



COMPROMISE AMENDMENTS

[1- 17]

[on Opinion on the IMCO Report on Transparency and targeting of political advertising]
[(COM(2021)0731 – 2021/0381(COD))]

Rapporteur: [Anna Donath]

COMPROMISE 1 - [Article 1 Subject matter and scope and matching recitals]

AMs covered: AMs 1, 2, 3, 4, 5, 6, 7 (Rapp), 175 (Greens), 177 (S&D), 181 (S&D), 184 (S&D), 186 (EPP), 187 (S&D), 188 (EPP), 189 (S&D), 190 (S&D), 191 (The Left), 200 (EPP), 201 (EPP) AM 172 (Rapp), 173 (S&D), AM 185 (EPP), 192 (The Left), AM 128 (EPP), AM 129 (Rapp), **AM 91 (SnD)**

AMs falling: AMs 174 (The Left), 176 (The Left), 178 (The Left), 179 (S&D), 180 (The Left), 182 (The Left); **AM 183 (EPP); AM 185 (EPP), AM 127 (ID)**

Article 1

Subject matter and scope

1. This Regulation lays down:
 - (a) harmonised transparency obligations for providers of political advertising and related services to retain, disclose and publish information connected to the provision of such services;
 - (b) harmonised rules on the use of targeting and ~~amplification~~ **ad delivery** (AM 1, 177) techniques in the context of the publication, dissemination or promotion of political advertising that involve the ~~use~~ **processing** (AM 1, 175) of personal data.
2. This Regulation shall apply to political advertising **sponsored** (AM 2) prepared, placed, promoted, published or disseminated in the Union, or directed to individuals in one or several Member States, irrespective of the place of establishment of the **sponsor or the** (AM 2) advertising services provider, and irrespective of the means used.

2a. Political content expressed under the editorial responsibility of a print or online publisher or an service provider, in the programmes of audiovisual media service provider, published in printed or in online media shall not be considered to be political advertising when it is sponsored, prepared, placed, promoted, published or disseminated unless the service provider is has been remunerated in any form by a third party for it. (AM 3, 200, 201)

3. The aims of this Regulation are:
 - (a) to contribute to the proper **safe, predictable, trusted and transparent** (AM 181) functioning of the internal market for political advertising and related services;
 - (b) to protect **the fundamental rights and freedoms of** natural persons, **specifically** with regard to **the right to privacy and data protection, freedom of expression and information and non-discrimination** (AM 184), **as enshrined in the Charter of fundamental rights** the processing of personal data.

~~(ba) to set out rules for a safe, predictable, trusted and transparent European market of online political advertising, where fundamental rights and freedoms, including the freedom of expression and information and the right to privacy and data protection enshrined in the Charter of Fundamental Rights are effectively protected and promoted (AM 4, 185)~~

~~(bb) to uphold the values on which the Union is founded provided for in Article 2 of the Treaty on European Union, in particular respect for freedom, democracy and the rule of law and, by guaranteeing that Union citizens can exercise their basic democratic rights, in particular the right to form an opinion and the right to vote in a transparent environment (AM 5)~~

4. This Regulation ~~is without prejudice to~~ **does not affect** (AM 187, 191) the rules laid down in the following:
- (a) Directive 2000/31/EC;
 - (b) Directive 2002/58/EC and Regulation (EU) XXX [ePrivacy Regulation];
 - (c) Directive 2005/29/EC;
 - (d) Directive 2006/114/EC;
 - (e) Directive 2006/123/EC;
 - (f) Directive (EU) 2010/13;
 - (g) Directive 2011/83/EU;
 - (h) Regulation (EU) 2019/1150;
 - (i) Regulation (EU) 2021/xxx [the Digital Services Act]
 - (j) Regulation (EU) 2021/xxx [the Digital Markets Act] (AM 190)
 - ~~(k) Regulation (EU) 2016/679 (AM 6, 188, 189)~~
 - ~~(l) Regulation (EU) 2018/1725 (AM 6)~~

~~4a. This regulation contains specific rules which are considered as lex specialis to the Regulation (EU)2016/679 and Regulation (EU) 2018/1725 which are to further limit the use of personal data in relation to political advertising. The data protection rules on processing of special categories of personal data provided for in this Regulation shall be considered as specific data protection rules to the general rules laid down in the Regulation (EU)2016/679 and Regulation (EU) 2018/1725. None of the provisions in this Regulation can be applied or interpreted in such way as to diminish or limit level of protection offered by the right to respect for private life and protection of personal data fundamental right to private life and data protection and by the fundamental right of freedom of expression as protected in the Charter of Fundamental Rights and in the Union law on data protection and privacy, in particular by Regulation (EU)2016/679 and Regulation (EU) 2018/1725 (AM 7, 186).~~

Matching recitals (31 and 70)

Covering: AM 172 (Rapp), 173 (S&D), AM 185 (EPP), 192 (The Left), AM 128 (EPP), AM 129 (Rapp)

(31) Freedom of expression *and information* as protected by Article 11 of the Charter of Fundamental Rights covers an individual's right to hold political opinions, receive and impart political information and share political ideas *without interference and regardless of borders frontiers (AM 185). Any restriction, condition, Every (AM 129)* limitation to it has to comply with Article 52 of the Charter of Fundamental Rights and that freedom can be subject to modulations and restrictions where they are justified by the pursuit of a legitimate public interest and comply with the general principles of EU law, such as proportionality and legal certainty. That is inter alia the case where the political ideas are communicated through advertising service providers. *Freedom of expression is one of the cornerstones of a lively democratic debate (AM 128).*

(70) This Regulation *is without prejudice to does not affect (AM 173)* the rules laid down in particular by Directive 2000/31/EC, including the liability rules for intermediary service providers in Articles 12 to 15 of that Directive as modified by Regulation (EU) 2021/xxx [the Digital Services Act], Regulation (EU) 2021/xxx [the Digital Markets Act], ~~Directive 2002/58/EC and Regulation (EU) XXX [ePrivacy Regulation]~~, as well as Directive (EU) 2010/13, ~~Directive 2000/31/EC, Directive 2002/58/EC, Directive 2005/29/EC, Directive 2011/83/EU, Directive 2006/114/EC, Directive 2006/123/EC and Regulation (EU) 2019/1150.~~ *This Regulation should complement the Union data protection acquis in particular Regulation (EU) 2016/679, Regulation (EU) 2018/1725 and Directive 2002/58/EC . and is without prejudice to and provide for specific data protection rules thereto. and Regulation (EU) XXX [ePrivacy Regulation]. None of the provisions in this Regulation can should be applied or interpreted in such way as to diminish or limit the level of protection offered by the fundamental rights to private life and data protection as protected in the Charter of Fundamental Rights and in the Union law on data protection and privacy (AM 172). This Regulation does not provide for a legal ground that satisfies the requirements of Article 6 of Regulation 2016/679 or Article 5 of Regulation 2018/1725 for the processing of personal data for the purpose of political advertising (AM 192).*

COMPROMISE 2 - [Article 2 Definitions and 2a Identification of a political advertisement and matching recitals]

AMs covered: [AMs , 9, 10, 11, 12, 13, 14, 15, 16, ~~17, 18, 19~~, , 22, 23, 24 (Rapp), 195 (RE), 198 (ECR), 202 (RE), ~~204 (RE)~~, 205 (RE), 206 (RE), 207 (RE), 211 (RE), ~~217 (S&D)~~, 218 (The Left), 222 (RE), 224 (The Left)], 116 (RE), 117 (RE), 118 (EPP), 120 (RE), 122 (S&D), 123 (RE), AM 204 (RE)]

AMs falling:[AMs 8 (Rapp), 193 (S&D), 194 (EPP), 195 (RE), 196 (ECR), 197 (The Left), 199 (The Left), 203 (The Left), 208 (S&D), 209 (The Left), 210 (S&D), 217 (S&D), 219 (Greens), 220 (The Left), 221 (The Left), 223 (Greens), 115 (S&D), 119 (ID), 121 (ID), ~~AM 92 (SnD)~~, AM 95 (SnD), AM 93, 94 (SnD), AM 96, 115 (SnD), AM 97 (rapp)]

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

1. ‘service’ means any self-employed economic activity, normally ~~but not exclusively (AM 8)~~ provided for remuneration ***or any benefit***, as referred to in Article 57 TFEU;
2. ‘political advertising’ means the ***sponsoring (AM 9)*** preparation, placement, promotion, publication or dissemination, by any means, of a message:
 - (a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or
 - (b) which ***is liable to aims and is designed to directly is liable to (AM 10, 198)*** influence the outcome of an election or referendum, ~~a legislative or regulatory process~~ or voting behaviour; or
 - (c) ***which is liable to influence a legislative or regulatory process***

~~2a. “voting behaviour” means participation or non-participation in the voting process in a local, regional, national or European elections or referendum; (AM 204)~~

3. ‘political advertisement’ means an instance of political advertising ~~prepared, placed, promoted, published or disseminated, by any means, of a message (AM 11);~~

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

- (a) a political party within the meaning of Article 2(1) Regulation (EU, Euratom) No 1141/2014 or an entity directly or indirectly related to the sphere of activity of such a political party;
- (b) a political alliance within the meaning of Article 2(2) of Regulation (EU, Euratom) No 1141/2014;

(ba) a government on national regional or local level, bodies of a governments with or without legal personality, and public foundations thereof (AM 12)

- (c) a European political party within the meaning of Article 2(3) Regulation (EU, Euratom) No 1141/2014;

(ca) a Union institution and its bodies with or without legal personality (AM 13)

- (d) a candidate for any elected office at European, national, regional and local level, or for one of the leadership positions within a political party;
- (e) an elected official within a public institution at European, national, regional or local level;
- (f) an unelected member of government at European, national, regional or local level;
- (g) a political campaign organisation with or without legal personality, established to **achieve influence (AM 14)** a specific outcome in an election or referendum;
- (h) any natural or legal person representing or acting on behalf of any of the persons or organisations in points (a) to (g), promoting the political objectives of any of those.

(ha) any natural or legal person which is in a financial relationship or relationship of control with any of the persons or organisations in points (a) to (h) which is in any way related to political advertising (AM 205)

5. '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 ~~normally but not exclusively for remuneration~~ without consideration for the placement, publication or dissemination for the specific message, *with the exception of an online intermediary service within the meaning of Article 3 (g) of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (AM 15, 206) or their analogue-offline equivalents;*

~~Mere generic service providers used by advertising service providers or political actors should not be considered political advertising service providers. This includes intermediary service providers pursuant to the Digital Services Act ('mere conduit', 'caching' or 'hosting' services), as well as for their analogue counterparts (postal~~

~~services, print shops) where they provide a similarly 'neutral' service. To qualify as an analogue counterpart, these services should be subject to the same requirements, i.e. not to initiate the transmission, nor to select the receiver of the transmission, nor to select or modify the information contained in the transmission.~~

~~5a. 'provider of political advertising services' means a natural or legal person engaged in the provision of political advertising services (AM 207)~~

6. 'political advertising campaign' means the preparation, placement, promotion, publication or dissemination of a series of linked advertisements in the course of a contract for political advertising, on the basis of common preparation, sponsorship or funding;

7. 'sponsor' means the natural or legal person on whose behalf a political advertisement is prepared, placed, published, *promoted* or disseminated ~~and who is ultimately responsible for the content of the advertising (AM 16);~~

7a. 'personal data' means ~~personal data~~ information as *defined* in Article 4(1) of Regulation (EU) 2016/679 and Article 3(1) of Regulation (EU) 2018/1725 (AM 224)

8. 'electoral period' means the period preceding or during or immediately after an election or referendum in a Member State and during which the campaign activities are subject to specific rules ~~during the electoral period (AM 217) in accordance with national law (AM 22, 218);~~

9. 'relevant electorate' means the body of individuals eligible to vote in the election or referendum being contested in the Member State in which a political advertisement circulates, which may be the entire electorate of a Member State;

10. 'political advertising publisher' means a natural or legal person that ~~broadcasts, makes available through an interface or otherwise brings to the public domain delivers~~ political advertising *to the relevant electorate in any manner through any medium;* (AM 23)

11. 'controller' means a controller according to Article 4(7) of Regulation (EU) 2016/679 or, where applicable, to Article 4(8) of Regulation (EU) 2018/1725.

