



Council of the
European Union

Brussels, 28 November 2023
(OR. en, fr)

15980/23

**Interinstitutional File:
2021/0381(COD)**

LIMITE

**AG 156
MI 1038
DATAPROTECT 332
DISINFO 97
FREMP 344
AUDIO 115
CONSOM 428
TELECOM 353
CODEC 2266**

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	15955/23
No. Cion doc.:	14374/21 + COR1 + COR1 REV1; + ADD1 + COR1 + ADD1 COR1 REV1; + ADD 2 to 4 - COM(2021) 731 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising - Comments from delegations

Following the meeting of the Working Party on General Affairs on 13 November 2023 and further comments circulated in writing, delegations will find in Annex comments from delegations.

ANNEX

CZECH REPUBLIC	3
DENMARK	5
GERMANY	6
FRANCE.....	14
LATVIA.....	17
LUXEMBOURG	18
AUSTRIA	19
FINLAND	20
SWEDEN.....	25

CZECH REPUBLIC

27/11/2023

At this point, we have not identified any substantial issues we would like to highlight (except for row 205, if applicable). Therefore, the following comments are of a rather technical nature. Please note that these comments refer to the rows flagged by the PCY.

Row 29

- In the second last sentence, the part reflecting “should not be covered” is missing. The sentence now reads as follows: *As such, political opinions expressed in any media under editorial responsibility unless specific payment or other remuneration is provided by third parties for or in connection with their preparation, placement, promotion, publication, delivery or dissemination.*

Row 36

- We suggest reformulating this particular recital. There are three points reflecting a bit different substance listed next to each other, but the text as a whole does not seem compact and inter-connected.

Row 163o

- Second subparagraph contains a reference to point (fa), whereby no such point is currently listed paragraph 1.
- In the last subparagraph, a reference should be made to “fifth” subparagraph.

Row 163r

- Reference is again made to point (fa).

Row 205

- It is not clear whether the reference to “add points to paragraph 1” relates to the whole paragraph (points (a) to (ca)), which is not in line with the scope agreed in the General Approach, or to the information to be provided according to point (c). In any case, we do not favour extending the scope and, therefore, would highly prefer using language that clearly connects the delegated acts to point (c).

21/11/2023

In the light of the ongoing work on the recitals, we would like to highlight three significant points to be reflected therein:

1. On in-house activities, we believe that the presented addition to recital 16 is not clear enough as regards the scope of entities to be covered by the definition and, therefore, would prefer more precise wording.
2. On the European public repository, we would welcome if the first subparagraph of the suggested recital is aligned with row 163p to ensure that it does not extend the responsibility to keep the information up to date also to the retention period.
3. On territorial scope, we would highly appreciate if the intention to extend the scope also to political ads directed to Union citizens outside the EU is adequately addressed, while explaining further the basic criteria (a reference reflecting that there must be an evident intention to direct the ads to the citizens would be welcome).

DENMARK

Comments on recital 63 and 63a:

Denmark prefer to have the word “administrative” deleted from recital 63 and 63a, so that the recitals are consistent with the corresponding changes in the sanction-ing provisions.

GERMANY

27/11/2023

German comments on Doc. ST 15955/2023 (Latest stay of play of the interinstitutional negotiations)

DEU thanks the PCY for the opportunity to transmit proposals and remarks to the latest 4-column-document. DEU asks the PCY to take the following DEU proposals into account in the upcoming interinstitutional meeting on 28 November.

1. Recitals

Recital 4 – row 14

DEU welcomes that the wording of row 14 has been adapted as proposed by DEU in its comments transmitted 20 november (instead of “(...) political campaigns and free and fair elections or referendums and to ~~combat~~ counter disinformation (...)).

DEU proposes to amend the wording as following:

Text proposal:

(...) and to counter information manipulation and interference and unlawful interference, including from third countries

Justification: “interference” is duplicated here. The DEU understanding would be that “illegal interference” is a sub-category of interference per se. DEU therefore suggests to delete the “unlawful interference”.

