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Subject:	Regulation on the transparency and targeting of political advertising (chapter 1 - 3) - Comments from Member States on the Presidency compromise text of 3 May 2022

Delegations will find attached the comments from Belgium, Czech Republic, Estonia, Finland, Germany, Hungary, Latvia, Lithuania and Slovakia on the Presidency compromise text of 3 May 2022 received following the discussions at the meeting of the Working Party on General Affairs on 17 May 2022.

Regulation on the transparency and targeting of political advertising (Chapters 1 - 3)

**- Comments on the Presidency compromise text of 3 May 2022
received following the GAG meeting of 17 May 2022**

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Reformulation à l'article 2.5 ou avoir davantage de précision sur la formulation de cet paragraphe

'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) 2021/XXX [Digital Services Act] that is provided when it is used by a recipient of the service to disseminate a content without consideration for the placement, publication or dissemination for the specific message;

Comme indiqué lors du GAG de mardi, nous pensons que le texte va dans la bonne direction et n'avons pas beaucoup de remarques additionnelles à formuler par rapport à celles exprimées en groupe de travail. Dans la compréhension qu'en fait le gouvernement belge, si l'objectif qui est visé à l'article 2.5 est d'écarter le cas de personnes qui diffuseraient de messages politiques via des réseaux sociaux ou plateformes intermédiaires en ligne sans être rémunérés pour le faire (ce qui ne constitue dès lors pas une « publicité politique »), cette exclusion devrait être mieux clarifiée dans le texte. Nous sommes néanmoins ouverts sur la formulation ou sur une clarification éventuelle de la COM sur la portée de cette exception.

Comments on Chapters 1 - 2

General remarks

- We generally see the adjustments made as a step in the right direction. We particularly welcome the clarifications made in Recital 26, reflected efforts to protect editorial content, as well as the addition of an explicit reference to non-linear broadcasting. Nevertheless, we believe that the compromise text should go even further in terms of the explanatory potential of the individual recitals so that it is clear to each stakeholder under what circumstances the relevant, transparent requirements are in place.
- We still have some concerns regarding the implementation of the Regulation at the local level, especially in the offline environment, where the text of the Regulation may continue to seem too complex, especially for individuals such as respective politicians or candidates, although this is apparently not the intention of the proposal. For this reason, we believe that there is still room for improvement, both in terms of better articulation of the precondition of paid political advertising across the text and in terms of further elaboration of Recitals, with Recitals 19 and 29 being considered key in this regard.

Recital 26a

- Following that Recital 26a states a political party or individual candidates as examples of a sponsor, we believe that a "third party" should also be mentioned as an explicit example, as these third parties can often run an individual campaign without direct political affiliation.

Recital 29

- We would like to recall our earlier comments on the clarification of the regular posting on social media by political actors when the posts in question are, however, prepared by their staff or by hired marketing specialists.
- If the Regulation applies only to sponsored posts, the position of regular posts prepared de facto for remuneration should be clearly articulated in the Regulation, in particular

with regard to provisions of Recital 29, where the assumptions at the ordinary user-level appear to be potentially contradictory in relation to professionally prepared posts. We, therefore, propose to broaden the Recital 29 and reflect the comments mentioned.

Recital 42a

- In general, we can agree with additional obligations for very large online platforms, but the sentence in Recital 42a stating that these platforms *"may publish other information regarding the influence of the advertisement including clickthrough rate information"* seems redundant.

Article 1

- We support the terminology modification regarding the "processing" of personal data in paragraph 1b.

Article 1a

- We believe that Article 1a should clarify the scope in relation to advertising service providers whose portfolio does not include political advertising as such and thus are not, by definition, "engaged" in political advertising. In particular, we do not see a clear link to the requirement to declare the political nature of advertising when it comes to advertising that is seemingly commercial, but the content assignment (without the necessity of the service provider to be aware of it) aims to implicitly promote or contradict a particular political message, opinion or direction. Thus, advertising will be technically processed by a non-political advertising service provider, but in terms of content, it will meet the criteria of the political advertising definition.
- If the declaration is to constitute a means of assessing that the advertisement was "designed" to influence the outcome of election or referendum, providers of advertising services with purely commercial portfolio would therefore probably fall outside the scope of this Regulation and part of the intended objectives would consequently be virtually unenforceable.

- At the same time, we believe that, in view of the already proposed definitions, paragraph 1 should use the term "political advertisement" or abandon the listing of the whole chain, which is already included in the definition of "political advertising".

