

Public consultation on a proposal for an initiative on greater transparency in sponsored political content, and other supporting measures

Fields marked with * are mandatory.

Introduction

The digital revolution has transformed democratic politics. Political campaigns are now run not only on the doorstep, billboards, radio waves and TV screens, but also online. This gives political actors new opportunities to reach out to voters, and new opportunities for civic engagement and public participation. However, the rapid growth of online campaigning and online platforms has also opened up new vulnerabilities. This can apply to national, regional, municipal and European elections, as well referenda. The definition of partisan or political advertising varies across Member States and around the world. In some Member States, political ads may only be placed by political actors (e.g. parties and candidates), and are limited in their financing and when they can be used. Other ads with more general political messages, aims or effects (i.e. regarding more general political issues such as the environment or migration – ‘issues ads’) are also placed, including by other actors (companies, civil society, citizens but also political parties) and during other periods than in the context of an election.

Political ads can be placed through publishers (radio, television, media websites and commercial websites, social networks and other online platforms) by a variety of actors, ranging from political parties to communication consultancies and advertising agencies. Their preparation and financing can involve many service providers, from banks to data brokers and analysis, often with a cross-border element. The relevant rules are mostly national, and often diverge. In some cases they do not cover the online environment. They can thus cause legal uncertainty and have potential gaps and loopholes in their enforcement.

Attempts to interfere in recent elections, including European elections, and manipulate the democratic debate have intensified. Political advertising is one of the ways that information manipulation is amplified and disseminated, and through which political interference can be achieved. The content of an ad can be misleading, or the way that it is circulated (including by micro-targeting specific messages tailored to particular groups) and amplified (for instance by political actors posing as ordinary voters). Online advertising and the overall digitalisation of political campaigning may therefore have adverse impacts on democracy.

Citizens need access to transparent information on political ads to participate in the political debate, freely take political decisions and hold politicians accountable. Journalists, researchers, fact-checkers and other stakeholders also rely on transparency. In addition, public authorities can only monitor and enforce relevant rules on political advertising if all actors involved act transparently. There can be legitimate reasons for certain limitations to transparency, not least to protect personal data. The use of citizens’ personal data must comply fully with the [General Data Protection Regulation](#).

The [European Democracy Action Plan](#) recognises the need for more transparency in political advertising and communication, and the commercial activities related to it, in order for citizens, civil society and responsible authorities to be able to see clearly the source and purpose of such advertising. The European Democracy Action Plan therefore announced a legislative proposal on the transparency of sponsored political content as well as support measures and guidance for Member States and other actors, such as national political parties and competent authorities.

This initiative addresses all actors involved in financing, preparing, placing and disseminating political advertising (such as political and marketing consultancies and advertising and campaign organisations) and complements the rules set out in the proposal for a Digital Services Act, which applies to online intermediaries, and the wider EU framework for the digital services market. It is also complementary to the revised Audiovisual Media Services Directive, which extends the European qualitative standards applicable to audiovisual commercial communications in traditional audiovisual media services to those available on video-sharing platforms. The initiative will cover both online and offline activities, and could cover the range of elections in the EU, including European Parliamentary elections. More information can be found in the [inc option impact assessment](#) for this initiative. The initiative will be complemented by the revised Regulation on the statute and funding of European political parties and foundations, planned for Q3 of 2021 that aims to increase transparency of funding for European political parties and foundations and to enhance the European dimension of European elections.

This public consultation builds on the extensive consultation conducted by the Commission recently, including for the Digital Services Act and the European Democracy Action Plan. It is an opportunity to further explore the particular issues raised by an intervention to introduce greater transparency in political advertising and related measures, including how it could contribute to the resilience of democracy in Europe, to the overall transparency of political campaigning, as well as to understanding how relevant market actors might be affected.

We want to hear from you!

The European Commission welcomes views from European citizens on the issues that concern them. That is why we have prepared this consultation – your views and experience are essential to shaping our policies to serve the interests of European citizens.

You can send us your views until **2 April 2021**. The Commission will prepare a consolidated and anonymous analysis of all responses to the questionnaire and publish it online.

How to take part

Answering this questionnaire (in any official EU language) should take between 15 and 20 minutes. The questionnaire closes with an open question for you to include suggestions and other views, and a question to allow you to indicate whether we may contact you to follow up.

Civil society organisations, public authorities and private businesses also have the possibility to complement their submission by additional position papers to just-transparency-consultation@ec.europa.eu. In the email, please, specify your name, nationality, the name of your organisation (if relevant) and your function in the organisation.

You can learn more about the use of the answers in the [privacy statement](#).