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.

Obtenu par CONTEXTE

Article 2a

Identification of a political advertisement

For the purpose of determining whether a message constitutes political advertisement within the meaning of Article 2(2)(b) and (c), account shall be taken of all its features, and in particular of the following relevant factors:

- a) the content of the message*
- b) the sponsor of the message*
- c) the language used to convey the message*
- d) the means by which the message is promoted, published or disseminated*
- e) ~~the audience targeted~~*
- f) the context in which the message is conveyed, including the period of dissemination, such as electoral or referendum periods, and its objective*
- g) whether the message is ~~intended~~ liable to influence the relevant electorate*
- h) ~~the objective of the message (AM 24)~~*

Matching recitals (13 to 27)

Covering: AMs 116 (RE), 117 (RE), 118 (EPP), 120 (RE), 122 (S&D), 123 (RE), **AM 204 (RE)**

Fall: AMs 115 (S&D), 119 (ID), 121 (ID)

13) This Regulation should not affect the substantive content of political advertising nor rules regulating the display of political advertising including so-called silence periods ~~or moratoria~~ preceding elections or referendums. *It is one of the aims of this regulation to ensure accountability and the overall organisation of a fair and open political process, to safeguard citizens' rights, including their freedoms of opinion and of information, to make political decisions and exercise their voting rights, as well as to contribute to the proper functioning of the internal market for political advertising, to ensure that unlawful political advertisements can be identified and corrected in due time and that the offline and online space is aligned.* Member States whose national laws foresee such possibility are encouraged to consider putting in place ~~a moratorium~~ silence period on political advertising, ~~both offline and online~~, in the weeks prior to ~~the~~ elections or referendums. Member States which do not have ~~whose national laws do not foresee any possibility for a moratorium~~ silence periods on political advertising ~~preceding elections or referendums~~ are encouraged to consider putting in place such silence periods ~~a change to their national laws if they consider it needed in order to be able to fully meet the objectives of this Regulation.~~

(15) There is no existing definition of political advertising or political advertisement at Union level. A common definition is needed to establish the scope of application of the harmonised

transparency obligations and rules on targeting and amplification. This definition should cover the many forms that political advertising can take and any means and mode of publication or dissemination within the Union, regardless of whether the source is located within the Union or in a third country.

(16) The definition of political advertising should include advertising *sponsored, promoted* published or disseminated directly or indirectly by or *sponsored, promoted (AM 116)* published or disseminated directly or indirectly for or on behalf of a political actor. Since advertisements by, for or on behalf of a political actor cannot be detached from their activity in their role as political actor, they can be presumed to be **liable** to influence the political debate, except for messages of purely private or purely commercial nature.

(17) The *sponsoring, promotion*, publication or dissemination by other actors of a message that ~~is liable to aims and is designed to is liable to~~ influence the outcome of an election or referendum, *a legislative or regulatory process* or voting behaviour, ~~that is including the participation or non participation in a voting process (AM 204)~~, should also constitute political advertising. In order to determine whether the publication or dissemination of a message ~~is liable is liable aims and is designed~~ to influence the outcome of an election or referendum, *a legislative or regulatory process* or voting behaviour, account should be taken of all relevant factors such as the content of the message, the language used to convey the message, the context in which the message is conveyed, the *identity of the sponsor, the objective of the message and the means by which the message is published or disseminated, the audience targeted and the objective of the message*. Messages on societal or controversial issues may, as the case may be, be **liable** to influence the outcome of an election or referendum, *a legislative or regulatory process* or voting behaviour.

17a. Bearing in mind that public issue advertisements are an intervention in the public debate that is ultimately targeted at influencing the decisions of legislators, and that legislators have a duty to act always on the basis of evidence and in the public interest, rather than on the basis of narrow political self-interest or lobbying by powerful vested interests, nothing in this Regulation should be taken to imply that public issue advertisements placed by genuine civil society actors are a threat to democracy or to politics, or that such advertisements regularly seek to, or have the power to, meaningfully manipulate legislators, and to thereby discharge them of the requirement to be mindful of the duty to act always on the basis of evidence and in the public interest. Nothing in this Regulation should be taken to imply that public issue advertisements placed by genuine civil society actors are anything other than welcome interventions in the public sphere and in political debate. The obligations that fall on civil society actors under this Regulation should not undermine or impede their work, and an annual review by the Commission should be undertaken, with input from a broad base of civil society, in order to monitor the effects of this Regulation on civil society and to propose remedial action if necessary. In undertaking the annual review, the Commission should be mindful of the need to identify

and address without delay any bad faith or abusive use of the provisions of this Regulation to undermine civil society actors.

17b. Mere generic service providers used by advertising service providers or political actors should not be considered political advertising service providers and should instead be considered for all practical considerations as the analogue offline equivalents of the online intermediary service within the meaning of Article 3(g) of Regulation (EU) 2021/XXX [Digital Services Act]. Such generic service providers therefore include 'mere conduit', 'caching' or 'hosting' services, but also their analogue offline equivalents such as This includes intermediary service providers pursuant to the Digital Services Act ('mere conduit', 'caching' or 'hosting' services), as well as for their analogue counterparts (including inter alia postal and distribution services, graphic designers and print shops where they provide a similarly 'neutral' service. To qualify as an analogue offline equivalent counterpart, these services should be subject to the same requirements, i.e. not to initiate the transmission, nor to select the receiver of the transmission, nor to select or modify the information contained in the transmission.

(18) Practical information from official sources regarding the organisation and modalities for participation in the elections or referendums should not constitute political advertising.

(19) Political views *or other editorial content* expressed *under the editorial responsibility of a service provider* in the programmes of audiovisual, *medial, including linear and non linear* broadcasts or published in printed *or online magazines, newspapers or other 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 (AM 118). ~~Where content from a political campaign or candidate is re-published without editorial context and would normally be considered advertising, it should be treated as advertising even if not remunerated.~~ Where a service provider re-publishes without editorial context content from a political campaign or candidate, *such publication should be considered to be political advertising and treated as such even if such service has not been remunerated.*

(20) For the purpose of this Regulation, election should be understood as the elections to the European Parliament as well as all elections or referendums organised at national, regional and local level in the Member States and elections to establish political party leadership. It should not include other forms of elections such as privately organised ballots.

(21) It is necessary to define political advertisement as an instance of political advertising *sponsored, prepared, placed, promoted, published or disseminated by any means.*

Advertisements include the means by which the advertising message is communicated, ***including such as (AM 120)*** in print, by broadcast media or via an online platforms service ***or social network (AM 122)***.

(22) Political actors within the meaning of this Regulation should refer to concepts defined under Union law, as well as under national law in line with international legal instruments such as those of the Council of Europe. The concept of political parties should include their affiliated and subsidiary entities established, with or without legal personality, in order to support them or pursue their objectives, for instance by engaging with a specific group of voters or for a specific electoral purpose.

(23) ***The concept of political actors should also include Union institutions, governments, including those at regional and local levels and their respective authorities and bodies, with or without legal personality insofar as their communication can become highly politicized and be assimilated to political advertising (AM 123).*** The concept of political actors should also include unelected officials, elected officials, candidates and members of Government at European, national, regional or local level. Other political organisations should also be included in that definition. ***Certain persons may exercise control over political actors and pushing advance through their personal interests, while deliberately concealing such inextricable influence or being hidden from the public. Such persons should also be considered to be political actors within the meaning of this Regulation.***

(24) An advertising campaign should refer to the preparation, publication and dissemination of a series of linked advertisements in the course of a contract for political advertising, on the basis of common preparation, sponsorship and funding. It should include the preparation, placement, promotion, publication and dissemination of an advertisement or versions of an advertisement on different media and at different times within the same electoral cycle.

(25) The definition of political advertising should not affect national definitions of political party, political aims or campaign periods at national level.

(26) In order to cover the broad range of relevant service providers connected to political advertising services, providers of political advertising services should be understood as comprising providers involved in the preparation, placement, promotion, publication and dissemination of political advertising.

(27) The notion of political advertising services should not include messages that are shared by individuals in their purely personal capacity. Individuals should not be considered as acting in their personal capacity if they are publishing messages the dissemination or publication of which is paid for by another.

Obtenu par CONTEXTE

COMPROMISE 3 - [Article 3 Level of harmonisation, Article 3a

Cross border Political Advertising]

AMs covered: [AMs 225 (EPP), 226 (EPP), 227 (EPP)]

Ams falling: 108 (SnD)

Article 3

Level of harmonisation

1. Member States shall not maintain or introduce, on grounds related to transparency, provisions or measures diverging from those laid down in this Regulation.
2. The provisions of political advertising services shall not be prohibited nor restricted ~~in any way including geographically (AM225)~~ on grounds related to transparency when the requirements of this Regulation are complied with.
3. *Member States shall not be prohibited nor restricted to maintain or introduce a silence period on political advertising prior to elections or referendums during which the preparation, placement, promotion, publishing or dissemination of new political advertisements may be restricted.*

Article 3a

Cross-border political advertising

1. ~~The provision of political advertising services within the internal market may not be restricted solely on basis of the place of establishment or registration of the sponsor.~~
2. *Political advertising publishers or providers of political advertising services shall not discriminate against sponsors legally established or registered in the Union, particularly solely on ground of their place of residence or, where applicable, place of establishment, where those actors request, conclude or hold a contract for political advertising within the Union.*
3. *Notwithstanding paragraph 2, the political advertising publisher or provider of political advertising services may ~~could~~ refuse to provide services in a Member State in which it does not conduct business. (AM227)*
4. ~~The provision of cross border political advertising services to European Political Parties, can only be restricted by national law or European legislation other than this regulation (AM226)~~

Article 3b

Non-discrimination

1. ~~*Political advertising publishers or providers of political advertising services shall not discriminate against sponsors legally established in the European Union on grounds of their place of residence or, where applicable, establishment, when those actors request, conclude or hold a contract for political advertising within the Union.*~~
2. ~~*Refusal to provide services in a Member State where political advertising publisher or providers of political advertising services do not conduct business shall not be considered discrimination. (AM227)*~~

COMPROMISE 4 - [Article 4 Transparency]

AMs covered: [AMs 25, 26, 27, 28 (Rapp), 228 (RE)]

AMs falling: [AMs 27 (Rapp), 228 (RE), 98 (ID), 99 (ID), 105 (ID), 106 (ID), 109 (ID), 110 (rapp), 111 (ID), 112, 113 (rapp), 114 (Snd), 124, 125 (Rapp), 126, 130 (SnD)]

Article 4

Transparency and due diligence (AM 25)

1. Political advertising services shall be provided in a transparent **and diligent (AM 26)** manner in accordance with the obligations laid down in Articles 5 to 11 and 14 of this Regulation.