Article 2

Para 2

- When it comes to the definition of political advertising, we support the changes made in point b), although we believe that proving the intention to influence the outcome of elections can in itself be very problematic.
- Considering the inclusion of a new paragraph containing almost identical wording as a Recital 19, we believe that, for the sake of completeness, this paragraph should also contain the substance of information reflected in Recital 29.
- Moreover, if online versions of the print media are intended to be treated differently within the exceptions mentioned in the paragraph, the Regulation should explicitly state this. We do not only perceive this approach as somewhat at odds with the desire to protect editorial responsibility, but this intention is also not entirely clear from the text, and it, therefore, does not contribute to its simplification, especially as Recital 2 states that *"... certain linear offline forms of political advertising such as radio and television are also offered online as on-demand services."* For the above reasons, we consider it necessary to incorporate adequate argumentation directly into the text.

Para 3a

- Regarding the definition of service provider, we believe that a political advertising service provider should be defined primarily as a natural or legal provider of "services" related to political advertising, in the same spirit as Article 2 para 5.
- The proposed definition completely neglects the aspect of service, while at the same time, it linguistically does not correspond to already proposed definitions. As mentioned above, when referring to the whole chain, we think that the term "political advertisement" should be used.

- Furthermore, we believe it would be more logical to subordinate the definition to paragraph 5.

Article 2

Para 5

- Here we would welcome a more precise clarification of the scope. Specifically, we encounter an inconsistency between this definition and the wording of Recital 29, which presupposes possible third-party financial intervention without online intermediary service providing a paid advertising placement and dissemination.

Article 6a

- We would like to point out that the newly added Article 6a defines the requirements for service providers but does not take into account situations where the political advertising service does not technically enter between the sponsor and the publisher.

Article 7

- We welcome the additions made in Article 7 para 3. In this regard, however, we believe that the corresponding Recital should appeal more to the principle effort to correct erroneous information in order to prevent arbitrary decisions regarding the inaccessibility of advertising based on the impression that the advertising does not meet the requirements of transparency.

Article 9

- We would welcome a confirmation that, according to the proposal, it is possible to use the DSA mechanism, which provides for a similar mechanism in Article 14, or a clarification of the relationship between these mechanisms.

Chapters I and II

Position: We welcome the efforts made to amend the text, but there is still a lot of work ahead of us. In general, we are concerned that the definitions are still a bit vague or some are even missing, and the scope of the draft remains too broad and unclear.

1. What is meant by the **promotion** of political advertising? We would be thankful for examples and for any additional clarification.
2. **Recital 17** remains unclear – we deem the current wording a bit confusing as “**liability**” can be considered as legal responsibility. Perhaps we could use the term “**potential**” here.
3. **Article 2.4.f** – what does the term “**Member of a Union institution**” mean here? Does it also include people such as MEP-s and commissioners? This should be defined quite clearly.
4. We welcome the new wording of **Article 7.1**, as it is now clearly understood that it is the responsibility of the publisher.
5. **Article 9.4.** The provider of the political advertising service is obliged to process within 48 hours the notification of users that political advertising does not comply with the requirements, starting a month before the election. The question arises whether the introduction of such a short time frame is justified and proportionate here. The same deadline is set for platforms to process hate speech notifications. It must also be taken into account that this is an obligation for the advertiser who relies heavily on the information sent by the advertiser and who does not have direct contact with the advertiser. Thus, in order to specify the circumstances of the advertisement, the advertiser must contact the upstream service provider in the advertising chain. 48 hours is an unreasonably short time to find out all the circumstances and may limit political campaigns, as in case of doubt it is up to the public to refrain from disclosing the advertisement.

6. At the same time, given the concerns of the service providers might be overburdened by requests for information, every journalist is now entitled to send a request for information under **Article 11.2.e**. “Journalist” is a very broad and non-harmonised legal concept, and thus we feel that the right to inherit information is extended to everyone.

Chapters I & II

We generally welcome the direction of compromises. The clarity and details of the regulation still require further assessment.

1. **AMs to Recitals 17 and 26** answer to our concerns over the scope and extensive obligations. We note that the articles 5-9 go in the opposite direction with tightened obligations to different actors in the chain.
2. **The definitions should be clear.**
 - a. **Recital 17 & art. 2.2.b:** Does the regulatory need to be significant?
 - b. **Art. 2.2.** Who would be a “*third party*”? Derogation for editorial content is positive as it supports technological neutrality, equal treatment for content and free political dialogue.
3. **Article 2.5.** (could be discussed with article 12) The outcome of DSA need to noted as it may be stricter on targeting than the wording in this article. In general, debate is needed on links between DSA, GDPR and political ads regarding:
 - a. How to avoid that their application together becomes challenging?
 - b. What we mean by definitions of targeting and amplification; especially in the context of profiling vs. automated decision-making?
4. **Article 2.7.** Term *sponsor* could be replaced by a term *principal* (to avoid confusion with AVMS directive?)