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority

- Trade union
- Other

* First name

Ruth-Marie

* Surname

Henckes

* Email (this won't be published)

ruthhenckes@epd.eu

* Organisation name

255 character(s) maximum

JOINT SUBMISSION by the European Partnership for Democracy together with its members ARTICLE 19, ePanstwo Foundation, Democracy Reporting International and Demo Finland - Political Parties of Finland for Democracy.

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Djibouti
- Libya
- Saint Martin
- Åland Islands
- Dominica
- Liechtenstein
- Saint Pierre and Miquelon

- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname

- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine

- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

Questions on political advertising and related services

Political advertising can cover a wide range of activities and a wide range of formats, from leaflets to radio, billboards, websites and social media. Political ads can promote particular parties or candidates, they can impart information, raise money or address political subjects more generally. They are regulated and defined differently from state to state, but for the purposes of this consultation we would approach this term very broadly.

Q1. Is political advertising permitted for elections in your home country?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Q2. Which format of political ads have you encountered most often in your country?

- a. Leaflets
- b. Posters
- c. Radio
- d. TV

- e. Online
- f. Other

Q3. Have you ever encountered any of the following (check all which apply):

- an advert raising money for a political objective (cause, candidate, party etc)
- an advert promoting participation in an election
- an advert providing essential information about an election (public service information)
- an advert attacking another political movement, actor, party or group
- sponsored political editorial in a newspaper or magazine
- an ad which promoted a political view without clearly being a political ad (an 'issues ad')
- political advertising outside an election period
- political advertising promoted in your country which appeared to be sponsored from outside your country
- political advertising in European Parliamentary election promoted by a European (not national) political party

Q3.1 Should definitions of political advertising include the following:

	include	exclude	neutral	Don't know
an advert raising money for a political objective (cause, candidate, party etc)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
an advert promoting participation in an election	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
an advert providing essential information about an election (public service information)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
an advert attacking another political movement, actor, party or group	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
sponsored political editorial in a newspaper or magazine	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
an ad which promoted a political view without clearly being a political ad (an 'issues ad')	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
political advertising outside an election period	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
political advertising promoted in your country which appeared to be sponsored from outside your country	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
political advertising in European Parliamentary election promoted by a European (not national) political party	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your response (optional)

Political advertising runs all year round and any actor can engage in political advertising. Yet the question above indicates an approach focused on the content of an advertisement. Such a content-approach is potentially problematic, as all content may be political at some point and the question of political content will vary significantly over time, making it extremely difficult to regulate. Below we propose a different approach, focused on the advertiser behind an advert - an approach that is more suitable for implementation. As a general point, rather than starting with the definition of a political advertisement and advertiser, it is better to start from the kinds of measures political ads will be subjected to (such as limitations in targeting, for instance), and then define political ads.

If the political advertising label for an ad means enhanced transparency, then all the options above should be considered political ads. Voter mobilisation campaigns may also have a major impact on election results, for instance. Public service information about an election published by an official government body should be subjected to scrutiny, but not limited in any way that could prevent electoral management bodies from advertising and raising awareness on platforms. If the information about an election is published by a non-governmental actor, it should be subjected to the same rules as political advertising.

Q3.2 Should definitions of political advertising be:

- a. Defined in law
- b. Dynamically adaptable
- c. Don't know
- d. Other

Please explain your response (optional)

The key features of political advertisers and principles for identifying those could be defined in the law.

Core political advertisers: political parties, political candidates and political campaigning groups are always political advertisers when they pay for spreading their messages, no matter the content or timing.

Peripheral political advertisers: Any entity that receives funding from these political actors should also be considered a political advertiser - either permanently, if the entity receives funding on an annual or permanent basis, or temporarily if the funding is only limited to a specific period, for instance the election campaign. Such entities may include influencers, advertising agencies, political foundations, politically affiliated think tanks, and groupings or magazines financed by - or associated with - a core political advertiser.

Electoral commission in EU Member States should identify the national actors that fall under the EU-level definition of core and peripheral political advertisers, with full cooperation by online platforms in terms of data access and implementation. This identification exercise should be reviewed once a year in between elections, and every month in the 6 months running up to an election and the two months following an election.

This should go alongside a more flexible definition of issue-advertisers, that may be dynamically adaptable and not defined by law.

For a deep dive into the questions on defining political advertising, we ask you to consult this study by Dr Julian Jaursch by the Stiftung Neue Verantwortung: https://www.stiftung-nv.de/sites/default/files/snv_definingpoliticalads.pdf

Q4. Have you ever encountered political advertising online?

- a. Yes
- b. No
- c. Don't know

Q4.1 Roughly how often?

- a. Daily
- b. Weekly
- c. Monthly
- d. Seldom

Please indicate where you have most often or most memorably encountered political ads?

