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

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## I. BACKGROUND

1. On 25 November 2021, the Commission submitted to the European Parliament and the Council the proposal for a Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising (hereinafter referred to as the ‘proposal’)<sup>1</sup>. This proposal is one of the elements of the ‘Democracy and Integrity of EU elections’ package (hereinafter referred to as the ‘Democracy package’).
2. In the European Parliament, the Committee on the Internal Market and Consumer Protection (IMCO) is the lead committee, in association with the Committee on Civil Liberties, Justice and Home Affairs (LIBE) and the Committee on Culture and Education (CULT). The appointed rapporteurs are Sandro GOZI (Renew Europe, France) for IMCO, Anna Julia DONATH (Renew Europe, Hungary) for LIBE and Sabine VERHEYEN (EPP, Germany) for CULT. Work in the European Parliament is still ongoing.
3. The European Economic and Social Committee adopted its Opinion<sup>2</sup> on 27 February 2022.
4. On 21 December 2021, the Committee of Permanent Representatives (Part 2) (COREPER) agreed<sup>3</sup> on the optional consultation of the Committee of the Regions. The Committee of the Regions adopted its Opinion<sup>4</sup> at its plenary session of 27 – 28 April 2022.

## II. WORK IN COUNCIL

5. The Commission presented the Democracy package to the Working Party on General Affairs (GAG) on 30 November 2021. Ministers held a first orientation debate on all four legislative proposals of the Democracy package at the Council (General Affairs) meeting on 25 January 2022.
6. Detailed examination of the proposal proceeded at GAG level on this basis. Since then, eighteen meetings of GAG and three discussions at COREPER were held and six Presidency compromise texts were prepared in total.

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<sup>1</sup> 14374/21 + COR 1 + COR 1 REV 1; + ADD 1 + COR 1 + ADD 1 COR 1 REV 1; + ADD 2 to 4 - COM(2021) 731 final

<sup>2</sup> 6609/22

<sup>3</sup> 14928/21

<sup>4</sup> 8821/22

7. The last Presidency compromise text, as set out in the Annex to document 15200/22, was examined by COREPER at its meeting on 1 December 2022. Overall, the majority of delegations could support the Presidency compromise text as a basis for a general approach and authorise the Presidency to start negotiations with the European Parliament on this basis. One delegation maintained a parliamentary scrutiny reservation at this stage. The main comments made by delegations at this meeting are as follows:

- i. **Article 12:** Some delegations called for a more ambitious approach which prohibits the processing of special categories of personal data for targeting and amplification purposes. A few of these delegations, while preferring a stricter approach, indicated that in a spirit of compromise, they could support the Presidency text at this stage with a view to starting negotiations.
- ii. **Scope:** a few delegations asked for clarifications in relation to national rules, in particular on measures related to the purchasing of commercial space for political advertising purposes, activities during the run-up period to elections, and government communication in relation to legislative and regulatory initiatives.
- iii. **Period of application:** A few delegations called for a longer period of application after publication on the Official Journal as proposed by the Presidency.

Other comments touched upon the legal basis, definitions, subsidiarity, obligations on sponsors and possible burdens on micro-enterprises.

8. Following the above discussion, the Chair concluded that, while the Presidency would consider a few clarifications which would not affect the substance of the text, the compromise text gathered the necessary political support to invite the Council (General Affairs) to reach a general approach on this basis at its meeting on 13 December 2022.

### **III. MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE TEXT**

9. In light of the above, the Presidency prepared a revised compromise text as set out in the Annex to this note. The changes introduced to the compromise text examined by COREPER on 1 December, as set out in the Annex to document 15200/22, are the following:
- i. **Recital 13:** Additional text has been introduced to clarify that this Regulation does not alter national rules relating, amongst others, to bans or limitations on political advertising during specified periods or to prohibitions of use of commercial space for election campaign purposes.
  - ii. **Recital 18:** Text has been introduced to further clarify that communication by public authorities or members of the Governments in relation to legislative and regulatory initiatives does not usually constitute political advertising under this Regulation.
  - iii. **Recitals 23:** a technical alignment with Article 2(4)(g) has been made.
  - iv. **Article 20(2):** It is now proposed that the Regulation will apply twelve months after the date of publication in the Official Journal.
10. The Presidency believes that this compromise text strikes the right balance amongst the positions of delegations and considers it a good basis for Ministers to reach a general approach on this proposal and to serve as a negotiating mandate for the Presidency to start negotiations with the European Parliament with a view to reaching an agreement at first reading.
11. In particular, Ministers are invited to consider the following key elements of the Presidency compromise text in relation to the original Commission proposal:
- i. **Objectives and scope (Articles 1 and 1a):** These elements were split into two articles to better distinguish between the two and to further substantiate the scope.

- ii. **Definitions (Article 2, recitals 5, 16, 18, 18a,19 and 26b):** Some definitions have been substantiated to provide more legal clarity including on what is (and what is not) considered political advertising, which entities are to be considered as political actors and that sponsor may include a natural or legal person acting in their own capacity or on behalf of another actor. The definitions of targeting and amplification techniques were also separated to emphasise the differences between the two techniques.
- iii. **Transparency requirements (Article 7, recitals 38, 39, 40 and 41):** These requirements have been strengthened and further clarified, in particular by requiring more information to be provided by the publisher with the political advertisement, indicating, where applicable, its targeted or amplified nature and by streamlining the information to be included in the transparency notice. The text also allows for more flexibility on the minimum information to be provided.
- iv. **Provisions on targeting and amplification (Article 12 and 12a, recital 48):** The article was split into two to distinguish between the prohibitions and the specific requirements applicable to targeting and amplification techniques for the purposes of political advertising. Furthermore, the consent for the processing of special categories of personal data shall be provided separately and specifically for the purposes of political advertising in order to reinforce the informed character of the data subject's decisions.
- v. **Legal representative (Article 14, recitals 55 and 55a):** This article has been further substantiated in order to clarify its implementation and especially the consequences in case of failure by the service providers to designate legal representatives in other Member States where they offer their services. Moreover, a requirement to maintain and publish records on the legal representatives designated in each Member State was introduced to improve oversight and to facilitate the implementation of the Regulation, particularly in the context of cross-border services.
- vi. **Competent authorities (Articles 15 and 15a; recitals 59a, 59b, 59c and 60):** The original article was split into two to better define the roles of the competent authorities and to detail the cooperation between them in case of cross-border services. The

cooperation procedure has been aligned with the Digital Services Act (DSA)<sup>5</sup> including by making the competent authority of the main establishment primarily responsible while providing for joint investigations.

- vii. **Sanctions (Articles 15(5)(c) and 16; recital 63):** Some level of harmonization has been introduced by way of setting a maximum threshold, in line with the General Data Protection Regulation (GDPR)<sup>6</sup>. Further amendments related to ‘administrative fines’ were introduced to ensure compatibility with national rules across all Member States.
- viii. **Evaluation and review (Article 18; recital 67):** In their report, the Commission is now obliged to assess certain aspects of the Regulation, including possible further restrictions of the use of personal data in targeting and amplification techniques, impacts on small and medium enterprises and establishment of public repositories.
- ix. **Delegated acts (Article 19, recital 66):** The obligation to consult experts appointed by Member States has been introduced and the delegated powers limited to three years, renewable.

All changes compared to the original Commission's proposal are indicated in ***bold italics*** and deletions in ~~strike through~~. In addition, changes compared to the previous Presidency compromise text, as set out in Annex to document 15200/22, are indicated in underlined.

#### IV. CONCLUSIONS

- 12. In light of the above, the Council (General Affairs) is invited to:
  - i. agree on a general approach on the basis of the Presidency compromise text, as set out in the Annex to this note, and
  - ii. authorise the Presidency to enter into negotiations with the European Parliament on this basis, with a view to reaching an agreement at first reading

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<sup>5</sup> Regulation (EU) 2022/2065 on a Single Market for Digital Services and amending Directive 2000/31/EC.

<sup>6</sup> Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.

Proposal for a  
**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on the transparency and targeting of political advertising**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>,

Having regard to the opinion of the Committee of the Regions<sup>8</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>7</sup> OJ C , , p.

<sup>8</sup> OJ C , , p. .

Whereas:

- (1) The supply of and demand for political advertising are growing and increasingly cross-border in nature. A large, diversified and increasing number of services are associated with that activity, such as political consultancies, advertising agencies, “ad-tech” platforms, public relations firms, influencers and various data analytics and brokerage operators. Political advertising can take many forms including paid content, sponsored search results, paid targeted messages, promotion in rankings, promotion of something or someone integrated into content such as product placement, influencers and other endorsements. Related activities can involve for instance the dissemination of political advertising upon request of a sponsor or the publication of content against payment.
- (2) Political advertising can be disseminated or published through various means and media across borders. It can be disseminated or published via traditional offline media such as newspapers, television and radio, and also increasingly via online platforms, websites, mobile applications, computer games and other digital interfaces. The latter are not only particularly prone to be offered cross-border, but also raise novel and difficult regulatory and enforcement challenges. The use of online political advertising is strongly increasing, and certain linear offline forms of political advertising, such as radio and television, are also offered online as on-demand services. Political advertising campaigns tend to be organised to make use of a range of media and forms.
- (3) Given that it is normally provided against remuneration, ***which may include a benefit in kind***, advertising, including political advertising, constitutes a service activity under Article 57 of the Treaty on the Functioning of the European Union (‘TFEU’). In Declaration No 22, regarding persons with a disability, annexed to the Treaty of Amsterdam, the Conference of the Representatives of the Governments of the Member States agreed that, in drawing up measures under Article 114 of the TFEU, the institutions of the Union are to take account of the needs of persons with disabilities.



- (4) The need to ensure transparency is a legitimate public goal, in conformity with the values shared by the EU and its Member States pursuant to Article 2 of the Treaty on European Union ('TEU'). It is not always easy for citizens to recognise political advertisements and exercise their democratic rights in an informed manner. ***Increasing sophistication in disinformation, diversification of actors, the fast evolution of new technologies and intensified spread of manipulative interference are important challenges for the Union and the Member States. Political advertising can be a vector of disinformation in particular where the advertising does not disclose its political nature, and where it is targeted or amplified.*** A high level of transparency is necessary, among others, to support an open and fair political debate ***in ensuring democratic political campaigns***, and free and fair elections or referendums and to combat disinformation and unlawful interference including from abroad. ~~Political advertising can be a vector of disinformation in particular where the advertising does not disclose its political nature, and where it is targeted.~~ Transparency of political advertising contributes to enabling voters to better understand when they are being presented with a political advertisement on whose behalf that advertisement is being made, and how they are being targeted by an advertising service provider, so that voters are better placed to make informed choices.
- (4a) ***This regulation intends to ensure the provision of political advertising in full respect of fundamental rights, including, inter alia, data protection rights.***

- (5) In the context of political advertising, *frequent use is made of* targeting and amplification techniques *based on processing of personal data, including observed and inferred personal data, such as data revealing political opinions and other special categories of data* are frequently used. Targeting or amplification techniques should be understood as techniques that are used either to address a ~~tailored~~ political advertisement only to a specific person or group of persons, *usually with tailored-content, based on the processing of personal data, regardless of how the personal data has been obtained. Amplification techniques, which include a wide range of optimisation and ad-delivery techniques, aim to* increase the circulation, reach or visibility of a political advertisement *based on the processing of personal data, regardless of how the personal data has been obtained*. Given the power and the potential for the misuse of personal data *through*, of targeting, including through microtargeting and other advanced techniques, such techniques may present particular threats to legitimate public interests, such as fairness, equal opportunities and transparency in the electoral process and the fundamental right to be informed in an objective, transparent and pluralistic way.
- (6) Political advertising is currently regulated heterogeneously in the Member States, which in many cases tends to focus on traditional media forms. Specific restrictions exist including on cross-border provisions of political advertising services. Some Member States prohibit EU service providers established in other Member States from providing services of a political nature or with a political purpose during electoral periods. At the same time, gaps and loopholes in national legislation are likely to exist in some Member States resulting in political advertising sometimes being disseminated without regard to relevant national rules and thus risking undermining the objective of transparency regulation for political advertising.
- (7) To provide enhanced transparency of political advertising including to address citizens' concerns, some Member States have already explored or are considering additional measures to address the transparency of political advertising and to support a fair political debate and free and fair elections or referendums. These national measures are in particular considered for advertising published and disseminated online and may include further prohibitions. These measures vary from soft to binding measures and imply different elements of transparency.

