

Article 7a

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising (Text with EEA relevance)

2021/0381(COD)

Article 7a Draft 13-06-2023

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
Article 7a					
163a		<u>Article 7a</u> <u>Transparency notices</u>		<u>Article 7a</u> <u>Transparency notices</u> Text Origin: EP Mandate	
Article 7a(1)					
163b		<u>1. The transparency notice referred to in Article 7(1)(c) shall be made available by the political advertising publishers and shall include the following information:</u>		<u>1. Political advertising publishers shall ensure that the transparency notice referred to in Article 7(1)(c) includes the following information:</u>	1.
Article 7a(1), point (a)					
163c		<u>(a) the identity, the address or the place of establishment and contact details of the sponsor;</u>		<u>(a) the identity of the sponsor and where applicable, of the entity ultimately controlling the sponsor, including their name, e-mail address, and, where made public, address, and when the sponsor is not a natural person, also the address of its establishment;</u>	

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				<u>(aa) the information required under point (a) on the natural or legal person which provides remuneration in exchange for the political advertisement if this person is different from the sponsor or the entity ultimately controlling the sponsor;</u> linked to recital on financing, to be agreed.	
Article 7a(1), point (b)					
163d		<u>(b) where applicable, the identity of the person or entity ultimately financing or otherwise controlling the sponsor, their address, or place of establishment and contact details;</u>			No text. See row 163c.
Article 7a(1), point (c)					
163e		<u>(c) the period during which the political advertisement is intended to be published and disseminated;</u>		<u>(b) the period during which the political advertisement is intended to be published, delivered or disseminated;</u>	
Article 7a(1), point (d)					

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R	163f	<u>(d) the aggregated amounts spent or other benefits received by the providers of political advertising services including those received by the publisher in part or full exchange for the preparation, placement, promotion, publication, delivery and dissemination of the relevant advertisement, and where relevant of the political advertising campaign, and the origin of the amounts and other benefits;</u>		<u>(c) former letter (d) see column comments.</u> <u>(ca) information on public or private origin of the amounts and other benefits referred to in point (d) as well as whether they originate from inside or outside the Union.</u> <u>(cb) the methodology used for the calculation of the amounts and values referred in (d).</u>	(d) the aggregated amounts spent or other benefits received by the providers of political advertising services including those received by the publisher in part or full exchange for the political advertising services, and where relevant of the political advertising campaign,
Article 7a(1), point (e)					
G	163g	<u>(e) where applicable, an indication of the elections, referendums, and legislative or regulatory processes with which the advertisement is linked;</u>		<u>(d) where applicable, an indication of elections or referendums and legislative or regulatory processes with which the advertisement is linked.</u> <u>(da) where the advertisement is linked to specific elections or referendums, links to official information about the modalities for participation in the election or referendum concerned.</u>	Further letter to be checked below: <i>Council, pending outcome on repositories, also moved text here from row 155 as follows:</i> "(x) where applicable, links to online repositories of advertisements [referred to in paragraph 6];" Note for point (da): The accuracy of this official information is a responsibility of the

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					publisher, reference to this point to be added in row 163o.
	Article 7a(1), point (f)				
G	163h	<u>(f) how to use the mechanisms provided for in Article 9(1);</u>		<u>(e) information on the mechanisms referred to in Article 9(1).</u>	
	Article 7a(1), point (g)				
R	163i	<u>(g) whether the advertisement has been suspended or discontinued due to violation of this Regulation;</u>			<i>Council's comment:</i> Council maintains reservation.
	Article 7a(1), point (h)				
R	163j	<u>(h) where applicable, a statement to the effect that the political advertisement has been targeted based on the use of personal data;</u>		<u>(f) where applicable, a statement to the effect that the political advertisement has been targeted based on the use of personal data, [including information specified in Article 12a(1) point (c) and (ca)];</u> Depends on provisional agreement reached on Article 12. EP amendments on rows 163k and 163l covered by council position on Art 12a (1)(c) and (ca).	

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Article 7a(1), point (i)					
G	163k		<u>(i) where applicable, the specific groups of individuals targeted;</u>		<i>Council's comment:</i> Addressed in row 163j as Council position on Article 12a(1)(c) and (ca) includes this information.
Article 7a(1), point (j)					
G	163l		<u>(j) where applicable, the categories and sources of personal data used for the targeting;</u>		Addressed in row 163j as Council position on Article 12a(1)(c) and (ca) includes this information.
Article 7a(1), point (k)					
Y	163m		<u>(k) where applicable, the reach of political message the number of views, and engagements with the advertisement.</u>	<u>(g) where applicable and technically feasible, the reach of political message the number of views, and engagements with the advertisement;</u> <u>ADD Recital to clarify engagement.</u> Text Origin: EP Mandate	<i>Council's comment:</i> Council maintains reservation.
Article 7a(1), second subparagraph					
G	163n		<u>(l) The information to be included in the transparency notice shall be provided using the</u>		delete