Q4.2 Regarding the advertising you encountered, were you able to easily find the following information

	Yes	Maybe	No	Don't know
1. clear labelling that it was a political ad	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. information about who placed the ad	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
3. information about entities sponsoring or co-sponsoring the ad	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. information about the amount paid	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
5. (where relevant) information regarding the use of targeting (whether and why the ad was targeted at you specifically)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
6. Other information about the ad	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify

Our research into platforms' compliance with the commitments of the Code of Practice on Disinformation for the 2019 European Parliament elections revealed the following:

* The ad labelling system provides insufficient information on the reasons for targeting users and the data used to make these decisions. No meaningful information is given about targeting criteria. This information should be provided with the same level of granularity as advertisers can choose.

* Only limited information is provided about the advertiser, and it is provided inconsistently - some ads include the advertiser information, some don't. There is no way of identifying proxy advertisers and knowing who actually paid. The verification procedure for political advertisers is overly burdensome and lengthy, and failed to account for third-parties, proxy advertisers and social media influencers.

* Advertising libraries of all major platforms lack meaningful, complete and accurate data, with no information on targeting criteria, data on the intended and reached audiences, exact spend, ad performance, and targeting mechanisms. These libraries were also found to be missing content depending on the time and location of the user, and as there is no comprehensive repository of all paid content, which makes it impossible to verify the accuracy, completeness and consistency of political ads libraries.

* For election-related ads, the ad disclaimer should provide a direct link to the government's information website about the election with official information about the registration and voting process.

Find the overview of research in the Czech Republic, the Netherlands and Italy here: <https://epd.eu/virtual-insanity/#1601563380121-93544386-e8a2>

Questions on relevant rules for political advertising:

In most Member States, there are rules that limit party spending for election campaigns, which can differ among Member States in their scope and substance, and their applicability online. Within a Member State, they can differ for national, regional, municipal and European elections, and referenda. Rules include upper limits for spending on specific campaigns or political actors, as well as on who and how funding can be obtained. Other rules include who may place political adverts and when.

Q5. Are you aware that there are rules limiting party spending for electoral campaigns in your country?

- a. Yes
- b. No
- c. Don't know

Q5.1 Do you think that the limits of political party spending for electoral campaigns should be:

- a. Increased (more money)
- b. left as they are
- c. decreased (less money)
- d. Don't know

Q6. Should spending by actors other than political parties (such as foundations and campaign organisations) on political ads during an election period count towards campaign or political party spending limits?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

The campaign spending by actors that are financed by political parties and candidates during the official election period could be counted towards party spending limits. This could for instance be advertising by a political foundation, party-financed magazine or an advertising agency. However, if a political party or candidate have no financial or other close ties (such as board membership) nor control over the advertiser, this should not count towards party spending limits.

Public interest campaigning occurring during an electoral campaign should be subjected to heightened scrutiny, and investigations should be conducted by electoral authorities to understand the relationship between large non-political campaigners and political parties or candidates, to ensure parties do not channel campaigns that exceed spending ceilings through other actors.

Q7. Should spending on 'issues ads' during an election period count towards campaign or political party spending limits?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Defining which issues are political is an inherently political exercise that neither governments nor private companies should conduct. Linking 'political issues' with political actors cannot be based on the content of the ad and the party's policies, as advertising requires an element of control and a financial relationship.

Issue ads should only count towards a party or campaign's spending limits if:

- * A financial relationship exists between the advertiser and a political actor;
- * The party or campaign has control over the advertiser, for instance by being on the board or through control over particular subsidy portfolio's.

Special investigations should be carried out by the relevant national electoral commission for issue advertisers who exceed a particular amount spent on campaigning in the year ahead of an election. This amount should be defined by the national electoral authority. In addition, a mechanism should be set up for watchdog organisations (media, civil society, citizens) to flag issue ads and advertisers who potentially have ties with core political advertisers (parties and candidates), warranting further investigation by the national electoral commission.

Q8. Should civil society and other actors have to follow the same rules as political parties when paying for and placing political advertising?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Non-commercial and public interest campaigning should not be defined as core political advertising (parties & candidates), but rather issue advertising. Such political issue advertisers - including civil society - would have to be subjected to enhanced transparency standards and be labelled through a self-declaratory system, that enters into force 6 months before an election. Such a self-declaratory system would allow a non-profit advertiser to identify an ad as 'political', which would trigger enhanced transparency measures by platforms and by the advertiser - for instance disclosure of the amount spent, a link to the sources of funding of the advertiser, and incorporation under 'political issue ads' in the ad library. Enhanced transparency would then enable better scrutiny of such 'issue ads'.