Recital 16 - row 105 (addition of “inhouse” activities to recital 16)

DEU reiterates its proposal submitted on 20 november:

Text proposal:

In order to prevent possible circumventions of the restrictions laid down in Chapter III of this regulation, political ~~Political~~ advertising comprises the situation where the preparation, placement, promotion, publication, delivery or dissemination of a message which is liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour is done by an entity acting on its own behalf (in-house activities). In-house activities, which should be considered as solely relevant for Chapter III of this Regulation, should be understood as activities carried out within an entity which comprise or substantially contribute to the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message which is liable and designed to influence the outcome of an election, referendum or regulatory process, or voting behaviour. **This shall apply to political actors and their affiliated entities as well as other entities aiming to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour by such in-house activities.**

Justification:

The inclusion of in-house activities aims to prevent well-resourced political actors or other entities aiming to influence the outcome of an election or referendum etc. from circumventing the restrictions laid down in Chapter III. However, the current wording regarding in-house activities does not reflect this rationale sufficiently and might lead to legal uncertainties regarding the addressees of in-house activities. Therefore, DEU proposes to clarify the rationale and the addresses by the above amendments.

Recital 18, first sentence (“public communication”) – row 28

DEU strongly welcomes the text proposal for the draft agreement on the first sentence of recital 18 which mainly corresponds to the text proposal submitted to the PCY on 20 november. This wording is in line with the Council mandate. This part of the recital corresponds with Article 2 (1) point (2)(b)(iii) on “public communication” (row 107d) which is already part of the political agreement. The current text proposal for recital 18 is now congruent with Article 2 (1) point (2)(b)(iii).

Recital 19 (“editorial freedom of the media”) – row 29

DEU welcomes that the text proposal for the draft agreement on recital 19 takes into account parts of the text proposal submitted to the PCY on 20 november. However, **DEU urgently requests the deletion of the last sentence**. According to the wording, for example, the subsequent use of content in media libraries would be considered political advertising. It also does not take into account licensing models. This cannot be the aim of the regulation.

Recital 27 (“private capacity”) – row 37

With regard to the second sentence, the current proposal for recital 27 (row 37) does not establish a sufficiently concrete link between the remuneration and the expression of the political opinion.

With regard to the freedom of expression we therefore suggest the following proposal:

Text proposal:

(27) The notion of political advertising should not include messages that are shared by individuals in their purely personal capacity. However, individuals expressing political opinions should not be considered as acting in their personal capacity if they are publishing or disseminating opinions, which involve specific remuneration, including benefits in kind, from third parties.

2. Articles

Article 7(1), second subparagraph a and fourth subparagraph – rows 149a, 149b (labelling and time period for COM implementing acts)

DEU is open to the obligation of labelling of political advertising and can as well accept 15 instead of 12 months (after entry into force) as time period for the COM to adopt implementing acts on the format and the template of the labels.

Article 7a(1), point (e),(g),(m),(n) – rows 163g, 163i, 163o, 163p (transparency notice)

DEU is open to text proposals in the 4th column.

Article 7a(2) – row 163r (delegated acts by COM on transparency notice)

DEU is open to extend the COM's power on delegated acts concerning the content of transparency notices.

Article 12a – rows 200-201 Additional transparency requirements related to targeting and ad delivery techniques

DEU **welcomes** the text proposals in **rows 200, 200a, 200b, 200e, 201 and 205** which are mainly in line with the Council's mandate.

However, **DEU suggest to re-evaluate row 200d**, i.e. the introduction of a new publicly available annual risk assessment reporting obligation of the “controller”. With regard to the administrative burden as well the unclarity of the wording (“risk assessment of the use of those techniques on the fundamental rights and freedoms of natural persons and the society as whole”), DEU calls for more specific guidance on the necessary content of the reports and would be open to a less than annual obligation.

Article 19(2) – row 249

DEU is open to extend the COM's power to adopt delegated acts referred to in Arts. 7(8) and 12a(5) **for a period of 4 years** from the date of entry into force of this Regulation (instead of 3 years, as initially proposed by the Council).

20/11/2023

German comments on Doc. ST 14878/2023 (Latest stay of play of the interinstitutional negotiations)

In view of finalising the still open technical points under discussion, DEU would like to transmit the following proposals and remarks. The following proposals only relate to the recitals still marked in yellow or red and do not question the agreement reached on the political points during the 6th trilogue.

