

Presidency comments

Where necessary for clarity, **yellow** is used to indicate differences between the texts and **green** to indicate similarity.

EP further modifications are in light blue.

	Commission Proposal	EP Mandate	Council Mandate	Draft agreement / Comments
213	Article 15 Competent authorities and contact points	Article 15 Competent authorities and contact points	Article 15 Competent authorities and contact points	
214	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 Article 12 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 <i>mutatis mutandis</i> . Chapter VII of Regulation (EU) 2016/679 shall apply for activities covered by Article 12 of this Regulation.	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 Article 12 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 <i>mutatis mutandis</i> . Chapter VII of Regulation (EU)	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 Article 12 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 <i>mutatis mutandis</i> . mutatis mutandis . Chapter VII of Regulation (EU) 2016/679 shall apply for activities covered by Article 12 Articles 12 and 12a of this Regulation.	[Pending decision on the proposal to split into 12 and 12a.]

		2016/679 shall apply for activities covered by Article 12 of this Regulation.		
214 a		<u><i>1a. In case the political advertising publisher is a very large online platform within the meaning or a very large online search engine within the meaning of Article 33 of Regulation 2022/2065, the European Data Protection Board may initiate an investigation, at the request of national authorities, the Commission, or on its own initiative after consulting the relevant national authorities if it suspects the infringement of Article - 12 or Article 12 of this Regulation.</i></u>		Presidency comments: We can support the informal proposal by the Commission for a recital on COM's oversight on VLOPs circulated on 19 July.
214 b		<u><i>1b. The initiation of investigation pursuant to paragraph 1a of this Article by the European Data Protection Board shall</i></u>		EP: EDPB has exclusive competence in 1a situations. Maintain Council position



		<u>relieve the national data protection authority or authorities, or any competent authority where applicable, of its powers regarding the infringement at stake to supervise and enforce the obligations under this Regulation.</u>		
214 c		<u>1c. The national data protection authorities shall, within 15 days after being informed of initiation of the investigation, or within seven days if within 60 days immediately preceding elections or referendums as referred to in Article 12(1d), transmit to the European Data Protection Board any information they hold about the infringement at stake.</u>		Maintain Council position
214 d		<u>1d. In the exercise of its powers of investigation under this Regulation the European Data Protection</u>		Maintain Council position

		<u><i>Board shall request the individual or joint support of any national data protection authority or authorities concerned by the suspected infringement, including the data protection authority of establishment.</i></u>		
215	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	2. Member States shall designate competent authorities <u><i>that are to supervise and</i></u> to monitor the compliance of providers of intermediary services within the meaning of Regulation (EU) 2021/xxx <u><i>2022/2065 (Digital Services Act)</i></u> 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 <u><i>2022/2065</i></u> (Digital Services Act) may also be one of the competent authorities designated to monitor the compliance of	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	2. Member States shall designate competent authorities to supervise the compliance of providers of intermediary services within the meaning of Regulation (EU) 2022/2065 (Digital Services Act) with the obligations laid down in Articles 5 to 11 and 14 of this Regulation, where applicable. The competent authorities designated under Regulation (EU) 2022/2065 (Digital Services Act) may also be one of the competent authorities designated to supervise 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 49 of Regulation (EU) 2022/2065 (Digital Services Act) in each

	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.	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<u>49</u> of Regulation (EU) 2021/xxx<u>2022/2065</u> 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<u>2022/2065</u> (Digital Services Act2). Article 45(1)<u>58(1)</u> to (4) and Article 46(1)<u>60(1)</u> of Regulation (EU) 2021/xxx<u>2022/2065</u> (Digital Services Act2) shall be applicable for matters related to the application of this Regulation as regards providers of intermediary services.	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.	Member State shall be responsible for ensuring coordination at national level in respect of providers of intermediary services as defined by Regulation (EU) 2022/2065 (Digital Services Act). Articles 49, 58(1) to (4) and Article 60(1) of Regulation (EU) 2022/2065 (Digital Services Act) shall be applicable for matters related to the application of this Regulation as regards providers of intermediary services. Article 51 of Regulation (EU) 2022/2065 shall apply <i>mutatis mutandis</i> as regards the powers of authorities designated under this paragraph. EP can accept this proposal.
215 a		<u>2a. To the extent that the Commission has exclusive competence to monitor the compliance of very large</u>		"To the extent that the Commission has exclusive competence to supervise and enforce the compliance of very large online