The precondition for such an approach to issue-advertising is blanket mandatory transparency measures to allow for public scrutiny of all online advertising. Meaningful transparency means solid verification mechanisms of advertisers, public advertising libraries that include information as detailed in question 4.2 and 22, and a strong labelling system, as established in the proposal for the Digital Services Act. Users should also have the possibility to flag if they believe ads should be categorised as a political or issue ad - currently not covered by the DSA draft.

While this leaves some uncertainty, it is better than governments or platforms deciding which issues are political. A content-approach to defining political issues and political issue advertisers is an inherently politicised discussion that is hard to implement in practice. Counting all civil society and non-profit campaigning as political advertisers risks disproportionately restricting non-profit and public interest campaigning, depending on the kinds of additional measures and restrictions for political advertisers. If such a broad definition is applied in a scenario where targeting is banned for political advertisers, it would lead to a situation where Greenpeace cannot target ads about green energy but Tesla can. A self-declaratory system opens the door for public interest scrutiny by media actors, oversight institutions and civil society, whilst not disproportionately restricting or overregulating not-for-profit campaigning. This should go hand in hand with a flagging mechanism for users to flag ads they believe should be categorised as political or issue advertising.

On the contrary, if a financial relationship or relationship of control is established between a non-profit advertiser and a core political advertiser, then the civil society or other actor should follow the same rules as political parties.

Many of the services relevant to political ads, from their design and planning, to their placement and funding, are conducted across borders within the EU single market and also from outside the EU.

Q9. Should there be rules set at EU level on how political adverts can be funded?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

The EU should refrain from legislating this realm for all Member States as it is a national competence.

While it is good practice to set spending limits on political campaigns, campaigning ceilings are a national competence and should therefore not be subjected to EU-level regulation. The European Cooperation Network on Elections should, however, develop a guidance note bringing together the experience from Member States with that of experts and non-EU countries, to issue recommendations for Member States on campaign finance. For European elections, campaign ceilings could be established.

For European elections, it should be considered to require European political parties to submit timely reports on their electoral campaign finances. At present, the audit reports of European parties' donations are not published in a timely manner, despite the need for enabling public scrutiny of such reports. In addition, donation limits, if reviewed regularly and set in place by an independent, pluralistic body, could be useful.

Q9.4. Should there be rules set at EU level as to how a specific amount of political advertising during an election should be allocated (for instance through proportionately allocated 'online/offline ad vouchers'), to ensure access for more parties to the campaign?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

A maximum ceiling for campaign spending for online campaigning could be envisaged as part of electoral legislation at the national level. As this is not an EU competence, the EU could make a recommendation for a ratio of online/offline campaigning issued through the European Cooperation Network on Elections. For European Parliament elections, such a ratio of online/offline campaigning could be set in the law, and should be reached through a dialogue between political groups, electoral authorities at member state level, and rights groups.

Q10. Should there be rules set at EU level requiring all political advertising be clearly and specifically labelled as such?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

As the EU has more leverage towards online platforms than individual EU Member States have, including through the DSA, the EU should regulate platforms' responsibilities for ensuring inclusive, competitive and transparent elections. Meaningful, easy-to-find and easy-to-understand labeling is one of the key components in ensuring a baseline of transparency for citizens as well as outside observers such as academic, civil society and media researchers. Such a requirement for platforms goes hand in hand with standards to verify advertisers and ensuring that advertisers themselves do not try to circumvent the labeling requirements. Fundamental features of the labelling and verification mechanisms could be adopted through legislation, however, legislation needs to be written in such a way that there is space for flexibility, as the nature of online advertising will likely change in the years to come.

Q11. Should there be rules requiring all the sponsors of political ads to be disclosed within the ad itself?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Yes, the EU should set rules requiring sponsors of ads to be disclosed within the ad itself (in a label or a single click away), for all ads - political, commercial or public interest ads. For political ads, there should be an easy link to the overview of all ads by this political advertiser on that platform and their funding sources. A single interoperable ad library is still preferable, and the Commission should investigate this possibility.

Q12. Should there be rules requiring political ads to be truthful and not misleading about verifiable factual claims?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Political ads have always contained competing information, as political positions are inherently contested. What one candidate may consider misleading, might be truthful to another political actor. In order to safeguard freedom of expression, the goal of regulation should not be to completely eliminate incorrect information, but rather ensure that voters have the necessary transparency about who is paying for the ads, and are sufficiently informed and digitally literate to make their own informed assessment of the ad's trustworthiness.

