

Transparency and targeting of political advertising

2021/0381(COD) - 02/02/2023 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 433 votes to 61, with 110 abstentions, **amendments** to the proposal for a regulation of the European Parliament and of the Council on the transparency and targeting of political advertising.

The matter was referred back to the committee responsible for inter-institutional negotiations.

The main amendments adopted in plenary concern the following points:

Subject matter, scope and definitions

Members propose to clarify that the regulation lays down harmonised rules on:

- obligations concerning the provision of political advertising services, transparency and due diligence for sponsors and providers of political advertising services that require them to provide, collect, retain, disclose and publish information connected to the provision in the internal market of such services;
- the use of **targeting and ad delivery techniques** in connection with the preparation, placement, promotion, publication, delivery or dissemination of political advertising, in the context of the provision of political advertising services, that involves the processing of personal data;
- the **supervision and enforcement** of this Regulation, including as regards the cooperation and coordination between the competent authorities.

It is clarified that political views and opinions and other editorial content expressed under the editorial responsibility of a media service provider should not be considered political advertising unless specific payment or other remuneration is provided for their preparation, placement, promotion, publication, delivery or dissemination by third parties.

Furthermore, the Regulation should **protect fundamental rights and freedoms** as enshrined in Union and national law, including the Charter of Fundamental Rights, and should not affect the content of political advertising or national provisions governing election periods and political campaigns.

Provision of political advertising services in the Union

Providers of political advertising services should not discriminate against sponsors on grounds of their place of residence or, where applicable, establishment, when those sponsors request, conclude or hold a contract for political advertising services. By way of exception, political advertising services should be provided only to a sponsor or a service provider acting on behalf of a sponsor who is a citizen of the Union, or a natural or legal person **residing or established in the Union**.

Identification of a political advertisement

In order to determine whether a message constitutes a political advertisement, Members suggest that all its features should be taken into account, in particular the content and purpose of the message, its sponsor, the spoken or written language used to convey the message, as well as the context in which the message is

conveyed and how it is transmitted. The Commission should develop common guidance to contribute to the correct application of those criteria.

Transparency and due diligence obligations for political advertising services

Members suggested the following clarifications:

- all service providers should ensure that the **contractual arrangements** concluded for the provision of a political advertising service specify how the relevant provisions of this Regulation are complied with;
- the **statement** made by advertising services acting on behalf of sponsors whether the advertising service constitutes a political advertising service should be made in a good faith, should contain accurate information, and should be provided in timely, complete and accurate manner. In case of manifestly erroneous declarations, the providers of advertising services should request corrections.
- political advertising publishers that are also Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) should diligently identify, analyse and assess any systemic risks that their political advertising services pose in the context of their risk assessments and put in place reasonable, proportionate and effective mitigation measures;
- strengthening the provisions on **record-keeping** and transmission of information to the political advertising publisher to ensure that providers of political advertising services retain information they collect in the provision of their services and communicate it to the political advertising publisher in a timely and accurate manner;
- **labelling** requirements that allow people to easily identify political advertising as such, as well as the definition by the Commission of standardised and effective techniques for the labelling of political advertising;
- details of the information to be provided in the **transparency notice** and the responsibility of providers of political advertising services, including publishers with regards to accuracy and completeness of information; transparency notices should be presented in an easily accessible form;
- the establishment of an **EU library** for hosting political advertisements ensuring the hosting of a database containing each online political advertisement;
- the adoption by the Commission to adopt **common standards** to establish common data structure and standards, and a common application programming interface;
- details of the procedures for natural and legal persons to easily **flag up** possibly unlawful political advertisements.

Targeting and delivery of political advertising

Targeting and ad delivery techniques that involve the processing of special categories of personal data in the context of political advertising would be prohibited. Targeting techniques involving the processing of personal data would be limited to personal data explicitly provided by the data subject with **his or her consent**. The data controller should inform when requesting consent from the data subject that his or her provided personal data may be processed solely for the purpose of presenting political advertising to the data subject.

The amendments aim to ensure that publishers of political advertising include in the transparency notice all the information necessary to enable the data subject to understand the logic involved and the main

parameters of the technique used, such as the objectives, mechanisms and logic of targeting, including inclusion and exclusion parameters, and the reasons for choosing these parameters.

In addition, the transparency notice should visibly refer to an **easily accessible interface** where users can withdraw their consent or modify the personal data they have provided.

Supervision, enforcement and sanctions

Parliament called for enhanced **cooperation at EU level** between national competent authorities, while preserving national competences in this area. Each Member State should designate a competent authority as a national contact point at EU level for all aspects of the Regulation. The national contact points would ensure effective cooperation between national competent authorities and with other national contact points and authorities at Union level.

Within the framework of the European Cooperation Network on Elections, a **permanent Network of National Contact Points** should be established which should serve as a platform for regular exchange of information and structured cooperation between national contact points and the Commission on all aspects of this Regulation.

As for the provisions requiring Member States to determine the system of penalties for breaches of the Regulation, Parliament suggested that Member States should also have the possibility of imposing **periodic penalty payments** for serious and repeated breaches.

Lastly, any person, or entity should have the right to lodge a **complaint** with the competent authority that is the national contact point of the Member State where that entity or person is located or established against sponsors and providers of political advertising services, alleging an infringement of this Regulation.