- (8) This situation leads to the fragmentation of the internal market, decreases legal certainty for providers of political advertising services preparing, placing, *promoting*, publishing or disseminating political advertisements, creates barriers to the free movement of related services, distorts competition in the internal market, including between offline and online service providers, and requires complex compliance efforts and additional costs for relevant service providers.
- (9) In this context, providers of political advertising services are likely to be discouraged from providing their political advertising services in cross-border situations. This is particularly true for microenterprises and SMEs, which often do not have the resources to absorb or pass on the high compliance costs connected to the preparation, placement, *promotion*, publication or dissemination of political advertising in more than one Member State. This limits the availability of services and negatively impacts the possibility for service providers to innovate and offer multi-medium and multi-national campaigns within the internal market.
- (10) A consistent and high level of transparency of political advertising throughout the Union should therefore be ensured when political advertising services are provided, while divergences hampering the free circulation of related services within the internal market should be prevented, by laying down uniform transparency obligations for providers of political advertising services guaranteeing the uniform protection of rights of persons and supervision throughout the internal market based on Article 114 of the TFEU.
- (11) Member States should not maintain or introduce, in their national laws, provisions *on the transparency of political advertising that are* diverging from those laid down in this Regulation, in particular more or less stringent provisions to ensure a different level of transparency in political advertising. Full harmonisation of the transparency requirements linked to political advertisement increases legal certainty and reduces the fragmentation of the obligations that service providers meet in the context of political advertising.

- (12) Full harmonisation of the transparency requirements should be without prejudice to the freedom of providers of political advertising services to provide on a voluntary basis further information on political advertising, *for instance clickthrough rate of a specific online political advertisement*, as part of the freedom of expression *and information* protected under Article 11 of the Charter of Fundamental Rights.
- (13) This Regulation *is limited to harmonising the rules on the transparency and the targeting and amplification of political advertising. It neither should not affect the substantive content of political advertisements-advertising, nor Union or Member States' rules regulating aspects related to political advertising other than those covered by this Regulation. As such, this Regulation does not alter the rules regulating the conduct and financing of political campaigning, including general bans or limitations on political advertising during specified periods, the so-called silence periods, donations by individual campaign donors or prohibitions regarding the use of commercial advertising for election campaign purposes, the display of political advertising including so-called silence periods preceding elections or referendums.*
- (13a) *The specific needs of micro, small and medium-sized enterprises should be taken into account in the application and enforcement of this Regulation, in line with the principle of proportionality. The notion of micro, small and medium-sized enterprises should be understood in the meaning of Article 3 paragraphs 1 to 3 of Directive 2013/34/EU.*

(14) The Regulation should provide for harmonised transparency requirements applicable to economic actors providing political advertising and related services (i.e. activities that are normally provided for remuneration, **which may include a benefit in kind**; those services consist in particular of the preparation, placement, promotion, publication and dissemination of political ~~advertisements~~ ~~advertising~~. The rules of this Regulation that provide for a high level of transparency of political advertising services are based on Article 114 of the TFEU. This Regulation should also address the use of targeting and amplification techniques in the context of ~~the publication, dissemination or promotion~~ political advertising that **are based on** ~~involve~~ the processing of personal data, **regardless of whether this involves a service**. The rules of this Regulation that address the use of targeting and amplification are based on Article 16 of the TFEU. Political advertising directed to individuals in a Member State should include advertising entirely prepared, placed, **promoted**, ~~or~~ published **or disseminated** by service providers established outside the Union but disseminated to individuals in the Union. To determine whether a political advertisement is directed to individuals in a Member State, account should be taken of factors linking it to that Member State, including language, context, objective of the advertisement and its means of dissemination.

***(14a) The specificities of the medium of publication or dissemination of the political advertisement should be taken into account in the application of this Regulation, in particular to adapt the modalities to television, radio and newspapers as the case may be in compliance with EU law.***

(15) There is no existing definition of political advertising or political advertisement at Union level. A common definition is needed to establish the scope of application of the harmonised transparency obligations and rules on targeting and amplification. This definition should cover many forms that political advertising can take and any means and mode of publication or dissemination within the Union, regardless of whether the source is located within the Union or in a third country.

- (16) The definition of political advertising should include advertising *prepared, placed, promoted*, published or disseminated directly or indirectly by or *prepared, placed, promoted*, published or disseminated directly or indirectly for or on behalf of a political actor. *Political advertising is usually directly or indirectly under the control of a sponsor, which could be a political actor, and which would in particular be able to determine the political nature, content or publication of the political advertising being prepared, placed, promoted, published or disseminated. Sometimes another entity may ultimately exercise effective control over relevant decision making of the sponsor, by providing funding or by other forms of control, including corporate control. It should therefore be ensured that the transparency standards provided by this Regulation cover such situations.* Since advertisements by, for or on behalf of a political actor cannot be detached from their activity in their role as political actor, they can be presumed to be liable to influence the political debate, except for messages of purely private or purely commercial nature. *In order to determine that a message is of a purely private or purely commercial nature, account should be taken of all relevant factors such as its content, the language used to convey the message, the context in which the message is conveyed, including the period of dissemination, the objective of the message and the means by which the message is promoted, that are published or disseminated and the targeted audience. Messages for or on behalf of a political actor, promoted, published or disseminated to a potentially unlimited number of third parties should not be considered as purely private.*

- (17) The ***promotion***, publication or dissemination by other actors of a message that is liable ***and designed*** to influence the outcome of an election or referendum, ***or voting behaviour, or legislative or regulatory process or voting behaviour at Union, national, regional, local or at a political party level***, should also constitute political advertising. ***A clear and substantial link should exist between the message and its potential to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour.*** In order to determine ***the existence of such a link***, whether the publication or dissemination of a message is liable to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour, account should be taken of all relevant factors such as the ***sponsor of the message, the content of the message, the language used to convey the message, the context in which the message is conveyed, including the period of dissemination such as an electoral period, the objective of the message, and the means by which the message is promoted, published or disseminated, and the targeted audience.*** Messages on societal or controversial issues (***so called 'issue-based ads'***) may, as the case may be, be liable ***and designed*** to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour.
- (18) ***In the interest of effective communication with the general public, public communication by, for or on behalf of any public authority of a Member state, including members of Government, for example, press releases or conferences announcing legislative or regulatory initiatives and explaining the policy choice underpinning such initiatives, should not constitute political advertising, provided they are not designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process. Similarly, practical information from official sources of Member States or the Union regarding *exclusively* the organisation and modalities for participation in the elections or referendums, *including the candidacies or the subject of the question put to the referendum*, should *also* not constitute political advertising.***

- (18a) *This Regulation should not apply where a specified public space for the presentation of candidates is explicitly provided by law and allocated free of charge, for example by allocating space for such presentation in the municipalities and other public areas or a particular broadcasting time on the television, where this is done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.*
- (19) Political ~~opinions~~ ~~views~~ expressed *in any media under editorial responsibility including but not limited to* in the programmes of audiovisual *media services in the meaning of Article 1(1)(a) of Directive 2010/13/EU, in linear and non linear radio broadcasting* ~~broadcasts, or published in printed~~ *or in online* media, *unless specific remuneration is provided for or in connection with expressing that political opinion* ~~without direct payment or equivalent remuneration~~ should not be covered by this Regulation.
- (20) For the purpose of this Regulation, election should be understood as the elections to the European Parliament as well as all elections or referendums organised at national, regional and local level in the Member States and elections to establish political party leadership. It should not include other forms of elections such as *professional or* privately organised ballots.
- (21) It is necessary to define political advertisement as an instance of political advertising. Advertisements include the means by which the advertising message is communicated, including in print, by broadcast media or via an online platforms service.
- (22) Political actors within the meaning of this Regulation should refer to concepts defined under Union law, as well as under national law in line with international legal instruments such as those of the Council of Europe. The concept of political ~~actors~~ ~~parties~~ should include ~~their~~ affiliated and subsidiary entities *of a political party* established, with or without legal personality, in order to support ~~it them~~ or pursue ~~its their~~ objectives, for instance by engaging with a specific group of voters or for a specific electoral purpose.



- (23) The concept of political actors should also include *candidates for or holders of any elected office*, ~~unelected officials, elected officials, candidates and members of~~ *the Government of Member States* at European national, regional or local level *or of Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors.* ~~Other political organisations, established to achieve a specific outcome in an election or referendum, should also be included in that definition.~~
- (24) An advertising campaign should refer to the preparation, *placement, promotion*, publication and dissemination of a series of linked advertisements in the course of a contract for political advertising, on the basis of common preparation, sponsorship and funding. ~~It should include the preparation, placement, promotion, publication and dissemination of an advertisement or versions of an advertisement on different media and at different times within the same electoral cycle.~~
- (25) The definition of political advertising should not affect national definitions of political party, political aims, or campaigns *nor alter or interfere with campaign rules* periods, at national level.
- (25a) *The definition of political actor does not interfere with national rules on who can conduct a political campaign and should not oblige Member States to define such rules.*
- (26) In order to cover the broad range of relevant service providers connected to political advertising services, providers of political advertising services should be understood as comprising providers involved in the preparation, placement, promotion, publication ~~or and~~ dissemination of political ~~advertisement~~ advertising. *Providers that provide purely ancillary services in relation to political advertising services should not be understood as providers of political advertising services in the meaning of this Regulation. Ancillary services are services that typically depend on and complement a political advertising service but have no direct influence on the content or presentation of political advertisement, nor direct control over its preparation, placement, promotion, publication or dissemination. Such services include, for instance, postal services, printing services, graphic, sound or photographic design, “mere conduit”, “caching” and “cloud computing” services, within the meaning of Regulation (EU) 2022/xxx [the DSA].*

- (26a) *Political advertising publishers should be understood as providers of political advertising services, normally at the end of the chain of service providers, publishing and disseminating political advertising by broadcasting, making available through an interface or otherwise bringing it to the public domain.*
- (26b) *A sponsor should be understood as the person or entity on whose behalf political advertisement is prepared, placed, promoted, published or disseminated, for instance an individual candidate in an election, a registered third party or a political party, and who is normally the person or entity providing remuneration in exchange for political advertising services.*
- (27) The notion of political advertising services should not include messages that are shared by individuals in their purely personal capacity. **However**, individuals should not be considered as acting in their personal capacity if they are publishing messages the dissemination or publication of which is paid for by **a third party** ~~another~~.
- (28) Once **the sponsor declares advertising** ~~an advertisement is indicated~~ as being connected to political advertising, this should be clearly indicated to other service providers involved in the political advertising services. **The sponsor should make this declaration truthfully**. In addition, once an **advertising advertisement** has been identified as political advertisement, its further dissemination should still comply with transparency requirements. For instance, when **political advertisement, as defined in this regulation**, ~~sponsored content~~ is shared organically, the advertising should still be labelled as political advertising. **In the framework of a contract, failure to act in good faith should engage contractual responsibility.**

- (28a) In view of the importance of guaranteeing in particular the effectiveness of the transparency requirements, sponsors and providers of political advertising services acting on behalf of sponsors should transmit in good faith relevant information in a complete and accurate manner, and without undue delay, to enable the other providers of political advertising services in the chain to comply with this Regulation. When the political advertising publisher is the only provider of political advertising services, the sponsor should communicate such information to the political advertising publisher. In case of a declaration or information that is manifestly erroneous, providers of advertising services should request the sponsors and the providers of advertising services acting on behalf of sponsors to correct their declaration.***
- (28b) A declaration or information should be considered manifestly erroneous if it is apparent from the content of the advertisement, the identity of the sponsor, or the context in which the relevant service is provided, without further verifications or fact-finding exercises.***
- (29) The rules on transparency laid down in this Regulation should only apply to political advertising services, i.e. political advertising that is normally provided against remuneration, which may include a benefit in kind. The transparency requirements should not apply to content uploaded by a user of an online intermediary service, such as an online platform, and disseminated by the online intermediary service without consideration for the placement, publication or dissemination for the specific message, unless the user has been remunerated by a third party for the political advertisement.
- (30) The transparency requirements should also not apply to the sharing of information through electronic communication services such as electronic message services or telephone calls, as long as no political advertising service is involved.

