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| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising - Offer letter sent to the Chair of the European Parliament's Committee on Internal Market and Consumer Protection |

Following the agreement reached by the Permanent Representatives Committee at its meeting of 20 December 2023, delegations will find in Annex to this note, the offer letter from the Chair of the Permanent Representative Committee to the Chair of the European Parliament's Committee on Internal Market and Consumer Protection (IMCO) including, as its annex, the final compromise text as agreed.



Brussels, 20/12/2023

Ms Anna CAVAZZINI
Chair of the Committee on Internal Market and Consumer Protection
European Parliament
Rue Wiertz 60
B-1047 BRUSSELS

Subject: Proposal for a Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising [2021/0381 (COD)]


Dear Ms CAVAZZINI,

Following the informal negotiations on this proposal between the representatives of the three institutions, today the Permanent Representatives Committee agreed with the final compromise text.

I am therefore now in a position to inform you that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the exact form of the text set out in the Annex to this letter (subject to revision by the lawyer-linguists of the two institutions), the Council, in accordance with Article 294(4) TFEU, will approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the position of the European Parliament.

On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this file at first reading.

Yours sincerely,


Marcos ALONSO ALONSO
Chair of the
Permanent Representatives Committee

Copy:

- Ms Vera JOUROVÁ, European Commission Vice-President
- Mr Sandro GOZI, Ms Anna DONATH and Ms Sabine VERHEYEN, European Parliament rapporteurs

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REGULATION (EU) 2024/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on the transparency and targeting of political advertising

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C , , p. .

² OJ C , , p. .

³ Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

- (1) The supply of and demand for political advertising are growing and increasingly cross-border in nature. A large, diversified and increasing number of services are associated with that activity, such as political consultancies, advertising agencies, “ad-tech” platforms, public relations firms, influencers and various data analytics and brokerage operators. Political advertising can take many forms including paid content, sponsored search results, paid targeted messages, promotion in rankings, promotion of something or someone integrated into content such as product placement, influencers and other endorsements. Related activities can involve for instance the dissemination of political advertising upon request of a sponsor or the publication of content against payment *or other forms of remuneration, including benefits in kind.*

- (2) Political advertising can be disseminated or published through various means and media across borders ***both online and offline. It is rapidly increasing and*** it can be disseminated or published via traditional offline media such as newspapers, television and radio, and also increasingly via online platforms, websites, mobile applications, computer games and other digital interfaces. The latter are not only particularly prone to be offered cross-border, but also raise novel and difficult regulatory and enforcement challenges. The use of online political advertising is strongly increasing, and certain linear offline forms of political advertising, such as radio and television, are also offered online as on-demand services. Political advertising campaigns tend to be organised to make use of a range of media and forms.
- (3) Given that it is normally provided against remuneration, ***which may include a benefit in kind***, advertising, including political advertising, constitutes a service activity under Article 57 of the Treaty on the Functioning of the European Union ('TFEU'). In Declaration No 22, regarding persons with a disability, annexed to the Treaty of Amsterdam, the Conference of the Representatives of the Governments of the Member States agreed that, in drawing up measures under Article 114 TFEU, the institutions of the Union are to take account of the needs of persons with disabilities ■


- (4) The need to ensure transparency is a legitimate public goal, in conformity with the values shared by the EU and its Member States pursuant to Article 2 of the Treaty on European Union ('TEU'). It is not always easy for citizens to recognise political advertisements and exercise their democratic rights in an informed manner. ***Increasing sophistication in disinformation, diversification of actors, the fast evolution of new technologies and intensified spread of information manipulation and interference in our democratic electoral and regulatory processes are important challenges for the Union and the Member States.*** Political advertising can be a vector of disinformation in particular where the advertising does not disclose its political nature, ■ where it ***comes from sponsors outside of the Union or is subject to targeting or ad-delivery techniques. A high level of transparency is necessary inter alia to support an open and fair political debate, political campaigns and free and fair elections or referendums and to counter information manipulation and interference and unlawful interference, including from third countries.*** Transparency of political advertising contributes to enabling voters ***and individuals in general*** to better understand when they are being presented with a political advertisement on whose behalf that advertisement is being made, ***as well as how and why*** they are being targeted by an advertising service provider, so that voters are better placed to make informed choices. ***Media literacy should be supported to help individuals make best use of the transparency of political advertising.***

- (5) *This Regulation intends to ensure the provision of political advertising in full respect of fundamental rights.*
- (6) In the context of political advertising, *frequent use is made of targeting and ad delivery techniques based on the processing of personal data, including observed and inferred personal data, such as data revealing political opinions and other special categories of data. Targeting* techniques should be understood as techniques that are used either to address a political advertisement only to a specific person or group of persons or to *exclude them, usually with tailored content, based on the processing of personal data. Ad delivery techniques should be understood as a wide range of optimisation techniques that rely on the automated processing of personal data in order to* increase the circulation, reach or visibility of a political advertisement. *Such techniques can be used by political advertising publishers and especially by very large online platforms within the meaning of Regulation (EU) 2022/2065, to deliver political advertisements to a targeted audience based on personal data and on the content of advertisements. Delivering advertisements using such techniques involves the use of algorithms which are currently opaque to individuals and the effect of which can differ from what the sponsors and providers of advertising services, acting on behalf of sponsors, intended. Given* the potential for the misuse of personal data *through* targeting, including through microtargeting and other advanced techniques, such techniques may present particular threats to legitimate public interests, such as fairness, equal opportunities and transparency in the electoral process and the fundamental *rights to freedom of expression*, to be informed in an objective, transparent and pluralistic way, *to privacy and the protection of personal data, and to equality and non-discrimination.*

- (7) Political advertising is currently regulated heterogeneously in the Member States, which in many cases tends to focus on traditional media forms. Specific restrictions exist including on cross-border *provision* of political advertising services, *which affect the conduct of cross-border and pan-European political campaigns*. Some Member States prohibit EU service providers established in other Member States from providing services of a political nature or with a political purpose during electoral periods. At the same time, gaps and loopholes ■ are likely to exist in *the national legislation of* some Member States, resulting in political advertising sometimes being disseminated without regard to relevant national rules and thus risking undermining the objective of transparency regulation for political advertising.
- (8) To provide enhanced transparency of political advertising including to address citizens' concerns, some Member States have already explored or are considering additional measures to address the transparency of political advertising and to support a fair political debate and free and fair elections or referendums. These national measures are in particular considered for *political* advertising published and disseminated online and may include further *restrictions*. These measures vary from soft to binding measures and imply different elements of transparency.

- (9) This situation leads to the fragmentation of the internal market, decreases legal certainty for providers of political advertising services preparing, placing, ***promoting***, publishing, ***delivering*** or disseminating political advertisements, creates barriers to the free movement of related services, distorts competition in the internal market, including between offline and online service providers, and requires complex compliance efforts and additional costs for relevant service providers.
- (10) In this context, providers of political advertising services are likely to be discouraged from providing their political advertising services in cross-border situations. This is particularly true for microenterprises and SMEs, which often do not have the resources to absorb or pass on the high compliance costs connected to the preparation, placement, ***promotion***, publication, ***delivery*** or dissemination of political advertising in more than one Member State. This limits the availability of services and negatively impacts the possibility for service providers to innovate and offer multi-medium and multi-national campaigns within the internal market.

- (11) A consistent and high level of transparency of political advertising throughout the Union should therefore be ensured when political advertising services are provided, while divergences hampering the free circulation of related services within the internal market should be prevented, by laying down ***harmonised rules for the provision of political advertising services, including on transparency and related due diligence obligations, for sponsors and*** providers of political advertising services guaranteeing the uniform protection of rights of persons and supervision throughout the internal market based on Article 114 TFEU.
- (12) Member States should not maintain or introduce, in their national laws, provisions ***on the transparency of political advertising that are*** diverging from those laid down in this Regulation, in particular more or less stringent provisions to ensure a different level of transparency in political advertising. Full harmonisation of the transparency ***and related due diligence obligations*** linked to political advertisement increases legal certainty and reduces the fragmentation of the obligations that service providers meet in the context of political advertising.

- (13) Full harmonisation of the transparency *and related due diligence obligations* should be without prejudice to the freedom of providers of political advertising services to provide on a voluntary basis further information on political advertising, as part of the freedom of expression *and information* protected under Article 11 of the Charter of Fundamental Rights *of the European Union*.
- (14) This Regulation *is limited to harmonising the rules on the transparency and related due diligence obligations for the provision of political advertising services and on the use of targeting and ad delivery techniques as well as rules on its supervision and enforcement*. It should *neither* affect the  content of political *advertisements*, nor Union or Member States' rules regulating *aspects related to political advertising other than those covered by this Regulation*. As such, this Regulation does not alter the rules regulating the conduct and financing of political campaigning, including general bans or limitations on political advertising during specified periods, the so-called silence periods, donations by individual campaign donors or prohibitions regarding the use of commercial advertising for election campaign purposes. Furthermore, this Regulation should not affect, in particular, the fundamental rights to freedom of opinion and freedom of speech.
- (15) The specific needs of micro, small and medium-sized enterprises should be taken into account in the application and enforcement of this Regulation, in line with the principle of proportionality. The notion of micro, small and medium-sized enterprises should be understood in the meaning of Article 3 paragraphs 1 to 3 of Directive 2013/34/EU of the European Parliament and of the Council⁴.

⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

- (16) The Regulation should provide for harmonised transparency *and related due diligence obligations* applicable to economic actors providing political advertising and related services (i.e. activities that are normally provided for remuneration, *which may include a benefit in kind*). Those services consist in particular of the preparation, placement, promotion, publication, *delivery* and dissemination of political *advertisements*. The rules of this Regulation that provide for a high level of transparency of political advertising services are based on Article 114 TFEU. This Regulation should also address the use of targeting and *ad delivery* techniques in the context of the *promotion*, publication, *delivery or dissemination* of political advertising that *are based on* the processing of personal data. The rules of this Regulation that address the use of targeting and *ad delivery* are based on Article 16 TFEU. Political advertising directed to individuals in a Member State should include advertising entirely prepared, placed, *promoted*, published, *delivered or disseminated* by service providers established outside the Union but disseminated to individuals in the Union. To determine whether a political advertisement is directed to individuals in a Member State, account should be taken of factors linking it to that Member State, including language, context, objective of the advertisement and its means of dissemination.
- (17) *The specificities of the medium of publication or dissemination of the political advertisement should be taken into account in the application of this Regulation, in particular to adapt its modalities to television, radio and newspapers as the case may be in compliance with EU law.*

- (18) *It should be recalled that the cross-border provision of advertising services in the internal market is subject to the principle of non-discrimination. This entails amongst others that access by a recipient to a service on offer to the public may not be restricted on grounds of the recipient's nationality or place of residence or establishment. Therefore, providers of political advertising services may not discriminate against sponsors residing or legally established in the Union on grounds of their place of residence or establishment, except where the difference of treatment is justified and proportionate in accordance with Union law. Non-discriminatory access to cross-border political advertising services is essential for the recipients to reap all the benefits of the internal market in this sector. Non-discriminatory access to cross-border political advertising services is particularly important for European political parties given their role to contribute to forming European political awareness and expressing the will of European citizens as set out in Article 10(4) TEU and Article 12(2) of the Charter on Fundamental Rights and their European legal status pursuant to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council⁵ [EUPPFs].*

⁵ *Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L 317, 4.11.2014, p. 1).*

Unjustified restrictions by providers on the freedom of European political parties to receive cross-border political advertising services should not be accepted as it obstructs the conduct of effective political campaigns across the Union and thus impedes them from fulfilling the role assigned to them by the Treaties. Consequently, providers of political advertising services should not deny, hinder or make less attractive their services to a European political party solely on the ground of their place of establishment, including registration, without precluding the possibility for differences of treatment based on justified objective reasons. Similar considerations apply in respect of political groups in the European Parliament that are formed in accordance with the Rules of Procedure of the European Parliament and carry out their duties as part of the activities of the Union. The clause on non-discrimination laid down in this regulation does not determine, nor affect in any way the legal status of European political parties or of political groups in the European Parliament as it limits itself to addressing their position as sponsors.

- (19) *Interference in elections by certain third country entities or third country nationals, who may sponsor political advertising in the Union, is known to pose a serious threat to democracy, which is a common value of the Union, the securing of which is of fundamental importance to the Union and its Member States. As such, some Member States have already put in place or are considering various restrictions on third country entities or third country nationals to provide financing in the context of elections. This heterogeneous regulatory situation, which is likely to get worse due to the prevailing tensed international climate, creates obstacles for advertising service providers to operate on the markets of different Member States. It should therefore be approximated to a common minimum standard. Service providers should be required, in the 3 months preceding an election or referendum organised at Union level or at national, regional or local level in a Member State to only provide political advertising services to a citizen of the Union, third country nationals permanently residing in the Union and having a right to vote in that election or referendum or legal persons established in the Union which are not controlled by third country entities.*

The risk of interference in elections or referendums in different Member States and Member States' assessments of this risk vary which is why stricter national rules providing notably for longer time periods for restricting sponsoring by third country entities or third country nationals may be appropriate in different Member States. The minimum standard of 3 months should thus not preclude Member States from having stricter national rules in compliance with Union law. Where elections or referendums are announced less than three months before the date of the election or referendum, this provision should not be understood to give rise to obligations in the period before the elections or referendums were announced.

- (20) *To counter information manipulation and interference in political advertising, online platforms within the meaning of Regulation (EU) 2022/2065 of the European Parliament and of the Council⁶ are encouraged, including through the Code of Practice on disinformation, to establish and implement tailored policies and other relevant measures, including by participation in wider disinformation demonetisation initiatives to prevent the placement of political advertising with disinformation.*
- (21) 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 *and related due diligence* obligations and rules on *the use of* targeting and *ad delivery techniques*. 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.

⁶ *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 (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).*

- (22) The definition of political advertising should include advertising *prepared, placed, promoted*, published, *delivered* or disseminated directly or indirectly by or *prepared, placed, promoted*, published, *delivered* or disseminated *by any means* directly or indirectly for or on behalf of a political actor. *Political advertising is usually directly or indirectly under the control of a sponsor, which could be a political actor, and which would in particular be able to determine the political nature, content or publication of the political advertising being prepared, placed, promoted, published or disseminated. Sometimes another entity may ultimately exercise control over a sponsor. Establishing whether an entity is ultimately controlling a sponsor should be established on the basis of rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an entity, in particular by ownership or the right to use all or part of the assets of an entity; rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an entity. In order to determine that a message is of a* ■ *purely private or purely commercial nature, account should be taken of all relevant factors such as its content, the sponsor of the message, the language used to convey the message, the context in which the message is conveyed, including the period of dissemination, the objective of the message and the means by which the message is prepared, placed, promoted, published, delivered or disseminated and the targeted audience. Messages concerning a political actor's family status or business activities are likely to be purely private or purely commercial.*

- (23) The *promotion*, publication, *delivery* or dissemination by other actors of a message that is liable *and designed* to influence the outcome of an election or referendum, a voting behaviour or a legislative or regulatory process *at Union, national, regional or local level* should also constitute political advertising. *A legislative or regulatory process should include decision making having binding effects of general application at the local, regional, national or European level. A clear and substantial link should exist between the message and its potential* to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour. *In order to determine the existence of such a link*, account should be taken of all *factors* relevant *at the time the message was promoted, published, delivered or disseminated*, such as the *identity of the sponsor of the message, the form and the content of the message, the spoken or written language used to convey the message, the context in which the message is conveyed, including the period of dissemination such as an electoral period*, the objective of the message and the means by which the message is *promoted*, published, *delivered* or disseminated, *the audience targeted and the objective of the message. Language should be understood to include any language used in the EU including regional dialects and sign languages using any means of communication, or codification such as braille, and other means. Design should be evident in these factors, and a link should not be exclusively derived retroactively from the impact of a message.*

- (24) *Political advertising comprises the situation where the preparation, placement, promotion, publication, delivery or dissemination of a message which is liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour is done by an entity acting on its own behalf (in-house activities). In-house activities, which should be considered as solely relevant for Chapter III of this Regulation, should be understood as activities carried out within an entity which comprise or substantially contribute to the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message which is liable and designed to influence the outcome of an election, referendum or regulatory process, or voting behaviour.*
- (25) *Commercial advertising and marketing practices can legitimately affect consumers' perceptions of products and services or their buying behaviour, including through brand differentiation based on company actions in the field of corporate social responsibility, delivering social impact, or any other types of purpose-driven engagement. Commercial advertising in some cases may be liable and designed to influence the outcome of an election or referendum, a voting behaviour or a legislative or regulatory process in which case this Regulation should apply.*

- (26) *For the effective implementation of the requirements of this Regulation, and in particular to support the sponsors of advertising and service providers acting on behalf of the sponsors in declaring and identifying political advertising, and to support providers of political advertising services in facilitating and appropriately administrating such declarations, the Commission should draw up common guidance.*
- (27) *In the interest of effective communication with the general public, public communication by, for or on behalf of any public authority of a Member state or of the Union, including members of Government, for example, press releases or conferences announcing legislative or regulatory initiatives and explaining the policy choice underpinning such initiatives, should not constitute political advertising, provided they are not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process. Similarly, practical information from official sources of Member States or the Union that are strictly limited to the organisation and modalities for participation in the elections or referendums, including the announcement of candidacies or the question put to the referendum, should also not constitute political advertising.*

- (28) *This Regulation should not apply where a specified public space for the presentation of candidates is explicitly provided by law and allocated free of charge, for example by allocating space for such presentation in the municipalities and other public areas or a particular broadcasting time on the television, where this is done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.*
- (29) *The media contribute to the well-functioning of democratic processes and play an essential role in the freedom of expression and right to information, particularly during period immediately before the election. They provide a space for public debate and contribute to public opinion-forming. This Regulation should therefore not affect the editorial freedom of the media. As such, political opinions expressed in any media under editorial responsibility should not be covered unless specific payment or other remuneration is provided by third parties for or in connection with their preparation, placement, promotion, publication, delivery or dissemination. However, when such political opinions are subsequently promoted, published or disseminated by service providers, they could be considered to be political advertising.*

- (30) *Political opinion expressed in a personal capacity constitutes a particular manifestation of the right to freedom of expression and information. It is not political advertising, and it is necessary that this is distinguished clearly. To do so, political opinions expressed in a personal capacity should not be covered by this Regulation. The identification of political opinions expressed in a personal capacity should normally result from individual self-determination but contextual elements can be taken into account. Relevant factors can include whether the opinion is issued on behalf of another entity, whether the message intends to self-promote a candidacy or campaign in an election, referendum or regulatory process, whether it is expressed by an individual who is generally active in campaigning or taking action for change on political or social issues; whether the message is disseminated to an indefinite number of persons. A political opinion should not be considered as being expressed in personal capacity if specific remuneration is provided for or in connection with expressing that opinion.*
- (31) 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 *professional or* privately organised ballots.

- (32) It is necessary to define political advertisement as an instance of political advertising. Advertisements include the means by which the advertising message is communicated, including in print, by broadcast media, *on web sites, search engine, streaming media* or via an online platforms service.
- (33) 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 **actors** should include ■ affiliated and subsidiary entities *of a political party* established, with or without legal personality, in order to support *it* or pursue *its* objectives, for instance by engaging with a specific group of voters or for a specific electoral purpose.
- (34) The concept of political actors should also include *candidates for or holders of any elected office*, and members of *a government of Member States at national, regional or local level or of Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors*.