~~1a. Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service specify how relevant provisions of this Regulations are complied with (AM 27)~~

~~1b. Political advertising services shall be funded by or provided only to a sponsor or a service provider of advertising services acting on behalf of a sponsor who is a **Union citizen or Union resident** registered in or a natural or a legal person either recognised by, or established in accordance with, the legal order of at least one Member State or of a third country **which is a member of the Council of Europe, has full rights of representation therein and acknowledges equivalent Union values** residing or established in the Union (AM 28)~~

2. ~~Providers of political advertising services shall ensure that sponsors or service providers of advertising services acting on behalf of a sponsor **shall use their services for political advertising only if they have obtained the following information prior to that use:**~~
 - ~~a. the name, address, telephone number and electronic mail address of the sponsor;~~
 - ~~b. a copy of the identification document containing only relevant information of the sponsor or any other electronic identification as defined by Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council, which shall only be used for identification purposes and shall be deleted immediately thereafter~~
 - ~~c. the payment account details of the sponsor;~~
 - ~~d. where the sponsor is registered in a public register, the register in which the sponsor is registered and its registration number or equivalent means of identification in that register. (AM228)~~

COMPROMISE 5 - [Article 5 Identification of political advertising services]

AMs covered: [AMs 29, 30 (Rapp), 229 (RE)]

Article 5

Identification of political advertising services

1. Providers of advertising services shall request sponsors and providers of advertising services acting on behalf of sponsors to declare whether the advertising service they request the service provider to perform constitutes a political advertising service within the meaning of Article 2(5). Sponsors and providers of advertising services acting on behalf of sponsors shall make such a declaration.

2. ~~Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service specify how the relevant provisions of this Regulation are complied with (AM 30)~~

~~1a If the sponsor or the provider of advertising services acting on behalf of sponsor declares that the service they request does not constitute a political advertising service, and the service providers, including publishers, considers it does constitute a political advertising service within the meaning of Article 2(5), they shall inform in a timely manner the sponsors or providers of advertising services acting on behalf of a sponsor about their conclusions and the underlying reasons. If the sponsor, after obtaining the conclusion from the service provider, does not make the declaration and the difference of opinion persists, the matter should be referred to a dispute settlement mechanism within Member States' relevant competent authorities. (AM229). Where the dispute settlement mechanism does not lead to an amicable resolution, the competent authorities shall take a decision."~~

1b. *The Commission shall prepare guidance to contribute to the proper application of this Article. (AM229)*

COMPROMISE 6- [Article 6 Record-keeping and information transmission]

AMs covered: [AMs 31 (Rapp.), 32 (Rapp), 33 (Rapp.), 34 (Rapp), 232 (S&D), 234 (The Left), 235 (S&D), 236 (The Left), 237 (S&D)]

AMs falling: [AMs 230 (The Left), 231 (The Left), 233 (The Left), 238 (S&D), 239 (The Left) 107 (rapp), 108 (SnD), 131 (rapp)]

Article 6

Record-keeping and information transmission

1. Providers of political advertising services shall retain information they collect in the provision of their services, on the following:
 - (a) the political advertisement or political advertising campaign to which the service or services are connected;
 - (b) the specific service or services provided in connection to the political advertising;
 - (c) the amounts they invoiced ~~and received or to be received~~ (AM233) for the service or services provided, and the value of other benefits received ~~or to be received~~ (AM232) in part or full exchange for the service or services provided, ***their sources*** (AM31); and
 - (d) where applicable, the identity of the ***political actor***, (AM234) the sponsor ***of the political advertisement and, where applicable, the entity or person ultimately controlling the sponsor, their verified electronic*** (AM235) ~~and its contact details and place of establishment or residence~~ (AM32)
 - (e) ***where applicable an indication of the relevant election or referendum or , legislative or regulatory process with which the political advertisement is aiming to target.*** (AM33, AM236)
2. The information referred to in paragraph 1 shall be in writing and may be in electronic form. Such information shall be retained for a period of ~~five~~ ***10/15*** years from the date of the last preparation, placement, ***promotion*** publication or dissemination, as the case may be. ***(AM 34, 237) Any personal data used to verify or ascertain the validity of those information shall only be retained as long as necessary for this purpose and shall not be used for other purposes.***
3. Providers of political advertising services shall ensure that the information referred to in paragraph 1 is communicated to the political advertising publisher which will disseminate the political advertisement to enable political advertising publishers to comply with their obligations under this Regulation. That information shall be transmitted, in a timely and accurate manner in accordance with best practice and industry standards, by means of a standardised automated process where technically possible.

Obtenu par CONTEXTE

***COMPROMISE 7 - [Article 6b Labelling of political advertisement Article 7
Transparency requirements for each political advertisement Article 7a
European library for political advertisements and matching recitals]***

AMs covered: [AMs 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 (Rapp), 240 (RE), 242 (S&D), 243 (RE), 244 (S&D), 245 (RE), 246 (RE), 247 (RE), 248 (The Left), 249 (RE), 250 (S&D), 251 (EPP), 252 (S&D), 253 (RE), 254 (EPP), 255 (TheLeft), 256 (RE), 258 (S&D), 259 (EPP), 262 (RE), 264 (S&D), 265 (EPP), 266 (The Left), 267 (The Left), 268 (RE), ~~270 (ID)~~, 271 (RE), 274 (RE), 275 (RE), 277 (S&D), 278 (RE), 279 (S&D), 280 (RE), ~~282 (S&D)~~, 283 (RE), 285 (S&D), 287 (RE), 288 (S&D), 291 (RE), 293 (RE), 134 (S&D), 135 (S&D), 295 (EPP), 296 (EPP)]

AMs falling:[AMs 48 (Rapp), 241 (TheLeft), 257 (RE), 260 (The Left), 263 (The Left), 269 (The Left), 270 (ID), 272 (S&D), 273 (The Left), 276 (S&D), 281 (TheLeft), 282 (S&D), 284 (The Left), 286 (S&D), 289 (The Left), 290 (EPP), 292 (The Left), 294 (Greens), **Am 131 (rapp) AMs 133 (S&D)]**

Article 6b

Labelling of political advertisement (AM 240)

1. Political advertising publishers shall make sure that each political advertisement contains a clear label stating that it is:

- a) a political advertisement, in cases referred to in Article 2(2) point (a) and (b) of this Regulation; or***
- b) a public issue advertisement, in cases referred to in Article 2(2) point (c) of this Regulation (245, 246, 247)***

2. Notwithstanding this labelling difference, all articles of this Regulation shall apply uniformly to both (a) and (b).

Article 7

Transparency requirements for each political advertisement

- 1. ~~In the context of the provision of~~ The political advertising publisher shall make available ensure in real time that (AM 243) ~~in real-time simultaneously with delivering services,~~ each political advertisement contains ~~shall be made available~~ (AM 35) with the following information in ~~an~~ user friendly, ~~aeccessible,~~ machine readable (AM 242) clear, salient and unambiguous way:***

- a) a ~~clear and unambiguous (AM 36, 244)~~ statement to the effect that it is a political advertisement
- b) the identity of the *political actor and of the (AM 248)* sponsor of the political advertisement and ~~the any entity or person (AM 37, 249)~~ ultimately controlling ~~or of funding (AM 250)~~ the sponsor;
- c) a transparency notice, *as referred to in paragraph 2 (AM 254), stating that the advertisement constitutes a political advertisement (AM 252)* the wider context of the political advertisement and its aims to be understood, ~~and a description of the targeted audience (AM 255)~~ or a clear indication of where ~~it the transparency notice (AM 253)~~ can be easily retrieved.

(ca) a statement on the targeted nature of the advertisement, the data used for targeting and the type of personal information used if personal data is processed to determine the audience to which the advertisement is presented (AM 38)

(cb) a statement on the cost of that individual advertising (AM 256)

In this regard, political advertising publishers shall use *at least 15 percent of the displayed advertisement space for effective efficient (AM 258)* and prominent marking and labelling techniques, ~~in a clear and understandable way (AM 259)~~ that allow the political advertisement to be easily identified as such and shall ensure that the marking or labelling remains in place in the event a political advertisement is further disseminated.

2. The transparency notice *shall state that the advertisement constitutes a political advertisement*, shall be *easily retrievable from included in* each political advertisement ~~or be easily retrievable from it (AM 262)~~, and shall include the following information:

- o) a description of the wider context of the political advertisement and its aims
- a) the identity *and the place of residence or establishment of the sponsor or where applicable the entity or person ultimately controlling of* the sponsor and *their (AM 40) verified (AM 264, 265)* contact details;

(aa) if applicable, a statement on the targeted nature of the advertisement, the targeted audience, the data used for targeting and the type of personal

information used if personal data is processed to determine the audience to which the advertisement is presented and their source(AM 41, 266, 267)

- b) the period during which the political advertisement is intended to be *placed*, published, *promoted (AM 268)* and disseminated, *including, if applicable, the start and end date of the political campaign (AM 42)*;

~~*(ba) the reach of the political message (AM 270)*~~

- c) based among others on information received in line with Article 6(3), information on the aggregated amounts spent or other benefits received *by the political advertising publisher* in part or full exchange for the preparation, placement, promotion, publication, *promotion* and dissemination of the relevant advertisement, and of the political advertising campaign where relevant, and their sources, ~~*as well as the aggregated amounts of other benefits received by service providers before the publisher for the same advertisement and campaign, where relevant (AM 271)*~~

~~*(ca) information on the aggregated amounts or other benefits received by all political advertising service providers, including publishers, in the whole value chain in part or full exchange for the preparation, placement, publication, promotion and dissemination of the relevant advertisement, and of the political advertising campaign where relevant (AM 274)*~~

~~*(cb) the sources of the funds used in relation to points (c) and (ca);*~~

~~*(cc) where applicable, links to aggregated information on non-active and active political advertisements originating from the same sponsor (AM 279)*~~

- d) where applicable, an indication of *the specific (AM 43)* elections or referendums with which the advertisement is linked *and the relevant electoral period (AM 277)*;
- e) where applicable, links to online repositories of *political (AM 278)* advertisements *and their location in the European library for political advertisements (AM 44)*;
- f) information on how to use the mechanisms provided for in Article 9(1).

(fa) information about other possible ~~any~~ advertisements ~~that was~~ delivered as part of ~~throughout the~~ same campaign (AM 45)

The information to be included in the transparency notice shall be provided using the specific data fields set out in Annex I.

3. Political advertising publishers shall make ~~thorough~~ **reasonable** ~~(AM 282)~~ efforts **before bringing the advertisement to the public domain** to ensure that the information referred to in paragraph 1 and 2 is complete, and where they find this is not the case, they shall not make available the political advertisement ~~(AM 280)~~.

3a. Sponsors, service providers and political advertising publishers are responsible for fulfilling the obligations arising in their own spheres of interests under this Article according to the applicable national law. ~~of political advertisements shall have joint liability with the political advertising publishers to carry out the obligations according to paragraph 1 and 2~~ (AM 39).

(3a) Where the political advertising publisher has information indicating ~~becomes aware~~ that the information referred to in paragraphs 1 and 2 is incomplete or inaccurate, the publisher shall make reasonable efforts including by contacting the sponsor or the relevant service providers, to complete or correct that information. Until such information is corrected, the political advertising publisher shall not make the political advertisement available or shall discontinue it, and shall inform the relevant service provider and the sponsor accordingly (AM 46)

(3b) Where the sponsor or the providers of political advertising services become aware that the information transmitted to or published by the political advertising publisher is incomplete or inaccurate, they shall contact the publisher concerned without undue delay and, as relevant, transmit complete or accurate information to the political advertising publisher (AM 47)

4. Transparency notices shall be kept up to date and presented in a format which is easily accessible, **including for persons with disabilities** and, where technically possible, machine readable, **well structured**, clearly visible and user friendly, including through the use of plain language and **shall be made available online, ~~in a machine-readable format and be accessible through a link or equivalent clear and user-friendly direction included in the advertisement~~ (AM 283).** The language of the transparency

notice shall be the language of the political advertising or the language of the user.
The ~~(AM 48)~~ information shall be published by the political advertising publisher with the political advertisement from its first publication until ~~one year~~ **11 years (AM 285)** after its last publication.