- (31) Freedom of expression **and information** as protected by Article 11 of the Charter of Fundamental Rights covers an individual's right to hold political opinions, receive and impart political information and share political ideas. Every limitation to **this freedom** ~~it~~ has to comply with Article 52 of the Charter of Fundamental Rights. ~~This and that~~ freedom can be subject to modulations and restrictions where they are justified by the pursuit of a legitimate public interest and comply with the general principles of EU law, such as proportionality and legal certainty. That is inter alia the case where the political ideas are communicated through advertising service providers.
- (31a) This Regulation should not have the effect of requiring Member States to take measures in contravention of fundamental principles relating to freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.*
- (32) As regards online intermediaries, Regulation (EU) 20224/XX [Digital Services Act] applies to political advertisements published or disseminated by online intermediaries through horizontal rules applicable to all types of online advertising, including commercial and political advertisements. Based on the definition of political advertising established in this Regulation, it is appropriate to provide additional granularity of the transparency requirements laid out for advertising publishers falling under the scope of Regulation (EU) 20224/XX [Digital Services Act], notably very large **online** platforms. This concerns in particular information related to the funding of political advertisements. The requirements of this Regulation leave unaffected the provisions of the Digital Services Act, including as regards risk assessment and mitigation obligations for very large online platforms as regards their advertising systems.

- (33) The preparation, placement, promotion, publication and dissemination of political ~~advertisements~~ advertising can involve a complex chain of service providers. This is the case in particular where the selection of advertising content, the selection of targeting **and amplification** criteria, the provision of data used for the targeting **and amplification** of an advertisement, the provisions of targeting **and amplification** techniques, the delivery of an advertisement and its dissemination may be controlled by different service providers. For instance, automated services can support matching the profile of the user of an interface with the advertising content provided, using personal data collected directly from the user of the service and from the users' online conduct, as well as inferred data.
- (34) In view of the importance of guaranteeing in particular the effectiveness of the transparency requirements including to ease their oversight, providers of political advertising services should ensure that the relevant information they collect in the provision of their services, including the indication that an advertisement is political, **is complete and accurate and** is provided to the political advertising publisher which brings the political advertisement to the public. In order to support the efficient implementation of this requirement, and the timely and accurate provision of this information, providers of political advertising services should **transmit that information at the same time with the provision of the relevant service and** consider and support automating the transmission of information among providers of political advertising services. **Where a provider of political advertising services becomes aware that information which it has transmitted has been updated, it should ensure that this updated information is communicated to the relevant political advertising publisher.**
- (34a) **Providers of political advertising services should be considered as being aware that information should be updated when the sponsor or the service provider acting on its behalf informs the provider of political advertising services of a relevant change. Political advertising publisher may also become aware of such need to update through the notification mechanism provided for in this Regulation.**

- (34b) If providers of political advertising services-become aware of a manifest error, inaccuracy or incompleteness in the information communicated, providers of political advertising services should make reasonable efforts to ensure that such manifest error, inaccuracy or incompleteness are corrected, in particular through confirmation of information provided by the provider of political advertising services, or where relevant the sponsor itself. This should not amount to a general obligation for the provider of political advertising services to monitor the truthfulness of declarations concerning the political nature of advertisements or to engage in excessive or costly fact-finding exercises. Reasonable efforts may also be reflected in the contractual arrangements among providers of political advertising services and with the sponsor, where relevant. Contractual arrangements among service providers and sponsors should enable the transmission of information between publisher and the sponsor, for instance in case of missing information or the discontinuation of political advertising.***
- (34c) Reasonable efforts should include diligent and objective measures such as contacting the sponsor or the provider of political advertising services concerned, to complete or correct the information. Account should be taken of the nature and importance of the erroneous or missing information in relation to the requirements laid down by this Regulation.***
- (35) Where an artificial commercial or contractual construction risks circumventing the effectiveness of the transparency obligations laid down in ~~this the~~ Regulation, those obligations should apply to the entity or entities that in substance provide the advertising service.
- ~~(36) Steps could also include providing an efficient mechanism for individuals to indicate that a political advertisement is political, and taking effective action in response to such indications.~~

- (37) While providing for specific requirements, none of the obligations laid down in this Regulation should be understood as imposing a general monitoring obligation on intermediary service providers for political content shared by natural or legal persons, nor should they be understood as imposing a general obligation on intermediary service providers to take proactive measures in relation to illegal content or activities which those providers transmit or store.
- (38) Transparency of political advertising should enable citizens to understand that they are confronted with a political advertisement. Political advertising publishers should ensure the publication ***together with*** ~~in connection to~~ each political advertisement of a clear statement to the effect that it is a political advertisement and of the identity of its sponsor. Where appropriate, the name of the sponsor could include a political logo. ***Each political advertisement, where applicable, should be made available together with a statement to the effect that the political advertisement has been targeted or amplified.*** Political advertising publishers should make use of labelling which is effective, taking into account developments in relevant scientific research and best practice on the provision of transparency through the labelling of advertising. ***The presentation of the statement and the name of the sponsor may vary depending on the means used. For radio broadcasting services, use could be made for instance of an upstream or downstream statement.*** ***Political advertising publishers*** They should also ensure the publication ***together with*** ~~in connection to~~ each political advertisement of information to enable the wider context of the political advertisement and its aims to be understood, which can either be included in the advertisement itself, or be provided by the publisher on its website, accessible through a link, ***a Quick Response codes (or "QR code")***, or equivalent clear and user-friendly direction included in the advertisement.

(39) This information should be provided in a transparency notice which should also include the identity of the sponsor and, *where applicable, of the entity ultimately controlling the sponsor*, in order to support accountability in the political process. The place of establishment of the sponsor and whether the sponsor is a natural or legal person should be clearly indicated. Personal data concerning individuals involved in political advertising, unrelated to the sponsor or other involved political actor should not be provided in the transparency notice. The transparency notice should also contain information on the dissemination period, any linked election, the amount spent for and the value of other benefits received in part or full exchange for the specific advertisement as well for the entire advertising campaign, the source of the funds used and other information to ensure the fairness of the dissemination of the political advertisement. Information on the source of the funds used concerns for instance its public or private origin, *and* the fact that it originates from inside or outside the European Union. Information concerning linked elections or referendums should include, when possible, a link to information from official sources regarding the organisation and modalities for participation or for promoting participation in those elections or referendums. *The transparency notice should be available immediately when the advertising is published or disseminated, and the information it presents should be kept up to date, as relevant.* The transparency notice should further include information on how to flag political advertisements in accordance with the procedure established in this Regulation. This requirement should be without prejudice to provisions on notification according to Article 14, 15 and 19 of Regulation (EU) 2024/XXX [Digital Services Act]. *Providers of political advertising services should make reasonable efforts to ensure that the information is complete and accurate.*



- (40) The information to be included in the transparency notice should be provided in the advertisement itself or be easily retrievable on the basis of an indication provided in the advertisement. *The presentation of the information may vary depending on the means used. In order to easily retrieve the information in the transparency notice in offline advertisement, use could be made for instance of a dedicated webpage link, a Quick Response code (or “QR code”), or equivalent user-friendly technical measures.* The requirement that the information about the transparency notice is to be inter alia clearly visible should entail that it features prominently in or with the advertisement. The requirement that information published in the transparency notice is to be easily accessible, machine readable where technically possible, and user friendly should entail that it addresses the needs of people with disabilities. Annex I of Directive 2019/882 (European Accessibility Act) contains accessibility requirements for information, including digital information that should be used to render political information accessible for persons with disabilities.
- (41) Transparency notices should be designed to raise user awareness and help the clear identification of the political advertisement as such. They should be designed to remain in place, *where technically possible*, or remain accessible in the event a political advertisement is further disseminated for instance posted on another platform or forwarded between individuals. The information included in the transparency notice should be published when the publication of the political advertisements starts *and until the end of its publication* ~~and be retained for a period a period of one year after the last publication.~~ *Political advertising publishers should retain and make available upon request their transparency notices together with any modification for a period of five years after the last publication.* The retained information should also include information about political advertising which was terminated or which was taken down by the publisher. *Providers of political advertising services which are not very large online platforms within the meaning of Regulation (EU) 2022/XXX [Digital Services Act] should be able to decide the format to retain this information.*

- (42) Since political advertising publishers make political advertisements available to the public, they should publish or disseminate that information to the public together with the publication or dissemination of the political advertisement. *Where political advertising publisher becomes aware by any means that a political advertisement does not fulfil the transparency requirements under this Regulation, for instance following an individual notification, it should make reasonable efforts to fulfil the requirements under this Regulation. When the information cannot be completed or corrected without undue delay, political advertising publishers should not make available or should discontinue the publication or dissemination to the public of the political advertisements not fulfilling the transparency requirements under this Regulation. In such situation, political advertising publishers should inform the providers of political advertising services concerned and, where relevant the sponsor, of the reasonable steps taken to fulfil the requirements under this Regulation. The publisher should inform the sponsor or the service provider acting on behalf of the sponsor if the political advertisement it sponsors is not made available or is discontinued.*
- (42a) *When the sponsor or the provider of political advertising services becomes aware that the information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it should contact, without undue delay, the political advertising publisher concerned and, as relevant, should transmit completed or corrected information to the political advertising publisher.*
- (42b) *Contractual arrangements may include a clause allowing to charge a reasonable fee for the measures taken to correct or complete the information.*
- (42c) *When complying with their obligations under this Regulation, providers of political advertising services should act in an impartial manner and with due regard to fundamental rights, and other rights and legitimate interests. Providers of political advertising services should in particular pay due regard to freedom of expression and access to information, including media freedom and pluralism.*

- (42d) In addition, political advertising publishers which are very large online platforms within the meaning of Regulation (EU) 2024/XXX [Digital Services Act] should ***ensure that for each political advertisement, make the information contained in the transparency notice is made available immediately in-through*** the repositories of advertisements published pursuant to Article 39 30-Regulation [Digital Services Act]. ***Such information should be kept updated and provided according to an agreed industry standard for accessibility, data structure and access by means of a common publically available application programming interface. It is appropriate to provide additional granularity of the transparency requirements laid out for the repositories referred to Article 39 Regulation (EU) 2021/XX [Digital Services Act. This mainly concerns information about removed political advertisement and the reason for its withdrawal, in particular information about cases in which political advertisements have been wrongly labelled or illegally targeted. In addition, very large online platforms may publish other information regarding the influence of the advertisement including clickthrough rate information. Other provider of the political advertising service should be encouraged to establish similar repositories of political advertisements.*** This will facilitate the work of interested actors including researchers in their specific role to support free and fair elections or referendums and fair electoral campaigns including by scrutinising the sponsors of political advertisement and analysing the political advertisement landscape.
- (43) Where the provider of the political advertising service which hosts or otherwise stores and provides the content of a political advertisement is separate from the provider of the political advertising service which controls the website or other interface which eventually ***presents displays*** the political advertisement, these should be considered together as advertising publishers, with respective responsibility in respect of the specific service they provide, to ensure that labelling is provided and that the transparency notice and relevant information is available. Their contractual arrangements should ***enable-reflect the way they organise*** compliance with this Regulation.

- (44) Information about the amounts spent on and the value of other benefits received in part or full exchange for political advertising services can usefully contribute to the political debate. It is necessary to ensure that an appropriate overview of political advertising activity can be obtained from the annual reports prepared by relevant **providers of political advertising services** publishers. To support oversight and accountability, such reporting should include information about expenditure on the targeting **or amplification** of political advertising in the relevant period, aggregated to campaign or candidate. To avoid disproportionate burdens, those transparency reporting obligations should not apply to enterprises qualifying under Article 3, **paragraphs 1 to (3)** of Directive 2013/34/EU.
- (45) Political advertising publishers providing political advertising services should put in place mechanisms to enable **natural or legal persons** individuals to report to them that a particular political advertisement which they have published does not comply with this Regulation. The mechanisms to report such advertisement should be easy to access and use, and should be adapted to the form of advertising distributed by the advertising publisher. As far as possible, these mechanisms should be accessible from the advertisement itself, for instance on the advertising publisher's website. **Where necessary, political advertising publishers should put in place technical measures for ensuring minimum information technology security standards including measures to protect from automated notification.** Political advertising publishers should be able to rely on existing mechanisms where appropriate. **For instance, w**Where political advertising publishers are online hosting services providers within the meaning of the Digital Services Act, with regards to the political advertisements hosted at the request of the recipients of their services, **political advertising publishers may rely on the notice mechanism drawn by them pursuant to Article 14 of the Digital Services Act for notifications concerning non-compliance of advertisements with this Regulation.** ~~the provisions of Article 14 of the Digital Services Act continue to apply for notifications concerning non-compliance of such advertisements with this Regulation.~~

- (45a) Political advertising publishers may set out specific forms for the notification mechanisms under this Regulation, requiring the completion of data fields such as information enabling the identification of the alleged non-compliant advertisement, an explanation of the reasons justifying the notification, the name and an electronic mail address of the natural or legal person submitting the notification, and a statement confirming the good faith belief that information contained therein is accurate.*
- (45b) The political advertising publishers should make reasonable efforts to address in a diligent and objective manner and without undue delay the notifications received pursuant to this Regulation. Where a notification contains sufficient information to enable a diligent political advertising publisher to identify, without a detailed examination, that an information is missing or inaccurate, the political advertising publisher should be considered as being aware of the inaccuracy or incompleteness and should act without undue delay by contacting the relevant service providers and, as relevant, the sponsor. At least upon request, the political advertising publisher should inform the persons which made the notification of the follow up given to it.*
- (45c) In order to ensure the effectiveness of the transparency requirements during an election or a referendum, political advertising publishers which are very large online platforms within the meaning of Regulation (EU) 2022/XXX [Digital Services Act] should address, within the last month preceding the election or the referendum, any notification that they receive about advertisement linked to this ~~vote~~ election or referendum within 48 hours, by contacting the providers of political advertising services concerned and, as relevant, the sponsor.*
- (45d) Any action taken by a political advertising publisher should be strictly targeted, in the sense that it should first and foremost serve to correct, complete the required information and only as a last resort, remove the specific items of information not complying with this Regulation, with due regard for freedom of expression and information, and other fundamental rights.*

(46) In order to allow specific entities to play their role in democracies, it is appropriate to lay down rules on the transmission of information published with the political advertisement or contained in the transparency notice to interested actors such as vetted researchers, journalists, civil society organisations and **recognised**~~accredited~~ election observers, in order to support the performance of their respective roles in the democratic process. Providers of political advertising services should not be required to respond to requests which are manifestly unfounded, **unclear** or excessive. Further, the relevant service provider should be allowed to charge a reasonable fee in case of ~~repetitive and~~ costly requests, taking into account the administrative costs of providing the information.