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		<u>specific data fields set out in Annex I.</u>			
163o		<u>2. Sponsors shall ensure the accuracy of the information, which they are required to provide for the purposes of paragraph 1, points (a) and (b) before and during the period of publication, delivery, or dissemination of the political advertisement.</u> <u>Sponsors or, where applicable, providers of political advertising services acting on behalf of sponsors shall ensure the accuracy of the information, which they are required to provide for the purposes of paragraph 1, points (c), (d) and (e) before and during the period of publication, delivery, or dissemination of the political advertisement.</u> <u>Political advertising publishers shall ensure the accuracy of the information, which they are required to provide for the</u>	3. Political advertising publishers shall make reasonable efforts to ensure that the information referred to in paragraph 2 is complete, accurate and up to date.	<u>2. Sponsors shall ensure the accuracy of the information, which they are required to provide for the purposes of paragraph 1 in accordance with Article 5, before and during the period of publication, delivery, or dissemination of the political advertisement.</u> <u>Political advertising publishers shall ensure the accuracy of the information, which they are required to provide for the</u>	EP and CSL (moved from row 158) Cross-references in the second subparagraph are based on EP mandate, to be corrected as appropriate at a later stage.

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	<u>purposes of paragraph 1, points (g) to (l) before and during the period of publication, delivery, or dissemination of the political advertisement.</u> <u>Political advertising publishers shall ensure that the information referred to in paragraph 1 is complete.</u> <u>Where the sponsor or the provider of political advertising services becomes aware that any information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and shall transmit complete or accurate information to that political advertising publisher.</u> <u>Where the political advertising publisher becomes aware that the information referred to in Article 7(1) and paragraph 1 of this Article is incomplete or inaccurate, it</u>	When the sponsor or the provider of political advertising services becomes aware that the information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and, as relevant, shall transmit completed or corrected information to the political advertising publisher. If the political advertising publisher becomes aware by any means that information referred to in paragraph 2 is incomplete or inaccurate, it shall make reasonable efforts	<u>purposes of paragraph 1, points (g) to (l) before and during the period of publication, delivery, or dissemination of the political advertisement.</u> <u>Political advertising publishers shall ensure that the information referred to in paragraph 1 is complete.</u> <u>Where the sponsor or the provider of political advertising services becomes aware that any information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and shall transmit completed or corrected information to that political advertising publisher.</u> <u>Where the political advertising publisher becomes aware by any means that the information referred to in Article 7(1) and paragraph 1 of this Article is incomplete or</u>	

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		<u>shall make best efforts, including by contacting the sponsor or the providers of political advertising services to complete or correct the information without undue delay.</u> <u>Where the information cannot be completed or corrected, the political advertising publisher shall not make available the political advertisement, or shall without undue delay discontinue the placement, promotion, publication, delivery or dissemination of the political advertisement.</u> <u>The political advertising publisher shall inform without undue delay the sponsors or the providers of political advertising services concerned about any decisions taken in connection with the seventh subparagraph of this paragraph.</u>	including, as relevant, by contacting the sponsor or the service providers concerned, to complete or correct the information. Where the information cannot be completed or corrected without undue delay, the publisher 1 and 2 is complete, and where they find this is not the case, they shall not make available or shall discontinue the publication or dissemination of the political advertisement. The publisher shall inform the sponsor or the service provider acting on behalf of the sponsor if the political advertisement it sponsors is not made available or is discontinued.	<u>inaccurate, it shall make best efforts, including by contacting the sponsor or the providers of political advertising services to complete or correct the information without undue delay.</u> <u>Where the information cannot be completed or corrected without undue delay, the political advertising publisher shall not make available the political advertisement, or shall without undue delay discontinue the placement, promotion, publication, delivery or dissemination of the political advertisement.</u> <u>The political advertising publisher shall inform without undue delay the sponsors or the providers of political advertising services concerned about any decisions taken in connection with the sixth subparagraph of this paragraph.</u>	
R 163p		<u>3. Transparency notices shall be easily retrievable at</u>	2a. The transparency notice shall be included in	<u>3. Transparency notices shall be included in each political advertisement or</u>	EP+CSL (Row 157a)

