruiken, maak je ook gebruik van hun algoritme en optimalisaties van je doelgroep. Dit is niet wat we zelf beïnvloeden.

We maken alleen gebruik van First Party Data.

We uploaden geen ledengegevens of andere databronnen.

De gedragscode bevat een bepaling om geen gebruik te maken van psychologische profiling voor het targeten van politieke advertenties. Wat verstaat D66 onder psychologische profiling en hoe heeft de campagne zich aan deze bepaling gehouden?

Hier zijn tal van voorbeelden over te vinden. Denk aan specifieke video's met bepaalde eigenschappen een specifieke doelgroep waarvan Facebook (of andere bronnen) denkt dat het een individu kan beïnvloeden.

Iemand die volgens Facebook net vader is geworden een emotionele video laten zien van een veilig autostoeltje zou goed kunnen werken omdat deze persoon het beste voor zijn kind wil.

Een ander voorbeeld wat ik vaak gebruik is dat je tegen doelgroep A zegt dat je ergens drempels gaat plaatsen terwijl je tegen doelgroep B zegt dat je de maximumsnelheid omhoog wil gooien in dat zelfde gebied. Beiden zou je kunnen targeten door persoonlijke eigenschappen te gebruiken. Het zijn voorbeelden die D66 (uiteraard) nooit zou doen.

Heeft D66, voor zover jij weet, concrete plannen voor nieuwe wetgeving op het gebied van microtargeting? Wat zijn deze plannen?

Ik heb hier nog geen duidelijk antwoord voor. Zodra ik hier iets over kan vertellen meld ik me weer.

Appendix I – Interview Henk Nieweg, Senior Political Data Strategist at CDA

The interview with Henk Nieweg, Senior Political Data Strategist at the Dutch political party CDA, and was conducted on the 1st of June of 2021. The interview was conducted and transcribed in Dutch. Parts that have been explicitly used in the research have been translated to English in the thesis itself.

The interview has been formatted as follows:

[Question by the researcher]

[Response to the question]

Transcription

Hoe kijkt de CDA-campagne over het algemeen tegen het gebruik van microtargeting aan?

Zoals je kan zien hebben we meer dan 10.000 verschillende advertenties gemaakt en uitgezet. Daarmee hebben we de meest diverse online campagne uitgezet die, voor zover wij hebben kunnen nagaan, in Nederland is gevoerd. Daar ben ik best trots om. Echter, om nou te zeggen dat wij aan microtargeting hebben gedaan vind ik twijfelachtig. Wij hebben op socio-demografische kenmerken getarget, en dat hebben we misschien iets fijnmaziger gedaan dan targeten via een bepaalde krant of een bepaald gebied, maar je bent alsnog bezig met blokken van duizenden mensen. Het is niet te vergelijken met het niveau van targeting wat bijvoorbeeld de Trump campagne in 2016 heeft gedaan. Dit komt onder andere door de GDPR en wat platforms als Facebook in Europa toelaten.

Duidelijk. Wil je iets zeggen over welke gegevens jullie dan hebben gebruikt voor jullie targeting?

We hebben veel gesegmenteerd, vooral op basis van provincie, leeftijd en geslacht, en verder een paar socio-demografische kenmerken waar we in detail naar kijken, vooral aangeleverd door Facebook-data.

Hoe heeft het CDA tegen het proces van het opstellen van de gedragscode aangekeken?

Dat vonden wij vrij lastig. Dit komt onder andere doordat wij een lijsttrekkerswissel hadden. Dat veroorzaakte veel chaos binnen de campagne, veel voorbereidingen konden de prullenbak in. Terwijl dat gebeurde kregen wij vrij laat in de campagne, begin januari, pas de mail van Sam van der Staak om mee te doen voor die gedragscode. Het is dan heel lastig om alles om te gooien. Wij staan helemaal achter het idee van die code, maar doordat hij zo laat kwam konden we er weinig mee. Persoonlijk heb ik liever dat er (Europese) wetgeving komt waar we rekening mee moeten houden, dan creëer je een level playing field waar partijen ook niet onderuit kunnen. De gedragscode is in februari uiteindelijk vastgesteld, het is een illusie om te denken dat er vanaf dat moment ook maar één partij is die van campagnekoers is gewijzigd, alles is dan al ingekocht en/of vastgelegd. Kortom: een beetje mosterd na de maaltijd.

Hebben de vage bepalingen (ethische grenzen aanhouden, psychologische profiling) die zijn opgenomen nog interne discussie opgeleverd, of zijn die meer opgesteld omdat partijen zich toch al binnen die kaders konden begeven?