(47) Personal data collected directly from individuals, or indirectly such as inferred data, when grouping individuals according to their assumed interests or derived through their online activity, behavioural profiling and other analysis techniques, is increasingly used to target political messages to groups or individual voters or individuals, and to amplify their impact. On the basis of the processing of personal data, in particular *special categories of personal data* ~~considered sensitive~~ under Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>9</sup> and Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>10</sup>, different groups of voters or individuals can be segmented and their characteristics or vulnerabilities exploited for instance by disseminating the advertisements at specific moments and in specific places designed to take advantage of the instances where they would be sensitive to a certain kind of information/message. That has specific and detrimental effects on citizens' fundamental rights and freedoms with regard to the processing of their personal data and their freedom to receive objective information, to form their opinion, to make political decisions and exercise their voting rights. This negatively impacts the democratic process. Additional restrictions and conditions compared to Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 should be provided. The conditions set out in this Regulation on the use of targeting and amplification techniques involving the processing of personal data in the context of political advertising should be based on Article 16 TFEU.

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<sup>9</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>10</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

(48) Targeting and amplification techniques in the context of political advertising involving the processing *special categories* of data referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 should therefore be prohibited. The use of such techniques should only be allowed when carried out by the controllers, or someone acting on *their*~~its~~ behalf, on the basis of the explicit consent of the data subject or in the course of their legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical or religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects. This should be accompanied by *additional* specific safeguards. Consent should be understood as consent within the meaning of Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. ~~It Therefore, it~~ should not be possible to rely on the exceptions as laid down in Article 9(2), points(b), (c), (e), (f), (g), (h), (i) and (j) of Regulation (EU) 2016/679 and Article 10(2), points(b), (c), (e), (f), (g), (h), (i) and (j) of Regulation (EU) 2018/1725 respectively for using techniques targeting and amplification techniques to publish, promote or disseminate political advertising involving the processing of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and 10(1) of Regulation (EU) 2018/1725 *The application of other provisions of Regulations (EU) 2016/679 and (EU) 2018/1725 including those related to giving and withdrawal of consent, automated individual decision-making including profiling and the right to object, remain unaffected by this Regulation. For the purposes of implementing the requirements of this Regulation, explicit consent within the meaning of Regulations (EU) 2016/679 and (EU) 2018/1725 should be provided separately and specifically for the purpose of the political advertising. In accordance with the Union law, controllers should ensure that individual decision making is not affected by dark patterns which distort or impair autonomous and informed decision making, including pre-ticked boxes and other biased and untransparent techniques which drive or prompt individuals to particular decisions which they might otherwise not have made. In particular, the mechanism for obtaining decisions from individuals should be clear and easy to use, and the relative prominence of the alternatives should not seek to influence the individual's decision. Information provided to individuals in this regard should be succinct and drafted in plain and intelligible language and made easily, prominently and directly available.*



- (48a) Internal communication from a political party to its members should not be regarded as using targeting techniques in the context of political advertising as long as such communication is limited to its members and is based on personal data provided by those members expressly for that purpose.*
- (48b) A particularly vulnerable group which can be exploited through the misuse of targeting and amplification techniques are very young people. While not yet entitled to vote, such individuals can be targeted specifically in order to manipulate the debate. Targeting or amplification techniques that involve the processing of personal data of a subject that is known with reasonable certainty to be at least one year under the voting age established by national rules, in the context of political advertising, should therefore be prohibited.*

- (49) In order to ensure enhanced transparency and accountability, ***and regardless of whether the political advertising involves a service or not, additional safeguards should be implemented*** when making use of targeting and amplification techniques in the context of political advertising involving the processing of personal data ***which is not prohibited by the Regulation. Such additional transparency and accountability requirements should apply on the one hand to processing involving special categories of data when the data subject has given explicit consent or when the processing is carried out in the course of its legitimate activities, as referred in Article 9(2)(a) and (d) of Regulation (EU) 2016/679 and Article 10(2)(a) and (d) of Regulation (EU) 2018/1725, and, on the other hand, to processing of personal data in the context of political advertising, which does not involve special categories of data. Those additional requirements should complement existing safeguards including those concerning automated decision-making in accordance with Article 24 of Regulation (EU) 2016/679 and Article 26 of Regulation (EU) 2018/1725.*** ~~controllers should implement additional safeguards.~~ ***The controllers*** They should adopt, and implement ***and make publicly available*** a policy describing ~~the use of~~ ***how*** such techniques ***are used*** ~~to target individuals or amplify their content~~ and keep record of their relevant activities. When publishing, promoting or disseminating a political advertisement making use of targeting and amplification techniques, controllers should provide, together with the political advertisement, meaningful information to allow the concerned individual to understand the logic involved and main parameters of the targeting used, and the use of third-party data and additional analytical techniques, including whether the targeting of the advertisement was further optimised during delivery.
- (50) Political advertising publishers making use of targeting or amplification techniques should include in their transparency notice information necessary to allow the concerned individual to understand the logic involved and main parameters of the technique used, and the use of third-party data and additional analytical techniques used. ~~and a link to the relevant policy of the controller.~~

- (50a) *The transparency and accountability requirements should apply to all controllers irrespective of whether the controller acts in their own capacity, jointly with the provider of political advertising services or is the same entity as political advertising publisher.* In case the controller is different from the advertising publisher, the controller should transmit to *the* political advertising publisher the internal policy *and ensure that other information necessary to comply with this Regulation is communicated to the political advertising publisher in a timely and accurate manner* ~~or a reference to it.~~
- (50b) Providers of advertising services should, ~~as necessary,~~ transmit to the political advertising publishers the information necessary to comply with their obligations under this Regulation. The *transmission* ~~provision~~ of such information could be automated and integrated in the ordinary business processes on the basis of standards.
- (51) In order to further empower individuals to exercise their data protection rights, political advertising publishers should provide additional information and effective tools to the concerned data subject to support the exercise of their rights under the EU data protection legal framework including to object or withdraw their consent when targeted with a political advertisement. This information should also be easily accessible directly from the transparency notice. The tools made available to the individuals to support the exercise of their rights should be effective to prevent an individual from being targeted with political advertisements, as well as to prevent targeting on the basis of specific criteria and by one or several specific controllers.
- (52) The Commission should encourage the drawing up of codes of conduct as referred to in Article 40 of Regulation (EU) 2016/679 to support the exercise of data subjects' rights in this context.
- (53) Information to be provided in accordance with all requirements applicable to the use of targeting and amplification techniques under this Regulation should be presented in a format which is easily accessible, clearly visible and user-friendly, including through the use of plain language.

- (54) It is appropriate to lay down rules on the transmission of information on targeting to other interested entities. The applicable regime should be consistent with the regime for the transmission of information linked to the transparency requirements.
- (55) Providers of political advertising services established in a third country that offer services in the Union should designate a mandated legal representative in the Union to allow for effective oversight of this Regulation in relation to those providers. The legal representative could be the one designated on the basis of Article 27 of Regulation (EU) 2016/679) or the representative designated on the basis of Article 11 of Regulation (EU) 20224/xxx [the DSA].
- (55a) The designated legal representative should register with one competent authority designated for those purposes. In the interests of providing easily retrievable information about the designated legal representatives of political advertising services providers established outside the territory of the Union, the relevant competent authority should publish online and regularly update the information on legal representatives on their territory. The Commission should establish a portal linking to the websites provided by the Member States.***
- (56) In the interest of the effective supervision of this Regulation, it is necessary to entrust oversight authorities with the competence to monitor and enforce the relevant rules. Depending on the legal system of each Member State and in line with existing Union law including Regulation (EU) 2016/679 and Regulation (EU) 20224/xxx [Digital Services Act], different national judicial or administrative authorities may be designated to that effect.

- (57) As regards the supervision of online intermediary services under this Regulation, Member States should designate competent authorities and ensure that such supervision is coherent with the competent authorities designated pursuant to Article 38 of Regulation (EU) [Digital Services Act]. Digital Services Coordinators, pursuant to Regulation (EU) Digital Services Act, in each Member State should in any event be responsible for ensuring coordination at national level in respect to those matters and engage, where necessary, cross-border cooperation with other Digital Services Coordinators following the mechanisms laid down in Regulation (EU) [Digital Services Act]. In the framework of application of this Regulation, this mechanism should be limited to the national cooperation across Digital Services Coordinators [and should not include the escalation to the Union level as provided by the Regulation (EU) [Digital Services Act].
- (58) For the oversight of those aspects of this Regulation that do not fall within the competence of the supervisory authorities under Regulation (EU) 2016/679 *and* Regulation (EU) 2018/1725, Member States should designate *relevant* competent authorities. To support the upholding of fundamental rights and freedoms, the rule of law, democratic principles and public confidence in the oversight of political advertising it is necessary that such authorities are *impartial*, structurally independent from external intervention or political pressure and are appropriately empowered to effectively monitor and take the measures necessary to ensure compliance with this Regulation, in particular the obligations laid down in Article 7. *While* Member States may designate, in particular, the national regulatory authorities or bodies under Article 30 of Directive 2010/13/EU of the European Parliament and of the Council<sup>11</sup>, *they could also designate other authorities, such as election or judicial authorities.*

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<sup>11</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive (OJ L 95, 15.4.2010, p. 1).

- (59) Where rules already exist under Union law regarding the provision of information to competent authorities and cooperation with and between those authorities such as Article 9 of Regulation (EU) 2021/xxx [Digital Services Act], or those contained in Regulation (EU) 2016/679, those rules should apply mutatis mutandis to the relevant provisions of this Regulation.
- (59a) To support the effective application, supervision and enforcement of the provisions of this Regulation, and without prejudice to Regulation (EU) 2016/679, Regulation (EU) 2018/1725 and the Digital Services Act, it is necessary to establish which competent authority should be responsible where services are provided in more than one Member State, or where the service provider conducts its main activities outside the Member State where its main establishment or designated representative is located. Where a service provider is providing political advertising services in more than one Member State, the competent authority or authorities of the Member State where the main establishment of the political advertising services provider is located should normally be responsible for the effective application, supervision and enforcement of the provisions of this Regulation. In determining where a service provider has its main establishment, the competent authorities should have regard to where the provider has its head office or registered office within which the principal financial functions and operational control are exercised.***
- (59b) In carrying out their investigatory and enforcement powers, the competent authorities of all Member States should cooperate with and assist each other as necessary. If the suspected infringement of this Regulation only involves the competent authority or authorities where the provider of political advertising services does not have its main establishment, the relevant competent authority or authorities should notify the competent authority of the main establishment, which should accordingly assess the matter and, as applicable, take the necessary enforcement measures.***
- (59c) To further facilitate effective application and enforcement of this Regulation in case of the provision of cross-border services, where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main establishment, the competent authority of the main establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned.***

(60) Authorities competent for the oversight of this Regulation should cooperate with each other both at national and at EU level making best use of existing structures including national cooperation networks, the European Cooperation Network on Elections as referred to in Recommendation C(2018) 5949 final, and the European Regulators Group for Audiovisual Media Services established under Directive 2010/13/EU. Such cooperation should facilitate the swift, secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks pursuant to this Regulation, including by jointly identifying infringements, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.