		<u>online platforms and of very large search engines within the meaning of Regulation (EU) 2022/2065 (Digital Services Act) with the obligations laid down in that Regulation, it shall be competent to monitor their compliance with Article 5(2d) and Article 7b(2) of this Regulation.</u>		platforms and of very large search engines within the meaning of Regulation (EU) 2022/2065 (Digital Services Act) with the obligations laid down in that Regulation, the Commission should ensure take into account compliance with Article 5(2d) and Article 7b(2) of this Regulation."
216	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. 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	3. Each Member State shall designate one or more competent authorities to be responsible for the <u>consistent</u> application and enforcement of the aspects of this Regulation not referred to in paragraphs 1 and 2. <u>The national competent authorities may be the same as those referred in Article 30 of Directive 2010/13/EU.</u> Each competent authority	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	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 and may be those referred in Article 30 of Directive 2010/13/EU. Each competent authority designated under this paragraph shall structurally enjoy full independence

	measures necessary and proportionate to ensure compliance with this Regulation.	designated under this paragraph shall structurally enjoy full independence both from the sector and from any external intervention or political pressure. It shall, <u>acting</u> in full independence, effectively monitor and take the measures necessary and proportionate to ensure <u>consistent supervision</u>, compliance with <u>and enforcement of</u> this Regulation.	effectively monitor and take the measures necessary and proportionate to ensure compliance with this Regulation.	both from the sector and from any external intervention or political pressure. It shall, <u>acting</u> in full independence, effectively monitor and take the measures necessary and proportionate to ensure <u>supervision</u>, compliance <u>and enforcement of</u> this Regulation. For recital 58 “<i>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 structurally independent from external intervention or political pressure and are appropriately empowered effectively monitor and take the measures necessary to ensure consistent compliance with this Regulation, in particular the obligations laid down in Article 7. 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 13.</i>”
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				EP can accept this proposal.
217	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.	4. Competent authorities referred to in paragraph 3, where exercising their supervisory tasks in relation to this Regulation, shall have <u>at least</u> the power to request to access <u>to</u> data, documents or any necessary information from providers of political advertising services, for the performance of their supervisory tasks. <u>Competent authorities shall use that data only for the purpose of monitoring and assessing compliance with this Regulation, in accordance with relevant legislation on the protection of personal data and the protection of confidential information, and with the objective to maintain the security of the services.</u>	<i>deleted</i>	Delete. EP can accept this proposal.
218	5. Competent authorities	5. Competent authorities	5. Competent authorities referred to	5. Competent authorities referred to

	referred to in paragraph 3, where exercising their enforcement powers in relation to this Regulation, shall have the power to:	referred to in paragraph 3, where exercising their enforcement powers in relation to this Regulation, shall have the power to:	in paragraph 3, where exercising their supervisory and enforcement tasks and powers in relation to this Regulation, shall have the power to:	in paragraph 3, where performing their tasks in relation to this Regulation, shall have the power to:
218 a		(219a) <u>(aa) request access to data, documents, or any necessary information from the providers of political advertising services;</u>	(-a) request access to data, documents or any necessary information, in particular from the sponsor or the providers of political advertising services concerned;	(-a) request access to data, documents or any necessary information, in particular from the sponsor or the providers of political advertising services concerned; <i>Competent authorities shall use that data only for the purpose of monitoring and assessing compliance with this Regulation, in accordance with relevant legislation on the protection of personal data and the protection of confidential information.</i> EP can accept this proposal.
219	(a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this	(a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the	(a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this Regulation;	(a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this Regulation

	Regulation;	obligations under this Regulation;		
219 b		(219c) <u>(ab) order an end to infringements and, where appropriate, impose remedies that are proportionate to the infringement and necessary to bring it effectively to an end;</u> (221) (c) impose administrative fines and financial penalties, <u>including periodic penalty payments;</u>	(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; (221) (c) impose administrative fines and 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;	(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. (ab) impose or request the imposition by a judicial authority of fines or financial penalties or other financial measures as appropriate; <u>(ac) where appropriate impose a periodic penalty payment, or request a judicial authority in their Member State to do so;</u> <u>(ad) where appropriate, impose remedies that are proportionate to the infringement and necessary to bring it effectively to an end or request a judicial authority in their Member State to do so ;</u> EP can accept this proposal.

220	(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;	(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;	(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;	(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;
dd221	(c) impose administrative fines and financial penalties.	(c) impose administrative fines and financial penalties- <u>including periodic penalty payments;</u>	(c) impose administrative fines and 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;	Delete covered in row 219 b EP OK
221 a		<u>(ca) carry out, or, where necessary in accordance with national law, request a judicial authority in their Member State to order inspections of any premises that providers of political advertising services use for purposes related to their trade, business, craft or profession, or to request other public authorities to</u>		(ca) carry out, or request a judicial authority to order or authorise , inspections of any premises that providers of political advertising services use for purposes related to their trade, business, craft or profession, or request other public authorities to do so, in order to examine, seize, take or obtain copies or extracts of information in any form, irrespective of the storage medium;

		<u>do so, in order to examine, seize, take or obtain copies of information relating to a suspected infringement in any form, irrespective of the storage medium;</u>		To recital 61 It follows from the settled case-law of the Court of Justice that the protection of persons, both natural and legal, against arbitrary or disproportionate intervention by the public authorities in the sphere of those persons' private activities constitutes a general principle of EU law. That protection may be relied on by a person as a right guaranteed by the EU law, for the purposes of the first paragraph of Article 47 of the Charter, in order to challenge before a court an act adversely affecting that person, such as an order to provide information or a penalty imposed on the ground of non-compliance with that order. EUR-Lex - 62019CJ0437 - EN - EUR-Lex (europa.eu) EP can accept this proposal.
221 c		<u>5a. Paragraphs 4 and 5 shall apply mutatis mutandis to the European Data Protection Board.</u>		Maintain Council position