5. **Article 7.1.b)** According to the proposal, each political advertisement should state the identity of the sponsor. Under the current national law, the identity of a private individual supporting an election campaign shall not be published, unless the support exceeds EUR 1,500 (EUR 800 in municipal elections). The statement of the Finnish Parliament's Constitutional Committee emphasised that the necessity and proportionality of the proposed regulation should be examined in further preparation. Could this proposal include the use of similar limits? It is a question of data protection of donors. Preliminary draft: *In cases where the principal is a private person and the sum donated is less than EUR 1,500 to the project in question, the principals identity shall not be published.*
6. **Article 7.2.a** should be amended to ensure the protection of personal data of a private principal.

The national law implements data protection and ensures that information on a person's political positions will not become unnecessary public. If the details of the payer of the advertisement were to always be published in accordance with the proposal, the details of a private individual's identity is revealed. The practical implementation of this proposal and its relationship with fundamental rights must be further examined.

Introductory remarks

- We would like to say at the outset that the compromise text as a whole and despite some weaknesses in detail (i.a. with regard to the numerous undefined legal terms), is a successful and significant step in the right direction.
- In our view, the first two chapters of the compromise text essentially take into account the state of opinion in this Working Party. Even if there is still a way to go, we believe that we can build our future work on this text.
- Regarding Chapter 3: While not part of the discussion today we think the provisions of Art. 12 to be of great importance, namely whether special categories of personal data may be used for personalized political advertising with consent. We therefore would like to ask the Presidency to clarify why Art. 12(2) is set in brackets. We would also ask to be updated on the plans regarding this part of the draft as soon and closely as possible.

a) Chapter I (“General Provisions”)

Art. 1 - 3 and recitals 1 - 27 (“Subject matter, Scope, Definitions, Level of Harmonisation”)

- We welcome the important clarification through the addition of Art. 1a. Art. 1a(2) specifies that the regulation does not affect the content of political advertising or Member states rules regulating the presentation of political advertising, electoral periods and the conduct of political campaigning.
- We welcome the insertion of "and designed" after "liable" in Art. 2(2)(b) is in line with our approach.
- We also support the exclusion of journalistic-editorial content from the definition of political advertising in the way proposed in the new sentence 2 of Art. 2(2) and the revised rec. 19. At the same time, we believe it's correct that the exception should not apply if remuneration has been paid by third parties.

- In times of media convergence, the equal treatment of linear and non-linear broadcasts was particularly important to us. However, we ask that the electronic press and radio services be consistently excluded from the scope of application as this is the case with printed press and audiovisual services.
- We welcome the addition of the definition of "political advertisement" (Art. 2(3)) and the new definition of "provider of political advertising services" (Art. 2(3a)), as they contribute to a better understanding.
- We note that the compromise text continues to include merely preparatory acts of political advertising services within the scope of the Regulation. However, according to the addition in rec. 26 providers who provide purely ancillary services in connection with political advertising services are no longer covered by the provider definition. This meets our concerns. Nevertheless, for the sake of legal certainty, we ask for clarification in Art. 2.
- Rec. 26a contains a helpful explanation of the definition of sponsor (Art. 2(7)) within the scope of this regulation.
- The splitting of the definition of targeting and amplification techniques into two different definitions (Art. 2(8), Art. 2(8a)) still raises questions. We therefore ask the Presidency for a more detailed information. We also consider it important to include "delivery optimisation techniques" in the scope. We will comment on this in more detail next time when we get to chapter 3.

