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PE 125
DATAPROTECT 295
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CONSOM 272
TELECOM 429
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MI 781
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NOTE

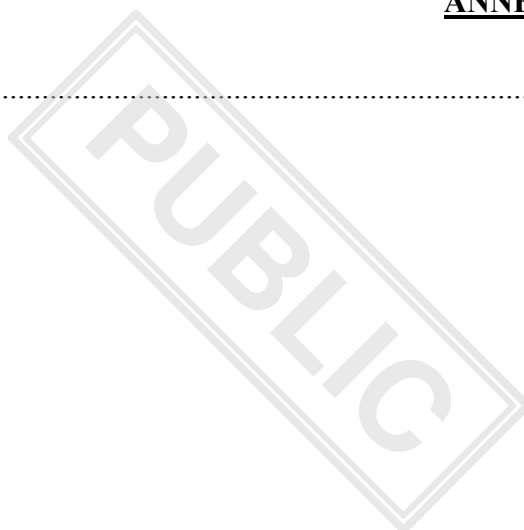
From: General Secretariat of the Council
To: Delegations

No. prev. doc.: 13808/22
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- COM(2021) 731 final + Annexes 1 to 2

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on the transparency and targeting of political
advertising
- Comments from delegation

Following the meetings of the Working Party on General Affairs on 25 October and
7 November 2022, delegations will find in Annex comments from LU on the Presidency
compromise text as contained in document 13808/22.

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LUXEMBOURG

- **Article 12:** We remain in favour of prohibiting the processing of special categories of personal data for targeting and amplification purposes in the context of political advertising.
- **Article 15 (8):** We welcome the proposed modifications and believe that text goes in the right direction. Further clarifications are nevertheless necessary on how these provisions would materialize in practice. According the current version of the text, authorities of the main establishment of the provider is responsible for the regulation's application and enforcement unless a suspected infringement substantially affects individuals in another Member State, in which case the latter's authorities shall be responsible. What does "responsible" exactly mean in this context: does it only refer to the supervision or also the enforcement aspect? In case of the latter, how could an authority in Member State A (substantially affected) enforce sanctions on a provider established in Member State B?

It may be more appropriate to entrust supervisory (and eventually enforcement) tasks to authorities of the main establishment of the sponsor rather than the establishment of the service provider. Additionally, for the sake of clarity, points (a) to (c) should differentiate between the competent authority responsible for the application and the competent authority responsible for cooperation.

- **Article 16 – Sanctions:** In some Member States, a political party or sponsor does not necessarily have a legal personality ("doté d'une personnalité juridique"). So in case of an infringement of the obligations related to political advertising, could authorities then impose sanctions on a sponsor based on the individual liability principle? What do the provisions foresee in such cases?