- (35) A *political* advertising campaign should refer to the preparation, *placement, promotion, publication, delivery* and 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*.
- (36) The definition of political advertising should not affect national definitions of political party, political aims, *or political campaigns nor alter or interfere with political campaign rules*, at national level.
- (37) *The definition of political actor should not interfere with national rules on who can conduct a political campaign and should not oblige Member States to define such rules.*
- (38) 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, *delivery or* dissemination of political *advertisement*. *For example, providers of political advertising services may act on behalf of the sponsors by initiating political advertising services on their behalf.*

- (39) *Providers that provide purely ancillary services in relation to political advertising services should not be understood as providers of political advertising services in the meaning of this Regulation. Ancillary services are services which are provided in addition to and complement political advertising but have no direct influence on its content or presentation, nor direct control over its preparation, placement, promotions, publication, delivery and dissemination. Such services may include, transportation, financing and investment, purchasing, sales, catering, marketing, computer services, cleaning, maintenance, postal services, printing services, graphic, sound or photographic design.*
- (40) *A sponsor should be understood as the person or entity on whose behalf political advertisement is prepared, placed, promoted, published, delivered or disseminated, for instance an individual candidate in an election or a political party, and who is normally the person or entity providing remuneration in exchange for political advertising services.*
- (41) *Political advertising publishers should be understood as providers of political advertising services, usually at the end of the chain of service providers, publishing, delivering or disseminating political advertising by broadcasting, making it available through an interface or otherwise making it available to the public.*

- (42) The notion of political advertising ■ should not include messages that are shared by individuals in their purely personal capacity. *However*, individuals should not be considered as acting in their personal capacity if they are publishing messages the dissemination or publication of which *involves remuneration, including benefits in kind, from third parties*.
- (43) *Political advertising service providers have responsibilities which support the achievement of the objectives of this regulation. Certain political advertising service providers will broadcast, make available through an interface or otherwise bring to the public domain the political advertising, and will by virtue of this role be in a position to ensure that this is done compliantly with this regulation and provides a high standard of transparency. These service providers should therefore have specific responsibilities as political advertising publishers, and it is necessary that they are identified as such.*
- (44) ■ *The sponsor should declare truthfully whether advertising is political advertising according to this Regulation, and in the last 3 months preceding an election or referendum organised at Union level or at national, regional or local level in a Member State, whether it may act as a sponsor according to this Regulation. The sponsor should be responsible for the accuracy of such declarations. In addition, once an advertising has been identified as political, its further dissemination should still comply with transparency and relevant due diligence requirements.*

- (45) *In view of the importance of guaranteeing in particular the effectiveness of the transparency and relevant due diligence requirements, contractual arrangements concluded for the provision of political advertising services should ensure that the information necessary to enable providers of political advertising services to comply with this Regulation is transmitted in good faith and in a complete and accurate manner, and without undue delay. In case of a declaration or information that is incomplete, outdated or erroneous, this Regulation should provide for completing, updating or correcting such declaration or information.*
- This should not amount to a general obligation for the provider of political advertising services to monitor the truthfulness of declarations concerning the political nature of advertisements or to engage in excessive or costly fact-finding exercises. In order to support the efficient implementation of this requirement, providers of political advertising services should adapt their online interfaces to facilitate compliance with such obligations.*
- (46) *Providers of advertising services should consider a declaration or information as manifestly erroneous if it is apparent from the content of the advertisement, the identity of the sponsor, or the context in which the relevant service is provided, without further verifications or fact-finding exercises.*
- (47) *Political advertising publishers that are also very large online platforms and very large online search engines should diligently identify, analyse and assess any systemic risks that their political advertising services pose in the context of their risk assessments according to Article 34 of Regulation (EU) 2022/2065 and put in place reasonable, proportionate and effective mitigation measures in accordance with Article 35 of Regulation (EU) 2022/2065 to address these risks.*

- (47) The rules on transparency *and related due diligence requirements* laid down in this Regulation should only apply to political advertising services, i.e. political advertising that is normally provided against remuneration, which may include a benefit in kind. **Those rules** should not apply to content uploaded by a user of an online intermediary service, such as an online platform, and disseminated by the online intermediary service without consideration for the placement, publication, **delivery** or dissemination for the specific message, unless the user has been remunerated by a third party for the political advertisement.
- (48) The **rules on** transparency *and related due diligence* requirements should also not apply to the sharing of information through electronic communication services such as electronic message services or telephone calls, as long as no political advertising service is involved.

- (49) 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. Every limitation to *this freedom* has to comply with Article 52 of the Charter of Fundamental Rights. *This* freedom can be subject to modulations and restrictions where they are *necessary and* 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 and information is one of the cornerstones of a lively democratic debate.*
- (50) *This Regulation should not have the effect of requiring Member States to take measures in contravention of fundamental principles relating to freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.*

- (51) As regards online intermediaries, Regulation (EU) **2022/2065** applies to political advertisements published or disseminated by online intermediaries through horizontal rules applicable to all types of online advertising, including commercial and political advertisements. Based on the definition of political advertising established in this Regulation, it is appropriate to provide additional granularity of the transparency requirements laid out for advertising publishers falling under the scope of Regulation (EU) **2022/2065**, notably very large **online** platforms. This concerns in particular information related to the funding of political advertisements. The requirements of this Regulation leave unaffected the provisions of Regulation (EU) **2022/2065** .
- (52) The preparation, placement, promotion, publication, **delivery** and dissemination of political **advertisement** can involve a complex chain of service providers. This is the case in particular where the selection of advertising content, the selection of targeting **and ad delivery** criteria, the provision of data used for the targeting **and delivery** of an advertisement, the provisions of targeting **and ad delivery** techniques, the delivery of an advertisement and its dissemination may be controlled by different service providers.

In addition, sponsors can also be involved at different stages of the preparation, placement, promotion, publication, delivery and dissemination of political advertising. Similarly, for the purpose of targeting and ad delivery techniques, a controller could determine the purposes and means of the processing jointly with other controllers or the processing operation could be carried out on behalf of the controller by another entity. In light of the CJEU case law, joint controllership can also be established when only one entity has access to the personal data concerned. Due to their different contributions, namely definition of targeting parameters, designation of data categories and processing when displaying ads, service providers and sponsors would regularly decide jointly on the means and purposes of processing of personal data for political advertising, and could therefore be considered to be joint controllers pursuant to Article 26 of Regulation (EU) 2016/679 of the European Parliament and of the Council⁷ and Article 28 of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁸. Hence, it is necessary to provide for a clear allocation of responsibilities of the various entities under this Regulation ■

⁷ *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).*

⁸ *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).*

- (53) Where an artificial commercial or contractual construction risks circumventing the effectiveness of the transparency obligations laid down in *this* Regulation, those obligations should apply to the entity or entities that in substance provide the advertising service.

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- (54) While providing for specific requirements, none of the obligations laid down in this Regulation should be understood as imposing a general monitoring obligation on intermediary service providers for political content shared by natural or legal persons, nor should they be understood as imposing a general obligation on intermediary service providers to take proactive measures in relation to illegal content or activities which those providers transmit or store.
- (55) *To support compliance with the requirements of this Regulation, notably those on the use of targeting and ad delivery techniques in the context of online political advertising, intermediary service providers are encouraged to facilitate the identification of political advertising uploaded or disseminated directly by users via their online intermediary service. For instance, intermediary service providers could put at the disposal of users efficient mechanisms to indicate that an advertisement is political.”*

- (56) Transparency of political advertising should enable *individuals* to understand that they are confronted with a political advertisement. Political advertising publishers should ensure the publication *together with* each political advertisement of a clear statement to the effect that it is a political advertisement and of *other information such as* the identity of its sponsor, *the political campaign it is part of and whether it has been subject to targeting and ad delivery techniques*. Where appropriate, the name of the sponsor could include a political logo. Political advertising publishers should *ensure that political advertisements are correctly labelled and* make use of labelling which is effective *and which includes the specified information, including a clear indication of where to retrieve the* transparency notice. *The Commission* should *be empowered to adopt implementing acts to establish the format and the template* of the *labels and to ensure that they are adapted to the medium used, taking into account the latest technological and market developments, relevant scientific research and best practices*.

- (57) ***The*** information ***to*** be provided in a transparency notice ■ should also include the identity of ***the sponsor and where applicable, of the entity ultimately controlling*** the sponsor, in order to support accountability in the political process. The place of establishment of the sponsor and whether the sponsor is a natural or legal person should be clearly indicated. Personal data concerning individuals involved in political advertising, unrelated to the sponsor or other involved political actors should not be provided in the transparency notice. The transparency notice should also contain information on the dissemination period, any linked election, the amount spent for and the value of other benefits received in part or full exchange for the specific advertisement as well for the entire advertising campaign, the source of the funds used and other information to ensure the fairness of the dissemination of the political advertisement. Information on the source of the funds used concerns for instance its public or private origin, ***and*** the fact that it originates from inside or outside the European Union. Information concerning linked elections or referendums should include, when possible, a link to information from official sources regarding the organisation and modalities for participation or for promoting participation in those elections or referendums. ***Where an advertisement is republished after it has been suspended or discontinued due to a violation of this Regulation, transparency notices should state so in order to ensure that individuals are made appropriately aware.***

The transparency notice should be available immediately when the advertisement is published or disseminated, and the information it contains should be kept up to date. The transparency notice should further include information on how to notify political advertisements in accordance with the mechanisms established in this Regulation. This requirement should be without prejudice to provisions on notification according to *of Regulation (EU) 2022/2065*.

- (58) *In order to ensure increased transparency of political advertising, it is necessary to collect and present in the relevant transparency notice information on the reach of political advertising, and individuals' engagement with it. The reach of the message relates to data which enables quantifying geographical distribution and number of individuals who viewed, received or otherwise interacted with the political advertising, including the number of views, impressions and clicks. Engagement with the message relates to data which enables quantifying the interactions of individuals with online political advertising, measured by various means, including the period of interaction with the political advertisement. Relevant standards for the preparation of labelling and transparency notices of political advertisements should address the quantification of reach and engagement.*

- (59) The *presentation of the information* in the transparency notice *may vary depending on the means used. In order to easily retrieve the information in the transparency notice in offline advertisement, use could be made for instance of a dedicated webpage link, a Quick Response code (or “QR code”), or equivalent user-friendly technical measures.* The requirement that the information about the transparency notice is to be inter alia clearly visible should entail that it features prominently in or with the advertisement. The requirement that information published in the transparency notice is to be easily accessible, machine readable where technically possible, and user friendly should entail that it addresses the needs of people with disabilities *by complying with applicable accessibility requirements, including, when technically feasible, by making the information available via more than one sensory channel. To be able to take into account the latest technological and market developments, relevant scientific research and best practices and to ensure that the transparency notices are adapted to the medium used, the Commission* should be *empowered to adopt implementing acts establishing their format and providing technical specifications.*

- (60) *It is necessary that, where political advertising is made available electronically, including through an online medium, the accompanying transparency notice should also be available electronically and in a machine readable format. Political advertising which is made available only through an offline medium, such as printed leaflets or print newspapers, can be accompanied by transparency notices which are also made available only through an offline medium, included in the same printed leaflet or newspaper. However, where political advertising is made available through an offline medium and the transparency notice is made available electronically, the transparency notice should also be in a machine readable format.*
- (61) *Information should be considered machine readable if it is provided in a format that software applications can automatically process, without human intervention, in particular for the purpose of identifying, recognising and extracting specific data from it."*

- (62) Transparency notices should be designed to raise user awareness and help the clear identification of the political advertisement as such. They should be designed to remain in place or remain accessible in the event a political advertisement is further disseminated for instance posted on another platform or forwarded between individuals. The information included in the transparency notice should be published when the publication of the political advertisements *starts and until the end of its publication. Political advertising publishers should retain and make available upon request their transparency notices together with any modification for a period of seven years after the last publication.*