***(60a) For the purposes of ensuring effective and structured cooperation among all competent authorities, experts designated by Member States should meet periodically at Union level, in particular in the framework of the European Cooperation Network on Elections working in close cooperation with the European Regulators Group for Audiovisual Media Services, and other relevant networks. In order to strengthen the cooperation and exchange of information and practices at the Union level, the European Cooperation Network on Elections should cooperate closely with the European Regulators Group for Audiovisual Media Services, particularly with respect to the reporting on the discussions held regarding this Regulation.***

- (61) With a view to facilitating the effective application of the obligations set out in the regulation, it is necessary to empower national authorities to request from the *providers of political advertising* services ~~providers~~ the relevant information on the transparency of political advertisement. Information to be transmitted to competent authorities could concern an advertising campaign, be aggregated by years or concern specific advertisements. In order to ensure that the requests for such information can be complied with in an effective and efficient manner, and at the same time that the providers of political advertising services are not subject to any disproportionate burdens, it is necessary to set certain conditions that those requests should meet. In the interest of the timely oversight of an election process in particular, providers of political advertising services should quickly respond to requests from competent authorities, and always within ~~ten~~ 10 working days upon receipt of the measure. *During the last month of the electoral campaign, infringement of these obligations should be considered to negatively and severely affect citizen's right and therefore providers of political advertising services should provide the requested information within 48 hours. Providers of political advertising services qualifying under Article 3 paragraphs 1 to 3 of Directive 2013/34/EU should make reasonable efforts to provide the requested information without undue delay and where possible before the date of the election or referendum.* In the interest of legal certainty and in compliance with the rights of defence, requests to provide information from a competent authority should contain an adequate statement of reasons and information about available redress. Providers of political advertising services should designate contact points for the interaction with the competent authorities. Such contact points could be electronic.
- (62) Member States should designate a contact point at Union level for the purpose of this Regulation. The contact point should, if possible, be a member of the European Cooperation Network on Elections. The contact point should facilitate cooperation among competent authorities between Member States in their supervision and enforcement tasks, in particular by intermediating with the contact points in other Member States and with the competent authorities in ~~its~~ their own *Member State*.



(63) Member States authorities should ensure that infringements of the obligations laid down in this Regulation are sanctioned by ~~administrative~~ fines or financial penalties **and, as appropriate, other remedies**. When doing so, they should take into account the nature, gravity, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, as well as, **where applicable**, the economic capacity of the infringer. In that context, the crucial role played by the obligations laid down in Articles 5 and 7 for the effective pursuit of the objectives of the present Regulation should be taken into account. Furthermore, they should take into account whether the ~~service~~ provider **of political advertising services or sponsor** concerned systematically or recurrently fails to comply with its obligations stemming from this Regulation, including by delaying the provision of information to interested entities, as well as, where relevant, whether the provider of political advertising services is active in several Member States. Financial penalties, ~~and administrative~~ fines **and other remedies should** ~~shall~~ in each individual case be effective, proportionate and dissuasive, with due regard to the provision of sufficient and accessible procedural safeguards, and in particular the need to ensure that the political debate remains open and accessible.

*(63a) In line with the general principles of liability, a provider of political advertising services may not be sanctioned where it acted on the basis of inaccurate or false information received from the sponsor, which was not manifestly erroneous, provided that it did not become aware of the error at a later stage.*

*(63b) In order to support the application and monitoring of this Regulation, competent authorities should address notifications they receive from any natural or legal person concerning a possible infringement of this Regulation and, at least upon request, inform the person who made the notification of the follow-up given to it. During the last month preceding an election or a referendum, any notification received in relation to political advertising linked to that election or referendum should be addressed without undue delay.*

- (64) The exercise by the competent authorities of their powers under this Regulation should be subject to appropriate procedural safeguards in accordance with Union and national law, including effective judicial remedy and due process.
- (65) *To support compliance with this Regulation, service providers and other interested entities should be provided with timely and easily accessible information about the dates of national elections and referendums.* Member States should *therefore* publish the *dates of their elections and referendums. This information should be easily accessible and timely. They should also provide this information to the public through a portal made available by the Commission, immediately after their announcement*~~exact duration of their electoral periods, established according to their electoral traditions, sufficiently in advance of the beginning of the electoral calendar.~~
- (65a) *To support the effective implementation of this Regulation, the Commission is encouraged to draw-up guidelines, as necessary, on the identification of political advertising and on the application of sanctions.*
- (66) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of Article 7~~(87)~~ to further specify the form in which the requirements for the provision of information in the transparency notices according to that Article should be provided; and in respect of Article 12a~~(68)~~ to further specify the form in which the requirements of the provision of information about targeting should be provided. It is of particular importance that the Commission carries out appropriate consultations *with the*~~including~~ of experts designated by each Member State, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (67) Within two years after each election to the European Parliament, the Commission should submit a public report on the evaluation and review of this Regulation. In preparing that report the Commission should also take into account the implementation of this Regulation in the context of other elections and referendums taking place in the Union ***and the impact of this Regulation on small and medium-sized media actors. The report should evaluate in particular the effectiveness of the Regulation as regards specific means of political advertising, further restricting the processing of personal data for the purposes of the targeting and amplification techniques regulated under this Regulation, the type and amount of sanctions imposed by the Member States, and the requirement to establishing ad public repositories for all online political advertising.*** The report should review inter alia the continued suitability of the provisions of this Regulation's annexes and consider the need for their revision.
- (68) Complementary obligations on the use of political advertising by European political parties are provided in Regulation (EU) 1141/2014 on the statute and funding of European political parties and foundations.
- (69) Since the objectives of this Regulation, namely the contribution to the proper functioning of the internal market for political advertising and related services and the establishment of rules on the use of targeting in the context of the publication and dissemination of political advertising, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt this Regulation, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (70) This Regulation is without prejudice to the rules laid down in particular by Directive 2000/31/EC, including the liability rules for intermediary service providers in Articles 12 to 15 of that Directive as modified by Regulation (EU) 2021/xxx [the Digital Services Act], Regulation (EU) 2021/xxx [the Digital Markets Act], Directive 2002/58/EC and Regulation (EU) XXX [ePrivacy Regulation], as well as Directive (EU) 2010/13, Directive 2000/31/EC, Directive 2002/58/EC, Directive 2005/29/EC, Directive 2011/83/EU, Directive 2006/114/EC, Directive 2006/123/EC and Regulation (EU) 2019/1150.

(71) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on XX XX 2022.

HAVE ADOPTED THIS REGULATION:

## CHAPTER I – GENERAL PROVISIONS

### *Article 1*

#### **Subject matter and *objectives-scope***

1. This Regulation lays down:
  - (a) harmonised transparency obligations for providers of political advertising and related services to retain, disclose and publish information connected to the provision of such services;
  - (b) 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 *processing* use of personal data, ***and regardless whether the political advertising involves a service.***
- ~~2. This Regulation shall apply to political advertising prepared, placed, promoted, published or disseminated in the Union, or directed to individuals in one or several Member States, irrespective of the place of establishment of the advertising services provider, and irrespective of the means used.~~
3. The aims of this Regulation are:
  - (a) to contribute to the proper functioning of the internal market for political advertising and related services;
  - (b) to protect natural persons with regard to the processing of personal data.

~~1. This Regulation is without prejudice to the rules laid down in the following:~~

- ~~(a) Directive 2000/31/EC;~~
- ~~(b) Directive 2002/58/EC and Regulation (EU) XXX [ePrivacy Regulation];~~
- ~~(c) Directive 2005/29/EC;~~
- ~~(d) Directive 2006/114/EC;~~
- ~~(e) Directive 2006/123/EC;~~
- ~~(f) Directive (EU) 2010/13;~~
- ~~(g) Directive 2011/83/EU;~~
- ~~(h) Regulation (EU) 2019/1150;~~
- ~~(i) Regulation (EU) 2021/xxx [the Digital Services Act].~~

### *Article 1a*

#### *Scope*

- 1. This Regulation shall apply to political advertising where the political advertisement is disseminated in the Union, or is directed to individuals or brought to the public domain in one or several Member States, irrespective of the place of establishment of the provider of political advertising services, and irrespective of the means used.*
- 2. This Regulation shall neither affect the content of political advertisements nor Union or Member States rules regulating aspects other than those covered by this Regulation.*

34. This Regulation is without prejudice to the rules laid down in the following:

- (a) Directive 2000/31/EC;
- (b) Directive 2002/58/EC and Regulation (EU) XXX [ePrivacy Regulation];
- (c) Directive 2005/29/EC;
- (d) Directive 2006/114/EC;
- (e) Directive 2006/123/EC;
- (f) Directive (EU) 2010/13;
- (g) Directive 2011/83/EU;
- (h) Regulation (EU) 2019/1150;
- (i) [Regulation (EU) 2022/xxx [the Digital Services Act]].

## *Article 2*

### **Definitions**

For the purpose of this Regulation, ~~the following definitions shall apply:~~

1. ‘service’ means any self-employed economic activity normally provided for remuneration as referred to in Article 57 TFEU;
2. ‘political advertising’ means the preparation, placement, promotion, publication or dissemination, by any means, of a message:
  - (a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or

- (b) which is liable ***and designed*** to influence the outcome of an election or referendum, ***a voting behaviour or*** a legislative or regulatory process, ~~or a voting behaviour at~~ ***Union, national, regional or local level.***

***It shall not include:***

- i. ***political opinions expressed in any media under editorial responsibility unless specific remuneration is provided for or in connection with expressing that political opinion.***
- ii. ~~For the purposes of the first paragraph, point (2) messages from official sources of~~ ***Member States or the Union exclusively related to*** ~~regarding~~ the organisation and modalities for participation in elections or referendums, ***including the candidacies and the question put to the referendum, or for*** promoting the participation in elections or referendums, ~~shall not constitute political advertising.~~
- iii. ***public communication by, for or on behalf of any public authority of a Member States, including members of Government, provided they are not designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;***
- iv. ***presentation of candidates in specified public spaces or in the media which is explicitly provided by law and allocated free of charge while ensuring equal treatment.***
3. ‘political advertisement’ means an instance of political advertising ***published or disseminated by any means;***
4. ‘political actor’ means any of the following:
- (a) a political party within the meaning of Article 2(1) Regulation (EU, Euratom) No 1141/2014 or an entity related ~~directly or indirectly to the sphere of activity of such a~~ political party;



- (b) a political alliance within the meaning of Article 2(2) of Regulation (EU, Euratom) No 1141/2014;
- (c) a European political party within the meaning of Article 2(3) Regulation (EU, Euratom) No 1141/2014;
- (d) a candidate **for or holder** of any elected office at ~~Union-European~~, national, regional and local level, or ~~for one of the~~ **any** leadership positions **of** ~~within~~ a political party;
- ~~(e) an elected official within a public institution at European, national, regional or local level;~~
- (f) a ~~unelected~~ member of **Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors, or of a government of Member States at** national, regional or local level;
- ~~(g) a political campaign organisation with or without legal personality, established to achieve a specific outcome in an election or referenda referendum;~~
- (h) any natural or legal person representing or acting on behalf of any of the persons or organisations in points (a) to (g) **and** promoting the political objectives of any of those.

5. ‘political advertising service’ means a service consisting of political advertising with the exception of an online intermediary service within the meaning of Article 2(f) of Regulation (EU) 20224/XXX [Digital Services Act] that is provided without ~~consideration~~ **specific remuneration** for the **preparation**, placement, **promotion**, publication or dissemination for the **political** ~~specific~~ message.

- 5a. *‘provider of political advertising services’ means a natural or legal person providing political advertising services, with the exception of purely ancillary services.*
6. ‘political advertising campaign’ means the preparation, placement, promotion, publication or dissemination of a series of linked *political* advertisements in the course of a contract for political advertising, on the basis of common preparation, sponsorship or funding;
7. ‘sponsor’ means the natural or legal person *at whose request or* on whose behalf a political advertisement is prepared, placed, *promoted*, published or disseminated;
8. ‘targeting ~~or amplification~~ techniques’ means techniques that are used ~~either~~ to address a ~~tailored~~ political advertisement, *usually with tailored content*, only to a specific person or group of persons, *based on the processing of personal data* ~~or to increase the circulation, reach or visibility of a political advertisement;~~
- 8a. *‘amplification techniques’ means optimisation techniques, including ad delivery techniques, that are used to increase the circulation, reach or visibility of a political advertisement based on the processing of personal data and which may serve to deliver the political advertisement only to a specific person or group of persons;*
- ~~9. ‘electoral period’ means the period preceding or during or immediately after an election or referendum in a Member State and during which the campaign activities are subject to specific rules;~~
10. ‘relevant electorate’ means the body of individuals eligible to vote in the election or referendum being contested in the Member State in which a political advertisement *is published or disseminated* ~~circulates~~, which may be the entire electorate of a Member State;

11. ‘political advertising publisher’ means a *provider of political advertising services* ~~natural or legal person~~ that *publishes or disseminates political advertising* ~~broadcasts, makes available through an interface or otherwise brings to the public domain political advertising through any medium;~~
12. ‘controller’ means a controller according to Article 34(87) of Regulation (EU) 2016/679 or, where applicable, to Article 34 (8) of Regulation (EU) 2018/1725.