5. Political advertising publishers shall **publish and retain the political advertisement and its ~~their~~** transparency notices together with **the history of (AM 287)** any modifications for a period of ~~one five/ 10~~ years after the ~~end of the period referred to in paragraph 4.~~ **last publication (AM 49).**

(6a) Political advertising publishers ~~which are not very large online platforms within the meaning of Article 25 of Regulation (EU) 2022/xxx [Digital Services Act] and very large online search engines as defined in Article 2 of Regulation (EU) 2022/xxx [Digital Services Act]~~ shall ensure that the information contained in the transparency notice is shared with the European library for political advertisements without undue delay. The library shall contain all versions of the advertisement. Information made available on the interface of political advertising publishers shall be provided in a machine-readable format according to a common data structure and standards and be accessible using a common application programming interface, developed by the Commission in consultation with relevant stakeholders (AM 51, 293)

6. Political advertising publishers which are very large online platforms within the meaning of Article 25 of Regulation (EU) 2022/**2065** shall ensure that the repositories that they make available pursuant to Article 30 of that regulation make available for each political advertisement in the repository the information referred to in paragraph 2, **without undue delay (AM 50) and ensure real-time access to such information for Member States' relevant authorities. The repository shall contain all versions of the advertisement and shall be publicly available to the relevant electorate; (AM 50, 291).**

7. ~~Member States, including~~ Competent authorities ~~of the Member States,~~ and The Commission, **in cooperation with the Member States,** shall encourage the drawing up of **guidelines** codes of conduct intended to contribute to the proper application of this Article, taking into account the specific characteristics of the relevant service providers involved and the specific needs of micro, small and medium-sized enterprises, within the meaning of Article 3 of Directive 2013/34/EU. **These guidelines shall contain guidance to the application of this Article for both online and offline political advertising (AM 295). In particular, these guidelines should contain guidance for political advertising publishers on how to address notification in diligent and rapid manner as referred to in Article 9(3).**

~~7a. Political advertising publisher are encouraged to draw up their own codes of conducts to contribute to the proper application of this Article, taking into account the specific characteristics of the relevant service providers involved and the specific needs of micro, small and medium-sized enterprises, within the meaning of Article 3 of Directive 2013/34/EU.~~

8. The Commission is empowered to adopt delegated acts in accordance with Article 19 to amend Annex I by adding, modifying or removing elements from the list of information to be provided pursuant to paragraph 2 where, in the light of technological developments, *scientific research, developments reached by the competent authorities at Union or national level (AM 52)*, such an amendment is necessary for the wider context of the political advertisement and its aims to be understood, *without decreasing the level of transparency (AM 296)*

Article 7a

European library for political advertisements

The Commission shall establish and manage a European library for political advertisements to host, archive and make publicly available the information regarding political advertisements specified in Annex II Article 7 of political advertisements that are published over by online platforms, including by that are not very large online platforms within the meaning of Article 25 of Regulation xxx [Digital Services Act] and very large online search engines) as defined in Article 2 of Regulation xxx [Digital Services Act (AM 53)

The Commission shall retain that information for a period of 11 years after the first publication of the political advertisement. Any personal data shall only be retained for a period of five years.

Matching recitals (39 to 43)

(38) Transparency of political advertising should enable citizens to understand that they are confronted with a political advertisement. Political advertising publishers should ensure the publication in connection to each political advertisement of a clear statement to the effect that it is a political advertisement and of the identity of its sponsor. Where appropriate, the name of the sponsor could include a political logo. Political advertising publishers should make use of labelling which is effective, taking into account developments in relevant scientific research and best practice on the provision of transparency through the labelling of advertising. ***At least 15% of the displayed advertisement, space or timing depending of the format of the advertisement, should be used so that the political advertisement is easily identified as such.*** They should also ensure the publication in connection to each political advertisement of information to enable the wider context of the political advertisement and its aims to be understood, which can either be included in the advertisement itself, or be provided by the publisher on its website, accessible through a link or equivalent clear and user-friendly direction included in the advertisement.

(39) no change

(40) no change

(41) no change

(42) no change

42b. The Commission *should* establish and manage a European library for offline and online political advertisements to host, archive and make publicly available political advertisements and all information contained in the transparency notice.

Political advertising publishers *should* share all information contained in the transparency notice *with* the European Library without undue delay and no later than 24 hours from its first publication.

In addition, political advertising publishers which are Very Large Online Platforms (VLOPs) *within the meaning of Article 25 of Regulation (EU) 2022/2065* or Very Large Online Search Engines (VLOSEs) as defined in *Article 2 of Regulation 2022/2065* should make all information contained in the transparency notice available and updated, in real time, through the repositories of advertisements published pursuant to *Article 39 Regulation 2022/2065*.

(43) no change

COMPROMISE 8 - [Article 8 Periodic reporting on political advertising services]

AMs covered: [~~AMs 54 (Rapp)~~, 298 (ECR)]

AMs falling: [AMs 54 (Rapp), 297 (S&D), 299 (The Left), 300 (S&D)]

Article 8

Periodic reporting on political advertising services

1. ***Where they provide*** political advertising services, ~~advertising (AM 54)~~ publishers shall include information on the amounts or the value of other benefits received in part or full exchange for those services, including on the use of targeting ~~and amplification~~ techniques, aggregated by campaign, as ***a distinct (AM 298)*** part of their management report within the meaning of Article 19 of Directive 2013/34/EU in their annual financial statements.
2. Paragraph 1 shall not apply to undertakings qualifying under Article 3(3) of Directive 2013/34/EU.

Matching recitals (44)

No change

COMPROMISE 9 - [Article 9 Indicating possibly unlawful political advertisements and 9b Trusted flaggers of unlawful political advertisements]

AMs covered: [AMs 55, 56, 57, 58 (Rapp), 302 (S&D), 304 (Greens), 305 (ECR), 307 (ECR), 308 (S&D)]

AMs falling: [AMs 301 (ID), 303 (The Left), 305 (ECR), 306 (TheLeft), 309 (TheLeft), [132 \(ID\)](#)]

Article 9

Indicating possibly unlawful political advertisements

1. Where they provide political advertising services, advertising publishers shall put in place ***user-friendly*** mechanisms to enable individuals to notify them, free of charge ***and in a user-friendly way (AM 302)***, that a particular advertisement which they have published does not comply with this Regulation.
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.
3. Political advertising publishers shall allow for the submission of the ***information notification (AM 55)*** referred to in paragraph 1 by electronic means. ***Notifiers shall not be obliged to provide personal data.*** The political advertising publisher shall inform individuals ***who choose to provide contact details (AM 304)*** of the follow up given to the notification as referred to in paragraph 1.

(3a) The political advertising publishers shall examine and address the notification referred to in paragraph 1 accordingly, in a diligent, objective and non-discriminatory manner and without undue delay, within [five](#) days at the latest. When the notification concerns political advertising relating to an election or referendum taking place in less than 30 days, political advertising publishers shall examine and address the notification within 24 36 hours (AM 56, 307)

(3b) The political advertising publishers shall inform the interested parties of their observations and decisions related to the notification referred to in paragraph 1. The relevant publishers shall inform the interested parties on the redress mechanism related to the notification.

4. Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to *in an automated way collectively, including by reference to an announcement on the website of the political advertising publisher concerned (AM 308)*

Article 9b

Trusted flaggers of unlawful political advertisements

1. *Political advertising publishers that allow sponsors to publish political advertisements as defined in Article 2(2) online shall take the necessary technical and organisational measures to ensure that notices submitted by trusted flaggers of unlawful political advertisements through the mechanism referred to in Article 9 are processed and decided upon with priority and without undue delay. Those political advertising publishers shall take the necessary technical and organisational measures to ensure that digital services coordinators of the Member States where the advertisement is being presented to electorates receive real-time notices submitted by trusted flaggers of unlawful political advertisements to the online platforms to allow the digital service coordinator to best enforce the obligations provided for in this Regulation*
2. *The status of trusted flaggers of unlawful political advertisements shall be awarded by the national competent authorities European Electoral Authority, upon application by any entity, where the applicants have demonstrated to meet all of the following conditions:*
 - a. *it has they have particular expertise and competence for the purposes of detecting, identifying and notifying political advertisements which do not comply with this Regulation have not been declared as political by their sponsor or that do not comply with the obligations concerning the processing of personal data or transparency established in this Regulation*
 - b. *it they represents collective interests and is are independent from any political advertising publishers, sponsors or any political actors,*
 - c. *it they carry carries out their its activities for the purposes of submitting notices in a timely, diligent, accurate and objective manner*
3. *The European Electoral Authority shall communicate to the Commission and the European Board for Digital Services the names, addresses and electronic mail addresses of the entities to which the status of the trusted flagger has been awarded or to which they have revoked the status in accordance with paragraph 6.*
4. *The Commission shall publish the information referred to in paragraph 3 in a publicly available database in an easily accessible and machine readable format and keep the database updated*
5. *Where a political advertising publisher an online platform has information indicating that a trusted flagger of unlawful political advertisements submitted a*

significant number of insufficiently precise, inaccurate or inadequately substantiated notices through the mechanisms referred to in Article 9, it shall communicate that information to the European Electoral Authority and provide it with the necessary explanations and supporting documents. Upon receiving the information from the political advertising publisher ~~the provider of online platforms~~ and if the Digital Services Coordinator considers that there are legitimate reasons to open an investigation, the status of trusted flagger shall be suspended during the period of the investigation, which shall be carried out without undue delay.

- 6. The European Electoral Authority that awarded the status of the trusted flagger to an entity shall revoke that status where it determines, following an investigation either on its own initiative or on the basis of information received from ~~by~~ third parties, including information provided by a political advertising publisher ~~an online platform~~ pursuant to paragraph 5, that the entity no longer meets the conditions set out in paragraph 2. Before revoking that status, the digital services coordinator or the European Electoral Authority shall afford the entity an opportunity to react to the findings of the investigation and the intention to revoke the entity's status as trusted flagger*
- 7. The Commission, after consulting the European Board for Digital Services, ~~may~~ shall, where necessary, issue guidance to assist ~~online platforms~~ **political advertising publishers** and the European Electoral Authority in the application of paragraphs 5 and 6 (AM 58)*

Matching recitals (45)

No change

COMPROMISE 10 - [Article 10 Transmission of information to competent authorities]

AMs covered: [AMs 59 (Rapp), 310 (S&D), 311 (S&D)]

Article 10

Transmission of information to competent authorities

1. Competent national authorities shall have the power to request that a provider of political advertising services transmits the information referred to in Articles 6, 7 and 8. The transmitted information must be complete, accurate and trustworthy, and provided in a clear, coherent, consolidated and intelligible format. ~~Where technically possible,~~ (AM 59) the information shall be transmitted in a machine readable format. The request shall contain the following elements:
 - a) a ~~brief (AM 310)~~ statement of reasons explaining the objective for which the information is requested and why the request is necessary and proportionate, unless the request pursues the objective of the prevention, investigation, detection and prosecution of criminal offences and to the extent that the reasons for the request would jeopardise that objective;
 - b) information on the redress available to the relevant service provider and to the sponsor of the political advertising service.
2. Upon receipt of a request pursuant to paragraph 1, providers of political advertising services shall, within two working days, acknowledge receipt of that request and inform the authority of the steps taken to comply with it. The relevant service provider shall provide the requested information within **additional ~~ten~~ five** working days.
3. Providers of political advertising services shall designate a contact point for the interaction with competent national authorities. Providers of political advertising services which are SMEs within the meaning of Article 3 of Directive 2013/34/EU may appoint an external natural person as contact point.