- (63) Since political advertising publishers make political advertisements available to the public, they should publish or disseminate that information to the public together with the publication or dissemination of the political advertisement. *Where political advertising publisher becomes aware by any means that a political advertisement does not fulfil the transparency requirements under this Regulation, for instance following an individual notification, it should make best efforts to complete or correct the information required under this Regulation. When the information cannot be completed or corrected without undue delay, political advertising publishers should not make available or should discontinue the publication or dissemination to the public of the political advertisements not fulfilling the transparency requirements under this Regulation. In such situations, political advertising publishers should inform the providers of political advertising services concerned and, where relevant the sponsor, of the reasonable steps taken to fulfil the requirements under this Regulation. The publisher should inform the sponsor or the service provider acting on behalf of the sponsor about any decision taken in this regard.*

(64) *To ensure the publication of the information required by this Regulation about online political advertising, and effective access by all interested individuals it is necessary that the Commission should establish and ensure, directly or by entrusting this responsibility to a management authority, the management of a public repository for all online political advertisements. Any delegation to a management authority should be subject to the necessary regulatory adaptations. To support access to information by individuals, including to facilitate the work of interested actors such as researchers in their specific role to support free and fair elections or referendums and fair electoral campaigns including by scrutinising the sponsors of political advertisement and analysing the political advertisement landscape, this repository should comprise a functionality enabling access to online political advertising, together with the information required by this Regulation, for a defined period via a single portal. To support political advertising publishers which are not designated as very large platforms or search engines according to Regulation (EU) 2022/2065, this repository should comprise a hosting service that ensures the availability of the online political advertising and the information published with it free of charge. These political advertising publishers should make available the necessary information within a specified period.*

Publishers of political advertising and sponsors should remain responsible as regards the political advertisements and other information made available through the European repository for online political advertising, including for their completeness and accuracy and for ensuring that they remain up to date. To ensure the effective provision of the European repository for online political advertising it is necessary for the Commission to adopt implementing acts to set out detailed arrangements for the operation of this repository. These implementing acts should relate inter alia to a common data structure and application programming interface in order to enable the transmission of necessary information as well as its retrieval from the repository, metadata in order to facilitate the indexation of political advertising by online search engines and its inclusion of political advertising in the European repository and standardised authentication solutions in order to allow transparency information to be linked to the political advertising as well as to authenticate versions of the information.

- (65) *When complying with their obligations under this Regulation, providers of political advertising services should pay due regard to fundamental rights, and other rights and legitimate interests. Providers of political advertising services should in particular pay due regard to freedom of expression and access to information, including media freedom and pluralism.*

- (66) *In addition, political advertising publishers which are designated as very large online platforms or search engines, according to Regulation (EU) 2022/2065, should ensure that for each political advertisement, the information contained in the transparency notice is made available in the repositories of advertisements published pursuant to Article 39 Regulation (EU) 2022/2065, and accessible through the European repository for online political advertising. Such information should be made available as from the moment of publication and kept updated and provided according to an agreed industry standard for accessibility, data structure and access by means of a common publicly available application programming interface.*
- (67) Where the provider of the political advertising service which hosts or otherwise stores and provides the content of a political advertisement is separate from the provider of the political advertising service which controls the website or other interface which eventually **presents** the political advertisement, these should be considered together as advertising publishers, with respective responsibility in respect of the specific service they provide, to ensure that labelling is provided and that the transparency notice and relevant information is available. Their contractual arrangements should **enable** compliance with this Regulation.

- (68) Information about the amounts spent on and the value of other benefits received in part or full exchange for political advertising services can usefully contribute to the political debate. It is necessary to ensure that an appropriate overview of political advertising activity can be obtained from the annual reports prepared by relevant ***providers of*** political advertising ***services***. To support oversight and accountability, such reporting should include information about expenditure on the targeting ***or delivery*** of political advertising in the relevant period, aggregated to campaign or candidate, ***and including as relevant information transmitted to the political advertising publishers by other entities***. To avoid disproportionate burdens, those transparency reporting obligations should not apply to enterprises qualifying under Article 3, ***paragraphs 1 to 3***, of Directive 2013/34/EU.

- (69) Political advertising publishers providing political advertising services should put in place mechanisms to enable *natural or legal persons* to report to them that a particular political advertisement which they have published does not comply with this Regulation. *Civil society organisations, human right and watchdog organisations, journalists and others interested entities have a crucial role to play in this regard.* The mechanisms to report such advertisement should be easy to access and use, and should be adapted to the form of advertising distributed by the advertising publisher. As far as possible, these mechanisms should be accessible from the advertisement itself, for instance on the advertising publisher's website. *Where necessary, political advertising publishers should put in place technical measures for ensuring minimum information technology security standards including measures to prevent automated notifications.* Political advertising publishers should be able to rely on existing mechanisms where appropriate. *For instance,* where political advertising publishers are online hosting services providers within the meaning of *Regulation (EU) 2022/2065, with regard* to the political advertisements hosted at the request of the recipients of their services, *political advertising publishers should be able to rely on the notice mechanism pursuant to Regulation (EU) 2022/2065* for notifications concerning non-compliance of such advertisements with this Regulation. *Where those mechanisms are not available, individuals should be able to report such political advertisement directly to the competent authorities.*

- (70) *In the interests of a consistent implementation of mechanisms to enable the notification of potentially unlawful political advertising, the Commission should prepare guidelines, in particular to support the preparation of suitable technical specifications for the mechanism, adapted for the audiovisual sector, printed media, online and offline advertising.*
- (71) *The political advertising publishers should examine and address the notifications received pursuant to this Regulation, in a diligent, non-arbitrary and objective manner, as specified herein. The political advertising publisher should confirm receipt of the notification and inform, as appropriate, the natural or legal person which made the notification of the follow up given to and including information on the possibilities for redress, including where applicable those under Directive (EU) 2020/1828 of the European Parliament and of the Council⁹, in respect of the advertisement to which the notification relates. To ensure that affected sponsors and service providers are aware of the impact of notifications, the political advertising publisher should also inform sponsors or providers of political advertising services concerned of any relevant measures they take following notifications. To ensure the effective operation of this procedure in the last month preceding an election or a referendum, which is particularly sensitive, political advertising publishers which do not qualify under Article 3, paragraphs 1 to 3 of Directive 2013/34/EU should process notifications that they receive about an advertisement linked to that election or referendum within 48 hours provided that the notification can be processed completely on the basis of the information included in the notification.*

⁹ *Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).*

- (72) *Any action taken by a political advertising publisher should be strictly targeted, in the sense that it should first and foremost serve to correct, complete the required information and only as a last resort, remove the specific items of information not complying with this Regulation. In doing so, the publisher should have due regard for freedom of expression and information, and other fundamental rights.*
- (73) 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 actors such as vetted researchers, journalists, civil society organisations and **recognised** 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 unclear, excessive or concerning information not within the possession of the service provider*. Further, the relevant service provider should be allowed to charge a reasonable fee in case of **significant costs**, taking into account the administrative costs of providing the information.

- (74) Personal data collected directly from individuals, or indirectly such as ***observed or*** 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 ***special categories of personal data*** under Regulations (EU) 2016/679 and (EU) 2018/1725, 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. ***Such processing of personal data*** has specific and detrimental effects on ***individuals'*** fundamental rights and freedoms, ***such as 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 leads to fragmentation of the public debate about important societal issues, selective outreach and, ultimately, the manipulation of the electorate. It also increases the risk of the spreading of information manipulation and foreign interference. Misleading or surreptitious political advertising is a risk because it influences the core mechanisms that enable the functioning of our democratic society.* Additional restrictions and conditions compared to Regulations (EU) 2016/679 and (EU) 2018/1725 should be provided. The *requirements* set out in this Regulation on the use of targeting and *ad delivery* techniques involving the processing of personal data in the context of political advertising should be based on Article 16 TFEU.

(75) *In accordance with the Union law, controllers should ensure that individual decision making is not affected by dark patterns which materially distort or impair, either on purpose or in effect, the autonomous and informed decision making of the individuals, including pre-ticked boxes and other biased and non-transparent techniques which drive or prompt individuals to particular decisions which they might otherwise not have made. 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 individuals to have clear information and control in the context of the online advertising industry. Rules preventing dark patterns should not be understood as preventing controller from interacting directly with individuals. However, controllers should refrain from repeatedly requesting an individual to make a choice where such a choice has already been made, from making the withdrawal of consent significantly more cumbersome than giving it, from making certain choices more difficult or time-consuming than others or from using default settings that are very difficult to change and which unreasonably biases the decision making of the individuals in a way that distorts and impairs their autonomy, decision-making and choice. The mechanism for obtaining decisions from individuals should be clear and easy to use, and the relative prominence of the alternatives should not seek to influence the individual's decision. Information provided to individuals in this regard should be succinct and drafted in plain and intelligible language and made easily, prominently and directly available.*

- (76) *Political advertising publishers which are providers or users of ad delivery techniques should be encouraged to provide solutions which minimises the possibility of discrimination in the delivery of political advertisement based on processing of personal data.*
- (77) Targeting and *ad delivery* techniques *involving profiling using special categories of personal data, referred to in Regulations (EU) 2016/679 and (EU) 2018/1725, should be prohibited* in the context of *online* political advertising. *It should not be possible to rely on the exceptions as laid down* in Article 9(2) of Regulation (EU) 2016/679 and Article 10(2) of Regulation (EU) 2018/1725 *respectively for using those techniques in the context of online political advertising.* The use of *targeting and ad delivery* techniques *involving the processing of personal data, other than special categories of personal data, in the context of online political advertising,* should only be *permitted when based on personal data collected from the data subject and with their explicit consent, provided separately for the purposes of political advertising.* *Acknowledging the role of political parties, foundations, associations or any other non-profit bodies in our democracy, such restrictions should not affect their ability to communicate with their members and former members and to disseminate information, such as newsletters linked to their political activities, when solely based on subscription data and based on personal data provided by them.*

Regulations (EU) 2016/679 and (EU) 2018/1725 apply to the processing of personal data and explicit consent should be understood as consent within the meaning of these Regulations. Targeting and ad delivery techniques, when used under the conditions set out in this Regulation, can be useful in disseminating political advertising and information and in reaching out and informing citizens.