Additional comments from Hungary regarding the proposed regulation on the transparency and targeting of political advertising

Level of harmonisation

As for the level of harmonisation, we have to reiterate our position that **we do not see the form of regulation justified**. In fact, we believe that the **form of directive is sufficient** to achieve the purpose of the legislative act. Furthermore, **since the proposed changes already aim to set out the primacy of national regulations in several areas, it would be sensible to take this further step.**

Definition of political actor

Hungary is of the view that **political actors should include non-governmental organisations** in Article 2 (4g) whose profile and activities often have a political aspect. In fact, such **organisations** tend to have an active role in certain election or referendum campaigns, thus, as they **are capable of influencing voting behaviour**, the scope of the legislative act should cover these entities as well. Furthermore, we deem it necessary to clarify the above mentioned paragraph by deleting the word “campaign” and adding “striving” to the description. With this in mind we suggest the following amendments in Article 2 (4g) (and in Recital 23, accordingly):

4. ‘political actor’ means any of the following:

- (g) a political organisation with or without legal personality – such as non-governmental organisations –, established or striving to achieve a specific outcome in an election or referendum;

Scope

In Article 1a and in Recital 13 we propose the following, minor technical changes in the text:

1. This Regulation shall apply to political advertising prepared, placed, promoted, published or disseminated in the Union, or directed to individuals in one or more Member States, irrespective of the place of establishment of the advertising services provider, and irrespective of the means used.
2. This Regulation shall affect neither the content of political advertising nor Union or Member States rules regulating the presentation of political advertising, electoral periods and the conduct of political campaigning.

Definition of political advertisements

Although the **definitions have been refined in the compromised text, they still lack some clarity**. For instance issue-based ads have been included, however it is not clear who would be empowered to decide on the intentionality of such ads (ie. whether an ad was designed to influence voting behaviour). It is a particularly sensitive question as **it cannot be defined objectively what is considered to be an advertisement with political purpose**, thus **there is potential for the disproportionate restriction of the freedom of expression**.

Hungary is convinced that **transparency rules should only apply to advertisements published for remuneration during campaign periods in the Member States**. Indeed, we find it necessary to reinforce in the text that **advertisement published for free does not fall under the scope of the legislative act**. Furthermore, we believe that the proposal should make it clear that the **provision of information to citizens on matters of general public interest**, not only regarding participation in elections, **is excluded from the scope**.

Once again Latvia thanks Presidency for the amendments made in the revised text.

As mentioned within the meeting regarding **Article 1a(2)** it is still unclear whether the national regulation will apply regarding obligation of the providers of political advertising services to provide to the competent public authority with information on pricing and contracts concluded with political actors, as well the regulations regarding the amount of allowable pre-election expenses (spending "limit) spent on political advertising. These conditions should be set out in the text of the regulation.

Recital 26a. The definition of sponsor should be clarified, as it is not clear from the current definition whether sponsors also pay for these services. For example, if an ad is ordered and placed on behalf of one person but paid for by another, it is not clear which one will be the sponsor. It is also unclear whether an actor can be a sponsor himself if he pays for his advertising

Article 2 (2) and recital 19: Latvia objects to this wording, as it follows that the media may conduct a campaign in support of one particular political party (in the interests of the media owner or another person) throughout the pre-election period if payment is not proven. In Latvian practice, there have been cases when the court has also acknowledged that if the media regularly publishes or publishes interviews or articles in support of one particular political party or candidate during the pre-election period, or provides negative information about a party or candidate, if no payment is established, it is admissible. for a campaign at the expense of the media.

Article 2 (3a): definition of "provider of political advertising services", indicating that it is a natural or legal person engaged in the preparation, placement, promotion, publication or distribution of political advertising. Paragraph 11 of the same article, on the other hand, contains a definition of "political advertising publicer", which defines a 'publisher of a political advertisement' as a natural or legal person who transmits, makes available through an interface or otherwise makes public a political advertisement. . In view of the above, it is not clear whether the two definitions do not overlap with regard to the publication of advertising and whether this cannot lead to misunderstandings in the application of the Regulation.

The biggest regret from Lithuania's side is that the amendments to Article 1 and Article 2 submitted by Lithuania regarding the **purpose of the regulation and its definitions were not taken into account in principle.**

And instead of our proposed deletion and clarification of the words "**a legislative or regulatory process**" in Article 2 in point (b), these words are added in recital 17.

1. Regarding Articles 1 and 1a of the Regulation.

We agree with the exclusion of **Scope** in a separate Article 1a, but suggest that only political advertising with a **cross-border** element should be included in the Scope of the Regulation. Advertising service provider provides in more than one Member State. This would also be in line with the objectives of the Regulation, as the introductory remarks to the Regulation emphasize the need to regulate such advertising measures, which are difficult to regulate at national level. For example:

*(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 organized to make use of a range of media and forms.

Therefore, providers of advertising services operating in the territory of only one country, such as traditional media such as the press, radio, television, should be excluded from the scope of the Regulation, unless the service provider is established in another MS. A precise definition is therefore needed to make it clear whether the Regulation only applies to cases with a cross-border element. For example, the relevant question is whether this regulation will be applied only to the mass media in Lithuania, for example, to regional dailies when they publish political advertisements during the political campaign of the elections to the Seimas of the Republic of Lithuania.