1. Recitals concerning the scope of application

Recital 16 – row 105 (addition of “inhouse” activities to recital 16)

Text proposal:

In order to prevent possible circumventions of the restrictions laid down in Chapter III of this regulation, political ~~Political~~ advertising comprises the situation where the preparation, placement, promotion, publication, delivery or dissemination of a message which is liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour is done by an entity acting on its own behalf (in-house activities). In-house activities, which should be considered as solely relevant for Chapter III of this Regulation, should be understood as activities carried out within an entity which comprise or substantially contribute to the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message which is liable and designed to influence the outcome of an election, referendum or regulatory process, or voting behaviour. **This shall apply to political actors and their affiliated entities as well as other entities aiming to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour by such in-house activities.**

Justification:

The inclusion of in-house activities aims to prevent well-resourced political actors or other entities aiming to influence the outcome of an election or referendum etc. from circumventing the restrictions laid down in Chapter III. However, the current wording regarding in-house activities does not reflect this rationale sufficiently and might lead to legal uncertainties regarding the addressees of in-house activities. Therefore, DEU proposes to clarify the rationale and the addressees by the above amendments.

Recital 18, first sentence (“public communication”) – row 28

Text proposal:

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.

Justification:

DEU would strongly welcome, if the first sentence of recital 18 (row 28, Council mandate) will be adopted as foreseen by the Council mandate. This part of the recital corresponds with Article 2 (1) point (2)(b)(iii) on “public communication” (row 107d) which is already part of the political agreement. Recital 18 must be congruent with Article 2 (1) point (2)(b)(iii) as provided by the wording of the Council mandate. This is a key issue for DEU.

Recital 19 (“editorial freedom of the media”) – row 29

With regard to Article 1 (2a) TTPA (exclusions from the scope), DEU proposes to rephrase recital 19, based on the previous proposals of the Council and the EP on EC 19. The proposal refers to Art. 1 (2a), not also to Art. 1 (2b) TTPA.

Text proposal:

The media contribute to the well-functioning of democratic processes and play an essential role in the freedom of expression and right to information, particularly during election periods. They provide a space for public debate and contribute to public opinion-forming. This Regulation should neither affect the personal exercise of the right to freedom of expression nor the editorial freedom of the media. Political opinions or other editorial content expressed or disseminated in any media for journalistic purposes or 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 radio broadcasting, published in printed or in online media should not be considered political advertising and therefor do not fall under the scope of this Regulation. Other only applies, if a payment or other

remuneration is provided for by third parties specifically for the expression of that opinion in the media or for its preparation, placement, promotion, publication, delivery or dissemination.

Justification:

The above text is a proposal for a recital to Art. 1 (2a) (row 88a). It combines approaches from the EP and Council proposals to recital 19 (row 29) while aligning them with the terminology of the finalised text in Art. 1 (2a).

2. Linguistic adaptation proposals concerning „disinformation“

Justification:

DEU proposes to use the wording “countering disinformation” consistently throughout the text. Sometimes, the EP proposal says “foreign interferences, information manipulation and disinformation”. DEU proposes to rephrase this wording by “foreign information manipulation and interference, including disinformation”, as corresponds to the current language at EU level.

Text proposals:

Recital 4 – row 14

(...) political campaigns and free and fair elections or referendums and to ~~combat~~ counter disinformation (...)

Recital 4a – row 14a

(...) including by participation in ~~wider disinformation demonetisation~~ broader initiatives to counter disinformation such as the Code of Practice on disinformation.

DEU welcomes the reference to the Code of Practice, which is much broader than the focus on demonetization, DEU therefore suggests referring to the CoP as a whole.

Recital 14c – row 24c

(...) and moreover, ~~foreign interferences, information manipulation and disinformation~~ foreign information manipulation and interference, including disinformation is are an abuse of the fundamental freedoms of expression and information as laid down in Article 11 of the Charter (...)

(...)such as the holding of free and fair elections. ~~It~~ It is necessary to take appropriate measures (...)

Suggestion for better readability.

(...) measures to ~~combat~~ counter disinformation and prevent such interferences by means of advertisements sponsored by actors coming from outside the Union.

Suggestion to delete “such” as it is not clear what it refers to - in DEU opinion it should not be understood as referring only to disinformation.

Recital 47 – row 57

This furthermore negatively impacts the democratic process as it ~~enables~~

causes/leads to a fragmentation of the public debate about important societal issues,...

DEU suggest rephrasing as “enable” has a rather positive connotation.

Recital 47i – row 57i

In order to protect elections and referendums and prevent ~~any undue~~ foreign information manipulation and interference, including disinformation ~~, manipulation and disinformation~~, it is necessary to add further restrictions...

“Any undue interference” could also go far beyond the scope of information, hence also adaptation to common language.