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		<u>all times during the period from their first publication until their withdrawal.</u> <u>Transparency notices shall be kept up to date, presented in a format which is easily accessible and available in a machine readable format. They shall be written in the language of the political advertisement. Political advertising publishers who offer services in the Union shall ensure that transparency notices comply with the accessibility requirements set out in Directive (EU) 2019/882.</u> <u>Transparency notices shall be user friendly, including through the use of plain language.</u>	each political advertisement or be easily retrievable from its first publication and until the end of its publication. Transparency notices shall be presented in a format which is easily accessible and, where technically possible, machine readable, clearly visible and user friendly, including by using plain language. Transparency notices which are machine readable shall be made accessible by means of a common publicly available application programming interface. Moved from row 157a	be <u>easily retrievable at all times during the period from their first publication until the end of their publication.</u>their withdrawal. <u>Transparency notices shall be kept up to date, presented in a format which is easily accessible and, where technically feasible, available in a machine readable format. They shall be written in the language of the political advertisement. Political advertising publishers who offer services in the Union shall ensure that transparency notices comply with the accessibility requirements set out in Directive (EU) 2019/882.</u> <u>Transparency notices shall be clearly visible, user friendly, including through the use of plain language.</u>	
R 163q		<u>4. Political advertising publishers shall keep their transparency notices along with any modifications</u>	5. Political advertising publishers shall retain their transparency notices together with any modifications for a period	<u>4. Political advertising publishers shall keep retain their transparency notices along together with any modifications thereto</u>	EP+CSL (row 160) Pending agreement on data retention

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
		<u><i>thereto for a period of ten years after the last publication.</i></u>	of five years after the end of the period referred to in paragraph 4. last publication. Moved from row 160	<u><i>for a period of (ten) years after the last publication.</i></u>	

Scope of Chapter III

Drafting Article 12 - services:

- *deletion of the reference to services in Chapter III;*
- *keeping the EP mandate on definitions of ‘political advertising’, ‘political advertising service’, ‘ad delivery techniques’;*
- *modifying the definition of ‘targeting techniques’ as per drafting below:*

“targeting ~~or amplification~~ techniques’ means techniques that are made available by political advertising publishers or providers of political advertising services, used ~~either to address a tailored~~ by sponsors, political advertising publishers or providers of advertising services to tailor a political advertisement only to a specific person or group of persons or to ~~increase the circulation, reach or visibility of a political advertisement~~ exclude them by processing personal data, in particular through the collection of their data;”



Council of the European Union
General Secretariat

Brussels, 20 June 2023

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

WK 8362/2023 INIT

LIMITE

**AG
PE
INST
DATAPROTECT
CODEC
DISINFO**

**FREMP
TELECOM
AUDIO
COMPET
CONSOM
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FIN**

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	9184/23
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 and proposals received from the European Parliament

Delegations will find, in annex, comments and proposals received from the European Parliament on the following:

- Article 2 on definitions;
- Article 7a on transparency notices;
- Article 9 on unlawful political advertising;
- Article 15a on cross border cooperation; and
- Proposal on limiting the scope to services in the definitions (instead of in Article 12).

Article 2

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising (Text with EEA relevance)

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Article 2 - draft 19 June 2023

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
R	88a	<u>2a. Political views and opinions and other editorial content expressed under the editorial responsibility of a media service provider shall not be considered political advertising unless specific payment or other remuneration is provided for their preparation, placement, promotion, publication, delivery or dissemination by third parties.</u>	(i) political opinions expressed in any media under editorial responsibility unless specific remuneration is provided for or in connection with expressing that political opinion. (from row 107b)	<u>2a. Political views and opinions and other editorial content expressed in any media under the editorial responsibility of a media service provider shall not be considered political advertising unless specific payment or other remuneration is provided for or in connection with their preparation, placement, promotion, publication, delivery or dissemination by third parties.</u>	Merging between EP and Council text from row 107b
Article 2, first paragraph, point (2)					
M	105	2. 'political advertising' means the preparation, placement, promotion, publication or dissemination, by any means, of a message:	2. 'political advertising' means the preparation, placement, promotion, publication or dissemination, by any means, of a message:	2. 'political advertising' means the preparation, placement, promotion, publication, <u>delivery</u> or dissemination, by any means, of a message:	
Article 2, first paragraph, point (2)(a)					

Article 2

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
G	106	(a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or	(a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or		
Article 2, first paragraph, point (2)(b)					
R	107	(b) which is liable to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour.	(b) which is liable to influence <u>voting behaviour</u> <u>or</u> the outcome of an election or referendum, <u>or</u> a legislative or regulatory process or voting behaviour .	(b) which is liable and designed to influence the outcome of an election or referendum, a voting behaviour or a legislative or regulatory process, at Union, national, regional or local level or voting behaviour .	Merging between EP and Council text
R	107a		(ba) It shall not include:	(ba) It shall not include:	
R	107b		(i) political opinions expressed in any media under editorial responsibility unless specific remuneration is provided for or in connection with expressing that political opinion.		Moved to scope Row 88a

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
R 107c			(ii) messages from official sources of Member States or the Union exclusively related to the organisation and modalities for participation in elections or referendums, including the candidacies and the question put to the referendum, or for promoting the participation in elections or referendums. Council Mandate: Based on last subparagraph of Article 2 of the Commission proposal.	(ii) messages from official sources of Member States or the Union that are strictly limited to the announcement of elections or referendums, the modalities for promoting participation in elections or referendums, including the candidacies and the question put to the referendum shall not constitute political advertising, or for promoting the participation in elections or referendums.	Merging between EP and Council text.
R 107d			(iii) public communication by, for or on behalf of any public authority of a Member States, including members of Government, provided they are not designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;	(iii) public communication aiming to provide official information to the public by, for or on behalf of any public authority of a Member State or of the Union, including members of Government, provided they are not designed liable to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;	Merging between EP and Council text, feedback from Commission also considered.