Binnen het campagneteam hebben we zeker discussie gehad over de bepalingen in de gedragscode, en hebben hier ook met een afdeling binnen het partijbureau over gepraat. We zijn in de campagne überhaupt heel veel bezig geweest met kijken hoe we ons zo goed mogelijk aan de GDPR konden houden. Dat is soms

best complex omdat er bijvoorbeeld weinig jurisprudentie over is. Dat ondertussen doen in een organisatie die flink onder druk staat maakt het wel technisch lastig om veel wijzigingen door te voeren. Het liefst hadden we hier uitgebreid bij stilgestaan en hadden we een avond georganiseerd met leden, de kamerfractie, etc., maar daar was simpelweg geen tijd voor.

Zijn er nog wijzigingen doorgevoerd aan de hand van de bepalingen?

De gedragscode is minder verstrekkend dan de GDPR. We hebben écht ons best gedaan om zo goed mogelijk compliant met de GDPR te zijn, en daarmee konden we al voldoen aan de bepalingen. We deden bijvoorbeeld niet aan psychologische profiling.

Is er onderling tussen de campagnes contact geweest hoe de gedragscode werd geïmplementeerd, en hoe zie je de toekomst geweest.

Er is contact geweest tussen de directeurs van de bureaus, maar omdat het zo'n korte tijd voor de verkiezingen was. Op dit moment zijn wij niet heel druk bezig met het onderwerp omdat wij op dit moment niet adverteren. Wanneer we richting een nieuwe campagne gaan lijkt me het goed om daar met andere partijen afspraken over te maken. Ik weet niet of de partijvoorzitters het juiste niveau zijn voor deze discussie, misschien is de discussie daar wat te technische voor. Als lid van het campagneteam zou ik zeggen dat het fijn is als we ons konden richten op een goeie implementatie van de GDPR en dat we de platforms verantwoordelijk maken voor een goeie openbaarmaking van de advertenties.

Zou wetgeving met kaders van wat zo'n advertisement library moet weergeven en van wat politieke partijen mogen doen qua microtargeting een goeie oplossing zijn?

Ik denk dat de GDPR op zich erg goed in elkaar zit, maar het zou vanuit een campagne perspectief dingen wel makkelijk als er concrete kaders zijn waar alle politieke partijen zich aan moeten houden.

Appendix J – Interview Benjamin van Es, Campaign Manager at the VVD

The interview with Benjamin van Es, Campaign Manager at the Dutch political party VVD, and was conducted on the 2nd of June of 2021. The interview was conducted and transcribed in Dutch. Parts that have been explicitly used in the research have been translated to English in the thesis itself.

The interview has been formatted as follows:

[Question by the researcher]

[Response to the question]

Transcription

Hoe kijkt de VVD-campagne over het algemeen tegen microtargeting aan?

We hebben goed over nagedacht. In de Trump 2016 campagne in Amerika en de Leave Brexit campagne in Engeland zag je natuurlijk dat er een nare bijmaak bij de term microtargeting komt omdat de bevolking daar op een manipulatieve manier gestuurd werd. Op die manier privacy schenden die heel specifieke kenmerken te gebruiken voor targeten en op die manier ook misinformatie verspreiden zal de VVD nooit doen. Wel blijft een politieke campagne veel een groot deel een marketingcampagne waar je iets zal moeten doen om ervoor te zorgen dat de juist boodschape bij de juiste persoon terecht komt. Waar ligt dan de definitie van ‘micro’? Voor elke persoon iemand? Wij als VVD zorgen ervoor dat onze hoofdboodschap overal hetzelfde is, en daar waar we extra steun of stemmen nodig hebben vergroten we onze doelgroep. Wij maken geen honderden kleine boodschappen aan met informatie die andere mensen niet te zien krijgen.

Daarnaast komt ook dat wij onszelf zien als de marktleider omdat we al lang de grootste partij zijn. Daarmee komt een verantwoordelijkheid. Daarom willen we de toon van het debat zetten, ook bij microtargeting. We gaan daarom nooit desinformatie verspreiden of proberen om bepaalde groepen van informatie gaan onthouden om ze te beïnvloeden. Dat past niet bij ons als partij en als liberalen. Het is in deze rol belangrijk om te kijken wat ethisch oké is. Wat is moreel verantwoord?

Hoe geven jullie invulling aan die ethische kaders?