A blanket ban on false or misleading claims in political ads is not desirable, given the challenges for implementation and the political nature of fact-checking political ads. Neither platforms nor government institutions are in a position to assess the truthfulness of political campaigns. However, misinformation about the election process - date, voting process, registration process - should be banned in online political ads. National electoral commissions should then provide the truthful information to platforms, who then verify political ads flagged by trusted flaggers based on the official information about the election.

Should political ads include illegal speech, such as illegal hate speech, such ads should indeed be subjected to the content moderation rules defined in the Digital Services Act - regardless of their political nature.

Q13. Should there be rules in times of elections campaign regulating how advertising space is allocated online?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Rules specifically for elections could be useful, since election or referendum times are periods of heightened political debate. However, election-specific rules miss the point that political advertising online is happening independently of elections and is often not tied to candidates. Therefore, in general, political ad rules should not just cover election periods.

Where paid political advertising is permitted, ad space should be made available to parties and candidates on a non-discriminatory basis, meaning that open access and equal treatment should be guaranteed, as well as equal costs for all candidates/parties. Thus, if any campaigning is allowed to happen, then it should be available to all on the same terms (i.e. price / cost per click (CPC) / cost per thousand (CPM) / cost per action (CPA) should be the same). This should be modelled after similar regulation for political advertising space on public media in some EU countries.

Q14. Are you concerned about the possibility of foreign actors (such as foreign states or foreign organisations) being able to sponsor political advertising to increase their own influence within the EU?

- a. Yes
- b. Maybe

- c. No
- d. Don't know

Please explain your response (optional)

In order to limit the ease for malign foreign actors to interfere in elections, EU regulation should ban advertising from outside the EU external boundaries, while ensuring advertising can still occur across EU Member State borders. Both commercial, not-for-profit and political advertisers based outside the EU will need to channel advertising through an EU-based counterpart. Advertising across EU Member State borders should not be affected by this.

Political advertisers should not campaign from outside the EU in the EU, in order to create additional hurdles for foreign interference in political processes. In view of diaspora communities from outside the EU with voting rights, living in the EU, political advertising will have to be channeled through a party representative within the EU. Yet political parties in the EU campaigning to diasporas outside of the EU should be scrutinised to ensure their spending outside the union also counts to their own spending ceilings nationally. In order to maintain a European public sphere, political advertisers should be allowed to advertise across Member States. This should facilitate pan-European campaigning.

These measures will, however, only slightly increase the cost of manipulating elections through online advertising. The most meaningful measure to limit foreign interference in political processes will be to set up strong transparency measures and support scrutiny by public interest actors such as investigative journalism, civil society and the research community, as well as capacity building for electoral authorities in Member States.

Q15. Are you concerned that political advertising, especially online, can be used to intentionally spread false or misleading information (disinformation)?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Political ads have always contained competing information, as political positions are inherently contested. In order to safeguard freedom of expression, the goal of regulation should not be to completely eliminate incorrect information, but rather ensure that voters have the necessary transparency about who is paying for the ads, and are sufficiently informed and digitally literate to make their own informed assessment of the ad's trustworthiness.

However, misinformation about the election process - date, voting process, registration process - should be banned in online political ads. This is one of the most common and cheapest ways to manipulate elections via social media, usually with unofficial but affiliated political actors intimidating or misleading potential voters about electoral procedures.

In such cases, national electoral commissions should then provide the truthful information to platforms, who then verify political ads flagged by trusted flaggers based on the official information about the election.

Should political ads include illegal speech, such as illegal hate speech, such ads should indeed be subjected to the content moderation rules defined in the Digital Services Act - regardless of their political nature.

Q16. Should political actors or organisations that violate or are systematically non-compliant with agreed rules be sanctioned

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

National electoral authorities need to be empowered with sanctions through national electoral legislation, as this is an issue of national competence.

The role of the EU here can be one of guidance and information exchange, through the European Cooperation Network on Elections. Through the Digital Services Act and the Code of Conduct on Disinformation 2.0, the European Commission should facilitate data sharing between platforms and electoral authorities. However, the EU should not put in place sanctions for non-compliance by national political actors.

Q17. Do you consider that specific measures are needed to ensure that the competent authorities can have more effective oversight over political advertisement online?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

National electoral authorities - or other competent authorities at national level - need to have a direct contact point in very large online platforms, as set out for in the Digital Services Act proposal. Platforms need to be quick to respond, and have regular discussions with competent national authorities in the months leading up to an election.

National electoral authorities should also be equipped with the knowledge, infrastructure, data access and resources to effectively scrutinise online political ads and advertisers, and conduct investigations into suspicious advertisers to establish links with domestic or foreign political actors. The European Cooperation Network on Elections could play a role in facilitating such knowledge-sharing.