221 b		<u>5b. Member States shall ensure that national competent authorities have all necessary means to carry out their tasks, including sufficient technical, financial and human resources to adequately supervise sponsors and providers of political advertising services under their competence.</u>		<u>5b. Member States shall ensure that national competent authorities have all necessary means to carry out their tasks under this regulation, including sufficient technical, financial and human resources to adequately supervise compliance of sponsors and providers of political advertising services under their competence with this regulation.</u> EP wants to keep this provision in the operative part. Not in a recital.
222	6. Member States shall ensure cooperation among competent authorities 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 pursuant to this Regulation, including by jointly identifying infringements, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.	6. Member States shall ensure <u>that there is effective and structured</u> cooperation among <u>all relevant</u> competent authorities <u>and supervisory authorities referred to in paragraphs 1 and 2</u> in particular in the framework of national elections networks, <u>so as</u> to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks pursuant	6. Member States shall ensure effective and structured cooperation among competent authorities in particular in the framework of national elections networks at national level among all relevant competent authorities designated under paragraphs 1 to 3, 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 jointly identifying infringements, sharing findings and expertise to help identify infringements, and liaising	<u>6. Member States shall ensure that there is effective and structured cooperation and coordination at national level among all relevant authorities referred to in paragraphs 1 to 3, in particular in the framework of national contact points elections networks, so as 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 notifying detected infringements which are relevant for other authorities.</u>

		to this Regulation, including by jointly identifying infringements, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.	on the application and enforcement of relevant rules.	<u><i>sharing findings and expertise, and liaising on the application and enforcement of relevant rules.</i></u> EP can accept this proposal provided that the reference to the Network of national contact points is maintained.
222 a			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.	7a. The national contact points designated by Member States pursuant to paragraph 7 shall meet periodically at Union level in the network of national contact points. The network of national contact points shall serve as a platform for regular exchange of information, <i>best practices</i> and structured cooperation between national contact points and the Commission on all aspects of this Regulation. <i>In particular, the Network of national contact points shall facilitate the cooperation at Union level to guarantee an harmonised enforcement of this regulation and shall facilitate the preparation in cooperation with relevant stakeholders of common lines of action to help sponsors and</i>



providers of political advertising services to comply with the requirements of this regulation in an harmonised way.

The network of national contact points shall meet at least twice a year and, where necessary, at the duly justified request of the Commission or a Member State. It shall work in close cooperation with the European Cooperation Network on Elections, European Regulators Group for Audiovisual Media and other relevant networks, to facilitate the swift and secured exchange of information on issues connected to the supervision and enforcement of this Regulation.

The Commission shall take part in the meetings of the Network of National Contact Points and provide administrative support.

EP proposes to include the highlighted parts within the Council text to cover rows 228a-228d, which were not considered by the Council text.

223	7. Each Member State shall designate one competent authority as a contact point at Union level for the purposes of this Regulation.	7. <u>Where a Member State designates one or more competent authorities, it shall ensure that the respective tasks of those authorities are clearly defined and that they cooperate closely and effectively when performing their tasks.</u> Each Member State shall designate one competent authority as a <u>national</u> contact point at Union level for the purposes of <u>all aspects of</u> this Regulation. <u>National contact points shall ensure effective cooperation between national competent authorities and with other national contact points and Union level authorities. Member States shall make publicly available the contact details of their national contact points. Member States concerned shall communicate the name of the other</u>	7. Each Member State shall designate one competent authority as a contact point at Union level for the purposes of this Regulation.	7. <u>Where a Member State designates one or more competent authorities, it shall ensure that the respective tasks of those authorities are clearly defined and that they cooperate closely and effectively when performing their tasks.</u> Each Member State shall designate one competent authority as a <u>national</u> contact point at Union level for the purposes of <u>all aspects of</u> this Regulation. <u>National contact points shall support and facilitate effective cooperation between national competent authorities and with the national contact points of other Member States.. Member States shall make publicly available the contact details of their national contact points. Member States concerned shall where relevant communicate the name of the other competent authorities and their respective tasks to the Network provided by paragraph x (row 228)</u>

		<u>competent authorities and their respective tasks to the Network of National Contact Points.</u>		<u>of National Contact Points.</u> EP can accept this proposal.

PUBLIC



Council of the European Union
General Secretariat

Brussels, 05 October 2023

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

WK 12687/2023 INIT

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
N° Cion doc.:	14374/21 +COR1 REV1 +ADD1 +ADD1 COR1 REV1 - COM(2021) 731 final + Annexes 1 to 2
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising - comments from the European Parliament on article 15

Delegations will find, in the annex to this note, comments from the European Parliament on article 15.