No matching recitals

COMPROMISE 11 - [Article 11 Transmission of information to other interested entities and matching recitals]

AMs covered: [AM 60, 61, 62, 63 (Rapp), 312 (S&D), 313 (The Left), 314 (EPP), 315 (EPP), 316 (The Left), 317 (S&D), 319 (The Left)]

AMs falling: [AMs 318 (TheLeft), 320 (TheLeft), 321 (The Left), 136 (S&D)]

Article 11

Transmission of information to other interested entities

1. Providers of political advertising services shall take the appropriate measures to transmit the information referred to in Article 6, to interested entities upon request *in a user friendly format, as soon as possible but two months after making such a request (AM 312) at the latest*, and without costs.

~~*Where the provider of political advertising services is a political advertising publisher, it shall also take the appropriate measures to transmit the information referred to in Article 7 to interested entities upon request and without costs. (AM 60)*~~

2. Interested entities *established in the Union EU and* requesting the transmission of information pursuant to paragraph 1 shall be independent from commercial interests and shall fall in one or more of the following categories:
 - a. vetted researchers in accordance with Article 31 of Regulation (EU) 2021/xxx [Digital Services Act];
 - b. members of a civil society organisation whose statutory objectives are to protect and promote the public interest, ~~*authorised under national or Union law; (AM 313)*~~
 - c. political actors as authorised under national law; or
 - d. national or international electoral observers accredited in a Member State.

(da) journalists (AM 61, 314, 316)

~~*Such interested entities shall also include journalists accredited in a Member State by national, European or international bodies. (AM 62, 315)*~~

3. Following a request from an interested entity, the service provider shall ~~make best efforts to~~ provide the requested information or its reasoned response under paragraph 5, within ~~one month~~ *two weeks (AM 317)*.

4. When preparing the information to be provided pursuant to paragraph 1, the service provider may aggregate the relevant amounts or place them in a range, to the extent necessary to protect its commercial legitimate interests.
5. Where requests pursuant to paragraph 1 are manifestly unfounded, unclear ~~or excessive~~, (AM 319) in particular because of their lack of clarity, the service provider may refuse ~~to respond the request~~. In this case, the relevant service provider shall send a reasoned response *and information on the redress* (AM 63) to the interested entity making the request.
6. Where requests under paragraph 1 are repetitive and their processing involves significant costs, the service provider may charge a reasonable and proportionate fee, which in any event shall not exceed the administrative costs of providing the information requested.
7. Service providers shall bear the burden of demonstrating that a request is manifestly unfounded, unclear ~~or excessive~~, or that requests are repetitive and involve significant costs to process.

Matching recitals (46)

(46) In order to allow specific entities to play their role in democracies, it is appropriate to lay down rules on the transmission of information published with the political advertisement or contained in the transparency notice to interested *parties, established in the Union*, such as vetted researchers, journalists, civil society organisations and accredited election observers, in order to support the performance of their respective roles in the democratic process. Providers of political advertising services should not be required to respond to requests which are manifestly unfounded or excessive. Further, the relevant service provider should be allowed to charge a reasonable fee in case of repetitive and costly requests, taking into account the administrative costs of providing the information.

COMPROMISE 12 - [Article 2 Definitions 8 and 8a, Article -12 , Article 12 and Article 13 and related recitals]

AMs covered: [AMs 21 (Rapp), 212 (The Left), 214 (Greens/EFA), AMs 215 and 216 (SnD), AMs 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76 (Rapp.), 322 (EPP), 324 (The Left), 325 (S&D), 327 (S&D), 328 (The Left), 333 (Greens/EFA), 334 (The Left), 335 (ECR), 336 (S&D), 337 (EPP), 342 (EPP), 344 (The Left), 345 (S&D), 346 (Greens/EFA), 350 (EPP), 357 (Greens/EFA), 358 (The Left), 359 (S&D)], 137 (Greens/EFA), 138 (EPP), 139 (SnD), 140 (RE), 141 (SnD) partly, 142 (RE) partly, 143 (Greens/EFA) partly, 144 (EPP), 146 (RE), 147 (RE), 150 (EPP), 153 (SnD), 162 (SnD), AM 362 (The Left)

AMs falling: [AM 17, AM 18, AM 19, AM 20 (rapp) AM 213 (SnD), AMs 323 (The Left), AM 326 (EPP), 329 (Greens/EFA), 330 (EPP), 332 (RE), 338 (The Left), 339 (Greens/EFA), 340 (S&D), 341 (S&D), 347 (S&D), 348 (Greens/EFA), 349 (The Left), 351 (S&D), 352 (The Left), 353 (Greens/EFA), 354 (Greens/EFA), 355 (The Left), 356 (S&D), 360 (EPP), 361 (EPP), 363 (S&D), 364 (Greens/EFA), 365 (The Left), AMs 145 (EPP), AM 148 (Greens/EFA), 149 (SnD), 151 (SnD), 152 (Greens/EFA), 154 (Greens/EFA), 155 (SnD), 156 (ID), 157 (Greens/EFA), 158, (SnD), 159 EPP, 160 (SnD), 161 (Greens/EFA), 163 (Greens/EFA), 415 (the Left), 416 (SnD) 90 (rapp) 100 (Greens), 101 (SnD), 102 (EPP), 103 (SnD), 104 (rapp)]

Article 2

Definitions

~~7a. ‘provided data’ means personal data actively provided by the data subject to a data processor for the purpose of delivering political advertisements (AM 17)~~

~~7b. ‘observed data’ means personal data provided by the data subject by virtue of using a service or device (AM 18)~~

~~7c. ‘inferred data’ means personal data created by the controller or the data processor on the basis of the data provided by the data subject or as observed by the controller (AM 19)~~

8. ‘targeting ~~or amplification~~ techniques’ means techniques that are used *by sponsors, political advertising publishers or providers of advertising services (AM 214, 215) to tailor either to address a online tailored political advertisement only to a specific person or group of persons or to exclude them by processing personal data increase the circulation, reach or visibility of a political advertisement (AM 20), in particular through the collection of their online data (AM 212);*

8a. ‘ad delivery techniques’ means automated techniques of ~~randomly~~ processing of personal data that typically rely on algorithms or the automated processing of data and that are employed by political advertising publishers or providers of political advertising services involved in the promotion, publication and dissemination of political advertisements to determine a specific audience within the potential audience defined by the sponsors and providers of advertising services, acting on behalf of sponsors (AM 21, 216)

CHAPTER III – TARGETING AND ~~AMPLIFICATION AD~~ DELIVERY OF ~~DIGITAL~~ POLITICAL ADVERTISING SERVICES (AM322)

Article -12

Prohibition of targeting and ad delivery techniques involving the processing of special categories of sensitive personal data

Targeting and ad delivery techniques that involve the processing of sensitive special categories of personal data as referred to in Article 9 of Regulation (EU) 2016/679 and in Article 10 of Regulation (EU) 2018/1725 in the context of political advertising services shall be prohibited.

Article 12

Specific requirements related to ~~the use~~ *processing of personal data for online targeting and amplification ad delivery techniques (AM64, AM324, AM325)*

1. Targeting ~~and or amplification-ad delivery~~ techniques that involve the processing of ~~observed or inferred~~ personal data *that are not special categories of personal data within the meaning of Article 9 of Regulation (EU) 2016/679 or of Article 10 of Regulation (EU) 2018/1725 referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 in the context of political*

advertising services shall be strictly limited to ~~prohibited~~. (AM 65, AM 66, AM 327, AM 328), the situations provided for in this Article.

~~1a. Ad delivery techniques referred to in this Article referred to in Article 12 shall determine the audience within the targeted audience without further processing of personal data, by random selection only be only be carried out by randomly processing personal data.~~

~~1a. Targeting and ad delivery techniques that involve the processing of provided, observed and inferred sensitive personal data in the context of political advertising services shall be prohibited.~~

1 b. Targeting and ad delivery techniques that involve the processing of provided personal data of persons of whom the data controller is aware with reasonable certainty ~~are minors under the age of 16 that they are~~ at least one year under the voting age established by national law shall be prohibited (AM69). Compliance with the obligations set out in this Article shall not oblige providers of online platforms to process additional personal data in order to assess whether the recipient of the service is a minor.

~~1c. Outside or limited targeting period~~ Targeting and ad delivery techniques that involve the processing of provided personal data shall be restricted to the personal data explicitly provided by the data subject to the advertising publisher with its his or her consent as defined in Article 4(11) of Regulation (EU)2016/679 given solely for the purpose of online political advertising.

The personal data provided by the data subject by virtue of using a service or device, including provided content, shall not be considered as provided personal data and therefore shall not be used by the provider for the purpose of targeting and delivering political advertising.

The data controller shall inform when requesting consent from the data subject that his/her provided personal data ~~may~~ ~~might~~ be processed solely for the purpose of presenting political advertising to the data subject. Refusing to give consent shall be no more difficult or time-consuming to the data subject than giving consent. Providers shall not request consent where the data subject exercises his or her right to object by automated means using technical specifications, in line with Article 21(5) of Regulation (EU) 2016/679. In the event the data subject refuses to give his/her consent, or has withdrawn his/her consent, he/she shall be given other fair and reasonable options to access information society services.

Targeting and ad delivery techniques referred to in this paragraph shall not combine more than 4 categories of personal data, including the languages spoken by the data subject as referred to in paragraph 1c(a) and the location of the data subject.

If the political advertisement is linked to an election or a referendum, the location of the data subject shall be understood being at the level of the constituency applicable for that election or referendum as referred to in paragraph 1d point (b).

If the political advertisement is not linked to an election or a referendum, the location of the data subject used for targeting and ad delivery techniques shall not be understood as being at the below the municipality level of the lowest/smallest constituency.

If the political advertisement is not linked to an election or a referendum and in case of combination of 2 or more categories of data, the targeted group shall comprise at least 0,4% 1% of the population of the Member State but at minimum ~~or 10000~~ 50 000 citizens

*1d. ~~During limited targeting period defined in Article 2 (9a)~~ Notwithstanding paragraph 1c, 90-60 days immediately preceding an election or a referendum, targeting and ad delivery techniques that involve the processing of provided personal data shall be restricted to the following personal data explicitly provided by the data subject to the advertising publisher with his or her-its consent as defined in Article 4(11) of Regulation (EU)2016/679 **given** solely for the purpose of online political advertising and shall include only the following information:*

- a) the languages spoken by the data subject,*
- b) the location of the data subject at the level of the constituency which is applicable in the relevant election or referendum of the local administrative units or larger administrative units.*
- c) the information that the data subject is a first voter*

Sub-paragraphs 2 and 3 of paragraph 1c shall apply mutatis mutandis.

*1e. This article shall not apply to internal communications such as newsletters of **any** from political party, foundation, association or any other **non-** profit body, to their members **and** former members and to communications, such as newsletters, linked to their political activities, ~~or if applicable subscribers~~, as long as those communications are solely based on subscription data and therefore strictly limited to their members, former members or subscribers and are based on personal data provided by them and do not involve further processing of personal data to target, amplify or otherwise further select the recipients and the messages they receive. Such forms of direct marketing fall under the **scope** of Regulation (EU) 2016/679 and Directive EC 2002/58/EC.*

2. ~~The prohibition laid down in the first sentence shall not apply to the situations referred to in Article 9(2)(a) and (d) of Regulation (EU) 2016/679 and Article 10(2)(a) and (d) of Regulation (EU) 2018/1725. (AM 68, AM 333, AM 334, AM 335, AM336, AM 337)~~

3. When using targeting and ~~ad-delivery-amplification~~ (AM70) techniques in the context of political advertising *services* involving the processing of personal data, controllers shall, in addition to the requirements laid down in Regulation (EU) 2016/679 and Regulation (EU) 2018/1725, as applicable, comply with the following requirements:

(a) adopt and implement an internal policy describing clearly and in plain language, in particular, the use of such techniques to target individuals ~~or amplify—deliver-the content~~, and retain such policy for a period of ~~five~~ ten years (AM71); *this internal policy should be made publicly available (AM342);*

(b) keep records on the use of targeting ~~or ad-delivery-amplification, the relevant mechanisms,~~ (AM72) techniques and parameters used, and the source(s) of personal data used.