FRANCE

Les commentaires écrits ci-après portent sur le 15955/23, projet informel d'état des lieux de l'accord provisoire sur le règlement sur la transparence et le ciblage de la publicité à caractère politique, publié dans le cadre de la finalisation des discussions au niveau technique.

Sur les articles

Ligne 105 (définition de la publicité politique)

S'agissant de la définition des publicités politiques, les autorités françaises rappellent qu'elles sont attachées à ce que **les critères d'application du règlement soient suffisamment précis et objectifs** pour que les plateformes puissent effectivement l'appliquer et afin d'éviter de soumettre les plateformes à une obligation de surveillance généralisée pour qualifier les contenus de publicité politique.

Les précisions apportées par le nouveau considérant 16 pourraient être renforcées et clarifiées pour permettre aux plateformes d'identifier aisément les contenus concernés. [La définition actuelle des publicités politiques impose en effet une appréciation au cas par cas des contenus : la notion de « in-house activities » empêchant toute identification automatisable des publicités politiques].

Ligne 195 et suivantes (notamment 195b) (article 12)

Les exigences de l'article 12 impliquent la mise en place d'un système de traitement de données spécifique aux publicités politiques ; la ligne 195b notamment exige le recueil d'un consentement spécifique et distinct pour ces traitements de données. En conséquence, les services comme ceux des plateformes en ligne, qui reposent sur des traitements de données pour la sélection et l'affichage d'informations pour chaque utilisateur, devront analyser chaque élément de contenu présent sur leurs services pour déterminer si le contenu est une publicité politique au sens du texte, et ainsi savoir si elles doivent soumettre ce contenu à un régime spécifique de traitement de données conforme à l'article 12.

Il convient de s’assurer que le texte n’induit pas d’obligation de facto de surveillance généralisée, proscrite par le DSA, ni de charge excessive qui aurait pour effet d’inciter ces plateformes à renoncer à tout traitement de données pour tous les contenus susceptibles d’être des publicités politiques, **et ce afin d’éviter que ces contenus ne soient plus sélectionnés ni affichés sur ces plateformes, ce qui aurait un effet néfaste significatif sur le débat public.**

Ligne 216 : les autorités françaises saluent la disposition indiquant que les autorités compétentes peuvent être différentes de celles visées aux paragraphes 1 et 2.

En effet, les autorités françaises rappellent leur attachement à la prise en compte de **la situation particulière de la presse**, qui ne disposent pas d’autorité de régulation en France, et l’importance de soutenir des mesures souples concernant la désignation des autorités compétentes.

Ligne 149b : les autorités françaises saluent cette disposition qui prévoit que les actes d’exécution de la Commission, sur le format labellisé, prennent en compte le support sur lequel il est publié (média audiovisuel, média imprimé etc.).

Ligne 163o : “Political advertising publishers shall ensure the accuracy of the information of paragraph 1 points (d), (db), [(eb)], (f), (fa) and (k) before and during the period of publication, delivery, or dissemination of the political advertisement.”

Les autorités françaises souhaitent souligner que la référence (fa) ne renvoie à aucune disposition.

Elles estiment que les informations correspondent bien à celles qui sont détenues uniquement par l’éditeur, excepté pour le point (k), qui peut varier de manière régulière. La disposition prévoyant l’obligation pour le service de publicités politiques d’informer la plateforme de tout élément lié à la véracité des informations va dans le bon sens mais la répartition des responsabilités pourrait peut-être être encore clarifiée afin de s’assurer que la plateforme ne se retrouve pas responsable d’une information inexacte qui lui aurait été transmise par le service de publicités politiques.

Ligne 163r : l’article 7a (2) qui donne la possibilité à la Commission d’adopter des actes délégués pour ajouter des informations à la liste ou pour en modifier n’est pas satisfaisant car il laisse une marge de manœuvre à la Commission trop importante et pourrait créer des obligations disproportionnées pour les acteurs de la chaîne de valeur.

Ligne 200d : la référence à l'analyse des risques systémiques pourrait être intégrée à celle prévue dans le DSA s'agissant des très grandes plateformes et des très grands moteurs de recherche. En outre, ces obligations d'analyser l'impact sur la « society as a whole » pourrait faire peser des obligations trop lourdes sur les acteurs qui ne sont pas des très grandes plateformes.

Ligne 201 : la rédaction de ce paragraphe qui prévoit la bonne transmission des informations du responsable de traitement vers l'éditeur quand ils sont deux acteurs différents peut être soutenue.