Questions on European elections:

European Parliamentary elections are currently organised nationally, according to each Member State's rules, which means that relevant rules such as the periods during which political ads can circulate, the amounts allowed to be spent, and whether they can circulate at all, vary from Member State to Member State.

Q18. Should there be certain common rules for political ads in European Parliamentary elections?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

As a general point, the rules governing elections in Member States should continue to be set at national level. That being said, election experts recommend that some rules could be set at European level for European elections in order to level the playing field, for instance regarding the financing of national European campaigns by European political parties. A clearer framework could be established for the type and nature of cooperation between the Authority for European Political Parties and European Political Foundations (APPF), the Authorising Officer of the European Parliament and the competent Member States' political finance oversight bodies with regard to campaign finance supervision in order to enhance the effectiveness of the control carried out at the European and national levels. Further consideration might be given to spelling out the respective tasks and jurisdictions of each of these bodies to enhance the overall campaign spending accountability.

Election experts recommend a harmonisation of rules for the European Parliamentary elections, as detailed below:

Campaign period: The variation in campaign periods contributes to differences in the conditions to campaign. The duration of the regulated campaign period differs from half a year to three weeks among Member States, with some countries not specifying a timeframe at all. Campaign silence periods vary or do not exist. Consideration could be given to further regulating the financing of national European campaigns by European political parties in order to level the playing field across the EU.

Sources of funding and foreign funding: The APPF Regulation sets out the eligibility and allocation criteria of European funds: European political parties which are represented in the European Parliament by at least one of their members are eligible for funding from the European Union budget. Consideration could be given to further regulating the financing of national European campaigns by European political parties in order to level the playing field across the EU. For example, a distinction could be made between the ban on foreign funding that prevails in half of the EU Member States and the possibility of the financing of national European campaigns by European political parties.

Spending limits: The APPF Regulation leaves it to each Member State to set the spending limit applicable to the elections to the European Parliament. While European political parties can finance campaigns conducted in the context of elections to the European Parliament, the funding and limits on election expenses for parties and candidates are therefore governed by the rules applicable in each Member State. Consideration could be given to reviewing the spending limits within EU Member States in order to create a more level playing field for the electoral contestants to campaign. The European Cooperation Network on Elections could, for instance, issue guidance to Member States on this. Furthermore, the establishment of a spending limit at the European level that would apply to European political parties' campaigns could be envisaged.

Transparency of reporting and disclosure: The APPF Regulation does not explicitly deal with aggregate donations and does not stipulate whether and if so, what action could or should be taken in cases of multiple donations below the stipulated limits made by the same donor. We recommend strengthening the overall transparency of campaign spending in the EU Member States, as the rules for reporting and disclosure of campaign income and expenses could be reviewed and further enhanced.

Q19. Please indicate your preference

During a European election, who should be able to place a political ad (check one answer only)?

1. Any person or legal person (company or foundation), from anywhere

- 2. Any person (not a legal person) from anywhere
- 3. Any person or legal person residing in any Member State
- 4. Any person (not a legal person) residing in any Member State
- 5. Any person or legal person residing in the specific Member State the ad will circulate
- 6. Any person (not legal person) residing in the specific Member State the ad will circulate

Campaigns in European elections are organised nationally, but some parties register to promote candidates in more than one Member State, which means that the administrative formalities must be completed and complied with in each state in order to ‘register’ a campaign. This can be challenging. Similarly, when citizens wish to campaign for support for a European Citizens Initiative (a way for citizens to help shape the EU by calling on the European Commission to propose new laws), they must do so in multiple Member States.

European political parties do not sponsor particular candidates nationally, but they do campaign in European Parliament elections. They could be required to meet certain specific transparency requirements for the political ads they sponsor.

Q20. Please indicate which you think should apply:

European political parties should

	Yes	No	Neither	Don't know
1. disclose their ad spending online in real time	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. maintain examples on their website of the ads they sponsor	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. disclose the advert targeting services they use	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. refrain from using certain technologies which can be used to mislead (e.g. micro-targeting and other data-driven techniques, ad amplification, etc)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
5. refrain from political advertising altogether (rely on national campaigns only)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Questions on transparency requirements:

Transparency in political ads can support citizens, media and NGOs to hold political actors to account, but it could also support competent authorities. Transparency includes retaining basic information about transactions including the identity of who paid for the advert, the amount paid and what precisely was paid for. It can also involve publishing such information under certain circumstances.

Q21. Should publishers of political ads retain certain basic information from those placing such ads?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Q21.1. What information should be retained? (optional)

At minimum, the following information should be retained:

Identity of the advertiser

Amount paid with proof

Ad content (text, image/video)

Retaining this information does not automatically mean publishing this information, but it implies that publishers/advertising platforms have some basic procedures in place to ensure they know their (business) customers.

