



ועדת הבחירות המרכזית לכנסת
דוברות והסברה

Reference: 00160621

Jerusalem, 171 Adar, 5781

March 1, 2021

PRESS RELEASE:

Central Elections Committee chairman, Supreme Court Justice Uzi Vogelman, rules that “content recommendations” (aka “native advertising”) promoted by a paying body, which direct the reader to an article, count as electioneering and must identify the promoter.

The Yemina party’s petition against the Outbrain Israel and Outbrain Inc., which provide content promotion services, was accepted, and the company must provide information about the paying body.

The Yemina party submitted a petition to the Central Elections Committee chairman, Supreme Court Justice Uzi Vogelman, against Outbrain Israel and Outbrain Inc., companies which rent advertising space and publish paid promotion content.

In their petition, Yemina requested that the company publicize who is paying for the native advertising or content recommendations which direct to other websites and to forbid anonymous election propaganda. Yemina claims that on the HaAretz news site app are “content recommendations,” advertisements which link to content on other websites which are marked as “paid advertising.”

The petition refers to two topical recommendations: The first includes a blurred photograph of the chairman of Yemina, MK Naftali Bennett, and under the photograph appears the caption, “//mako This is Bennett’s response when asked to announce that he will not sit with Netanyahu.” The second includes a photograph of MK Naftali Bennett, with the caption, “//סרוגים As before, Bennett again pays the price for impulsivity.”

Pressing on the recommendations takes the reader to articles on mako and Srugim with similar headlines and which are critical of MK Naftali Bennett. In their petition, Yemina claims that content recommendations are election propaganda, and therefore it the law requires that the paying body must be identified, as per the Election Law: Propaganda





ועדת הבחירות המרכזית לנכסות
דונרות וחסברה

Means. The paying body, who was added as Respondent 3 to the suit, claimed in their response, “a recommendation to read a newspaper article is not election campaigning and therefore there is no legal requirement to identify the body paying for the recommendation.”

In his ruling, Justice Vogelmann decided that the petition is to be accepted:

“I have seen the articles to which the readers are directed. One is a news report, the other – an opinion piece. If one judges them on their own, disconnected from any content recommendation, the main effect of each of them is, respectively, providing newsworthy information to the public and voicing an opinion on an issue which is in the public eye. These purposes overshadow the electioneering value that they might have in their criticism of the petitioner’s chairman. Therefore, the articles themselves are not to be considered election propaganda. Even if they were considered as such, the writers’ and publishers’ details are provided.

“With that, and as I explained above, a content recommendation (paid promotion) which directs to the articles, can be considered election propaganda. Respondent 3 did not claim, or even hint, that he is not a political entity or that his purpose in this promotion is not to influence the voting. He only claimed that, in principle, paid promotion of a news article cannot be considered campaigning. I reject this claim. As there is no argument as to the facts in this case, I must assume that Respondent 3 is a political entity which aims to influence the voting. And, in fact, Respondent 3 stated in their response that the funding of the links was one “to promote their purposes (section 6 of the response).

“As this is the situation, I can only rule that the content recommendations presented in this case are election propaganda. According to Section 10 of the law, there is a requirement to state who paid for their publication. This was not done. I therefore instruct respondents 1 and 2 to provide the petitioner with the details of respondent 3...”

Justice Vogelmann concluded his ruling:

“With the removal of these recommendations, this may be a new development in the rules regarding the requirement to identify internet election campaign propaganda.”





ועדת הבחירות המרכזית לנבחרות
דוברות והסברה

Attached is [the ruling](#) (in Hebrew).

Sincerely,

Giora Fordes,

Central Elections Committee Spokesman