- (78) *Data controllers should not use personal data obtained from third parties to target or deliver political advertising. To help prevent manipulative microtargeting, it is essential service providers should take specific measures to ensure that the personal data which is collected and processed for the purpose of targeting and ad delivery of political advertising is limited to what is necessary in relation to this purpose, for instance by restricting the availability of options for targeting and ad delivery of political advertising offered to service recipients to those which require only the combination of up to five categories.*

(79) *The condition that the targeting or ad delivery of political advertising is not based on profiling using special categories of personal data encompasses profiling using special categories of personal data evaluated from personal data which are not themselves special categories of personal data. This could be the case, for instance, if a data controller uses personal data which is not special categories of personal data to categorise data subjects as having certain religious, philosophical or political beliefs, and regardless whether this categorisation is true. It should not matter how the category is labelled if the processing of personal data reveals a special category of personal data. Where the user of an online social network visits a particular page or uses an app or other online function or service to which one or more of the categories referred to in in Article 9(1) of Regulation (EU) 2016/679 relate and, as the case may be, provides personal data when registering, placing an online order or otherwise interacting with the social network, the processing of personal data by the operator of that online social network, should be regarded as ‘processing of special categories of personal data’ within the meaning of that provision, which is in principle prohibited, where that data processing allows information falling within one of those categories to be revealed, irrespective of whether that information concerns a user of that social network or any other natural person. This is the case regardless of whether the data subject was made aware of the intention to use such data for the purpose of targeting political advertising at the time that it was collected.*

- (80) *Consent to processing of personal data is given and withdrawn in accordance with Regulations (EU) 2016/679 and (EU) 2018/1725. Such consent should be given by a clear affirmative action or statement establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data for the purpose of political advertising. In addition, for the purpose of this Regulation consent should be explicit and given separately for the purpose of political advertising. For the purpose of this Regulation, including in particular where consent to the processing of personal data to target or deliver political advertising is obtained during the provision of an online service, consent should be obtained by controllers presenting a user-friendly solution to the data subject to provide, modify or withdraw consent in an explicit, clear and straightforward manner. Controllers should not design, organise and operate interfaces in a way that deceives, manipulates or otherwise materially distorts or impairs the ability of data subject to freely give consent for this specific purpose. For the purposes of this Regulation the requirement to obtain consent to the processing of personal data cannot be avoided by establishing that the personal data in question was made accessible to the general public by the data subject.*

It should be as easy to withdraw consent to the processing of personal data to target or deliver political advertising as to give it. Refusing to give consent or withdrawing consent should not be more difficult or time-consuming to the data subject than giving consent. Electronic signals signifying individual's wish not to receive political advertising should be respected.

- (81) *In light of the EUCJ's judgment in Meta, the data subject should be free to refuse, in the context of the political advertising, to give their consent to particular data processing operations, without being obliged to refrain entirely from receiving access to an online service. As acknowledged by the EUCJ, those users should be offered an equivalent alternative not accompanied by such data processing operations.*
- (82) *A particularly vulnerable group which can be exploited through the misuse of targeting and ad-delivery techniques are very young people. While not yet entitled to vote, such individuals can be targeted specifically in order to manipulate the debate. Targeting or ad delivery techniques that involve the processing of personal data of a subject that is known with reasonable certainty to be at least one year under the voting age established by national rules, in the context of political advertising, should therefore be prohibited.*

- (83) In order to ensure *enhanced* transparency and accountability, when making use of targeting and *ad delivery* techniques in the context of *online* political advertising involving the processing of personal data, controllers should implement additional *transparency requirements*. *Such requirements should include, amongst others, the adoption of a policy describing the use of such techniques and main parameters, keeping records of their use, carrying out an annual risk assessment of the use of those techniques on the fundamental rights and freedoms and providing, together with an indication that an advert is political advertisement, of additional information necessary to allow the individual concerned to understand the logic involved* ■ .
- (84) *The transparency and accountability requirements should apply to all controllers irrespective of whether the controller acts in their own capacity, jointly with the provider of political advertising services or is the same entity as political advertising publisher. In case the controller is different from the advertising publisher, the controller should transmit to the political advertising publisher the internal policy and ensure that other information necessary to comply with this Regulation is communicated to the political advertising publisher in a timely and accurate manner.*

- (85) *Providers of advertising services should transmit to the political advertising publishers the information necessary to comply with their obligations under this Regulation. The transmission of such information could be automated and integrated in the ordinary business processes on the basis of standards.*
- (86) 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 ***amend their personal data*** 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.
- (87) Information to be provided in accordance with all requirements applicable to the use of targeting and ***ad delivery*** 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 accessible for persons with disabilities***.

- (88) It is appropriate to lay down rules on the transmission of information on targeting ***and ad delivery*** to other interested entities. The applicable regime should be consistent with the regime for the transmission of information linked to the transparency requirements.
- (89) Providers of political advertising services established in a third country that offer services in the Union should designate a mandated legal representative in the Union ***that is registered with the competent authority designated by each Member State***, to allow for effective oversight of this Regulation in relation to those providers. The legal representative could be the one designated on the basis of Article 27 of Regulation (EU) ***2016/679*** or the representative designated on the basis of Article ***13*** of Regulation (EU) ***2022/2065***. ***Member States should keep a publicly available register of all legal representatives registered on their territory under this Regulation, and the Commission should set up and maintain a publicly available portal linking to the websites provided by Member States. Given the importance of this requirement for the effective enforcement of this Regulation in relation to providers established in a third country, as well as for maintaining a level playing field for all providers of political advertising in the internal market, in the absence of a designated legal representative, Member States should take any appropriate measures to ensure compliance with this Regulation, including by discontinuing the publication or dissemination of the relevant political advertisements when compliance cannot be ensured otherwise.***

- (90) In the interest of the effective supervision of this Regulation, it is necessary to entrust oversight authorities with the competence to monitor and enforce the relevant rules ***and ensure that they have the necessary means to carry out their tasks under this Regulation.*** Depending on the legal system of each Member State and in line with existing Union law including Regulations (EU) 2016/679 and (EU) 2022/2065, different national judicial or administrative authorities may be designated to that effect.

- (91) As regards the supervision of online intermediary services under this Regulation, Member States should designate competent authorities and ensure that such supervision is coherent with the competent authorities designated pursuant to Article 38 of Regulation (EU) 2022/2065. Digital Services Coordinators, pursuant to Regulation (EU) 2022/2065, in each Member State should in any event be responsible for ensuring coordination at national level in respect to those matters and engage, where necessary, cross-border cooperation with other Digital Services Coordinators following the mechanisms laid down in Regulation (EU) 2022/2065. In the framework of application of this Regulation, this mechanism should be limited to the national cooperation across Digital Services Coordinators and should not include the escalation to the Union level as provided by the Regulation (EU) 2022/2065. *To the extent that the Commission has exclusive competence to supervise and enforce the compliance of very large online platforms and of very large search engines within the meaning of Regulation (EU) 2022/2065 with the obligations laid down in that Regulation, the Commission should assess compliance by these actors with their obligations related to the European repository.*

- (92) For the oversight of those aspects of this Regulation that do not fall within the competence of the supervisory authorities under Regulations (EU) 2016/679 **and** (EU) 2018/1725, Member States should designate competent authorities **to supervise and enforce relevant rules**. To support the upholding of fundamental rights and freedoms, the rule of law, democratic principles and public confidence in the oversight of political advertising it is necessary that such authorities are **impartial**, structurally independent from external intervention or political pressure and are appropriately empowered **to** effectively monitor and take the measures necessary to ensure compliance with this Regulation, in particular the obligations laid down in Article 7. **While** Member States may designate, in particular, the national regulatory authorities or bodies under Article 30 of Directive 2010/13/EU of the European Parliament and of the Council¹⁰, **they could also designate other authorities, such as election or judicial authorities**.
- (93) ***In order to support the supervisory authorities with their tasks, the Commission should request the European Data Protection Board to issue guidelines addressed to the supervisory authorities referred to in Article 51 of Regulation (EU) 2016/679 on the processing of special categories of personal data to target or deliver political advertising, including on the conditions to obtain consent for the purpose of targeting or delivering of political advertising and the cooperation between such authorities and other authorities responsible for the application and enforcement of the requirements laid down in this Regulation.***

¹⁰ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive (OJ L 95, 15.4.2010, p. 1).

(94) *Independent supervisory authorities under Regulation (EU) 2016/679 should be supported to make full use of their powers under that Regulation to supervise the protection of personal data provided under this Regulation, including under the cooperation procedure, consistency mechanism and, in particular, the urgency procedure. The period preceding elections or referendums is particularly important in political campaigning, in influencing citizens to form political opinions and exercise their voting rights. It is also particularly sensitive to infringements of applicable rules, because remedial action will usually need to be in place before the electoral event in order to be effective. That is why infringements of the rules applicable to the processing of personal data for targeting political advertising in this period is liable to have a particularly significant negative effects on citizens' rights including their freedoms to form opinions without undue inference and of information. In the interests of ensuring prompt action to protect the rights and freedoms of individuals during the critical period before voting occurs in an election, data protection authorities should ensure that they are able to act promptly to enforce the rights of the concerned data subjects. In this spirit, data protection authorities should make use of the range of tools provided in Regulation (EU) 2016/679 to cooperate and assist each other, including as the case may be the process laid down in Article 66 of Regulation (EU) 2016/679.*

- (95) *Whereas competent authorities responsible for the application of the present Regulation are not to depart from the decisions taken by the supervisory authorities responsible for the application as regards the application of Regulation (EU) 2016/679, they may need to assess whether political advertising complies with Regulation (EU) 2016/679 for the purposes of the present Regulation. Pursuant to Article 4(3) TUE, competent authorities responsible for the application of the present Regulation and supervisory authorities as referred to in art. 51 of Regulation (EU) 2016/679 are to cooperate sincerely with each other and observe their respective powers and competences, in order to ensure the consistency of the application of both Regulations.*
- (96) Where rules already exist under Union law regarding the provision of information to competent authorities and cooperation with and between those authorities such as Article 9 of Regulation (EU) 2022/2065, or those contained in Regulation (EU) 2016/679, those rules should apply mutatis mutandis to the relevant provisions of this Regulation.