(c) provide, together with the political advertisement, additional information necessary to allow the individual concerned to understand the logic involved and the main parameters of the technique used, ~~and the use of third-party data~~ and additional analytical techniques. This information shall comprise the elements set out in Annex II.

(c a) make an internal annual risk assessment of the use of these techniques on the fundamental rights and freedoms of individuals and the society as a whole; the results of these risk assessments shall be made publicly available; (AM343)

3a. The publisher shall not process, for the purpose of providing political advertising services, personal data of end users using services of third parties that make use of core platform services of the publisher.

4. ~~Political advertising publishers making use of targeting or amplification techniques shall include in the transparency notice required under Article 7 the information specified in paragraph 3(c) and a link to the policy referred to in paragraph 3(a). In case the controller is different from the advertising publisher, the controller shall transmit the internal policy or a reference to it to the political advertising publisher. (AM74, AM 344, AM345, AM346)~~

5. Political advertising publishers making use of targeting ~~or ad-delivery-amplification~~ (AM 75) techniques referred to in paragraph 3 shall include in or together with the advertisement and in the transparency notice required under Article 7 a reference to effective means to support individuals exercise their rights under Regulation (EU) 2016/679. *The transparency notice shall visibly link to an easily accessible interface in which users can give or withdraw refuse their consent and or modify the personal data they have provided solely for the sole purpose of online political advertising as referred to in paragraphs 1c, and 1d, to opt-out from being subject to targeting and amplification techniques as specified in paragraph- (AM350)*

6. Information to be provided in accordance with this provision shall be presented in a format which is easily accessible and, where technically feasible, machine readable, clearly visible and user-friendly, including through the use of plain language.

7. Providers of advertising services shall, as necessary, transmit to the controller the information necessary to comply with paragraph 3.

8. ~~The Commission is empowered to adopt delegated acts in accordance with Article 19 to amend Annex II by modifying or removing elements of the list of information to be provided pursuant to paragraph 3(e) of this Article in light of technological developments in relevant scientific research, and developments in supervision by competent authorities and relevant guidance issued by competent bodies. (AM76, AM 357, AM 358, AM359)~~

Article 13

Transmission of information concerning **online targeting or ad delivery-amplification** to other interested entities

1. The controller referred to in Article 12 shall take appropriate measures to transmit, upon request by interested entities in accordance with Article 11(1), the information referred to in Article 12.
2. Article 11(2) to (7) shall apply *mutatis mutandis*.

Matching recitals (47 to 54)

Covers: AMs 137 (Greens/EFA), 138 (EPP), 139 (SnD), 140 (RE), 141 (SnD) partly, 142 (RE) partly, 143 (Greens/EFA) partly, 144 (EPP), 146 (RE) , 147 (RE), 150 (EPP), 153 (SnD), 162 (SnD), AM 362 (The Left)

Falls: AMs 145 (EPP), AM 148 (Greens/EFA), 149 (SnD), 151 (SnD), 152 (Greens/EFA), 154 (Greens/EFA), 155 (SnD), 156 (ID), 157 (Greens/EFA), 158, (SnD), 159 (EPP), 160 (SnD), 161 (Greens/EFA), 163 (Greens/EFA),

- (47) Personal data collected directly from individuals, or indirectly such as **observed or (AM140)** inferred data, when grouping individuals according to their assumed interests or derived through their online activity, behavioural profiling and other analysis techniques, is increasingly used to target political messages to groups or individual voters or individuals, and to amplify their impact. On the basis of the processing of personal data, in particular data considered sensitive under Regulation

(EU) 2016/679 of the European Parliament and of the Council¹ and Regulation (EU) 2018/1725 of the European Parliament and of the Council², different groups of voters or individuals can be segmented and their characteristics or vulnerabilities exploited for instance by disseminating the advertisements at specific moments and in specific places designed to take advantage of the instances where they would be sensitive to a certain kind of information/message. That has specific and detrimental effects on citizens' fundamental rights and freedoms with regard to the processing of their personal data and their freedom to *be treated fairly and equally, not to be manipulated, to receive objective information, to form their opinion, to make political decisions and exercise their voting rights. This furthermore negatively impacts the democratic process as it enables a fragmentation of the public debate about important societal issues, predatory voter analysis, selective outreach and, ultimately, the manipulation of the electorate. It also increases the risk of enables the spreading of disinformation, and has been used for foreign electoral interference especially by non-democratic foreign entities. Misleading or obscure advertising for political purposes is a special-class-of high risk threat because it influences the core mechanisms that enable the functioning of our democratic society. All this takes place despite already existing strict* Additional restrictions and conditions *for the processing of personal data, including for targeting and ad delivery, as provided for in* compared to Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 should be provided. The conditions set out in this

47a *The existing avenues under Regulation (EU) 2016/679 for lawfully tailoring and addressing advertising to individuals are subject to systemic abuse, especially with regard to collecting the free and informed consent of individuals, which cannot be solved under the current framework and there is no easy way out which would enable even a basic level of targeting individuals while adequately protecting the rights and interest mentioned above. The systematic use of dark patterns, unclear consent agreements, misleading information, and insufficient time to read terms and conditions are common practices to make it difficult for people to have clear information and control in the context of the surveillance-based online advertising industry.*

47b. *Dark patterns on online interfaces of online platforms are practices that materially distort or impair, either on purpose or in effect, the ability of recipients-users of the service to make autonomous and informed choices or decisions concerning the personal data they provide for the purpose of political advertising. Those practices can be used to persuade the recipients of the service to engage in unwanted behaviours or into undesired decisions*

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

~~which have negative consequences for them. Providers of online platforms should therefore be prohibited from deceiving or nudging recipients of the service and from distorting or impairing the autonomy, decision-making, or choice of the users. of the recipients of the service via the structure, design or functionalities of an online interface or a part thereof. This should include, but not be limited to, exploitative design choices to direct the recipient to actions that benefit the provider of online platforms, but which may not be in the recipients' interests, presenting choices in a non-neutral manner, such as giving more prominence to certain choices through visual, auditory, or other components, when asking the recipient of the service for a decision.~~

47c. ~~It This should also include repeatedly requesting a user a recipient of the service to make a choice where such a choice has already been made, making the procedure of cancelling a service significantly more cumbersome than signing up to it, or making certain choices more difficult or time-consuming than others, making it unreasonably difficult to discontinue purchases or to sign out from a given online platform allowing consumers to conclude distance contracts with traders, and deceiving the recipients of the service by nudging them into decisions on transactions, or by default settings that are very difficult to change, and so unreasonably bias the decision making of the user recipient of the service, in a way that distorts and impairs their autonomy, decision-making and choice. However, rules preventing dark patterns should not be understood as preventing providers to interact directly with recipients of the service and to offer new or additional services to them. Legitimate practices, for example in advertising, that are in compliance with Union law should not in themselves be regarded as constituting dark patterns.~~

The systematic use of dark patterns, unclear consent agreements, misleading information, and insufficient time to read terms and conditions are common practices to make it difficult for people to have clear information and control in the context of the surveillance-based online advertising industry.

47d. *In order to protect individuals with regards to the way and purposes for which their personal data is processed, and in particular in contexts relevant for influencing people's democratic choices and their involvement in the public debate, as well as to protect democracy and the integrity of elections, it is necessary to complement Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 in adding further additional restrictions, which should therefore be provided in take the form of strict limitations a prohibition an interdiction on the processing of personal data for targeting and ad delivery amplification of online political advertising, based on Article 16 TFEU. (AM137, AM 139, AM140).*

~~47b The goal of political advertising is to inform voters and targeting and ad delivery technics, by helping disseminating advertising and information depending on a limited amount of non-sensitive personal data the following key factors: age, gender, language and location, can help fostering democratic participation (AM 362)~~

47e. Targeting and ad delivery techniques based on certain conditions and on strictly limited amount of provided personal data that are not special categories of personal data within the meaning of Article 9 of Regulation (EU) 2016/679 or of Article 10 of Regulation (EU) 2018/1725 can be useful in disseminating political advertising and information and in reaching out and informing citizens.

47f. Targeting and ad delivery techniques that involve the processing of personal data should only be allowed based on personal data which are explicitly provided by the data subject to the advertising publisher for the specific and sole purpose of receiving targeted political advertisement. Providers should ~~shall~~ not request consent where the data subject exercises his or her right to object by automated means using technical specifications, in line with Article 21(5) of Regulation (EU) 2016/679. In the event that data subjects refuse to consent, or have withdrawn consent, they should ~~shall~~ be given other fair and reasonable options to access information society services. Refusing consent should ~~shall~~ be no more difficult or time-consuming to the data subject than giving. The processing of observed or inferred personal data, in line with the EDPB guidelines 8/2020 on the targeting of social media users, should never be allowed. Without this restriction imposed on targeting and ad delivery techniques, the targeting and ad delivery of political advertising based on personal data would be likely to result in a high risk to the rights and freedoms of natural persons with regard to the exercise of their fundamental rights, which would justify a general prohibition.

47g. Provided personal data should only include categories of personal data explicitly and actively provided by the data subject ~~to the advertising publisher~~ for the specific and sole purpose of being targeted with political advertisement by the data controller it provides this data to. Data subjects should not be targeted with political advertisements by data controllers that have not provided their personal data to. When providing this data to the publisher, this data should be entered into ~~by entering those data to~~ the publisher interface or settings. Those data should therefore exclude data about the data subjects which would otherwise be processed in the course of the normal use of the service, such as metadata, traffic and location data or the content of communications, whether personal or public.

47h. Some well-resourced political candidates or parties might circumvent the restrictions on targeting techniques with in-house services that conduct large-scale political marketing. Therefore, when sponsors process personal data for direct targeted political marketing, such as sending targeted

electronic mail or text messages, at a large-scale and on a systematic basis, the restrictions on targeting techniques should apply, regardless of whether a service is involved or not. This does not affect the fact that the restrictions on targeting and ad delivery techniques should never apply to merely direct communication, including personalized emails or text messages that are not targeted at a large scale, and organic content published using online intermediary services without consideration for the placement, publication or dissemination for the specific message.

