

Transparency and targeting of political advertising

2021/0381(COD) - 26/01/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by Sandro GOZI (Renew, FR) on the proposal for a regulation of the European Parliament and of the Council on the transparency and targeting of political advertising.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure amend the proposal as follows:

Subject matter, scope and definitions

Members propose to clarify that the regulation establishes harmonised rules on obligations concerning the provision of political advertising services, and on transparency and due diligence for sponsors and providers of political advertising services that require them to provide, collect,

retain, disclose and publish information connected to the provision in the internal market of such services.

Furthermore, the Regulation should **protect fundamental rights and freedoms** as enshrined in Union and national law, including the Charter of Fundamental Rights, and should not affect the content of political advertising or national provisions governing election periods and political campaigns.

Moreover, political opinions expressed under the editorial responsibility of a service provider should not be considered political advertising unless specific payment or other remuneration is provided for their preparation, placement, promotion, publication, delivery or dissemination by third parties.

The report also recommends **clarifying several definitions**, including 'political advertising', 'political actor' and 'political advertising publisher', 'targeting and amplification techniques', and proposes a new definition of 'political advertising service providers' in order to promote a better understanding of the system.

Provision of political advertising services in the Union

Providers of political advertising services should not discriminate against sponsors on grounds of their place of residence or, where applicable, establishment, when those sponsors request, conclude or hold a contract for political advertising services. By way of exception, political advertising services should be provided only to a sponsor or a service provider acting on behalf of a sponsor who is a citizen of the Union, or a natural or legal person **residing or established in the Union**.

Identification of a political advertisement

Members believe that it is essential to clearly establish the criteria for determining whether an advertisement is political in nature or not. Such criteria should include the content and purpose of the message, its sponsor, the spoken or written language used to convey the message, as well as the context in which the message is conveyed and how it is transmitted. The Commission should develop common guidance to contribute to the correct application of those criteria.

Transparency and due diligence obligations for political advertising services

The report suggested the following clarifications:

- all service providers should 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;
- the **statement** made by advertising services acting on behalf of sponsors whether the advertising service constitutes a political advertising service should be made in a good faith, should contain **accurate information**, and should be provided in timely, complete and accurate manner. In case of manifestly erroneous declarations, the providers of advertising services should request corrections. Additional risk management obligations should apply to service providers who are very large online platforms in the meaning of the Digital Services Act;
- strengthening the provisions on **record-keeping** and transmission of information to the political advertising publisher so as to ensure that providers of political advertising services retain information they collect in the provision of their services and communicate it to the political advertising publisher in a timely and accurate manner;
- the definition by the Commission of common standards to establish harmonised, efficient and prominent **labels** for political advertisements;
- details of the information to be provided in the **transparency notice** and the responsibility of providers of political advertising services, including publishers with regards to accuracy and completeness of information;
- the establishment of an EU library for hosting political advertisements ensuring the hosting of a database containing each online political advertisement;
- the adoption by the Commission to adopt **common standards** to establish common data structure and standards, and a common application programming interface;
- details of the procedures for natural and legal persons to easily **flag up** possibly unlawful political advertisements.

Targeting and delivery of political advertising

Targeting and ad delivery techniques that involve the processing of special categories of personal data in the context of political advertising would be prohibited. Targeting techniques involving the processing of personal data would be limited to personal data explicitly provided by the data subject with **his or her consent**.

The amendments aim to ensure that publishers of political advertising include in the transparency notice all the information necessary to enable the data subject to understand the logic involved and the main parameters of the technique used. In addition, the transparency notice should visibly link to an **easily accessible interface** in which users can withdraw their consent or modify the personal data they provided for the sole purpose of online political advertising.

Monitoring, enforcement and sanctions

The Commission should keep publicly available registers of **legal representatives** registered at national level under this Regulation. Service providers should give their legal representative the necessary powers and sufficient resources to ensure effective and timely cooperation with the Member States' competent authorities and, where relevant, with the Commission, and to ensure the compliance with their decisions.

Competent authorities, when exercising their supervisory tasks in relation to the Regulation, would be empowered to: (i) request access to data, documents, or any necessary information from the providers of political advertising services; (ii) order an end to infringements and, where appropriate, impose remedies that are proportionate to the infringement and necessary to bring it effectively to an end; (iii) impose administrative fines and financial penalties, including periodic penalty payments; (iv) carry out order inspections of any premises that providers of political advertising services use for purposes related to their trade, business, craft or profession.