- (97) *To support the effective application, supervision and enforcement of the provisions of this Regulation, and without prejudice to Regulations (EU) 2016/679, (EU) 2018/1725 and (EU) 2022/2065, it is necessary to establish which competent authority should be responsible where services are provided in more than one Member State, or where the service provider conducts its main activities outside the Member State where its main establishment or designated representative is located. Where a service provider is providing political advertising services in more than one Member State, the competent authority or authorities of the Member State where the main establishment of the political advertising services provider is located should normally be responsible for the effective application, supervision and enforcement of the provisions of this Regulation. In determining where a service provider has its main establishment, the competent authorities should have regard to where the provider has its head office or registered office within which the principal financial functions and operational control are exercised.*
- (98) *In carrying out their supervisory and enforcement powers, the competent authorities of all Member States should cooperate with and assist each other as necessary. If the suspected infringement of this Regulation only involves the competent authority or authorities where the provider of political advertising services does not have its main establishment, the relevant competent authority or authorities should notify the competent authority of the main establishment, which should accordingly assess the matter and, as applicable, take the necessary investigatory and enforcement measures.*

- (99) *To further facilitate effective application and enforcement of this Regulation in case of the provision of cross-border services, where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main establishment, the competent authority of the main establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned.*
- (100) Authorities competent for the oversight of this Regulation should cooperate with each other both at national and at EU level making best use of existing structures including national cooperation networks, the European Cooperation Network on Elections as referred to in Recommendation C(2018) 5949 final, *the European Board for Digital Services as referred to in Regulation (EU) 2022/2065* and the European Regulators Group for Audiovisual Media Services established under Directive 2010/13/EU, *as appropriate*. Such cooperation should facilitate the swift, secured exchange of information on issues connected to the exercise of their supervisory and *enforcement* tasks pursuant to this Regulation, including by jointly identifying infringements, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.

- (101) *For the purposes of ensuring effective and structured cooperation among all competent authorities on all aspects of this Regulation, national contact points designated by Members States should meet periodically at Union level in the Network of National Contact Points. In order to strengthen the cooperation and exchange of information and practices at the Union level, that Network should work in close cooperation with the European Cooperation Network on Elections, the European Regulators Group for Audiovisual Media Services, and other relevant networks or bodies.*

- (102) With a view to facilitating the effective application of the obligations set out in this Regulation, it is necessary to empower national authorities to request from the ***providers of political advertising services*** the relevant information on the transparency of political advertisement. Information to be transmitted to competent authorities could concern an advertising campaign, be aggregated by years or concern specific advertisements. In order to ensure that the requests for such information can be complied with in an effective and efficient manner, and at the same time that the providers of political advertising services are not subject to any disproportionate burdens, it is necessary to set certain conditions that those requests should meet. In the interest of the timely oversight of an election process in particular, providers of political advertising services should quickly respond to requests from competent authorities, and ***within a specified period. During the last month preceding an election or referendum, infringement of these obligations should be considered to negatively and severely affect individuals' rights and therefore providers of political advertising services should provide the requested information within a shorter specified period. Providers of political advertising services qualifying under Article 3 paragraphs 1 to 2 of Directive 2013/34/EU should provide the requested information without undue delay and where possible before the date of the election or referendum.*** In the interest of legal certainty and in compliance with the rights of defence, requests to provide information from a competent authority should contain an adequate statement of reasons and information about available redress.

Such statement of reasons might not be required where disclosing the reasons for requesting information would clearly jeopardise the prevention, investigation, detection and prosecution of criminal offences or the detection and sanctioning of serious administrative offences. The seriousness of an administrative offence warranting such an exception should be determined not only by taking into account the amount of the fine or penalty that may be imposed under this Regulation, but also the negative impacts it could have on an election or referendum, a legislative or regulatory process. Providers of political advertising services should designate contact points for the interaction with the competent authorities. Such contact points could be electronic. It follows from the settled case-law of the Court of Justice that the protection of persons, both natural and legal, against arbitrary or disproportionate intervention by the public authorities in the sphere of those persons' private activities constitutes a general principle of EU law. That protection may be relied on by a person as a right guaranteed by the EU law, for the purposes of the first paragraph of Article 47 of the Charter, in order to challenge before a court an act adversely affecting that person, such as an order to provide information or a penalty imposed on the ground of non-compliance with that order.

- (103) Member States should designate a **competent authority as a national** contact point at Union level for the purpose of this Regulation. The contact point should, if possible, be a member of the European Cooperation Network on Elections. The **national** contact point should facilitate cooperation among competent authorities between Member States in their supervision and enforcement tasks, in particular by intermediating with the **national** contact points in other Member States and with **other** competent authorities in **its own Member State**.

- (104) Member States authorities should ensure that infringements *by sponsors or providers of political advertising services* of the obligations laid down in this Regulation are sanctioned *by fines or financial penalties or, as appropriate, other measures, including periodic penalties*. When doing so, they should take into account the nature, gravity, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, as well as, *where applicable, the size and the economic capacity of the infringer*. Furthermore, the Member State authorities should *take* into account *whether the sponsor or provider of political advertising services* concerned systematically or recurrently fails to comply with *these* obligations ■ , including by delaying the provision of information to interested entities, as well as, where relevant, whether the provider of political advertising services is active in several Member States. *Sanctions should* in each individual case be effective, proportionate and dissuasive, with due regard to the provision of sufficient and accessible procedural safeguards, and in particular *the need* to ensure that the political debate remains open and accessible. *Certain specified obligations play a crucial role for the effective pursuit of the objectives of the present Regulation and infringements of those obligations should be regarded as particularly serious*.

- (105) *Individuals or entities may bring complaints to competent authorities to notify them of circumstances which might amount to a violation of the provisions of this Regulation. It should be recalled that other administrative procedures provided under EU law may be applicable in this context too. For example, data subjects have a right to lodge complaints with supervisory authorities designated under Regulation (EU) 2016/679 for violations concerning their personal data. Moreover, individuals or entities may also complain to the Digital Service Coordinators designated under Regulation (EU) 2022/2065 against providers of intermediary services about alleged infringements of that Regulation. Without prejudice to those procedures or any other available administrative procedure or judicial remedy, competent authorities should address such complaints, including by informing the complainant of the follow-up given to it. When a competent authority is notified of a complaint falling under the competence of a competent authority in another Member State, it should transmit the complaint to that competent authority without undue delay.*
- (106) The exercise by the competent authorities of their powers under this Regulation should be subject to appropriate procedural safeguards in accordance with Union and national law, including effective judicial remedy and due process.

- (107) *To support compliance with this Regulation, service providers and other interested entities should be provided with timely and easily accessible information about the dates of national elections and referendums. Member States should therefore publish the dates of their elections and referendums, and, where applicable the dates of their electoral periods. This information should be easily accessible and timely. They should also provide this information to the public through a portal made available by the Commission, immediately after their announcement.*
- (108) *To support the effective implementation of this Regulation by national competent authorities, the Commission is encouraged to draw-up guidelines, as necessary, on the identification of political advertising and on the application of sanctions.*

- (109) In order to fulfil the objectives of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in *relation to the information to be included* in the transparency *notice* and in *relation to the information about the use of* targeting *and ad-delivery techniques*. It is of particular importance that the Commission carries out appropriate consultations, including of experts designated by each Member State, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (110) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission, as specified herein. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².
- (111) Within two years after each election to the European Parliament, the Commission should submit a public report on the evaluation and review of this Regulation. In preparing that report the Commission should also take into account the implementation of this Regulation in the context of other elections and referendums taking place in the Union. ■

¹¹ OJ L 123, 12.5.2016, p. 1.

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (112) Since the objectives of this Regulation, namely the contribution to the proper functioning of the internal market for political advertising and related services and the establishment of rules on the use of targeting in the context of the publication and dissemination of political advertising, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt this Regulation, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(113) This Regulation is without prejudice to the rules laid down in particular by Directive 2000/31/EC of the European Parliament and of the Council¹³, including the liability rules for intermediary service providers in Articles 12 to 15 of that Directive as modified by Regulation (EU) 2022/2065, Directive 2002/58/EC of the European Parliament and of the Council¹⁴, as well as Directives 2010/13/EU¹⁵, 2005/29/EC¹⁶, 2011/83/EU¹⁷, 2006/114/EC¹⁸, 2006/123/EC¹⁹ and Regulation (EU) 2019/1150 of the European Parliament and of the Council²⁰. ***This Regulation should complement the Union data protection acquis, in particular Regulations (EU) 2016/679 and (EU) 2018/1725 and Directive 2002/58/EC.***

¹³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

¹⁴ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

¹⁵ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (Codified version) (OJ L 95, 15.4.2010, p. 1).

¹⁶ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

¹⁷ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

¹⁸ Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) (OJ L 376, 27.12.2006, p. 21).

¹⁹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

²⁰ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

(114) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on **20 January** 2022,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1 *Subject matter and objectives*

1. This Regulation lays down:
 - (a) harmonised ***rules, including*** transparency ***and related due diligence*** obligations, ***for the provision*** of political advertising and related services ***and, where applicable, for sponsors, on the collection, retention, disclosure and publication of*** information connected to the provision of such services ***in the internal market***;
 - (b) harmonised rules on the use of targeting and ***ad delivery*** techniques ***that involve the processing of personal data in the context of the provision of online political advertising***;
 - (c) ***rules on the supervision and enforcement of this Regulation, including as regards the cooperation and coordination between the competent authorities.***
2. ***Political opinions and other editorial content expressed in any media under editorial responsibility shall not be considered political advertising unless specific payment or other remuneration is provided for or in connection with their preparation, placement, promotion, publication, delivery or dissemination by third parties.***
3. ***Political opinion expressed in a personal capacity shall not be considered political advertising.***
4. The aims of this Regulation are:
 - (a) to contribute to the proper functioning of the internal market for political advertising and related services;

- (b) *to protect the fundamental rights and freedoms enshrined in the Charter of Fundamental Rights, in particular the right to privacy and the protection of personal data.*

Article 2

Scope

1. *This Regulation shall apply to political advertising where the political advertisement is disseminated in the Union or is brought to the public domain in one or several Member States or is directed to Union citizens, irrespective of the place of establishment of the provider of political advertising services or of place of residence or establishment of the sponsor, and irrespective of the means used.*
2. *This Regulation shall not affect the content of political advertisements or Union or Member States rules regulating other aspects related to political advertising than those covered by this Regulation, including the rules on the organisation, financing and conduct of political campaigns, the general bans or limitations on political advertising during specified periods, and, where applicable, on electoral periods.*
3. *This Regulation is without prejudice to the rules laid down in the following:*
 - (a) *Directive 2000/31/EC;*
 - (b) *Directive 2002/58/EC;*
 - (c) *Directive 2005/29/EC;*
 - (d) *Directive 2006/114/EC;*
 - (e) *Directive 2006/123/EC;*
 - (f) *Directive 2010/13/EU;*
 - (g) *Directive 2011/83/EU;*
 - (h) *Regulation (EU) 2019/1150;*
 - (i) *Regulation (EU) 2022/2065;*