47i. *In order to protect elections and referendums and prevent any undue interference, manipulation and disinformation, it is necessary to add further restrictions regarding targeting and ad delivery in the period immediately preceding the election or referendum. In the 60 days preceding any election or referendum, targeting and ad delivery techniques in the context of political advertising that involve provided personal data should be strictly limited to using location and the languages spoken by the data subject. The fact that a person is a first time voter could also be used as it is important to reach out to them and provide them with information regarding the election and/or referendum. The location of the data subject used to deliver targeted political advertisement should be understood being at the level of the constituency which is applicable in the relevant election or referendum. However, ~~in the specific case of European elections, where some in the Member States which have only one national level constituency for European elections and in order not to impose the same obligations to very different political actors,~~ the location of the data subject could be understood being at regional or equivalent level in accordance with national law, for political advertising related to those European elections.*

(47i) *~~This~~ The prohibition and restrictions limitations is proportionate in light of the fact that the prohibitions referred to in Article 12 should shall not prevent sponsors, political advertising publishers or providers of advertising services, including online platforms, from displaying online political advertising and determining recipients to whom advertisements are displayed based on contextual information, including keywords (AM 137, 331, 362). This limitation is proportionate in light of the fact that sponsors have access to other avenues for their political advertising, notably through contextual targeting online and through alternative media offline. This limitation complies with the right to impart information and ideas of general interest which the public is entitled to receive because this right may be circumscribed in some circumstances, if the circumscription is carried out reasonably, carefully and in good faith, and if it is proportionate and justified by relevant and sufficient reasons, in particular, for the protection of the rights of others. must be considered in the light of does not outweigh the protection of the rights and interests of individuals, of the democratic debate and of the political process, and prevents the latter from distortion by powerful financial groups. (AM137, AM 143)*

(47c) *~~This Regulation should therefore not prevent publishers, especially online platforms, from determining the recipients to whom advertisements are displayed on the basis of contextual information. (AM143)~~*

47j. *When selecting targeting parameters, sponsors delineate a potential audience for their political advertising. However, depending on the budget they dedicate to their advertising campaign, their political advertisement will not necessarily reach this entire potential audience. The publisher will have to select whom, in this potential audience, will actually receive the political advertisement. In order to prevent the creation of echo chambers and filter bubbles and to prevent demographic skews along race or gender, resulting in forms of discrimination, internet platforms should not be allowed to selectively deliver political advertisement within the targeted potential audiences based on further processing of personal data. The actual recipients of the political advertisement should therefore only be randomly selected by the publisher, without any additional further processing of personal data.*

(47k) *Furthermore, the extensive transparency obligations in this Regulation will also be helping to make it impossible to proclaim, unnoticed, opposing and polarizing messages to specific parts of the electorate, because watchdogs, civil society, journalists and other parts of the electorate will be able to perform their scrutiny(AM 138, AM 144)*

~~(48) Targeting and ad delivery (AM141, AM142) techniques in the context of political advertising that involve the processing of observed or inferred personal data should be prohibited. Targeting and ad delivery techniques in the context of political advertising that involve provided personal data should be strictly limited to using gender, age, the location, the languages spoken by the data subject involving the processing of data referred to in Article 9(1) of Regulation (EU) 2016/679 and Article 10(1) of Regulation (EU) 2018/1725 should therefore be prohibited. (AM146)~~

~~(48b) This prohibition shall not apply to internal communications from political party, foundation, association or any other not for profit body to their members or former members, as long as those communications are strictly limited to their members or former members and are based on personal data provided by them (AM147)~~

~~(48c) Newsletters to subscribers or members of political parties which are disseminated solely based on subscription data, and without further processing of personal data to target, amplify or otherwise further select the recipients and the messages they receive, should not constitute political advertising. Such forms of direct marketing fall under the provisions of Regulation (EU) 2016/679 and Directive EC 2002/58.~~

~~(xx) Such personal data shall be actively provided by the data subject and entered in the publisher settings as profile data that can explicitly be used to receive targeted political advertising.~~

~~(xx) Where ad delivery techniques that rely on the processing of personal data are not permitted, political advertising publishers or providers of political advertising services can determine the specific audience within the targeted audience by other means such as random selection.~~

- (49) In order to ensure enhanced transparency and accountability, when making use of targeting ~~and amplification~~ techniques in the context of political advertising involving the processing of personal data, controllers should implement additional safeguards. They should adopt and implement a policy describing the use of such techniques to target individuals or ~~deliver~~ ~~amplify~~ their content ***of their ad, make annual risk assessments of the use of these techniques on the fundamental rights and freedoms of individuals and the society as a whole (AM150)*** and keep record of their relevant activities. When publishing, promoting or disseminating a political advertisement making use of targeting ~~and ad-delivery amplification~~ techniques, controllers should provide, together with the political advertisement, meaningful information to allow the concerned individual to understand the logic involved and main parameters of the targeting used, and the use of third-party data and additional analytical techniques, including whether the targeting of the advertisement was further optimised during delivery.
- (50) Political advertising publishers making use of targeting ~~or ad-delivery~~ techniques should include in their transparency notice information necessary to allow the concerned individual to understand the logic involved and main parameters of the technique used, and the use of third-party data and additional analytical techniques used and a link to the relevant policy of the ***political advertising service***. In case the ***political advertising service*** is different from the advertising publisher the ***service*** should transmit to ***the*** political advertising publisher the internal policy or a reference to it. Providers of advertising services should, as necessary, transmit to the political advertising publisher the information necessary to comply with their obligations under this Regulation. The provision of such information could be automated and integrated in the ordinary business processes on the basis of standards. ***(AM153)***
- (51) In order to further empower individuals to exercise their data protection rights, political advertising publishers should provide additional information and effective tools to the concerned data subject to support the exercise of their rights under the EU data protection legal framework including to ~~object or~~ withdraw their consent when targeted with a political advertisement. This information should also be easily accessible directly from the transparency notice. The tools made available to the individuals to support the exercise of their rights should be effective to prevent an individual from being targeted with political advertisements, as well as to prevent targeting on the basis of specific criteria and by one or several specific controllers.
- (52) The Commission should ~~encourage the drawing up of codes of conduct~~ ***guidelines*** as ~~referred to in Article 40 of Regulation (EU) 2016/679~~ to support the exercise of data subjects' rights in this context.
- (53) Information to be provided in accordance with all requirements applicable to the use of targeting and ~~ad-delivery amplification~~ techniques under this Regulation should be presented in a format which is easily accessible, clearly visible and user-friendly, including through the use of plain language ***and suitable for persons with hearing difficulties and visual impairments. (AM162)***

- (54) It is appropriate to lay down rules on the transmission of information on targeting to other interested entities. The applicable regime should be consistent with the regime for the transmission of information linked to the transparency requirements.

ANNEX II

Information to be provided under Article 12(3)

(a) — the specific groups of recipients targeted, including the parameters used to determine the recipients to whom the advertising is disseminated, with the same level of detail as used for the targeting, the categories of personal data used for the targeting and amplification, the targeting and amplification goals, mechanisms and logic including the inclusion and exclusion parameters and the reasons for choosing these parameters.

(b) — the period of dissemination, the number of individuals to whom the advertisement is disseminated and indications of the size of the targeted audience within the relevant electorate.

(c) — the source of the personal data referred to in point (a), including, where applicable, information that the personal data was derived, inferred, or obtained from a third party and its identity as well as a link to the data protection notice of that third party for the processing at stake.

(d) — a link to effective means to support individuals' exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable, in the context of targeting and amplification of political advertising on the basis of their personal data.

ANNEX II a

Personal data or any relevant information on data subjects that might be used when the data subject provides data to the data processor or an intermediary is restricted to:

(a) the gender of the data subject;

(b) the age of the data subject*;

(c) the location of the data subject at the level of the local administrative units or larger administrative units;

(d) the languages spoken by the data subject.

****The publisher of political advertisements might allow the sponsor to target users based on age using only four brackets of ages to be established by the publisher***

COMPROMISE 13 - [Article 14 Legal representative]

AMs covered: [AMs 77 (Rapp)]

Article 14

Legal representative

1. Service providers that provide political advertising services in the Union but do not have an establishment in the Union shall designate, in writing, a natural or legal person as their legal representative in one of the Member States where the provider offers its services.
 - 1a. ***Member States shall keep publicly available registers of legal representatives registered at national level under this Regulation. The Commission shall keep a publicly available register of legal representatives registered on Union level under this Regulation (AM 77)***
2. The legal representative shall be responsible for ensuring compliance with the represented service provider's obligations pursuant to this Regulation and shall be the addressee for all communications with the relevant service provider provided for in this Regulation. Any communication to that legal representative shall be deemed to be a communication to the represented service provider.

COMPROMISE 14 - [Article 15 Competent authorities and contact points]

AMs covered: [AMs 78 (Rapp), 369 (RE), 370 (RE), 371(RE), 372(RE), 374 (EPP), 377(RE), 378 (ECR), 379 (RE), 380 (RE), 381(The Left), 382 (Greens/EFA), 383(S&D), 389 (S&D)]

AMs falling:[AMs 79 (Rapp.), 366 (Greens), 367 (The Left), 368 (S&D), 373(EPP), 375(EPP), 376(EPP), 384 (RE), 385 (RE), 386 (RE), 387 (RE), 388 (RE), 164 (Greens), 165 (rapp), 166 (SnD), 167 (rapp), 169 (rapp)]

Article 15

Competent authorities and contact points

1. The supervisory authorities referred to in Article 51 of Regulation (EU) 2016/679 or Article 52 of Regulation (EU) 2018/1725 shall be competent to monitor the application of Article 12 of this Regulation in their respective field of competence. Article 58 of Regulation (EU) 2016/679 and Article 58 of Regulation (EU) 2018/1725 shall apply *mutatis mutandis*. Chapter VII of Regulation (EU) 2016/679 shall apply for activities covered by **Article -12 and** Article 12 of this Regulation.
 - 1 a. ***In case the political advertising publisher is a very large online platform within the meaning of Article 25 of Regulation (EU) 2022/2065 or of a very large online search engine as defined in Article 2 of Regulation 2022/2065, the European Data Protection Board may initiate an investigation, at the request of national authorities, the European Commission, or on its own initiative after consulting the relevant national authorities if it suspects the infringement of Article - 12 or Article 12 of this Regulation (AM 369)***
 - 1 b. *The initiation of proceedings pursuant to paragraph 1a of this Article by the European Data Protection Board shall relieve the national data protection authority or authorities, or any competent authority where applicable, of its powers regarding the infringement at stake to supervise and enforce the obligations under this Regulation (AM 370).*
 - 1 c. *The national data protection authorities shall, ~~without undue delay~~ within 15 days after being informed of initiation of the proceedings, or within 7 days if within the 60 days period before elections or referendums as referred to in Article 12.1d, transmit to the European Data Protection Board any information they hold about the infringement at stake (AM 371).*
 - 1 d. *In the exercise of its powers of investigation under this Regulation the European Data Protection Board shall request the individual or joint support of any national data protection authority/authorities concerned by the suspected infringement, including the data protection authority of establishment (AM 372).*
2. Member States shall designate competent authorities to monitor the compliance of providers of intermediary services within the meaning of Regulation (EU) 2021/xxx [DSA] with the obligations laid down in Articles 5 to 11 and 14 of this Regulation, where applicable. The competent authorities designated under Regulation (EU) 2021/xxx [Digital Services Act] may also be one of the competent authorities designated to

monitor the compliance of online intermediaries with the obligations laid down in Articles 5 to 11 and 14 of this Regulation. The Digital Services Coordinator referred to in Article 38 of Regulation (EU) 2021/xxx in each Member State shall be responsible for ensuring coordination at national level in respect of providers of intermediary services as defined by Regulation (EU) 2021/xxx [Digital Services Act]. Article 45(1) to (4) and Article 46(1) of Regulation (EU) 2021/xxx [Digital Services Act] shall be applicable for matters related to the application of this Regulation as regards providers of intermediary services.

2a. *The European Commission shall have exclusive competence to monitor the compliance of very large online platforms and very large search engines within the meaning of Regulation (EU) 2022/2065 with the obligations laid down in this Regulation, except of Article -12 and Article 12. (AM 374)*

3. Each Member State shall designate one or more competent authorities to be responsible for the *diligent, objective, consistent and uniform* application and enforcement of the aspects of this Regulation not referred to in paragraphs 1 and 2. Each competent authority designated under this paragraph shall structurally enjoy full independence *both from the sector and from the government of each Member State or any other public or private body (AM 78)*, from any external intervention or political pressure. It shall in full independence effectively monitor and take the measures necessary and proportionate to ensure compliance with this Regulation.