~~For the purposes of the first paragraph, point (2) messages from official sources regarding the organisation and modalities for participation in elections or referendums or for promoting participation in elections or referendums shall not constitute political advertising.~~

## *Article 2a*

### *Identification of a political advertisement*

1. *For the purpose of determining whether a message constitutes a political advertisement within the meaning of Article 2, point 2(b), account shall be taken of its relevant features, such as:*
  - (a) the content of the message;*
  - (b) the sponsor of the message;*
  - (c) the language used to convey the message, the means by which the message is promoted, published or disseminated, and the targeted audience;*
  - (d) the context in which the message is conveyed, including the period of dissemination such as election or referendum periods and legislative or regulatory process;*
  - (e) the objective of the message.*

2. *A clear and substantial link should exist between the message and its potential to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process.*

*Article 3*

***Internal Market principle*** ~~Level of Harmonisation~~

1. Member States shall not maintain or introduce, on grounds related to transparency *of political advertising*, provisions or measures diverging from those laid down in this Regulation.
2. The provisions of political advertising services shall not be prohibited nor restricted on grounds related to transparency when the requirements of this Regulation are complied with.

## CHAPTER II – TRANSPARENCY OBLIGATIONS FOR POLITICAL ADVERTISING SERVICES

### *Article 4*

#### **Transparency of political advertising services**

1. Political advertising services shall be provided in a transparent manner in accordance with the obligations laid down in *Chapter II* ~~Articles 5 to 11 and 14~~ of this Regulation.
  - 1a. Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service enable compliance with the relevant provisions of this Regulation.*

### *Article 5*

#### **Identification of political advertising services**

1. Providers of advertising services shall request sponsors and providers of advertising services acting on behalf of sponsors to declare whether the advertising service they request the service provider to perform constitutes a political advertising service within the meaning of Article 2(5). Sponsors and providers of advertising services acting on behalf of sponsors shall make such a declaration *truthfully*.
2. Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service *require the sponsor or providers of advertising services acting on behalf of sponsors to provide the relevant information necessary to comply with Article 6 paragraph 1. That information shall be transmitted in a complete and accurate manner and without undue delay* ~~specify how the relevant provisions of this Regulation are complied with.~~
  - 2a. Where a provider of advertising services becomes aware or has actual knowledge that a declaration or information is manifestly erroneous, shall request the sponsors or the providers of advertising services acting on behalf of a sponsors to correct its declaration or information provided. Sponsors or providers of advertising services acting on behalf*

*of sponsors shall make such corrections in a complete and accurate manner and without undue delay.*

## Article 6

### **Record-keeping and information transmission**

1. Providers of political advertising services shall retain information they collect in the provision of their services, on the following:
  - (a) the political advertisement or political advertising campaign to which the service or services are connected;
  - (b) the specific service or services **that they** provided in connection to the political advertising;
  - (c) the amounts they invoiced for the service or services provided, and the value of other benefits received in part or full exchange for the service or services provided **and their sources**; ~~and~~
  - (d) ~~where applicable,~~ the identity of the sponsor **of the political advertisement and, where applicable, the entity ultimately controlling the sponsor**, ~~and its~~ **their** contact details **and, for legal persons, their place of establishment; and**
  - (da) where applicable, an indication of the relevant elections or referenda with which the political advertisement is linked.**
2. The information referred to in paragraph 1 shall be in **written or writing** ~~and may be~~ in electronic form. Such information shall be retained for a period of five years from the date of the last preparation, placement, **promotion**, publication or dissemination, as the case may be.
- 2a. **This Article shall not apply to undertakings qualifying under Article 3, paragraph 1 of Directive 2013/34/EU if the provision of advertising services is purely marginal and ancillary to their main activities.**
3. ~~Providers of political advertising services shall ensure that the information referred to in paragraph 1 is communicated to the political advertising publisher which will disseminate~~

~~the political advertisement to enable political advertising publishers to comply with their obligations under this Regulation. That information shall be transmitted, in a timely and accurate manner in accordance with best practice and industry standards, by means of a standardised automated process where technically possible.~~

## *Article 6a*

### *Transmission of information to the political advertising publisher*

- 1. Providers of political advertising services shall ensure that the information referred to in Article 6 paragraph 1 is communicated in a timely, complete and accurate manner to political advertising publishers which will publish or disseminate the political advertisement to enable political advertising publishers to comply with their obligations under this Regulation. Providers of political advertising services shall make reasonable efforts to ensure that the information retained pursuant to Article 6 paragraph 1 is complete and accurate.*

*When the political advertising publisher is the only provider of political advertising services, the sponsor shall communicate the relevant information to the publisher.*

- 2. Providers of political advertising services shall transmit that information at the same time with the provision of the relevant service in accordance with best practice and industry standards, by means of a standardised automated process where technically possible.*
- 3. Where a provider of political advertising services becomes aware that information which it has transmitted has been updated, it shall ensure that this updated information is communicated to the relevant political advertising publisher.*

**Transparency requirements for each political advertisement**

1. ~~The political advertising publisher~~ ~~In the context of the provision of political advertising services, each political advertisement shall~~ ***make*** be made available, ***together with each political advertisement,*** with the following information in a clear, salient and unambiguous way:

- (a) a statement to the effect that it is a political advertisement;
- (b) the identity of the sponsor of the political advertisement and, ***where applicable,*** the entity ultimately controlling the sponsor;
- (ba) where applicable, a statement to the effect that the political advertisement has been targeted or amplified;***
- (c) a transparency notice to enable the wider context of the political advertisement and its aims to be understood, or a clear indication of where it can be easily retrieved.

In this regard, political advertising publishers shall use efficient and prominent marking and labelling techniques that allow the political advertisement to be easily identified as such and the marking or labelling to remain in place in the event a political advertisement is further disseminated.

2. ~~The transparency notice shall be included in each political advertisement or be easily retrievable from it, and~~ shall include, ***at least,*** the following information:

- (a) the identity of the sponsor ***and, where applicable, of the entity ultimately controlling the sponsor*** ~~and contact details;~~
- ~~(b) the period during which the political advertisement is intended to be published and disseminated and, where applicable, the fact that the same advertisement has been disseminated in the past by the publisher of political advertising;~~
- (c) ~~based among others on information received in line with Article 6(3)~~ information on the aggregated amounts or other benefits received ***by the providers of political advertising services including those received by the publisher*** in part or full



exchange for the *political advertising services for* preparation, placement, promotion, publication and dissemination of the relevant advertisement, and *for* of the political advertising campaign where relevant, and their sources;

- (d) where applicable, an indication of elections or referendums with which the advertisement is linked;
- (e) where applicable, links to online repositories of advertisements *referred to in paragraph 6*;

*(ea) where applicable, the information specified in Article 12a(1) point (c) and (ca)*;

~~(f) information on how to use the mechanisms provided for in Article 9(1);~~

~~(g) The information to be included in the transparency notice shall *also contain the elements* be provided using the specific data fields set out in Annex I.~~

2a. *The transparency notice shall be included in each political advertisement or be easily retrievable from its first publication and until the end of its publication. Transparency notices shall be presented in a format which is easily accessible and, where technically possible, machine readable, clearly visible and user friendly, including by using plain language. Transparency notices which are machine readable shall be made accessible by means of a common publicly available application programming interface.*

3. Political advertising publishers shall make reasonable efforts to ensure that the information referred to in paragraph 1 and 2 is complete, *accurate and up to date. When the sponsor or the providers of political advertising services becomes aware that the information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and, as relevant, shall transmit completed or corrected information to the political advertising publisher. If the political advertising publisher becomes aware by any means that information referred to in paragraph 2 is incomplete or inaccurate, it shall make reasonable efforts including, as relevant, by contacting the sponsor or the service providers concerned, to complete or correct the information.* ~~and Where the information cannot be completed or corrected without undue delay, the publisher shall not make available or shall discontinue the publication or dissemination of~~ *they find this is not the case they shall not make available the political advertisement. The publisher*

*shall inform the sponsor or the service provider acting on behalf of the sponsor if the political advertisement it sponsors is not made available or is discontinued.*

- ~~4. Transparency notices shall be kept up to date and presented in a format which is easily accessible and, where technically possible, machine readable, clearly visible and user friendly, including through the use of plain language. The information shall be published by the political advertising publisher with the political advertisement from its first publication until one year after its last publication.~~
5. Political advertising publishers shall retain their transparency notices together with any modifications for a period of five years after the *last publication* end of the period referred to in paragraph 4.
- 5a. ***Paragraph 5 shall not apply to undertakings qualifying under Article 3, paragraph 1 of Directive 2013/34/EU, provided that the provision of advertising services is purely marginal and ancillary to their main activities.***
6. Political advertising publishers which are very large online platforms within the meaning of Article 25 of Regulation (EU) 2021/xxx [the DSA] shall ensure that ***for each political advertisement, the information set out in paragraph 2 of this Article is made available immediately in the repositories referred that they make available pursuant to in Article [390] of that regulation [Digital Services Act]. Such information shall be kept update and provided according to an agreed industry standard for accessibility, data structure and access by means of a common publically available application programming interface*** make available for each political advertisement in the repository the information referred to in paragraph 2.
7. Member States, including competent authorities, and the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Article, taking into account the specific characteristics of the relevant service providers involved and the specific needs of micro, small and medium-sized enterprises, within the meaning of Article 3 of Directive 2013/34/EU.

8. The Commission is empowered to adopt delegated acts in accordance with Article 19 to amend Annex I by adding, *or* modifying ~~or removing~~ elements from the list of information ~~thereinto~~ to be provided pursuant to paragraph 2 where, in the light of technological developments, *relevant scientific research, developments in supervision by competent authorities and relevant guidance issued by competent bodies, and provided that the elements set out in paragraph 2 of this Article are maintained and that* such an amendment is necessary for the wider context of the political advertisement and its aims to be understood.

#### *Article 8*

##### **Periodic reporting on political advertising services**

1. ~~Where they provide political advertising services,~~ *Political* advertising publishers shall include information on the amounts or the value of other benefits received in part or full exchange for ~~the~~ *those* services *provided*, including on the use of targeting and amplification techniques, aggregated by campaign, *attached to* ~~as part of~~ their management report within the meaning of Article 19 of Directive 2013/34/EU ~~in their annual financial statements.~~
2. Paragraph 1 shall not apply to undertakings qualifying under Article 3, *paragraphs 1 to (3)* of Directive 2013/34/EU.

#### *Article 9*

##### **Indicating possibly unlawful political advertisements**

1. ~~3~~ ~~Where they provide political advertising services~~ *Political* advertising publishers shall ~~put in place mechanisms to enable~~ *natural or legal persons* individuals to notify them, free of charge, that a particular advertisement which they have published does not comply with this Regulation.

- 2.4 Information on how to notify political advertisements as referred to in paragraph 1 shall be user friendly and easy to access, including from the transparency notice.
- ~~5-~~ Political advertising publishers shall allow for the submission of the **notification information** referred to in paragraph 1 by electronic means.
3. ***Political advertising publishers shall make reasonable efforts to address, in a diligent and objective manner and without undue delay, the notifications received pursuant to paragraph 1, by contacting the relevant provider of political advertising services and, as relevant, the sponsor.***
- ~~3a5-~~ ~~The~~ ***Political*** political advertising publishers shall inform, ***at least upon request and without undue delay, the persons which made the notification referred to in paragraph 1*** individuals of the follow up given to ~~it~~ the notification as referred to in paragraph 1. ***Political advertising publishers qualifying under Article 3, paragraph 1 of Directive 2013/34/EU shall make best efforts to ensure the compliance with this paragraph.***
- 3b. ***In the last month preceding an election or a referendum, political advertising publishers which are very large online platforms within the meaning of Regulation (EU) 2022/XXX [Digital Services Act] shall address any notification that they receive about advertisement linked to this election or referendum within 48 hours.***
- 4.6 Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to collectively, including by reference to an announcement on the website of the political advertising publisher concerned.