Article 3
Definitions

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

- (1) ‘service’ means any self-employed economic activity, normally provided for remuneration, as referred to in Article 57 TFEU;
- (2) ‘political advertising’ means the preparation, placement, promotion, publication, ***delivery*** or dissemination, by any means, of a message, ***normally provided for remuneration or through in-house activities or as part of a political advertising campaign***:
 - (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 ***and designed to influence the outcome of an election or referendum, a voting behaviour or a legislative or regulatory process, at Union, national, regional or local level.***

It shall not include:

- (a) ***messages from official sources of Member States or the Union that are strictly limited to the organisation and modalities for participation in elections or referendums, including the announcement of candidacies or the question put to the referendum, or for promoting participation in elections or referendums;***
 - (b) ***public communication aiming to provide official information to the public by, for or on behalf of any public authority of a Member State or of the Union, including members of Government, provided they are not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;***
 - (c) ***presentation of candidates in specified public spaces or in the media which is explicitly provided by law and allocated free of charge while ensuring equal treatment.***
- (3) ‘political advertisement’ means an instance of political advertising ***published, delivered or disseminated by any means***;

- (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;
 - (c) a European political party within the meaning of Article 2(3) Regulation (EU, Euratom) No 1141/2014;
 - (d) a candidate for *or holder of* any elected office at *Union*, national, regional and local level, or *any leadership position* within a political party;
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- (e) *a member of Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors, or of a government of Member States at national, regional or local level;*
 - (f) a political campaign organisation with or without legal personality, established *solely for the purpose of influencing the* outcome in an election or referendum;
 - (g) any natural or legal person representing or acting on behalf of any of the persons or organisations *referred to* in points (a) to (f), *and* promoting the political objectives of any of those.
- (5) ‘political advertising service’ means a service consisting of political advertising with the exception of an online intermediary service within the meaning of Article 3, *point (g)* of Regulation (EU) 2022/2065 that is provided without consideration for the *preparation*, placement, *promotion*, publication, *delivery* or dissemination for the specific message;
- (6) ‘*provider of political advertising services*’ means *a natural or legal person engaging in the provision of political advertising services, with the exception of purely ancillary services.*
- (7) ‘political advertising campaign’ means the preparation, placement, promotion, publication, *delivery* or dissemination of a series of linked *political* advertisements in the course of a

contract for political advertising on the basis of common preparation, sponsorship or funding;

- (8) *‘very large online platform’ means an online platform designated as a very large online platform pursuant to Article 33(4) of Regulation (EU) 2022/2065;*
- (9) *‘very large online search engine’ means an online search engine designated as a very large online search engine pursuant to Article 33(4) of Regulation (EU) 2022/2065;*
- (10) ‘sponsor’ means the natural or legal person *at whose request or* on whose behalf a political advertisement is prepared, placed, *promoted*, published, *delivered* or disseminated;
- (11) ‘targeting ■ techniques’ means techniques that are used ■ to address a ■ political advertisement only to a specific person or group of persons or to *exclude them on the basis of the processing of personal data*;
- (12) *‘ad delivery techniques’ means optimisation techniques that rely on the automated processing of data that are used to increase the circulation, reach or visibility of a political advertisement on the basis of the processing of personal data and which may serve to deliver the political advertisement only to a specific person or group of persons;*
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- (13) ‘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 *is placed, promoted, published, delivered or disseminated*, which may be the entire electorate of a Member State;
- (14) ‘political advertising publisher’ means a *provider of political advertising service that, publishes, delivers or disseminates political advertising through any medium*;
- (15) ‘controller’ means a controller according to Article 4(7) of Regulation (EU) 2016/679 or, where applicable, to Article 3 (8) of Regulation (EU) 2018/1725. ■

Article 4
Internal Market principle

1. Member States shall not maintain or introduce, on grounds related to transparency *of political advertising*, provisions or measures diverging from those laid down in this Regulation.
2. The *provision* of political advertising services shall not be prohibited nor restricted, *including geographically* on grounds related to transparency when the requirements of this Regulation are complied with.

Article 5

Provision of political advertising services in the Union

1. *Providers of political advertising services shall not subject the provision of their services to discriminatory restrictions solely based on the place of residence or establishment of the sponsor.*

Providers of political advertising services shall not restrict the provision of their services to a European political party in the meaning of Regulation (EU, Euratom) No 1141/2014, or a political group in the European Parliament, solely on the basis of its place of establishment.

2. *Without prejudice to stricter national rules, in the last 3 months preceding an election or referendum organised at Union level or at national, regional or local level in a Member State, political advertising services pertaining to that election or referendum shall only be provided to a sponsor or service provider acting on behalf of a sponsor who declares itself to be:*

- (a) a citizen of the Union; or*
- (b) a third country national permanently residing in the Union and having a right to vote in that election or referendum in accordance with the national law of the Member State of residence; or*
- (c) a legal person established in the Union which is not ultimately owned or controlled by a third country national, with the exception of third country nationals referred to in point b, or by a legal person established in a third country.*

CHAPTER II

TRANSPARENCY *AND DUE DILIGENCE* OBLIGATIONS FOR POLITICAL ADVERTISING SERVICES

Article 6
Transparency and due diligence obligations for political advertising services

1. Political advertising services shall be provided in a transparent manner in accordance with the obligations laid down in Articles 6 to 17 and **Article 21** of this Regulation.
2. ***Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service enable compliance with the relevant provisions of this Regulation, including those relating to allocation of responsibility as well as those relating to completeness and accuracy of information.***

Article 7
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 3, point (5) ***and whether they are fulfilling any of the requirements under paragraph 2 of Article 5.*** Sponsors and providers of advertising services acting on behalf of sponsors shall make such ***declarations truthfully and shall be responsible for their accuracy.***
2. Providers of political advertising services shall ensure that the contractual arrangements concluded for the provision of a political advertising service ***require the sponsor or providers of advertising services acting on behalf of sponsors to provide the declaration referred to in paragraph 1 in compliance with all the requirements therein and the relevant information necessary to comply with Article 9(1), 11(1) and 12(1). That information shall be transmitted in a complete and accurate manner and without undue delay.***
3. ***Sponsors shall ensure the accuracy of, and provide the information necessary for the providers of political advertising services to comply with Article 9(1), points (a), (d), (e) and (f), Article 11(1), points (a), (b), (c) and (d), and Article 12(1), points (a), (b), (c), (e), (h) and (k), before or during the period of publication, delivery, or dissemination of the political advertisement.***

Where a sponsor or a provider of political advertising services acting on behalf of a sponsor becomes aware that information which it has transmitted has been updated, it

shall ensure that this updated information is transmitted to the relevant provider of political advertising services in a timely, complete and accurate manner.

Where the sponsor or a provider of political advertising services acting on behalf of a sponsor becomes aware that any information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and shall transmit completed or corrected information to that political advertising publisher.

- 4. Providers of advertising services shall require sponsors, or providers of advertising services acting on behalf of sponsors, who submit a declaration or information in accordance with this Article that is manifestly erroneous to correct that declaration or that information. Sponsors or providers of advertising services acting on behalf of sponsors shall make such corrections in a complete and accurate manner and without undue delay.*
- 5. Providers of advertising services shall ensure that its online interface is designed and organised in a way that facilitates compliance by sponsors, and providers of advertising services acting on behalf of sponsors with their obligations as referred to in paragraph 1 of this Article and Article 9(1).*

Article 8 *Identification of a political advertisement*

- 1. For the purpose of determining whether a message constitutes political advertisement within the meaning of Article 3, point 2, first sentence, point (b), account shall be taken of all its features, including:*
 - (a) the content of the message;*
 - (b) the sponsor of the message;*
 - (c) the language used to convey the message;*
 - (d) the context in which the message is conveyed, including the period of dissemination;*

- (e) *the means by which the message is prepared, placed, promoted, published, delivered or disseminated;*
- (f) *the targeted audience;*
- (g) *the objective of the message.*

2. *The Commission shall draw up common guidance intended to contribute to the proper application of this Article.*

Article 9 *Record-keeping* ■

1. Providers of political advertising services shall retain information they collect in the provision of their services, *to the extent necessary to comply with this Regulation*, 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 *that they* provided in connection *with* the political advertising;
 - (c) the amounts they invoiced for the service or services provided, and the value of other benefits received in part or full exchange for the service or services provided; ■
 - (d) *information on the public or private origin of the amounts they invoiced for the service or services provided and other benefits received in part or full exchange for the service or services provided, as well as whether they originate from inside or outside of the Union;*
 - (e) *the identity and the contact details of the sponsor of the political advertisement and, where applicable, of the entity ultimately controlling the sponsor and, for legal persons, their place of establishment; and*
 - (f) *where applicable, an indication of election, referendum, legislative or regulatory process to which the political advertisement is linked.*

2. The information referred to in paragraph 1 shall be in **written or** in electronic form. Such information shall be retained **in a machine-readable format** for a period of **seven** years from the date of the last preparation, placement, **promotion**, publication, **delivery** or dissemination, as the case may be.
3. *This Article shall not apply to undertakings qualifying under Article 3, paragraph 1 of Directive 2013/34/EU if the provision of advertising services is purely marginal and ancillary to their main activities.*

Article 10

Transmission of information to the political advertising publisher

1. *Providers of political advertising services shall ensure that the information referred to in Article 9(1) is communicated in a timely, complete and accurate manner to political advertising publishers to enable them to comply with their obligations under this Regulation.*

Each provider of political advertising services shall transmit that information during the provision of the relevant service and in accordance with best practice and industry standards and, where technically possible, by means of a standardised automated process.

Providers of political advertising services shall make reasonable efforts to ensure that the information retained pursuant to Article 9(1) is complete and accurate.

When the political advertising publisher is the only provider of political advertising services, the sponsor shall communicate the relevant information to the publisher.

2. *Where a provider of political advertising services becomes aware that information which it has transmitted has been updated, it shall ensure that this updated information is communicated to the relevant political advertising publisher.*

Article 11

Labelling and transparency requirements for each political advertisement

1. **■ Political advertising publishers shall ensure that** each political advertisement is made available **together** with the following information in a clear, salient and unambiguous way:

- (a) a statement ■ that it is a political advertisement;
 - (b) the identity of the sponsor of the political advertisement and, *where applicable*, the entity ultimately controlling the sponsor;
 - (c) *where applicable, the election, referendum, legislative or regulatory process to which the political advertisement is linked;*
 - (d) *where applicable, a statement to the effect that the political advertisement has been subject to targeting or ad delivery techniques;*
 - (e) a transparency notice *containing the information referred to in Article 12(1)* or a clear indication of where it can be easily *and directly* retrieved.
2. *Political advertising publishers shall ensure the completeness of information referred to in paragraph 1. Political advertising publishers shall ensure the accuracy of the information on where the transparency notice referred to in paragraph 1, point (e) can be retrieved.*
3. *The information referred to in paragraph 1 shall be made available in the form of labels adapted to the medium used.*

Those labels shall be prominent, enable individuals to easily identify a political advertisement as such and remain in place in the event that the political advertisement is further disseminated.