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
R	107e		(iv) presentation of candidates in specified public spaces or in the media which is explicitly provided by law and allocated free of charge while ensuring equal treatment.	(iv) presentation of candidates in specified public spaces or in the media which is explicitly provided by law and allocated free of charge while ensuring equal treatment.	Suggestion to accept Council mandate.
	Article 2, first paragraph, first paragraph				
R	126	For the purposes of the first paragraph, point (2) messages from official sources regarding the organisation and modalities for participation in elections or referendums or for promoting participation in elections or referendums shall not constitute political advertising.	For the purposes of the first paragraph, point (2) messages from official sources regarding the organisation and modalities for participation in <u>shall not constitute political advertising if they are strictly limited to the announcement of</u> elections or referendums or <u>of the modalities</u> for promoting participation in elections or referendums shall not constitute political advertising.	<i>deleted</i> Council mandate: Merged with definition of political advertising (point 2) - see row 107c	

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Where necessary for clarity, yellow is used to indicate differences between the texts and green to indicate similarity. In red character in the 4th column new compromise wording not previously included in the Parliament's or Council mandate.

	Commission Proposal	EP Mandate	Council Mandate	Draft agreement / Comments
223a			Article 15a Cross-border cooperation	Council adds new Article 15a where paragraphs 8 and 9 of Art 15 are moved (renumbered) and new paragraphs are added.
223b		(227a 1st subparagraph) <u>8a. Compliance with this Regulation by providers of political advertising services shall be subject to the competence of the Member State where the provider has its establishment. In case the provider is established in more than one Member State, it shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment. Without prejudice to paragraphs 1 and 2, the competent authority or authorities of all Member States shall cooperate with and assist each other as necessary.</u>	1. Compliance with this Regulation by providers of political advertising services shall be subject to the competence of the Member State where the provider has its establishment. In case the provider is established in more than one Member State, it shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment. (See 224 below)	1. Compliance with this Regulation by providers of political advertising services and sponsors shall be subject to the competence of the Member State where the provider has its establishment. In case the provider is established in more than one Member State, it shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment. EP OK
Article 15(8)				
224				

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	8. Where a provider of political advertising services is providing services in more than one Member State, or has its main establishment or a representative in a Member State but provides its main activities in another Member State, the competent authority of the Member State of the main establishment or other establishment or of the representative, and the competent authorities of those other Member States shall cooperate with and assist each other as necessary. Unless already regulated by Union law, that cooperation shall entail, at least, the following:	8. Where a provider of political advertising services is providing services in more than one Member State, or has its main establishment or a representative in a Member State but provides its main activities in another Member State, the competent authority of the Member State of the main establishment or other establishment or of the representative, and the competent authorities of those other Member States shall cooperate with and assist each other as necessary. Unless already regulated by Union law, that cooperation shall entail, at least, the following:	82. Where a provider of political advertising services is providing services in more than one Member State, or has its main establishment or a representative in a Member State but provides its main activities in another Member State Without prejudice to paragraphs 1 and 2 of Article 15 and paragraph 1 of this Article, the competent authority of the Member State of the main establishment or other establishment or of the representative, and the competent or authorities of those other all Member States- shall cooperate with and assist each other as necessary. Unless already regulated by Union law, that cooperation shall entail, at least, the following:	82. Where a provider of political advertising services is providing services in more than one Member State, or has its main establishment or a representative in a Member State but provides its main activities in another Member State Without prejudice to paragraphs 1 and 2 of Article 15 and paragraph 1 of this Article, the competent authority of the Member State of the main establishment or other establishment or of the representative, and the competent or authorities of those other all Member States shall cooperate with and assist each other as necessary. Unless already regulated by Union law, that cooperation shall entail, at least, the following: EP OK
Article 15(8), point (a)				
225	(a) the competent authorities applying supervisory or enforcement measures in a Member State shall, via the contact point referred to in paragraph 7, inform and consult the competent authorities	(a) the competent authorities applying supervisory or enforcement measures in a Member State shall, via the contact point referred to in paragraph 7, <u>and without undue delay, and in any event</u>	<i>deleted</i>	Council deletes this paragraph. Joint investigation mechanism is added in 227o-227q. EP could accept deletion