#### *Article 10*

#### **Transmission of information to competent authorities**

1. ***To verify compliance with Articles 6, 7 and 8,*** competent national authorities shall have the power to request that a providers of political advertising services transmits ***any necessary*** the information referred to Articles 6, 7 and 8. The transmitted information ***shall*** ~~must~~ be complete, accurate and trustworthy, and provided in a clear, coherent, consolidated and intelligible format. Where technically possible, the information shall be transmitted in a machine readable format.

- 1a.** The request *referred to in paragraph 1* shall contain the following elements:
- (a) a statement of reasons explaining the objective for which the information is requested and why the request is necessary and proportionate, unless the request pursues the objective of the prevention, ***detection***, investigation, ~~detection~~ and prosecution of criminal offences ***or serious administrative offences*** and to the extent that the reasons for the request would jeopardise that objective;
  - (b) information on the redress available to the relevant service provider and to the sponsor of the political advertising service.
2. Upon receipt of a request pursuant to paragraph 1, providers of political advertising services shall, within two working days, acknowledge receipt of that request and inform the authority of the steps taken to comply with it. The relevant service provider shall provide the requested information within ten working days. ***However, providers of political advertising services qualifying under Article 3 paragraphs 1 to 3 of Directive 2013/34/EU shall make reasonable efforts to provide the requested information within fifteen working days.***
- 2a.** ***By derogation from paragraph 3, in the last month preceding an election or a referendum, providers of political advertising services shall provide the requested information within 48 hours. However, providers of political advertising services qualifying under Article 3 paragraphs 1 to 3 of Directive 2013/34/EU shall make reasonable efforts to provide the requested information without undue delay and where possible before the date of the election or referendum.***
3. Providers of political advertising services shall designate a contact point for the interaction with competent national authorities. Providers of political advertising services ***qualifying under*** ~~which are SMEs within the meaning of Article 3~~ ***paragraphs 1 to 3*** of Directive 2013/34/EU may appoint an external natural person as contact point.

### Transmission of information to other interested entities

1. ~~Upon request from interested entities, providers of political advertising services shall take the appropriate measures to transmit, free of charge, the information they are required to have pursuant referred to in Articles 6 and 7 to these interested entities, upon request and without costs.~~

~~Where the provider of political advertising services is a political advertising publisher, it shall also take the appropriate measures to transmit the information referred to in Article 7 to interested entities upon request and without costs.~~

2. Interested entities requesting the transmission of information pursuant to paragraph 1 shall be independent from commercial interests and shall fall in one or more of the following categories:
  - (a) vetted researchers in accordance with Article 31 of Regulation (EU) 2021/xxx [Digital Services Act];
  - (b) members of a civil society organisation whose statutory objectives are to protect and promote the public interest, authorised under national or Union law;
  - (c) political actors as authorised under national law; or
  - (d) national or international electoral observers *recognised* ~~accredited~~ in a Member State; *or*

*(da) journalists.*

~~Such interested entities shall also include journalists accredited in a Member State by national, European or international bodies.~~

3. Following a request from an interested entity, the service provider shall make best efforts to provide the requested information or its reasoned response under paragraph 5, within one month.

4. When preparing the information to be provided pursuant to paragraph 1, the service provider may aggregate the relevant amounts or place them in a range, to the extent necessary to protect its commercial legitimate interests.
5. Where requests pursuant to paragraph 1 are manifestly unfounded, unclear or excessive, in particular because of their lack of clarity, the service provider may refuse to respond. In this case, the relevant service provider shall send a reasoned response ***and information on the redress possibilities*** to the interested entity making the request.
6. Where ***the processing of the*** requests under paragraph 1 ~~are repetitive and their processing~~ involves significant costs, the service provider may charge a reasonable and proportionate fee, which in any event shall not exceed the administrative costs of providing the information requested.
7. Service providers shall bear the burden of demonstrating that a request is manifestly unfounded, unclear or excessive, or that requests ~~are repetitive and~~ involve significant costs to process.

## CHAPTER III – TARGETING AND AMPLIFICATION OF POLITICAL ADVERTISING

### *Article 12*

#### ***Prohibitions ~~Specific requirements~~ related to targeting and amplification***

1. Targeting or amplification techniques that involve the processing of *special categories of* personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 in the context of political advertising are prohibited.
2. ***Paragraph 1*** ~~The prohibition laid down in the first sentence~~ shall not apply to the situations referred to in Article 9(2)(a) ~~and (d)~~ of Regulation (EU) 2016/679 and Article 10(2)(a) ~~and (d)~~ of Regulation (EU) 2018/1725. ***For the purposes of implementing this paragraph, the explicit consent within the meaning of Regulations (EU) 2016/679 and (EU) 2018/1725 shall be given separately and specifically for the purpose of political advertising.***
- 2a. ***Paragraph 1 shall not apply to the situations referred to in Article 9(2)(d) of Regulation (EU) 2016/679 and Article 10(2)(d) of Regulation (EU) 2018/1725.***
3. ***Targeting or amplification techniques that involve the processing of personal data of a subject that is known with reasonable certainty to be at least one year under the voting age established by national rules in the context of political advertising, are prohibited.***

### *Article 12a*

#### ***Specific requirements related to targeting and amplification***

13. When using targeting or amplification techniques in the context of political advertising involving the processing of personal data, controllers shall, in addition to the requirements laid down in Regulation (EU) 2016/679 and Regulation (EU) 2018/1725, as applicable, comply with the following requirements:



- (a) adopt, ~~and implement~~ **and make publicly available** an internal policy describing clearly and in plain language ~~how in particular, the use of such techniques are used to target individuals or amplify the content,~~ and retain such policy for a period of five years **from the last use of these techniques**;
- (b) keep records on the use of targeting or amplification, the relevant mechanisms, techniques and parameters used, and the source(s) of personal data used.
- (c) ~~ensure the provision provide,~~ together with the **indication that it is a** political advertisement, **of** additional information necessary to allow the individual concerned to understand the logic involved and the main parameters of the technique used, and the use of third-party data and additional analytical techniques. **The information shall include, at least, the following elements:**
  - (i) **the specific groups of recipients targeted, including the parameters used to determine the recipients to whom the advertising is disseminated;**
  - (ii) **the categories and the sources of personal data used for the targeting and amplification;**

~~The This information to be included shall also contain the shall comprise the~~ elements set out in Annex II.

- (ca) ~~5. Political advertising publishers making use of targeting or amplification techniques referred to in paragraph 3 shall include in or~~ **provide**, together with the advertisement, ~~and or~~ in the transparency notice required under Article 7, a reference to effective means to support individuals exercise their rights under Regulation (EU) 2016/679 **or Regulation (EU) 2018/1725, as applicable, in particular, a reference to individuals' right to give or withdraw consent as applicable, and the right to object. Such reference shall include a link to an interface allowing for the exercise of such right.**

24. ~~Political advertising publishers making use of targeting or amplification techniques shall include in the transparency notice required under Article 7 the information specified in paragraph 3(c) and a link to the policy referred to in paragraph 3(a). In the case the controller is different from the~~ **political** advertising publisher, the controller shall transmit the internal policy **and ensure that the information referred to in paragraph 1 point (c)**

*and (ca) is communicated or a reference to it to the political advertising publisher to enable the political advertising publisher to comply with its obligations under this Regulation. The information shall be transmitted in a timely and accurate manner, in accordance with best practice and industry standards, by means of a standardised automated process where technically possible.*

3. *Providers of political advertising services shall, as necessary, transmit to the controllers the information necessary to comply with paragraphs 1 and 2.*
- ~~5. Political advertising publishers making use of targeting or amplification techniques referred to in paragraph 3 shall include in or together with the advertisement and in the transparency notice required under Article 7 a reference to effective means to support individuals exercise their rights under Regulation (EU) 2016/679.~~
46. Information to be provided in accordance with *paragraphs 1 to 3* ~~this provision~~ shall be presented in a format which is easily accessible and, where technically feasible, machine readable, clearly visible and user-friendly, including through the use of plain language.
- ~~7. Providers of advertising services shall, as necessary, transmit to the controller the information necessary to comply with paragraph 3.~~
58. The Commission is empowered to adopt delegated acts in accordance with Article 19 to amend Annex II by **adding or** modifying ~~or removing~~ elements of the list of information **therein** ~~to be provided pursuant to paragraphs 3(a) of this Article~~, in light of technological developments, ~~in~~ relevant scientific research, and developments in supervision by competent authorities and relevant guidance issued by competent bodies **and provided that the elements set out in paragraph 1(c) of this Article are maintained.**

### Article 13

#### Transmission of information concerning targeting or amplification to other interested entities

1. ~~The e~~Controllers referred to in Article ~~12~~ shall take appropriate measures to transmit, upon request by interested entities in accordance with Article 11(1), **and free of charge**, the information referred to in Article 12a.
2. Article 11(2) to (7) shall apply *mutatis mutandis*.

## CHAPTER IV – SUPERVISION AND ENFORCEMENT

### Article 14

#### Legal representative

1. Service providers that provide political advertising services in the Union but do not have an establishment in the Union shall designate, in writing, a natural or legal person as their legal representative in one of the Member States where the provider offers its services. ***The designated legal representative shall register with the competent authority referred to in paragraph (2a).***
  - 1a. ***Where the providers of political advertising services fail to comply with the obligation under paragraph (1), Member States shall take any appropriate measures to ensure compliance with this Regulation, including by discontinuing the publication or dissemination of the relevant political advertisements when compliance cannot be ensured otherwise.***
  2. The legal representative shall be responsible for ensuring compliance with the represented service provider's obligations pursuant to this Regulation and shall be the addressee for all communications with the relevant service provider provided for in this Regulation. Any communication to that legal representative shall be deemed to be a communication to the represented service provider.
  - 2a. ***Member States shall designate one competent authority responsible to publish online, and update regularly, the information on designated legal representatives registered pursuant to paragraph 1. Member States shall provide the links to the relevant websites to the Commission.***
  - 2b. ***The Commission shall set up a portal linking to the websites provided by Member States pursuant to paragraph 2a.***

### Competent authorities and contact points

1. The supervisory authorities referred to in Article 51 of Regulation (EU) 2016/679 or Article 52 of Regulation (EU) 2018/1725 shall be competent to monitor the application of Articles 12 **and 12a** of this Regulation in their respective field of competence. Article 58 of Regulation (EU) 2016/679 and Article 58 of Regulation (EU) 2018/1725 shall apply *mutatis mutandis*. Chapter VII of Regulation (EU) 2016/679 shall apply for activities covered by Articles 12 **and 12a** of this Regulation.
2. Member States shall designate competent authorities to monitor the compliance of providers of intermediary services within the meaning of Regulation (EU) 2021/xxx [DSA] with the obligations laid down in Articles 5 to 11 and 14 of this Regulation, where applicable. The competent authorities designated under Regulation (EU) 2021/xxx [Digital Services Act] may also be one of the competent authorities designated to monitor the compliance of online intermediaries with the obligations laid down in Articles 5 to 11 and 14 of this Regulation. The Digital Services Coordinator referred to in Article 38 of Regulation (EU) 2021/xxx in each Member State shall be responsible for ensuring coordination at national level in respect of providers of intermediary services as defined by Regulation (EU) 2021/xxx [Digital Services Act]. Article 45(1) to (4) and Article 46(1) of Regulation (EU) 2021/xxx [Digital Services Act] shall be applicable for matters related to the application of this Regulation as regards providers of intermediary services.
3. Each Member State shall designate one or more competent authorities to be responsible for the application and enforcement of the aspects of this Regulation not referred to in paragraphs 1 and 2. ***These competent authorities may be different from those referred to in paragraphs 1 and 2.*** Each competent authority designated under this paragraph shall structurally enjoy full independence both from the sector and from any external intervention or political pressure. It shall in full independence effectively monitor and take the measures necessary and proportionate to ensure compliance with this Regulation.

