

IAB Europe’s information note: European Commission’s consultation on the proposal for a Regulation on the transparency and targeting of political advertising

1. IAB Europe (Transparency Register: 43167137250-27) represents the broad digital advertising and marketing ecosystem, with 25 national associations whose 5000+ members include advertisers, agencies, publishers, and technology companies. We work with over 90 companies in our direct membership.
2. The following information note is submitted in the context of the [European Commission’s consultation](#) on the proposal for a Regulation on the transparency and targeting of political advertising. It contains IAB Europe’s initial comments, and is without prejudice to a final forthcoming position of IAB Europe on the proposal which is expected to be made available on IAB Europe’s website under the [following link](#) in due course.
3. We recognise challenges that may arise in the field of modern digital political advertising, and we look forward to engaging with the EU policymaker on the proposal in question against this background. IAB Europe has in fact actively worked on EU policy at the intersection of political advertising and disinformation, examples of which include but are not limited to:
 - [Joint industry position on the Commission’s public consultation on Fake News and Online Disinformation](#), 23 February 2018
 - [Code of Practice on Disinformation](#), unveiled October 2018
 - [IAB Europe’s responses to the consultation on the European Democracy Action Plan](#), 15 September 2020 | [IAB Europe’s comments on the consultation on the European Democracy Action Plan](#), 15 September 2020
 - [IAB Europe’s responses to the consultation on a proposal for an initiative on greater transparency in sponsored political content, and other supporting measures](#), 2 April 2021
4. Upon initial review of the proposal, we would like to draw the EU policymaker’s attention to the following areas, that require careful assessment and consideration:
 - Scope & definitions proposed (incl. of ‘*political advertising*’ and ‘*political actor*’)
 - Transparency requirements
 - Targeting provisions (incl. alignment with the GDPR)
 - Enforcement
5. Definitions used inform the scope of the proposed law. The definitions of ‘*political advertising*’ and ‘*political actor*’ under Art. 2 are amongst those that require further scrutiny. We are concerned about the fact that this new legal instrument would capture advertising that is conventionally understood as “*commercial*” in its nature, as well as players that engage in that type of business. We do not believe that this is the intention of the policymaker, in particular,

since “*commercial*” data-driven advertising is already well regulated, primarily by means of the EU’s privacy and data protection legal framework, and relevant consumer protection laws. The so-called “*issue-based*” advertising by non-political actors should not fall within the scope of the proposal, to the extent that such commercial advertising is already subject to the existing EU laws providing for safeguards in terms of transparency about purpose and content of advertising. Otherwise, one risks creating an unnecessary legal overlap and potential compliance burden for the European digital media and advertising ecosystem players.

6. As stated in the context of the Digital Services Act (DSA) discussions, [IAB Europe is supportive](#) of enhanced transparency requirements and empowering the user accordingly, in line with the significant transparency and accountability requirements under the General Data Protection Regulation (GDPR). We appreciate the fact that the proposal stipulates a number of related requirements under Art. 7, evoking the envisaged DSA transparency. Nonetheless, one should critically assess the full extent of aforementioned stipulations, both in terms of the format of the disclosures as well as availability of the information in the first place. For instance, where under Art. 7.3 ‘*political advertising publishers shall make reasonable efforts to ensure the information (...) is complete*’ - it is not immediately clear what ‘*reasonable effort*’ or ‘*completeness*’ amount to. As with any advertising, the onus for the delivered campaign is ultimately on the advertiser, and it must remain the same in case of political advertising. This is relevant since information for disclosure by the publishers will need to be first made available by advertisers.
7. As far as ‘*targeting and amplification techniques*’ under Art. 12 are concerned, we support rules that are aligned with the existing provisions of the GDPR. It is important that rules pertaining to any data-driven advertising are consistent and do not interfere with existing provisions of the EU law, and, in particular, do not hinder interpretation and application of the law by Data Protection Authorities (DPAs).
8. Against this background, we would support DPAs’ ability to enforce the law with respect to relevant areas of their competence, such as, under Art. 12. More broadly, however, it is important to remember that a DSA instrument has not been adopted yet, and to the extent that this regulation is to be enforced by future DSA regulator(s), there are open questions about this aspect.