Another paragraph should be added to this article, which would unequivocally indicate whether the provisions of the Regulation should apply in the case of European elections and other national elections where the international element is concerned (for example, the advertiser is an EU-wide entity) or these provisions must transpose them into national law and apply to all entities mentioned in the regulation during all elections.

In addition to answering this question, other provisions of the Regulation should be properly assessed without knowing exactly what responsibilities will be transferred to the candidates and the media.

2. The definitions those are set out in Article 2 of the Regulation.

***‘provider of political advertising services’** means a natural or legal person engaged in the preparation, placement, promotion, publication or dissemination of political advertising (part 3a).*

***‘political actor’** means any of the following (part 4).*

***‘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) 2021/XXX [Digital Services Act] that is provided without consideration for the placement, promotion, publication or dissemination for the specific message (part 5).*

***‘sponsor’** means the natural or legal person on whose behalf a political advertisement is prepared, placed, promoted, published or disseminated; and the recital in paragraph 26a states A sponsor should be understood as the person on whose behalf political advertising is prepared, placed, promoted, published or disseminated, for instance a individual candidate in an election or a political party (part 7).*

***‘political advertising publisher’** means a natural or legal person that broadcasts, makes available through an interface or otherwise brings to the public domain political advertising through any medium (part 11).*

These definitions stand out as not being clear and precise enough.

First, there is no understandable difference between a *political actor* and a *sponsor* in terms of the use of definitions in the regulation. In essence, a sponsor means a funding entity. That is to say, the word sponsor means – supporter, sponsored – supported. Therefore, this term should not be understood more precisely as the person in whose interest the advertising is ordered. In addition, the entity that paid for the advertising. Moreover, the political actor in that case would be the person in whose interest the political advertisement is disseminated. We believe that these definitions are not adequately disclosed and need to be clarified, for example:

*„‘sponsor’ means the natural or legal person **who is going to pay or paid for** ~~on whose behalf~~ a political advertisement **it’s preparation, placement, promotion, publishing or dissemination**.*

Cases should also be regulated where the advertiser is not a political entity itself and the advertisement is ordered by an intermediary, in which case it is not only the advertisement commissioned on behalf of whom it is important, but also who pays for it in order to ensure transparency.

Secondly, there is no clear distinction between the concepts of ***‘political advertising publisher’*** and ***‘provider of political advertising services’***. The introduction of a new definition ***of provider of political advertising services*** and the adjustment of Articles 6, 6a and 7, respectively, create a new entity whose purpose is not detailed. It is suggested that these entities be separated according to the functions they perform.

Assessing the current text, the question is whether it is correct to understand that ***the provider of political advertising services*** is an agency in which ***a political actor*** orders its

political advertising and the **political advertising publisher** distributes the commissioned advertising.

3. Some of the requirements of the **transparency notice** set out in Article 7 are too broad.

For example Paragraph 2 (a) provides that **the identity and place of establishment of the sponsor and, where applicable, the entity ultimately controlling the sponsor and their contact details** and so on.

The evaluation raises the following questions: Is this data necessary to make public? Will national law also require such marking? With regard to Article 7 (3) and 9 (3), we have doubts as to whether the mechanisms envisaged will work and, if so, how.

4. Paragraph 19 of the Recital to the Regulation states *Political views expressed under the editorial responsibility of a service provider, in the programmes of audiovisual media including linear and non linear broadcasts or published in printed media, unless the service provider has been remunerated by a third party for the political advertisement without direct payment or equivalent remuneration should not be covered by this Regulation.*

We would like to point out that if the regulation is applied to national elections, the media operating in Lithuania, then according to this definition, it will not be possible to solve situations where clear political advertising is disseminated according to its content, although it does not order voters' will. Shouldn't journalists be banned from advertising politically in their works? It is also worth noting cases where e.g. newspaper owners, directors, influence the content of the publication, thus circumventing the requirement to label political advertising and taking advantage of their position. This is especially true during municipal council elections. At present, courts recognize such cases of unsolicited political advertising in the media as content advertising. Exceptions to that rule should therefore be provided for, as the mere fact that an author's journalistic work is not paid for does not mean that no political advertisement has been disseminated. In Lithuania, there are cases when politicians control the regional media, which positively cover the activities of politicians during elections and such articles are not paid for, they are not marked as political advertising.