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	in the other Member State(s) concerned on the supervisory and enforcement measures taken and their follow-up;	<u>no later than one month after a cooperation request</u> , inform and consult the competent authorities in the other Member State(s) concerned on the supervisory and enforcement measures taken and their follow-up;		COM comment:ok EP OK
<i>Article 15(8), point (b)</i>				
226	(b) a competent authority may request, via the contact point referred to in paragraph 7, in a substantiated, justified and proportionate manner, another competent authority, where it is better placed, to take the supervisory or enforcement measures referred to in paragraphs 4 and 5; and	(b) a competent authority may request, via the contact point referred to in paragraph 7, in a substantiated, justified and proportionate manner, another competent authority, where it is better placed, to take the supervisory or enforcement measures referred to in paragraphs 4 and 5; and	<i>deleted</i>	Council deletes this paragraph. Joint investigation mechanism is added in 227o-227q. EP could accept deletion EP OK COM comment:ok
<i>Article 15(8), point (c)</i>				
227	(c) a competent authority shall, upon receipt of a justified request from another competent authority, provide the other competent authority with assistance so that the supervision or enforcement measures referred to in paragraphs 4 and 5 can be implemented in an effective, efficient and consistent manner. The relevant competent authority so requested shall, via the contact points referred to in paragraph	(c) a competent authority shall, upon receipt of a justified request from another competent authority, provide the other competent authority with assistance so that the supervision or enforcement measures referred to in paragraphs 4 and 5 can be implemented in an effective, efficient and consistent manner. The relevant competent authority so requested shall, via the contact points referred to in paragraph	(e) 3. A competent authority shall, upon receipt of a justified request from another competent authority, provide the other competent authority with assistance without undue delay and no later than one month after receiving the request so that the supervision or enforcement measures referred to in paragraphs 4 and 5 paragraph 5 of Article 15 can be implemented in an effective, efficient	Council removes reference to paragraph 4 to reflect the deletion of that paragraph (217 above). EP could accept COM comment:ok

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	7 and within a timeframe proportionate to the urgency of the request provide a response communicating the information requested, or informing that it does not consider that the conditions for requesting assistance under this Regulation have been met. Any information exchanged in the context of assistance requested and provided under this Article shall be used only in respect of the matter for which it was requested.	7 and, <u>without undue delay, and in any event no later than one month after a cooperation within a timeframe proportionate to the urgency of the request</u>, provide a response communicating the information requested, or informing that it does not consider that the conditions for requesting assistance under this Regulation have been met. Any information exchanged in the context of assistance requested and provided under this Article shall be used only in respect of the matter for which it was requested.	and consistent manner. The relevant competent authority so requested shall, via the contact points referred to in paragraph 7 and within a timeframe proportionate to the urgency of the request provide a response communicating the information requested, or informing that it does not consider that the conditions for requesting assistance under this Regulation have been met. Any information exchanged in the context of assistance requested and provided under this Article shall be used only in respect of the matter for which it was requested upon receipt of a justified request for information from the competent authority of another Member State, via the contact points referred to in paragraph 7 of Article 15, provide that competent authority with the required information without undue delay and no later than 14 days after receiving the request. The deadline may be extended to one month in cases requiring additional investigation or information from multiple competent authorities.	EP OK
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227a		(1st subparagraph moved to 223b) (2nd subparagraph:) <u>Where a national competent authority has reasons to suspect that a sponsor, provider or publisher of political advertising services infringed this Regulation in a manner affecting individuals in the Member State of that competent authority, it may request the contact point of establishment to assess the matter and to take the necessary investigatory and enforcement measures referred to in paragraphs 4 and 5 of this Article. A request shall be substantiated, justified and proportionate and at least indicate:</u>	(227g) 4. Where the competent authority of a Member State has a reason to suspect that a provider of political advertising services, which has its main establishment in another Member State, has infringed this Regulation in its territory, it shall notify the competent authority of the main establishment, via the contact point referred to in Article 15(7). (227h) 5. A notification pursuant to paragraph 4 shall be duly reasoned and at least indicate:	Council counter proposal: 4. Where a national competent authority of A Member State has a reason to suspect that this regulation has been infringed in its territory, it shall notify the Member State of the main establishment of the service provider and request, where appropriate, to assess the matter and to take the necessary investigatory and enforcement measures referred to in paragraph 5 of this Article. 5. A notification pursuant to paragraph 4 shall be substantiated, duly reasoned and proportionate and at least indicate: 4 EP OK
227b		<u>(a) the point of contact or legal representative of the provider of the political advertisement services</u>	(227i) (a) the information allowing the identification of the political advertising service provider;	(a) the information allowing the identification of <i>the sponsor</i> or political advertising service provider;

