Transparency and targeting of political advertising

2021/0381(COD) - 25/11/2021 - Legislative proposal

PURPOSE : to lay down harmonised rules for a high level of transparency of political advertising and related services.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: political advertising is a tool in campaigning to convey political messages to voters. It aims to influence people's views on political subjects and their voting decisions, and is often specifically regulated nationally, with a specific focus on transparency.

The traditional media for political ads used to be newspapers, posters, radio and television. However, these have increasingly been displaced by the digital sphere. The cross-border nature of online political advertising has challenged the relevance of national rules, which typically included restrictions to ensure democratic accountability and fairer processes and economic operators face difficulties to determine and adapt to applicable rules, limiting their ability to offer advertising services.

Several Member States have legislated or intend to legislate in the area of transparency in political advertising. As these rules diverge in scope, content and effect, new ad hoc national rules would only increase the fragmentation of the essential transparency elements.

This proposal also complements the proposed amendment to Regulation (EU) 1141/2014 on the statute and financing of European political parties and foundations.

CONTENT: the proposal **addresses the fragmentation of the existing Regulatory framework in this area and seeks to promote high European standards of transparency in political campaigning** and free and fair elections in the EU level, strengthen the resilience of democratic processes in the EU and combat disinformation, information manipulation and interference in elections.

The proposed Regulation lays down:

- harmonised transparency obligations for providers of political advertising and related services to retain, disclose and publish information connected to the provision of such services;

- harmonised rules on the use of targeting and amplification techniques in the context of the publication, dissemination or promotion of political advertising that involve the use of personal data.

The main measures set out in the proposed Regulation on transparency and targeting of political adverts include:

Scope

Political advertisements will cover ads by, for or on behalf of a political actor as well as so called issue-based ads which are liable to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour.

Transparency obligations for paid political advertising

The proposal establishes measures applicable to all providers of political advertising services involved in the **preparation, placement, promotion, publication or dissemination** of political advertising. In particular, it provides for measures concerning (i) the transparency of political advertising, (ii) the obligation to identify political advertisements and (iii) the obligation to keep records and provide information to advertising publishers.

Advertising publishers would be required to:

- include a **clear statement** to the effect that it is of a political nature, indicate the name of the sponsor, and make available information to understand the wider context of political advertising and its aims;

- publish annually **information on the amounts or value** of other benefits received in part or full exchange for services they have provided in connection with political advertisements;

- establish user-friendly mechanisms for citizens to notify them of advertisements that do not comply with the obligations set out in the Regulation.

Political targeting and amplification

The proposal lays down strict conditions on the use of targeting or amplification techniques involving the processing of personal data for political advertising purposes. When sensitive data are at stake, a prohibition applies accompanied by specific exemptions. Further, controllers making use of these techniques for political advertising purposes shall adopt and implement an internal policy, keep records, and provide information to allow individuals to understand the logic involved and main parameters of the targeting used, and the involvement of third-party data and additional analytical techniques.

Supervision and enforcement

The proposal lays down an obligation for providers of political advertising services not established in the Union to appoint a **legal representative** in one of the Member States where they provide their services. It also lays down which authorities are entrusted with the supervision and enforcement of specific the measures.

Fines

Member States will be required to introduce effective, proportionate and dissuasive fines when the rules on transparency of political advertising are breached.