**Comments by Slovakia
on the Presidency compromise text of 3 May 2022 concerning
the Regulation on the transparency and targeting of political advertising**

Chapters 1 - 3

General remark:

the Presidency compromise text of the Regulation is significantly improved compared to the original text. The revisions and amendments made in the proposal are a step in the right direction and SK thanks the Presidency for taking on board many of SK comments. Nevertheless, the revised text cannot be still considered to be sufficient, especially in view of several persisting shortcomings concerning the definition of political advertising.

Going through the revised text:

SK particularly welcomes the explicit statement that the regulation will not affect the national regulation of the election campaign period, or the conduct of the election campaign, which was also the subject of SK previous comments (SK refers to recitals 13 and 25 and Article 1a (2) and Article 2 (9) of the revised Regulation).

As for the revised Art. 2, SK also welcomes the addition of the definition of a “provider of political advertising services” (Art. 2, para. 3a).

The very definition of political advertising in Art. 2 para. 2 however remains insufficient and too vague. Similarly as other Member States, SK lacks more precise wording and definition specifications; such as **the extension of the remuneration condition** to cover not only political advertising made for real remuneration, but also advertising that was made free of charge, or with a discount, but under normal circumstances, a fee is paid for such advertising (this was SK comment to the Presidency questionnaire dated 25 April 2022).

A right step is the addition of words "and designed" in Art. 2 par. 2 letter b) in the revised Regulation, which should narrow the original wording that was too broad – this was also one of SK comments.

SK can also agree with the idea (intention) to exclude, for example the "editorial content" in Art. 2 par. 2, although we have doubts as to whether such an explicitly defined exception does not create scope for circumventing the provisions of the Regulation. Such an exception only highlights the need to make the definition of political advertising more precise, so that it can be made clear from the definition, that for example, 'editorial content' will not fall within that definition.

Moreover, defining one such specific exception may also lead to the demand to introduce more similar explicit exceptions - which at the end may undermine the whole goal of the Regulation. **Whether something is a political advertising or not, can be determined only case by case, by using a precise legal definition.**

As for Art. 2 par. 4, SK has no reservations concerning the modifications made in the revised proposal, **SK only recalls its two comments** made earlier during the discussions and also sent in written form - one specific concerning Art 2.4.g (which remained unchanged in the revised version), and one general/overall comment on 2.4. **We would appreciate if these two comments could be taken on board and we restate them again below:**

Art 2.4.g - *there are no organizations (legal entities) in the legal order of the Slovak Republic that are established in order to achieve a specific result in elections. It is not clear from this definition whether these organizations must be established since their inception as organizations with the stated goal or this applies to so-called third parties, i.e. natural and legal persons registered as a third party to which special rules apply, or the rules that apply for political actors. It is therefore necessary to define which persons can be such an organization (or a third party), or to allow Member States to define this. We also consider necessary to define which natural or legal persons cannot be such an organization (eg public institutions, organizations based abroad) – either by this Regulation or by the national law of Member States.*

Overall comment on Art. 2.4 - we request that Member States retain the right to decide that they do not allow foreign political actors to intervene in political competition and election campaigns in another Member State in all types of elections. At present, the Slovak Republic, as well as many other states, restrict or prohibit the financing of political parties and candidates and conducting an election campaign by foreign entities in order to prevent the elections and their results from being influenced from abroad.

SK also welcomes further clarification of processes and technical details in Chapters 2 and 3 concerning the obligations of sponsors and providers of political advertising, the exchange of information between them and the subsequent publication of information on transparency. We especially appreciate: the clarification of the process followed by the provider of political advertising in the event that it is found that the published information on the transparency of political advertising is incomplete or incorrect, the acceleration of the mechanism based on Art. 9 and 10 of the Regulation (warning of potentially unlawful political advertisement or sending information to the competent authorities) 1 month before the day of the election or referendum within 48 hours and the precise definition of the data that must be included in the transparency notification on targeting and amplification of political advertising.

SK also appreciates the incorporation of its comment regarding the retention of information by political advertising providers on the identity of the political advertising sponsor - in Art. 6 par. 1 letter d) the words "where applicable" were removed/deleted.

Finally, we recall **our comment regarding Art. 7** made during discussions and also sent in written form which the revised version does not address:

*We request that **the obligation in Art 7** for political advertising publishers **be explicitly imposed also on sponsors**, who prepare, place, promote, publish or disseminate political advertisement **on their own or by themselves, without going through operators or publishers** (this is a common phenomenon, especially in municipal elections).*