Q21.2. What information should not be retained? (optional)

Other companies are involved in political ads, including in their financing (providing loans, handing donations and fund raising), and preparation and placement (advertising, marketing communications and other specialist agencies and consultancies).

Q22. Should service providers involved in political ads also have obligations to retain and provide information?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Platforms should disclose the following information in accurate, complete, mandatory and functional advertising libraries:

* Identity of the advertiser

* Amount paid

* Ad content (text, image/video)

* Targeting criteria

* Ad delivery criteria

* Engagement & reach

* Link to the political actor's webpage with information about funding sources and campaign spending

Ideas for common ad transparency standards put forward by Who Targets Me can be found here:

<https://whotargets.me/en/ad-transparency-standards-a-technical-proposal/>

Political advertising can be published through various media, online and offline. The online environment introduces many new channels for advertising, such as boosted and targeted social media posts, sponsored search results, and personalised ads appearing within apps, video streaming services, and other websites and online service platforms (such as online retailers).

Q23. Should requirements to retain information apply to all political ads, regardless whether online or offline?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please elaborate your response (optional)

Publishers for both online and offline political advertising should disclose the following information: funding source, advertiser identity and amount paid.

Given the specificity of online ads' distribution mechanisms and the opacity of the financing of political ads online, transparency on online advertising needs to include information on targeting criteria, targeting mechanisms and ad delivery criteria - in addition to the information on funding source, advertiser identity and amount paid.

The Digital Services Act proposes to require all very large online platforms to ensure public access to repositories of advertisements displayed on their online interfaces.

Q24. Should all political ads be made similarly accessible:

- a. only to competent authorities by being retained for a period
- b. specifically registered with the competent authorities
- c. also to citizens, eg through a common online database or by being retained on the advertiser's website
- d. they should not be accessible
- e. don't know

Q24.2 what information should be publicly available (please indicate a response for each row)

	Yes	Maybe	No	Don't know
1. retain the ad itself	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. who placed the ad	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. the amount paid	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4. on the use of targeting and amplification techniques	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. on when and where the ad appeared (where available)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Other	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify (optional)

Transparency - in the form of mandatory, functional ad libraries and real-time ad labelling and information disclosure - is necessary, first and foremost, to allow for public scrutiny of advertising. As many studies on the implementation of the EU Code of Practice against Disinformation have shown, false negatives and false positives were rife in the political ad libraries of the signatories of the code: non-political advertisements were erroneously included in the libraries, while many political ads were excluded. The lack of a comprehensive repository of all ads made it impossible to verify whether all political ads were included in the libraries, and the political ad libraries and labelling missed a lot of sponsored content. In a situation where it is difficult to police the labelling of political ads, it is ultimately necessary to ensure the transparency of all ads.

See our recommendations for transparency here: <https://epd.eu/2020/09/08/pressreleaseadstransparency/>

Full, meaningful transparency allows civil society and other watchdogs to monitor the grey zone between political and commercial ads. As the forms of political advertising online will undoubtedly evolve as the technology changes, full transparency creates enough flexibility to account for such changes. Moreover, "political" ads are not the only ones that should be subject to scrutiny and accountability: false or deceptive advertising, hoaxes, and paid disinformation (notably pertaining to public health, in the current pandemic context) should also be subject to scrutiny. A database that is available for a long period of time and not only to competent authorities is a necessary and justified measure, considering the breadth of personal data being used to target and deliver ads online. Such transparency should apply to all online advertising, not just "political" advertising.

Some concrete ideas for common ad transparency standards put forward by Who Targets Me can be found here: <https://whotargets.me/en/ad-transparency-standards-a-technical-proposal/>

In addition to the above, mandatory online advertising libraries - covering all advertising on a platform - should include information on the:

- * Engagement & reach
- * Link to the political actor's webpage with information about funding sources and campaign spending
- * GDPR relevant information such as data provenance (for custom audiences) and GDPR processing basis
- * Total spend by a political advertiser (including individual party candidates) in the official campaigning period during electoral periods.

Questions on targeting and amplification:

Advertising can be targeted to reach specific people, and it can be amplified to boost its actual or apparent popularity. Targeting can be simple: a political party can circulate campaign material to its registered members. However, increasingly sophisticated tools have come to be used in this process – such as microtargeting, where sophisticated tools and personal and other data are used to direct ads to particular groups of users, allowing the messaging to be personalised and even manipulative. Other techniques

exploit features of the online architecture to increase the impact of ads, for instance through deliberately polarising messaging to exploit user-interaction based ranking, or even through manipulated interactions to increase the circulation of messages.