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		<u>concerned as provided for in Article 14;</u>		EP OK
227c		<u>(b) a description of the relevant facts, the provisions of this Regulation concerned and the reasons why the competent authority that sent the request suspects that the provider infringed this Regulation, including the description of the negative effects of the alleged infringement;</u>	(227j) (b) a description of the relevant facts, the relevant provisions of this Regulation and the reasons why the competent authority that sent the notification suspects that the service provider concerned infringed this Regulation, including, as relevant, a description of the facts that would allow the assessment of the criteria set out in Article 16(3); (227k) (c) the place where the relevant political advertisement or a copy of it can be retrieved;	Council counter proposal: <u>(b) a description of the relevant facts, the relevant provisions of this Regulation and the reasons why the notifying competent authority</u> suspects an infringement of this regulation, , including, as relevant, <i>a description of the circumstances allowing the assessment of</i> the criteria set out in Article 16(3) (c) information where the relevant political advertisement or a copy of it can be retrieved; EP OK
227d			(227l)	Council counter proposal:

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		<i>(c) any other information that the competent authority that sent the request considers relevant, including, where appropriate, information gathered on its own initiative or suggestions for specific investigatory or enforcement measures to be taken, including interim measures.</i>	(d) any other information that the competent authority that sent the notification considers relevant, including, where appropriate, information gathered on its own initiative.	<i>(c) any other information that the notifying competent authority considers relevant, including, where appropriate, information gathered on its own initiative.</i> EP OK
Article 15(8a), second subparagraph				
227e		<i>(d) The contact point of establishment shall take into utmost account the pursuant to paragraph 5 of this Article. Where it considers that it has insufficient information to act upon the request or recommendation and has reasons to consider that the competent authority that sent the request could provide additional information, it may request such information. The time period laid down in paragraph 4 of this Article shall be suspended until that additional information is provided.</i>	(227m) 6. Where the competent authority of the main establishment does not have sufficient information to act upon a notification referred to in paragraph 4, it may request additional information from the competent authority that made the notification which shall provide the requested information without undue delay .	6. Where the competent authority of the main establishment does not have sufficient information to act upon a notification referred to in paragraph 4, it may request additional information from the competent authority that made the notification which shall provide the requested information without undue delay . <i>The time period laid down in paragraph 7 of this Article shall be suspended until that additional information is provided.</i> EP OK
Article 15(8a), third subparagraph				

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227f		<i><u>(e) The contact point of establishment shall, without undue delay and in any event not later than one month following receipt of the request pursuant to paragraph 4, communicate to the competent authority that sent the request, and the Network of National Contact Points, the assessment of the suspected infringement and an explanation of any investigatory or enforcement measures taken or envisaged in relation thereto to ensure compliance with this Regulation.</u></i>	(227n) 7. The competent authority of the main establishment shall, without undue delay and no later than one month following receipt of the notification referred to in paragraph 4 or, where applicable, of the information referred to in paragraph 6, communicate to the competent authority that made the notification its assessment of the suspected infringement and further information on the investigatory or enforcement measures taken, or intended to be taken, in order to ensure compliance with this Regulation.	(227n) 7. The competent authority of the main establishment shall, without undue delay and no later than one month following receipt of the notification referred to in paragraph 4 or, where applicable, of the information referred to in paragraph 6, communicate to the competent authority that made the notification its assessment of the suspected infringement and further information on the investigatory or enforcement measures taken, or intended to be taken, in order to ensure compliance with this Regulation.
227o			8. Where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main establishment, the competent authority of the main	8. Where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main

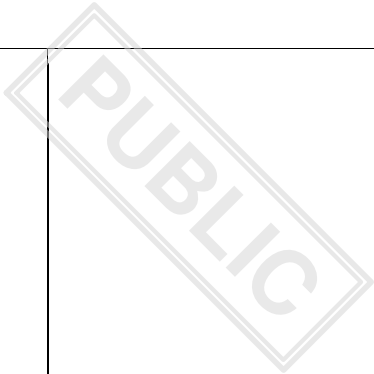
Article 15a

			establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned:	establishment, the competent authority of the main establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned: EP OK
227p			(a) at its own initiative and after obtaining the agreement of the competent authority or authorities requested; or	(a) at its own initiative and after obtaining the agreement of the competent authority or authorities requested; or EP OK
227q			(b) upon the request of another competent authority or authorities, based on the reasoned suspicion that the provision of political advertising services by a service provider established in the Member State of the main establishment has infringed this Regulation or substantially affected individuals in the territory of the competent authority or authorities making the request.	(b) upon the request of another competent authority or authorities, based on the reasoned suspicion that the provision of political advertising services by a service provider established in the Member State of the main establishment has infringed this Regulation or substantially affected individuals in the territory of

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				the competent authority or authorities making the request. EP OK
			(moved from 228) 9. Contact points shall meet periodically at Union level in the framework of the European Cooperation Network on Elections to facilitate the swift and secured exchange of information on issues connectedFor the purposes of paragraph 8 the competent authority requesting the launch of a joint investigation shall provide the other competent authority or authorities with the information referred to in paragraph 5. If a competent authority decides not to participate in a joint investigation, it shall provide to the exercise of their supervisory and enforcements tasks pursuant to this Regulationother competent authority or authorities with a reasoned explanation to that effect.	9. Contact points shall meet periodically at Union level in the framework of the European Cooperation Network on Elections to facilitate the swift and secured exchange of information on issues connectedFor the purposes of paragraph 8 the competent authority requesting the launch of a joint investigation shall provide the other competent authority or authorities with the information referred to in paragraph 5. If a competent authority decides not to participate in a joint investigation, it shall provide to the exercise of their supervisory and enforcements tasks pursuant to this Regulation other competent authority or authorities with a reasoned explanation to that effect.