4. *The European Data Protection Board, the European Commission and the national competent authorities referred to in paragraph 3, where exercising their supervisory tasks in relation to this Regulation, shall have the following powers ~~power to request to access data, documents or any necessary information from providers of political advertising services~~ for the performance of their supervisory tasks:-*

(a) the power to conduct investigations on the application of this Regulation [including on the basis of information received from another supervisory authority or other public authority];

(b) the power to request data, information without undue delay from political actors, political advertising service providers, sponsors and publishers, as well as any other persons in relation of their profession may reasonably be aware of a suspected infringement of this Regulation;

~~(b) the power to request a judicial authority of the relevant Member State to order, on-site inspections of any premises that those political advertising service providers, sponsors or publishers or other persons use for the purpose of their profession in order to examine, seize, take or obtain any evidence including copies of information relating to a suspected infringement;~~

(c) the power to ask any relevant member of staff or representative of political advertising service providers, sponsors or publishers or those persons to give a statement or provide an explanation in respect of any information relating to a suspected

infringement;

(d) the power to request any person in political advertising to provide their expertise relating to a suspected infringement;

~~(e) the power to hold a hearing in relation to a suspected infringement in case it is necessary. (AM377)~~

(e) the power to handle complaints lodged by a data subject, or by a body, organisation or association and investigate, to the extent appropriate, the subject matter of the complaint;

(f) the power to impose an administrative fine pursuant to Article 16

4a. The decisions of the European Data Protection Board, European Commission and the national competent authorities referred to in paragraph 3 shall be subject to judicial review according to European and national legislation.

5. Competent authorities referred to in paragraph ~~1, 1a, 3 and 8a~~ where exercising their enforcement powers in relation to this Regulation, shall have the power to:

(a) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this Regulation;

(b) publish a statement which identifies the legal and natural person(s) responsible for the infringement of an obligation laid down in this Regulations and the nature of that infringement;

(b a) issue guidance on compliance in response to requests raised by political advertising publishers under Article 9 (AM 378);

(c) impose administrative fines and financial penalties

(c a) impose periodic administrative fines and financial penalties (AM379).

5 a. Member States shall report annually to the Commission of the type of sanctions used and the amount of the administrative fines and financial penalties imposed under this subparagraph. The Commission shall summarise and evaluate these reports annually and also as use them reports for part of the review process provided for in Article 18 (AM 380).

6. Member States shall ensure cooperation among competent *authorities and supervisory (AM 381, AM 382, AM 383)* authorities in particular in the framework of national elections networks, to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks pursuant

to this Regulation, including by jointly identifying infringements, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.

7. Each Member State shall designate one competent authority as a contact point at Union level for the purposes of this Regulation.
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:
 - (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 in the other Member State(s) concerned on the supervisory and enforcement measures taken and their follow-up;
 - (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
 - (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 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.

~~8a. The European Commission shall have exclusive competence to monitor the compliance of very large online platforms and very large search engines within the meaning of Regulation (EU) 2021/xxx [DSA] with the obligations laid down in this Regulation, except of Article 12. (AM 374)~~

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 connected to the exercise of their supervisory and enforcements tasks pursuant to this Regulation.
- 9a. *The competent authorities of the Member States shall draw up, at the end of each election or referendum, reports on the conformity with existing legislation and with this Regulation of service providers providing political advertising services providers*

of political advertising services in the Union, as well as with the protection of personal data, when using techniques to target a specific audience or to amplify the impact of political advertising material. Those reports shall be forwarded to the Commission and, in the case of elections to the European Parliament, to the European Parliament (AM 389)

COMPROMISE 15 - [Article 16 Sanctions and 9a Right to lodge a complaint]

AMs covered: [AMs 80 (Rapp), 81 (Rapp), 82 (Rapp), 83 (Rapp), 84 (Rapp), 85 (Rapp), 390 (RE), 394 (RE), 396 (Greens), 397 (RE)]

AMs falling: [AMs 391(S&D), 393(S&D), 395 (RE) , 168 (Greens), 169 (rapp)]

Article 16

Sanctions

1. In relation to Articles ~~2a, 3a~~, 4, 5 to 11, 13 and 14 Member States ***and the European Commission and the European Data Protection Board*** shall lay down rules on sanctions including administrative fines and financial penalties ***and procedures of rectifications (AM80, AM 390)*** applicable to providers of political advertising services under their jurisdiction for infringements of the present Regulation, which shall in each individual case be effective, proportionate and dissuasive.
2. ~~***Sanctions shall be effective, proportionate and dissuasive (AM392)***~~ Member States shall notify the Commission of those rules within twelve months of the entry into force of this Regulation and shall notify it, without delay, of any subsequent amendments affecting them.
3. When deciding on the type of sanctions and its level, due regard shall be given in each individual case, among others, to the following:
 - (a) the nature, gravity and duration of the infringement;
 - (b) the intentional or negligent character of the infringement;
 - (c) any action taken to mitigate any damage;
 - (d) any relevant previous infringements and any other aggravating or mitigating factor applicable to the circumstances of the case; and
 - (e) the degree of cooperation with the competent authority.
4. Infringements of Articles 4, 5 and 7 (AM 81, AM394), shall be considered to be particularly serious where they concern political advertising published or disseminated during an electoral period ~~***or during a referendum period***~~ and directed to citizens in the Member State in which the relevant election ~~***or referendum (AM 394)***~~ is being organised.
5. If a service provider intentionally or negligently infringes the provisions of this regulation, for the same or linked political advertising, the total amount of the administrative fine shall be sufficiently adjustable in order to take into account all the relevant factors; the fact that the Regulation has been violated in multiple respects shall be reflected in the amount of the total fine, in compliance with the principle of proportionality.
6. For infringements of the obligations laid down in **Article -12 and Article 12**, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 **and the European Data Protection Board** may ***use the investigative and corrective powers***

laid down in that regulation and (AM82, AM396) within their scope of competence impose administrative fines in line with Article 83 of Regulation (EU) 2016/679 and up to the amount referred to in Article 83(5) of that Regulation.

6a. In case of particularly serious and systemic infringements of the obligations laid down in Article -12 and Article 12 by the sponsor, where the political advertising publisher is a very large online platform within the meaning of Article 25 of Regulation (EU) 2022/2065 or a very large online search engine as defined in Article 2 of Regulation 2022/2065, the European Data Protection Board may order, for a strictly limited period of time, which does not exceed 15 days, the very large online platform or search engine not to provide targeting and ad delivery services for that particular sponsor, pursuant to paragraph 1a of Article 15. This suspension may be imposed in addition to or instead of an administrative fine.

7. For infringements of the obligations laid down in **Article -12 and Article 12**, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may *use the investigative and corrective powers laid down in that regulation and (AM 83)* impose within its scope of competence administrative fines in line with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66 (3) of that Regulation.

7a.

7a. Member States shall report annually on the sanctions imposed to enforce the provisions of this Regulation. The Commission shall summarise and evaluate those reports annually and also as part of the review process provided for in Article 18 (AM 84)

7 b. The Commission is empowered to adopt delegated acts in accordance with Article 19 to introduce minimum sanctions across the Union for infringements of the obligations laid down in Articles 12 and 13 after having consulted competent authorities and other relevant stakeholders (AM 85)

Article 16 9a

Right to lodge a complaint

1. Natural and legal persons shall have the right to lodge a complaint against political actors, publishers, sponsors and service providers alleging an infringement of this

Regulation

2. *Member States, European Data Protection Board or the European Commission and where applicable the European Commission shall lay down rules on the right to lodge a complaint referred to in paragraph 1 of any natural or legal person or any organisation or association mandated to exercise the rights conferred by this Regulation on their behalf shall have the right to lodge a complaint by the national authorities or European Data Protection Board or the European Commission against political actors, publishers, sponsors and service providers alleging an infringement of this Regulation. with the national authorities or European Data Protection Supervisor or the European Commission. The authorities shall assess the complaint objectively and shall have the powers set out in Article 15 (4). During these proceedings, all the interested parties shall have the right to be heard and receive appropriate information about the status of the complaint, in accordance with national and European law.*
3. *Where the complaint falls under the responsibility of another competent authority in its Member State or European level, the authority receiving the complaint shall transmit it to that authority within a week 7 days. During electoral periods, the transmission shall happen within 48 hours 3 days without undue delay. The competent authority receiving the complaint shall assess and, where appropriate, act upon it within 15 days. During electoral periods, the assessment shall happen within 5 days. (AM 86, 397)*

Matching recital

58b. For the exercise of their powers under this Regulation the competent authorities mentioned in Article 15 and the European Data Protection Board should be provided with sufficient resources.

COMPROMISE 16 - [Article 17 Publication of electoral periods, Article 18 Evaluation and review Article 19 Exercise of the delegation Article 20 Entry into force an application]

AMs covered: [AMs 86, 87, 88, 89, (Rapp), 398 (S&D), 399 (S&D))]

AMs falling:[AMs 400 (S&D), 401 (S&D), 170, 171 (SnD)]

Article 17

Publication of electoral periods

Member States shall publish the dates of their national electoral periods ***and the periods for referendums (AM 86)*** in an easily accessible place, with an appropriate reference to this Regulation.

Article 18

Evaluation and review

Within two years after each election to the European Parliament and for the first time by 31 December 2026 at the latest, the Commission shall submit a report on the evaluation and review of this Regulation. This report shall assess the need for amendment to this Regulation. The report shall be made public ***and presented in a public hearing of to the European Parliament (AM 398)***

2. The Commission shall also submit, 3 years after the entry into force of this Regulation and after, every 3 years, a report on the impacts of this Regulation on stakeholders, in particular on civil society, which should be based on a broad consultation with relevant stakeholders.

Article 19

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(8) and Article 12(8) ***and 16(7b) (AMs 87, 399)*** shall be conferred on the Commission for a period of [until the application of this regulation is evaluated, two years after the next European Parliamentary elections].
3. The delegation of power referred to in Article 7(8) and Article 12(8) ***and 16(7b) (AM 88)*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of

the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify that act simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 7(8) or Article 12(8) or **Article 16(7b) (AM 89)** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 20

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from 1 April 2023.
3. This Regulation shall be binding in its entirety and directly applicable in all Member States.

COMPROMISE 17 - [Annex I]

AMs covered: [AMs 402 (RE), 403 (RE), 404 (S&D), 406 (S&D), 414(RE)]

AMs falling:[AMs 405 (The Left), 407 (S&D), 408 (RE), 409 (RE), 411 (RE), 412(S&D), 413 (RE)]

Information to be provided under Article 7(2)

- (a) ~~where the notice is not within the advertisement itself, (AM402)~~ an example/representation of the political advertisement or a link to it.
- (b) the identity and place of establishment of the sponsor on behalf of whom the advertisement is **prepared, placed, published, promoted and (AM403)** disseminated including their name, address, **electronically verified (AM404)** telephone number **and or** electronic mail address, and whether they are a natural or legal entity.
- (c) the period during which the political advertisement is disseminated and, where applicable and known to the publisher, the fact that the same advertisement has been disseminated in the past.
- (d) any election, ~~or referendum or legislative or~~ (AM 406) with which the advertising is linked, if applicable.
- (e) the ~~provisional aggregated~~ amount spent on, and the value of other benefits received in part or full exchange for the specific advertisement, and on the specific advertising campaign where relevant, including on the preparation, placement, promotion, publication and dissemination of the political advertisements, as well as the aggregated actual amount spent and the value of other benefits received once known.
- (f) the sources of the funds being used for the specific advertising campaign including for the preparation, placement, promotion, publication and dissemination of the political advertisements.
- (g) meaningful information about the methodology used for the calculation of the amounts and values referred in (e).
- (h) ~~where the publisher is a very large online platform,~~ a link to the advertisement's location in the European Ad-library ~~publisher's advertising repository. (AM 414)~~
- (i) 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.
- (j) information about the mechanism established under Article 9.

Obtenu par CONTEXTE