4. ~~Competent authorities referred to in paragraph 3, where exercising their supervisory tasks in relation to this Regulation, shall have the power to request to access data, documents or any necessary information from providers of political advertising services for the performance of their supervisory tasks.~~
5. Competent authorities referred to in paragraph 3, where exercising their **supervisory and enforcement tasks and powers** ~~powers~~ in relation to this Regulation, shall have the power to:
- (-aa) request access to data, documents or any necessary information, in particular from the sponsor or the providers of political advertising services concerned;*
- (a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this Regulation;
- (aa) order the cessation of infringements and require sponsors or providers of political advertising services to take the steps necessary to comply with this Regulation, while respecting the fundamental right of freedom of expression and information,*
- (b) publish a statement which identifies the legal and natural person(s) responsible for the infringement of an obligation laid down in this Regulations and the nature of that infringement;
- (c) impose ~~administrative fines or~~ financial penalties; *and, as appropriate other remedies, to effectively bring the infringement to an end, or request a judicial authority in their Member State to do so;*
6. Member States shall ensure **effective and structured** cooperation **at national level** among **all relevant** competent authorities **designated under paragraphs 1 to 3** ~~in particular in the framework of national elections networks~~, to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks **and powers** pursuant to this Regulation, including by ~~identifying infringements~~, sharing findings and expertise **to help identify infringements**, and liaising on the application and enforcement of relevant rules.

- 6a. *Experts designated by Member States shall meet periodically at Union level in particular in the framework of the European Cooperation Network on Elections working in close cooperation with the European Regulators Group for Audiovisual Media Services, and other relevant networks, to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcement tasks pursuant to this Regulation.*
7. Each Member State shall designate one competent authority as a contact point at Union level for the purposes of this Regulation.

### *Article 15a*

#### *Cross-border cooperation*

1. *Compliance with this Regulation by providers of political advertising services shall be subject to the competence of the Member State where the provider has its establishment. In case the provider is established in more than one Member State, it shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.*
28. *Without prejudice to paragraphs 1 and 2 of Article 15 and paragraph 1 of this Article, where a provider of political advertising services is providing services in more than one Member State, or has its main establishment or a representative in a Member State but provides its main activities in another Member State, the competent authority **or authorities** of **all** the Member States of the main establishment, or other establishment or of the representative, and the competent authorities of those other Member States shall cooperate with and assist each other as necessary. Unless already regulated by Union law that cooperation shall entail, at least, the following:*
- (a) *the competent authorities applying supervisory or enforcement measures in a Member State shall, via the contact point referred to in paragraph 7, inform and consult the competent authorities in the other Member State(s) concerned on the supervisory and enforcement measures taken and their follow-up;*

~~(b) a competent authority may request, via the contact point referred to in paragraph 7, in a substantiated, justified and proportionate manner, another competent authority, where it is better placed, to take the supervisory or enforcement measures referred to in paragraphs 4 and 5; and~~

3.(e) ~~A~~ a competent authority shall, upon receipt of a justified request from another competent authority, provide the other competent authority with assistance ***without undue delay and no later than one month after receiving the request*** so that the supervision or enforcement measures referred to in paragraphs 4 and 5 ***of Article 15*** can be implemented in an effective, efficient and consistent manner. ~~A~~ The relevant competent authority so requested shall, ***upon receipt of a justified request for information from the competent authority of another Member State, via the contact points referred to in paragraph 7 of Article 15, provide that competent authority with the required information without undue delay and no later than 14 days after receiving the request. The deadline may be extended to one month in cases requiring additional investigation or information from multiple competent authorities.*** and within a timeframe proportionate to the urgency of the request provide a response communicating the information requested, or informing that it does not consider that the conditions for requesting assistance under this Regulation have been met. Any information exchanged in the context of assistance requested and provided under this Article shall be used only in respect of the matter for which it was requested.

4. ***Where the competent authority of a Member State has a reason to suspect that a provider of political advertising services, which has its main establishment in another Member State, has infringed this Regulation in its territory, it shall notify the competent authority of the main establishment, via the contact point referred to in Article 15(7).***

5. ***A notification pursuant to paragraph 4 shall be duly reasoned and at least indicate:***

***(a) the information allowing the identification of the political advertising service provider;***

- (b) a description of the relevant facts, the relevant provisions of this Regulation and the reasons why the competent authority that sent the notification suspects that the service provider concerned infringed this Regulation, including, as relevant, a description of the facts that would allow the assessment of the criteria set out in Article 16(3);*
  - (c) the place where the relevant political advertisement or a copy of it can be retrieved;*
  - (d) any other information that the competent authority that sent the notification considers relevant, including, where appropriate, information gathered on its own initiative.*
- 6. Where the competent authority of the main establishment does not have sufficient information to act upon a notification referred to in paragraph 4, it may request additional information from the competent authority that made the notification which shall provide the requested information without undue delay.*
- 7. The competent authority of the main establishment shall, without undue delay and no later than one month following receipt of the notification referred to in paragraph 4 or, where applicable, of the information referred to in paragraph 6, communicate to the competent authority that made the notification its assessment of the suspected infringement and further information on the investigatory or enforcement measures taken, or intended to be taken, in order to ensure compliance with this Regulation.*
- 8. Where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main establishment, the competent authority of the main establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned:*
- (a) at its own initiative and after obtaining the agreement of the competent authority or authorities requested; or*



*(b) upon the request of another competent authority or authorities, based on the reasoned suspicion that the provision of political advertising services by a service provider established in the Member State of the main establishment has infringed this Regulation or substantially affected individuals in the territory of the competent authority or authorities making the request.*

9. *For the purposes of paragraph 8 the competent authority requesting the launch of a joint investigation shall provide the other competent authority or authorities with the information referred to in paragraph 5. If a competent authority decides not to participate in a joint investigation, it shall provide to the other competent authority or authorities with a reasoned explanation to that effect. ~~Contact points shall meet periodically at Union level in the framework of the European Cooperation Network on Elections to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks pursuant to this Regulation.~~*
10. *In carrying out a joint investigation, competent authorities shall cooperate in good faith, and exercise their investigative powers as necessary for the investigation of the alleged infringement. Competent authorities in a joint investigation shall inform each other of any relevant enforcement action which they initiate or intend to initiate.*

## *Article 16*

### **Sanctions**

1. ~~In relation to Articles 5 to 11, 13 and 14, Member States shall lay down rules on sanctions, including administrative fines or and financial penalties; and, as appropriate other remedies, applicable to providers of political advertising services under their jurisdiction for infringements of Articles 5 to 11, 13 and 14 and to sponsors for infringements of Article 5 and 6a. the present Regulation, The sanctions which shall in each individual case be effective, proportionate and dissuasive. In setting the applicable sanctions, the rules governing the freedom of the press and freedom of expression in other media and the rules or codes governing the journalist profession shall be taken into account.~~

**1a. The maximum amount of the financial sanction that may be imposed shall be based on the economic capacity of the entity subject to sanctions, which shall be:**

**a) 4% of the annual income or budget of the sponsor or of the provider of political advertising services as applicable and whichever is the highest, or**

**b) 4% of the annual worldwide turnover of the sponsor or the provider of political advertising services in the preceding financial year.**

2. Member States shall notify the Commission of those rules within twelve months of the entry into force of this Regulation and shall notify it, without delay, of any subsequent amendments affecting them.

3. When deciding on the type of sanctions and its level, due regard shall be given in each individual case, among others, to the following:

(a) the nature, gravity and duration of the infringement;

(b) the intentional or negligent character of the infringement;

(c) any action taken to mitigate any damage;

(d) any relevant previous infringements and any other aggravating or mitigating factor applicable to the circumstances of the case; and

(e) the degree of cooperation with the competent authority.

**(ea) the size and economic capacity of the entity subject to sanctions, where applicable.**

4. Infringements of Articles **7, 9, and 10** shall be considered to be particularly serious where they concern political advertising published or disseminated during ***the last month preceding an election or referendum*** ~~an electoral period~~ and directed to citizens in the Member State in which the relevant election ***or referendum*** is being organised.
- ~~5. If a service provider intentionally or negligently infringes the provisions of this regulation, for the same or linked political advertising, the total amount of the administrative fine shall be sufficiently adjustable in order to take into account all the relevant factors. the fact that the Regulation has been violated in multiple respects shall be reflected in the amount of the total fine, in compliance with the principle of proportionality.~~
6. For infringements of the obligations laid down in Articles 12 ***and 12a***, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose administrative fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation.
7. For infringements of the obligations laid down in Articles 12 ***and 12a***, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence administrative fines in line with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66 (3) of that Regulation.

### ***Article 16a***

#### ***Notifications to the competent authority***

***Without prejudice to any other administrative procedure or judicial remedy, competent authorities shall duly address every notification they receive concerning a possible infringement of this Regulation and, at least upon request, inform the person who made the notification of the follow-up given to it. During the last month preceding elections or referendum, any notification received in relation to these elections or referendum shall be addressed without undue delay.***

*Article 17*

**Publication of dates of elections and referendums ~~electoral periods~~**

1. Member States shall publish the dates of their *elections and referendums* ~~national electoral periods~~ in an easily accessible place, *and* with an appropriate reference to this Regulation.
2. *The Commission shall provide a portal through which Member States shall provide, immediately after announcement, the dates of their elections or referendums. The portal shall be publicly available.*

## CHAPTER V –FINAL PROVISIONS

### Article 18

#### Evaluation and review

1. Within two years after each election to the European Parliament and for the first time by 31 December 2026 at the latest, the Commission shall submit a report on the evaluation and review of this Regulation. This report shall assess the need for amendment to this Regulation, *in particular with regard to:*
  - (a) *the effectiveness of this Regulation as regards specific means of political advertising;*
  - (b) *further restricting the processing of personal data for the purposes of the targeting and amplification techniques regulated under this Regulation;*
  - (c) *the impact of this Regulation on small and medium-sized media actors;*
  - (d) *the type and amount of sanctions imposed by the Member States;*
  - (e) *establishing public repositories for all online political advertising.*
2. The report shall be made public.

### Article 19

#### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(8) and Article *12a(58)* shall be conferred on the Commission for a period of **3 years from the ... [date of entry into force of the basic legislative act or any other date set by the co-legislators]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European**

***Parliament or the Council opposes such extension not later than three months before the end of each period. ~~[until the application of this regulation is evaluated, two years after the next European Parliamentary elections].~~***

3. The delegation of power referred to in Article 7(8) and Article ***12a(58)*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- 3a. Before adopting a delegated act as referred to in Article 7(8) and Article 12a(5), the Commission shall consult the experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.***
4. As soon as it adopts a delegated act, the Commission shall notify that act simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7(8) or Article ***12a(58)*** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 20*

**Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from ***12 months after its publication in Official Journal of the European Union*** ~~1 April 2023~~.
3. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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**Information to be provided under Article 7(2)**

- (a) where the notice is not within the advertisement itself, an example/representation of the political advertisement or a link to it.
- (b) the identity and place of establishment of the sponsor on behalf of whom the advertisement is disseminated including their name, address, telephone number and electronic mail address, and whether they are a natural or legal entity.
- (ba) *the information required under point (b) on the natural or legal person which provides remuneration in exchange for the political advertisement if this person is different from the sponsor.***
- (c) the period during which the political advertisement is disseminated and, where applicable and known to the publisher, the fact that the same advertisement has been disseminated in the past.
- (d) any election with which the advertising is linked, if applicable.
- (e) the provisional aggregated amount spent on, and the value of other benefits received in part or full exchange for the specific advertisement, and on the specific advertising campaign where relevant, including on the preparation, placement, promotion, publication and dissemination of the political advertisements, as well as the aggregated actual amount spent and the value of other benefits received once known.
- (f) ***information on*** the sources of the funds being used for the specific advertising campaign including for the preparation, placement, promotion, publication and dissemination of the political advertisements.
- (g) meaningful information about the methodology used for the calculation of the amounts and values referred in (e).



- (h) where the publisher is a very large online platform, a link to the advertisement's location in the publisher's advertising repository.
- (i) where the advertisement is linked to specific elections or referendums, links to official information about the modalities for participation in the election or referendum concerned.
- (j) information about the mechanism established under Article 9.

**Information to be provided under Article 12a(13)**

- (a) the specific groups of recipients targeted, including the parameters used to determine the recipients to whom the advertising is disseminated, with the same level of detail as used for the targeting, the categories of personal data used for the targeting and amplification, the targeting and amplification goals, mechanisms and logic including the inclusion and exclusion parameters and the reasons for choosing these parameters.
- (b) the period of dissemination, the number of individuals to whom the advertisement is disseminated and indications of the size of the targeted audience within the relevant electorate.
- (c) the source of the personal data referred to in point (a), including, where applicable, information that the personal data was derived, inferred, or obtained from a third party and its identity as well as a link to the data protection notice of that third party for the processing at stake.
- (d) a link to effective means to support individuals' exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable, in the context of targeting and amplification of political advertising on the basis of their personal data.
- (da) a link to or a clear indication of where the policy referred to in Article 12a paragraph 1(a) can be easily retrieved.***

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