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			EP OK (row 228f Council text) 10. In carrying out a joint investigation, competent authorities shall cooperate in good faith, and exercise their investigative powers as necessary for the investigation of the alleged infringement. Competent authorities in a joint investigation shall inform each other of any relevant enforcement action which they initiate or intend to initiate. EP OK
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Article 9

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising (Text with EEA relevance)

2021/0381(COD)

DRAFT Article 9 - consolidated 13_02_2023

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
Article 9					
167	Article 9 Indicating possibly unlawful political advertisements	Article 9 Indicating possibly unlawful political advertisements	Article 9 Indicating possibly unlawful political advertisements	Article 9 Indicating possibly unlawful political advertisements	
Article 9(1)					
168	1. Where they provide political advertising services, advertising publishers shall put in place mechanisms to enable individuals to notify them, free of charge, that a particular advertisement which they have published does not comply with this Regulation.	1. Where they provide political advertising services, advertising publishers shall put in place mechanisms to enable individuals to notify them, free of charge, <u>natural or legal persons to notify them</u> that a particular advertisement which they have published does not comply with this Regulation.	1. Where they provide Political advertising services, advertising publishers shall enable natural or legal persons put in place mechanisms to enable individuals to notify them, free of charge, that a particular advertisement which they have published does not comply with this Regulation.	1. Where they provide Political advertising services, advertising publishers shall put <u>have</u> in place <u>the necessary</u> mechanisms to enable individuals <u>natural or legal persons</u> to notify them, free of charge, that <u>of</u> a particular advertisement which <u>that</u> does not comply with this Regulation. Recital 45 to be adapted to clarify mechanisms.	
168a					

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
		<u>1a. Those mechanisms shall be free of charge, user-friendly, and easy to access, including from the transparency notice. Where technically possible, those mechanisms shall allow notifications to be submitted by electronic means.</u>		Refer to row 169 below.	
Article 9(2)					
169	2. Information on how to notify political advertisements as referred to in paragraph 1 shall be user friendly and easy to access, including from the transparency notice.	2. Information on how to notify political advertisements as referred to in paragraph 1 shall be user friendly and easy to access, including from the transparency notice.	2. Information on how to notify political advertisements as referred to in paragraph 1 shall be user friendly and easy to access, including from the transparency notice. Political advertising publishers shall allow for the submission of the notification referred to in paragraph 1 by electronic means.	2. Information on how to notify political advertisements as <u>The mechanisms referred to in paragraph 1 shall be user friendly free of charge, user-friendly, and easy to access, including from the transparency notice. Where technically possible, those mechanisms shall allow for electronic notifications.</u>	
169a		<u>2a. The mechanisms referred to in paragraph 1 shall facilitate the submission of precise and substantiated notifications so that political advertising publishers are able to</u>		<u>2a. Those mechanisms shall facilitate the submission of precise and substantiated notifications for political advertising publishers to identify the unlawfulness of the</u>	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
		<u>identify the unlawfulness of the advertisements in question. To that end, advertising publishers shall take the necessary measures to enable and facilitate the submission of notifications containing all of the following elements:</u>		<u>advertisements in question. To that end, advertising publishers shall take the necessary measures to enable and facilitate the submission of notifications containing all of the following elements:</u>	
169b		<u>(a) a substantiated explanation of the reasons why the person or entity submitting the notification alleges that the advertisement in question does not comply with this Regulation;</u>		<u>(a) a substantiated explanation of the reasons why the person or entity submitting the notification alleges that the advertisement in question does not comply with this Regulation;</u>	
169c		<u>(b) information enabling the identification of the political advertisement;</u>		<u>(b) information enabling the identification of the political advertisement;</u>	
169d		<u>(c) the name and email address of the individual or entity submitting the notification;</u>		<u>(c) the name and email address of the individual or entity submitting the notification.</u>	

