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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 - Presidency counter proposal concerning the non-discrimination clause

Further to the comments raised by delegations at the meetings of the Working Party on General Affairs on 14 and 20 July, and subsequently in writing, delegations will find, in the annex to this note, an informal counter proposal from the Presidency, concerning the non-discrimination clause, as transmitted to the EP.

Proposal for a Regulation on the transparency and targeting of political advertising
(2021/0381(COD))

Article 3a – EP proposal on non-discrimination (row 129d)

Further to the proposals submitted by the EP following the fourth trilogue meeting held on 28 June, the Presidency could, in the spirit of compromise and as part of an overall compromise package, consider a solution, on the basis of the text jointly proposed by the three legal services and as amended by the EP, subject to the following modifications¹:

New article:

“3. Providers of political advertising services shall not restrict the provision of their services to **a sponsor, including** a European political party in the meaning of Regulation 1141/2014, **or a political group in the European Parliament**, solely on the basis of its place **of residence or** of establishment.”

New Recital:

“(New Recital). It should be recalled that the cross-border provision of advertising services in the internal market is subject to the principle of non-discrimination. This entails amongst others that access by a recipient to a service on offer to the public may not be restricted on grounds of the recipient's nationality or place of residence or establishment. Therefore, providers of political advertising services may not discriminate against sponsors residing or legally established in the Union on grounds of their place of residence or establishment, except where the difference of treatment is justified and proportionate in accordance with Union law. Non-discriminatory access to cross-border political advertising services is essential for the recipients to reap all the benefits of the internal market in this sector. Non-discriminatory access to cross-border political advertising services is particularly important for European political parties given their role to contribute to forming European political awareness and expressing the will of European citizens as set out in Article 10(4) TEU and Article 12(2) of the Charter on Fundamental Rights and their European legal status pursuant to Regulation 1141/2014 [EUPPFs]. Unjustified restrictions by providers on the freedom of European political parties to receive cross-border political advertising services should not be accepted as it obstructs the conduct of effective political campaigns across the Union and thus impedes them from fulfilling the role assigned to them by the Treaties. Consequently, providers of political advertising services should not deny, hinder or make less attractive their services to a European political party solely on the ground of their place of establishment, including registration, **without precluding the possibility for differences of treatment based on justified objective reasons**. Similar considerations **should be made apply** in respect of political groups in the European Parliament that are formed in accordance with the Rules of Procedure of the European Parliament and carry out their duties **as part of the activities of the Union, including as sponsors of political advertising, where applicable**.”

¹ All changes are highlighted in **yellow underlined**. New text is also indicated in **bold**