Q25. Should there be any additional limits on targeting and amplification methods, besides compliance with data protection rules?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please explain your response (optional)

Enforcing existing EU data protection rules is a key element in ensuring fair digital campaigning, for instance, regarding explicit user consent, privacy by design and by default, and purpose limitations. Further specifying some rules on profiling and its limitations could be an additional step.

Targeted advertising should remain permissible for ads based on location, browser language and context of the ad placement only. Targeting based on age and gender could also be considered to be permissible. This goes for political and non-political ads. This means advertisers cannot target using sensitive data. If this obligation is not applied to all ads, then it should apply to core political advertisers and issue advertising.

In addition, we propose a counterspeech mechanism to allow political advertisers to target the same group as an ad in the ad library by a different political advertiser (e.g. one candidate being allowed to reach the same group as their opponent). Such a measure would allow for counterspeech, and apply only to political advertisers. This should be seen as an application of the right of reply, as established in international law and applied to news publishers already. This would allow for overcoming the voter segmentation and polarisation linked to political microtargeting.

Q25.1 Complete all which apply

Should targeting and amplification methods

	Yes	Maybe	No	Don't know
1. be banned for political ads?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. be subject to a user opt-in: you don't get them unless you opt in	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. be subject to a user opt-out: you get them unless you opt out	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Other	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify (optional)

Please see the response to Q25 for additional measures dealing with targeting and amplification methods.

Q25.2 Complete all which apply

Should EU rules control the following other amplification methods?

	Yes	Maybe	No	Don't know
1. paid for likes	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. bot software	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. paid for influencers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q26. Provided relevant data protection rules are complied with (e.g. that explicit consent to the use of the relevant data was obtained) do you think the targeting of political ads could be allowed for certain criteria (eg by geographic location, income bracket, gender, age, political affiliation, and general preferences and interests derived from a user's online activity)?

- a. Yes
- b. Maybe
- c. No
- d. Don't know

Please specify which criteria could be allowed

Targeting could be restricted to non-behavioral, demographic data, such as geographic location, age and gender. However, as a first step, the collection and processing of personal data for targeted advertising should be further scrutinised.

Closing questions:

Q27. Please share any additional comments or remarks you may have regarding the topic of this public consultation.

3000 character(s) maximum

Transparency: Blanket transparency requirements need to be the basis of any meaningful regulation of online political advertisement. Such meaningful transparency needs to take the form of cross-platform interoperable online ad repositories, that include essential information such as targeting criteria, advertiser identity, amount spent, data source and GDPR basis, amongst others. Real-time disclosure through labels and strong verification mechanisms for advertisers should go alongside this. => <https://epd.eu/wp-content/uploads/2020/09/joint-call-for-universal-ads-transparency.pdf>

Three-layered definition: Any definition of political advertising should cover the whole electoral period and be developed in function of the kinds of transparency measures and restrictions that are envisaged. In general, we believe in a three-layered definition with two separate identification mechanisms.

1. Core political advertisers: Political parties, political candidates and political campaigning groups are always political advertisers when they pay for spreading their messages, no matter the content.
2. Peripheral political advertisers: Any entity that receives funding from these core political actors should also be considered a political advertiser - either permanently or temporarily if the funding is only limited to a specific period. Identification of political advertisers should be done by the electoral commission in EU Member States, with the support of platforms for access to information and implementation of decisions.
3. Issue advertisers: These include civil society and non-profit campaigners, and would have to be subjected to enhanced transparency standards and be labelled through a self-declaratory system. Such a self-declaratory system would allow a non-profit advertiser to identify an ad as 'political', which would trigger enhanced transparency measures by platforms and by the advertiser - for instance disclosure of the amount spent, a link to the sources of funding of the advertiser, and incorporation under 'political issue ads' in the ad library. Enhanced transparency would then enable better scrutiny of such 'issue ads'. See: https://www.stiftung-nv.de/sites/default/files/snv_definingpoliticalads.pdf

Targeting: The source of problems with targeting is the lack of GDPR enforcement. Enforcing existing EU data protection rules is a key element in ensuring fair digital campaigning, for instance, regarding explicit user consent, privacy by design and by default, and purpose limitations. In addition, regulating the data use for targeting is an important entry point. Targeted advertising should remain permissible for ads based on location, browser language and context of the ad placement only - possibly to be extended to also include age and gender. Advertisers cannot target using sensitive data. If this obligation is not applied to all ads, then it should apply to core political advertisers and issue advertising.

Q28. Would you like to participate in a phone interview to further discuss the topics of this open consultation? If yes, we may contact you through the email provided in the introduction.

- Yes
- No

Contact

[Contact Form](#)