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
G	169e	<u>(d) a statement confirming that the person or entity submitting the notification believes in good faith that information contained therein is complete and accurate.</u>		Provisional agreement does not include any text in this row.	
Article 9(3)					
R	170	3. Political advertising publishers shall allow for the submission <u>send without undue delay a confirmation of receipt</u> of the information referred to in paragraph 1 by electronic means. The notification to persons who submitted it. <u>Political advertising publishers shall examine and address the notification in timely, diligent and objective manner.</u> Political advertising publisher <u>publishers</u> shall inform individuals <u>without undue delay the sponsors or providers of political advertising services concerned</u>, of the follow up <u>effect</u> given to the notification.	3. Political advertising publishers shall allow for the submission of the information referred to in paragraph 1 by electronic means. The political advertising publisher shall inform individuals of the follow up given to the notification as referred to in paragraph 1 make reasonable efforts to address, in a diligent and objective manner and without undue delay, the notifications received pursuant to paragraph 1, by contacting the relevant provider of political advertising services and, as relevant, the sponsor. Council mandate: para 3 of COM proposal moved and revised as para 3a.		<u>EP draft proposal - replacing the text from row 170 to row 170c.</u> 2b. Political advertising publishers shall allow for the submission <u>send without undue delay a confirmation of receipt</u> of the information referred to in paragraph 1 by electronic means. The notification received pursuant to paragraph 1 to the natural or legal persons who submitted it. 3. Political advertising publishers which are very large online platforms and very large online search engines within the meaning of Regulation (EU) 2022/2065 <u>shall without undue delay:</u>

Article 9

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
		<u>Political advertising publishers shall provide clear and user-friendly information on the possibilities for redress in respect of the advertisement to which the notification relates and, where applicable, on the use of automated means for the processing of notifications as referred to in paragraph 1.</u>			a) examine and address the notification the notifications received pursuant to paragraph 1; in timely, diligent, non-arbitrary and objective manner, on the basis of the information provided by the notification. Political advertising publishers b) inform, at least upon request and without undue delay, the natural or legal persons which made the notification referred to in paragraph 1 of the follow up given to it. 3a. Political advertising publishers that are not very large online platforms and very large online search engines within the meaning of Regulation (EU) 2022/2065 shall without undue delay: a) make reasonable best efforts to examine and address, and without undue delay, the notifications received pursuant to paragraph 1, by contacting the relevant provider of political

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
					advertising services and, as relevant, the sponsor. in a diligent, non-arbitrary and objective manner. b) inform, at least upon request and without undue delay, the natural or legal persons which made the notification referred to in paragraph 1 of the follow up given to it. <u>Political advertising publishers qualifying under Article 3, paragraph 1 of Directive 2013/34/EU shall make best efforts to ensure the compliance with this point.</u> 3b. In the last month preceding an election or a referendum, political advertising publishers which are very large online platforms and very large online search engines within the meaning of Regulation (EU) 2022/2065 shall process address any notification that they receive about an advertisement linked to that election or referendum within 48 hours provided that <u>the notification can be</u>

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
					<u>processed completely on the basis of the information provided therein/in the notification. Political advertising publishers qualifying under Article 3, paragraphs 1 to 3 of Directive 2013/34/EU shall make best efforts to ensure the compliance with this paragraph. to process any notification that they receive about advertisement linked to that election or referendum without undue delay.</u> 3c. <u>Political advertising publishers shall provide clear and user-friendly information on the possibilities for redress in respect of the advertisement to which the notification relates and, where applicable, on the use of automated means for the processing of notifications as referred to in paragraph 1.</u> <u>(recital from Commission on “where technically feasible”)</u> 3d. Political advertising publisher <u>publishers</u> shall

Article 9

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
					inform individuals <u>without undue delay the sponsors or providers of political advertising services concerned of any measures they take following notifications made under this Article, which affect the availability or the presentation of the political advertisement concerned.</u>
R	170a		3a. Political advertising publishers shall inform, at least upon request and without undue delay, the persons which made the notification referred to in paragraph 1 of the follow up given to it . Political advertising publishers qualifying under Article 3, paragraph 1 of Directive 2013/34/EU shall make best efforts to ensure the compliance with this paragraph.		
R	170b	<u>3a. In the month preceding an election or a referendum, political advertising publishers shall</u>			

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
		<u>process without undue delay and no later than 48 hours any notification that they receive about an advertisement linked to that election or referendum.</u> <u>Political advertising publishers that are micro and small enterprises within the meaning of Article 3 of Directive 2013/34/EU shall process without undue delay any notification that they receive about advertisement linked to that election or referendum.</u>			
R 170c			3b. In the last month preceding an election or a referendum, political advertising publishers which are very large online platforms within the meaning of Regulation (EU) 2022/XXX [Digital Services Act] shall address any notification that they receive about advertisement linked to this election or referendum within 48 hours.		

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	Comments
Article 9(4)					
G	171	4. Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to collectively, including by reference to an announcement on the website of the political advertising publisher concerned.	4. Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to collectively <u>by making use of automated tools</u> , including by reference to an announcement on the website of the political advertising publisher concerned.	4. Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to collectively, including by <u>making use of automated tools or by</u> reference to an announcement on the website of the political advertising publisher concerned.	
R	171a				
		<u>4a. The Commission shall adopt delegated acts in accordance with Article 19 to supplement paragraph 1 of this Article by establishing technical specifications for the mechanism referred to in that paragraph, adapted for the audiovisual sector, printed media, online and offline advertising.</u>			