Sur les considérants

Ligne 29 – considérant 19

Les autorités françaises souhaitent émettre un point de vigilance sur la dernière phrase de ce considérant « However, when such political opinions are subsequently promoted, published or disseminated by service providers, they should be considered to be political advertising. »

Les opinions politiques exprimées dans les médias, sauf si un paiement spécifique ou une autre forme de rémunération est fourni par des tiers, ne sauraient en aucun cas être considérées comme de la publicité politique.

Ligne 23 – considérant 13

Les autorités françaises saluent la rédaction de ce considérant, qui prévoit que ce règlement n'affecte pas les dispositions nationales, qui est sans lien avec la transparence des publicités politiques, notamment les interdictions générales ou les limitations de la publicité politique.

Ligne 14a – considérant 4a

Les autorités françaises soutiennent la rédaction de ce considérant, qui encourage les plateformes à démonétiser les contenus de désinformation, et qui fait référence au Code de bonnes pratiques en matière de désinformation.

LATVIA

Latvia still expresses concern about the deadline for the entry into force of the regulation regarding definitions. Article 2 of the regulation will be applicable after the regulation enters into force, that is, sooner than the rest of the regulation, therefore the definitions will most likely be applicable already at the next European Parliament elections. However, it is not clear how the definitions can be applied separately from the regulation. It is also necessary to evaluate whether the terms used in Latvian national legislation regarding pre-election campaigning correspond to the definitions contained in the regulation. It is not clear how Member States should act if the definitions in the national legislation are different from the definitions used in the regulation. Therefore, in Latvia's opinion, the definitions should also enter into force simultaneously with the entire regulation, so that the application of the regulation is understandable and uniform in all member states.

LUXEMBOURG

Ligne 163o : L'idée suivie jusqu'à présent était celle qu'il incombe avant tout aux « sponsors » de fournir des informations complètes et à jour. Imposer à chaque « publisher » de veiller à l'exhaustivité des données semble disproportionné, d'autant plus qu'ils doivent désormais assurer l'exactitude des données tout au long de la période de publication. Ainsi, la référence au « reasonable effort » devrait être réintroduite au premier alinéa du point deux et le deuxième alinéa devrait être supprimé.

Ligne 163p: LU propose d'ajouter "... in the language of the political advertisement **or in one of the official languages of the country.**"

AUSTRIA

Comments on the document ST 15955/23 regarding the file of political advertising.

As mentioned previously and despite sharing the overall aim of the proposal, we would like to reiterate our general reservation concerning this legislative act for reasons of overregulation, among others.

From a data protection perspective, AT generally supports the compromises regarding Articles -12 and 12. In particular, we welcome the explicit reference to the ECJ case law in row 196a et seq. and ask the Presidency to add the relevant reference numbers for reasons of traceability.

FINLAND

ST 15955/23

Articles

Row 149b

- It should be noted that there would be only 3 months to implement the delegated provisions, if the Commission adopts delegated provisions for 15 months from the date of publication of the Regulation. Will the political advertising services/be able to adequately take into account the delegated provisions before the actual article enters into force? The implementation of these delegated provisions may also require technical solutions from service providers, which can be difficult to implement in 3 months. The worst-case scenario would be if service providers had to make decisions even before there is certainty about the requirements of the Commission's delegated provisions. Small and medium-sized operators, in particular, may face challenges in responding quickly to demands.

Row 163g

- Does the term “specific” mean, in context of referendums, that the decision to hold a referendum has already been made and, for example, the exact dates, questions etc. are known? If not, should provision ea also include the phrase “where applicable”, because there may not be official information (dates, questions etc.) available in all situations. Particularly in the case of referendums, there may be a situation where there is a long lasting debate whether or not there should be held a referendum without any official decisions about it. In this kind of situations, there is not necessarily available information on that particular referendum.

Row 163i

- This seems reasonable. Does the transparency notice also include the reason why that particular advertisement has violated regulations before?

Row 163o

- This seems reasonable.

Row 163p

- What means “They shall be written in the language of the political advertisement”? Does it means it should be written in the same language or something else?