We maken geen selectie op basis van kleine stemgroepen: vrouwen selecteren omdat mannen toch wel komen stemmen, jongeren die nog nooit gestemd hebben, etc. We geloven niet in zulke selecties. Je moet wel zorgen dat je kiezers op een goeie manier bereikt. Zo weten wij bijvoorbeeld waar onze kiezers wonen, onder andere door CBS-data en vorige stembusuitslagen. Die informatie gebruikten wij voor targeting op social media, maar ook reclame in de fysieke ruimte.

Maar met social media kan je natuurlijk veel scherper targeten dan allen geografisch, doen jullie daar meer aan? Andere kenmerken?

We sluiten sowieso onze leden uit van het ontvangen van advertenties door onze eigen database te koppelen, en dat is ook de enige database die we koppelen. Wat je ook doen is retargeten, waarbij je mensen target die eerder interactie met VVD-pagina’s hebben gehad (bijvoorbeeld door middel van een post of een like). Dat is eigenlijk het enige wat we echt inzetten.

Het klinkt alsof jullie intern goed hebben nagedacht over de ethische kaders. Wat voor rol heeft de gedragscode daarin gespeeld?

Geen. We hebben goed gestuurd op dat de gedragscode niet te restrictief zou zijn. De gedragscode is natuurlijk het resultaat van een motie waar onder andere de VVD de opsteller van is geweest. Toen kwam International IDEA met een voorstel wat extreem veel uitsloot wat je mocht doen op social media. Dat was voor ons onwerkbaar. Bovendien kwam het voorstel erg laat, ergens in januari. De gedragscode is een prima stap om te maken, maar hij moest niet te restrictief zijn. Als je wil adverteren op social media moet je sowieso een doelgroep definiëren, en de gedragscode zorgde er in de eerste plaats voor dat zelfs dat niet meer kon. De huidige vorm is daarmee wel eerlijk, logisch en meer in balans, en daar hebben we het gesprek heel actief voor gevoerd.

Wat vind je überhaupt van de gedragscode als instrument?

Ik denk dat het middel op zich goed is, gezien het ook voor de platforms relevant is. Wel lastig is natuurlijk dat het niet bindend is, sommige partijen hebben de code niet ondertekend. Aan de andere kant, je moet misschien ook niet alles in wetten gooien. Er zijn andere zaken wat betreft politieke campagnes die wat mij betreft meer zorg en aandacht vereisen dan microtargeting. Denk aan de financiering van campagnes en de transparantie daaromheen, campagnevoeren op verkiezingsdag of het peilen en dag of misschien zelfs een week voor de verkiezingsdag waardoor mensen gestuurd kunnen worden. Allemaal zaken die misschien meer prioriteit hebben in regulering.

Wanneer het onderwerp wordt opgenomen in zo'n nieuwe wet zal het wel écht techniekneutraal moeten worden opgesteld. Dat is in deze gedragscode wel gelukt: de ethische kanten zijn benoemd, maar geen focus op met welke techniek het wel of niet zou moeten worden gedaan. Dus zorg dat wetgeving rekening houdt met de ethische kanten, natuurlijk toetsbaar is maar wel techniekneutraal houdt.

Zou je dan bijvoorbeeld een transparantienorm moeten opnemen in wetgeving?

Op zich heb ik geen problemen met transparantie geven. Je moet wel goed nadenken over het niveau van transparantie. Totale openheid vragen is niet realistisch en zorgt ervoor dat mensen dingen gaan wegstoppen. De politieke campagnes moeten zich op een level playing field begeven, maar er moet op dat veld wel speelruimte zijn. Het belang van transparantie onderschrijf ik wel, en wij zijn bijvoorbeeld ook erg transparant over onze financiering.

Een ander aspect waar je rekening mee moet houden is privacy. Het is erg belangrijk dat er zorgvuldig wordt omgegaan met een persoonsgegeven als politieke voorkeur. Gelukkig vraagt de GDPR ook dat we dat doen?

Heb je het idee, gezien de beperkte capaciteit van de Autoriteit Persoonsgegevens, dat andere partijen zich aan de GDPR houden?

We hebben natuurlijk geen inzicht in de andere partijen. Soms krijgen we signalen dat partijen, niet alleen omtrent microtargeting maar ook omtrent financiering. Alleen zijn wij natuurlijk niet de handhaver, dat zijn het Ministerie van BZAK en de Autoriteit Persoonsgegevens, en die moeten ook ingrijpen als het mist gaat. Ook denk ik dat de journalistiek een rol heeft in kijken naar signalen waar het mist gaat, zeker als de AP het niet kan.