Row 163r

- It is not clear, why COM needs to be empowered to modify points (db), (fa) and (g). Instead, it seems that the appropriate term would be amplify or supplement. As it would empower COM to give technical clarifications to those provisions, that seems to be the need. Term modify seems to open too much room for COM to change the content of those particular provision.
- It seems also not quite clear, what kind of points COM may add to the first paragraph. It might be appropriate to clearly state in the recitals what kind of additions COM may give. For example, is it intended for the COM to adopt provisions that supplements the points already set in paragraph or could COM introduce entirely new requirements by adding point to the paragraph. It would also be important to specify whether the additions can relate to the content of the transparency notice itself or only to the provisions relating to its issuance. We believe that it would be appropriate to limit delegated provisions to the latter situation only.
- The provision also refers to point (fa), but there does not seem to be such a point. Is it intended to refer to point (f) instead? Row 163o seems to have the same reference to the point (fa).

Row 200 – 201

- Row 200
 - o Why is the reference to data provided by a third party removed? Should this information still be provided if such data is used?
- Row 200b
 - o It remains somewhat unclear from the provision how in-depth information about AI should be provided. Does “meaningful” information mean only general information about the use of AI or more of an in-depth information about the used AI technology? Thus, it remains somewhat unclear what the AI-related information is aiming for at all. It might be appropriate for the information to be in-depth so that it could be used to genuinely assess the use of AI. As too general information doesn't really benefit anyone.

Row 205

- This seems reasonable.

Row 249 (period)

- This seems reasonable.

Recitals:

Row 14a

- This seems reasonable.

Row 23

- This seems reasonable.

Row 27b

- This seems reasonable.

Row 29

- There has been concerns in Finland that what the non-discrimination clause means from the point of view of the editorial freedom. That is why it is important to clarify, that the regulation should not affect the editorial freedom of the media. It might still make sense to mention separately the non-discrimination provision in the recital, for example like this: “The provisions, such as non-discrimination clause, laid down in this regulation should therefore not affect the editorial freedom of the media.”

Row 36

- This seems reasonable.

Row 36b

- Should others, than parties and candidates, also be also mentioned in the example list? The recital will now only mention familiar political actors, although, if we have understood correctly, there could be also other actors on whose behalf political advertisement is prepared, placed, promoted, published, delivered or disseminated.

The non-discrimination clause (article 3a (1), row 129b)

- We have understood that the non-discrimination clause does not change the current state of regulation on the provision of services in the internal market. Thus, it appears that the non-discrimination clause is merely an informative provision. This would also mean that the supervision of the provision would be subject to what has been laid down through the Services Directive and the Geo-blocking Regulation. Is our interpretation correct? If yes, it could be reasonable to explicitly state in recitals that the provision only clarifies that political advertising services, which are purchased through the market, are also regulated through the Services Directive and the geo-blocking regulation. This kind of clarification would prevent possible misunderstandings.
- We are also aware that there has been little talk about freedom of expression and freedom of the press when it comes to implementing the Services Directive. Since political communication is a core area of freedom of expression, it may also be appropriate to stress in the recitals that the purpose of this particular provision is not to change the current state of freedom of expression or freedom of the press by any means. At least in Finland, this provision has raised such concerns, so it would be very important to raise the issue also in this specific context.

Repository (article 7b)

- It is still a little unclear when the repository would be in actual use. Does the 24 month also include the introduction of the repository? If not, it poses a challenge to regulatory predictability, which could possibly be a challenge, especially for SMEs.

Specific requirements related to targeting and ad delivery techniques in the context of online political advertising (article 12)

- Finland still urges to ensure that this proposal will be fully in line with the definition and requirements laid down for consent in the GDPR and the EUDPR. In particular, it is essential to make sure that the requirements for consent as well as withdrawing consent in Article 12(1)(b) and Article 12(4) of this Proposal, do not go beyond the GDPR and the EUDPR. Finland stresses the need to clarify that when it comes to consent, neither the GDPR nor the EUDPR leave margin of maneuver.

Entry into force (article 20)

- We are very pleased that the entry into force is 18 months in all other provisions than non-discrimination.
- Still, we wonder when the Councils stance shifted from 12 months to 3 months in the non-discrimination case. As has already been pointed out, there may be a need for national implementation also in this particular provision that cannot be done before ep elections.

SWEDEN

As highlighted in the meeting of 13 November, here is the list of the four recitals that were flagged as important for SE to ensure that the Council's text is kept in the final outcome:

- Recital 31a (Row 41b)
- Recital 34b (Row 44b)
- Recital 45d (Row 55e)
- Recital 14 (Row 23)

In our view, these recital accommodate both co-legislators objective to ensure that principles such as freedom of expression, freedom of the press, and other constitutional elements are safeguarded in the final outcome.