4. *By ... [15 months after the entry into force of this Regulation], the Commission shall adopt implementing acts establishing the format and the template of the labels referred to in paragraph 3. Those implementing acts shall ensure that labels are adapted to the medium used, including for the audiovisual sector, printed media, online and offline advertising, taking into account the particular characteristics of that medium, as well as the latest technological and market developments, relevant scientific research and best practices .*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

■

5. Member States, including competent authorities, and the Commission shall encourage the drawing up of **voluntary** 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. ■

Article 12

Transparency notices

1. *Political advertising publishers shall ensure that the transparency notice referred to in Article 11(1), point (e) includes the following information:*
- (a) the identity of the sponsor and where applicable, of the entity ultimately controlling the sponsor, including their name, e-mail address, and, where made public, address, and when the sponsor is not a natural person, also the address of its establishment;*
 - (b) the information required under point (a) on the natural or legal person which provides remuneration in exchange for the political advertisement if this person is different from the sponsor or the entity ultimately controlling sponsor;*
 - (c) the period during which the political advertisement is intended to be published, delivered or disseminated;*
 - (d) the aggregated amounts or other benefits received by the providers of political advertising services including those received by the publisher in part or full exchange for the political advertising services, and where relevant of the political advertising campaign;*
 - (e) information on public or private origin of the amounts and other benefits referred to in point (d) as well as whether they originate from inside or outside the Union;*
 - (f) the methodology used for the calculation of the amounts and values referred in point (d);*
 - (g) where applicable, an indication of elections or referendums and legislative or regulatory processes with which the advertisement is linked;*

- (h) *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;*
- (i) *where applicable, links to the European Repository for Online Political Advertisements referred to in Article 13;*
- (j) *information on the mechanisms referred to in Article 15(1);*
- (k) *where applicable, whether a previous publication of the advertisement or of an earlier version of it has been suspended or discontinued due to violation of this Regulation;*
- (l) *where applicable, a statement to the effect that the political advertisement has been subject to targeting or ad-delivering techniques based on the use of personal data, including information specified in Article 19(1), points (c) and (e);*
- (m) *where applicable and technically feasible, the reach of political message the number of views, and engagements with the advertisement.*

2. *Political advertising publishers shall ensure that the information referred to in paragraph 1 is complete.*

Political advertising publishers shall ensure the accuracy of the information of paragraph 1, points (d), (f), (i), (j) and (m) before and during the period of publication, delivery, or dissemination of the political advertisement.

Where the provider of political advertising services becomes aware that any information transmitted to or published by the political advertising publisher is incomplete or inaccurate, it shall contact, without undue delay, the political advertising publisher concerned and shall transmit completed or corrected information to that political advertising publisher.

Where the political advertising publisher becomes aware by any means that the information referred to in Article 11(1) and paragraph 1 of this Article is incomplete or inaccurate, it shall make best efforts, including by contacting the sponsor or the providers of political advertising services, to complete or correct the information without undue delay.

Where the information cannot be completed or corrected without undue delay, the political advertising publisher shall not make available the political advertisement, or shall without undue delay discontinue the placement, promotion, publication, delivery or dissemination of the political advertisement.

The political advertising publisher shall inform without undue delay the sponsors or the providers of political advertising services concerned about any decisions taken in connection with the fifth subparagraph of this paragraph.

3. *Transparency notices shall be included in each political advertisement or be easily retrievable at all times during the period of publication of the political advertisement.*

Transparency notices shall be kept up to date during the entire period of publication of the political advertisement, presented in a format which is easily accessible and, at least when the advertisement is made available electronically, available in a machine readable format. They shall be written in the language of the political advertisement. Political advertising publishers who offer services in the Union shall ensure that transparency notices comply with applicable accessibility requirements, including, when technically feasible, by making the information available via more than one sensory channel.

Transparency notices shall be clearly visible, user friendly, including through the use of plain language.

4. *Political advertising publishers shall retain their transparency notices together with any modifications thereto for a period of seven years after the last publication.*
5. *Paragraph 4 shall not apply to undertakings qualifying under Article 3, paragraph 1 of Directive 2013/34/EU, provided that the provision of advertising services is purely marginal and ancillary to their main activities.*
6. *The Commission is empowered to adopt delegated acts in accordance with Article 28 to add points to the list in paragraph 1 and to modify point (f) in the light of technological developments, market practices, relevant scientific research, developments in supervision by competent authorities and relevant guidance issued by competent bodies, and provided that such an amendment is necessary for the wider context of the political advertisement and its aims to be understood.*

7. *By 15 months after the entry into force of this Regulation, the Commission shall adopt implementing acts to establish the format of and provide technical specifications for the transparency notice to ensure that it is adapted to the medium used, including for the audiovisual sector, printed media, online and offline advertising taking into account the latest technological and market developments, relevant scientific research and best practices and the specific needs of enterprises qualifying under Article 3, paragraphs 1 to 3 of Directive 2013/34/EU.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 13

European repository for online political advertisements

1. *The Commission shall establish and ensure, directly or by entrusting this responsibility to a management authority, the management of a public repository for all online political advertisements published in the Union or directed to Union citizens or residents in the Union. This repository shall include:*
- (a) a functionality enabling public access to online political advertisements, together with the information provided by political advertising publishers under Articles 12(1) in respect of each online political advertisement from the moment of its first publication. The information shall be available in machine readable format, shall allow for multicriteria queries and shall be publicly accessible via a single portal;*
 - (b) a hosting service that ensures the availability of online political advertising and the information published with it according to Article 12(1) of this regulation, for the entire period during which the political advertisement is presented and until seven years after the advertisement was presented for the last time. This hosting service and access to the information hosted shall respect and be without prejudice to any legal requirement for the removal of the political advertisement and of the information published with it. This hosting service shall be free of charge for the political advertising publishers that submit an online political advertisement to the European repository for online political advertisements.*
2. *Political advertising publishers that have been designated as VLOPs or VLOSEs according to Article 33 of Regulation (EU) 2022/2065 shall ensure that each political*

advertisement, together with the information set out in paragraph 1 of Article 12, is made available in the repositories referred to in Article 39 of Regulation (EU) 2022/2065 and shall enable access through the European repository for online political advertisements to that information from the moment of publication and for the entire period during which they present the political advertisement and until seven years after the advertisement was presented for the last time on their online interfaces.

3. *Where political advertising publishers remove or disable access to a specific political advertisement based on alleged illegality or incompatibility with their terms and conditions, they shall continue to provide access to the information required by Article 12(1) for the period referred in Article 9 (2). This requirement is without prejudice to the requirements laid down in Article 9(2), point (a)(i), Article 17(3), points (a) to (e), and Article 39(3) of Regulation (EU) 2022/2065.*
4. *Political advertising publishers other than those covered by paragraph 2 that publish political advertising through an online service shall make the political advertisement and the information required under Article 12(1) available, in the European repository for online political advertisements no later than 72 hours after the first publication of the political advertising.*
5. *The Commission, or as the case may be, the management authority referred to in paragraph 1, shall have no liability for the completeness, accuracy of the political advertising and the information published with it or its compliance with relevant Union or national legislation and binding rules.*
6. *By ... [24 months after the entry into force of this Regulation], the Commission shall adopt implementing acts in accordance with Article 29 to set out detailed arrangements for the provision of a common data structure, standardised metadata to facilitate the inclusion of political advertising in the European repository and the indexation of political advertising by online search engines, standardised authentication, and a common application programming interface, with a view to enabling the aggregation of the information published online pursuant to this regulation to be accessed through a single portal.*

When adopting those implementing acts, the Commission shall take into account technological, market, and scientific developments, and shall aim to achieve the following objectives:

- (a) to enable the information specified in paragraphs 1 to 3 to be publicly accessed together via a single European repository for online political advertisements;*
- (b) to allow easy public access to online transparency notices through the use of a common application programming interface that would enable the notices to be accessed and the relevant databases to be queried;*
- (c) to support third-party and public access to transparency notices, including by enabling analysis of online transparency notices and their presentation through user-friendly single portal and search services.*

Article 14

Periodic reporting on political advertising services

1. **Political advertising** publishers shall include information on the amounts or the value of other benefits received in part or full exchange for *the* services *provided*, including on the use of targeting and *ad delivery* techniques, aggregated by campaign, *attached to* their management report within the meaning of Article 19 of Directive 2013/34/EU.

Political advertising publishers shall make the information referred to in the first subparagraph available to the competent authorities responsible for the auditing or supervision of political actors, where such authorities are established under national law.

2. Paragraph 1 shall not apply to undertakings qualifying under Article 3, *paragraphs 1 to 3* of Directive 2013/34/EU.

Article 15

Indicating possibly unlawful political advertisements

1. **Political advertising** publishers shall *have* in place *the necessary* mechanisms to enable *natural or legal persons* to notify them *of* a particular advertisement **they** have published *that* does not comply with this Regulation.

2. **■ The mechanisms** referred to in paragraph 1 shall be *free of charge, user-friendly*, and easy to access, including from the transparency notice. *Where technically possible, those mechanisms shall allow for electronic notifications.*
3. *Those mechanisms shall facilitate the submission of precise and substantiated notifications to political advertising publishers to enable them to identify the unlawfulness of the advertisements in question. To that end, advertising publishers shall take the necessary measures to enable and facilitate the submission of notifications containing all of the following elements:*
- (a) *a substantiated explanation of the reasons why the person or entity submitting the notification alleges that the advertisement in question does not comply with this Regulation;*
 - (b) *information enabling the identification of the political advertisement;*
 - (c) *the name and email address of the individual or entity submitting the notification.*
4. Political advertising publishers shall **■** *send without undue delay a confirmation of receipt of the notification received pursuant to paragraph 1 to the natural or legal persons who submitted it.*
5. *Political advertising publishers which are very large online platforms and very large online search engines within the meaning of Regulation (EU) 2022/2065 shall without undue delay:*
- (a) *examine and address the notifications received pursuant to paragraph 1 in a diligent, non-arbitrary and objective manner;*
 - (b) *inform the natural or legal person which made the notification referred to in ■ paragraph 1 of the follow up given to it.*
6. *Political advertising publishers that are not very large online platforms and very large online search engines within the meaning of Regulation (EU) 2022/2065 shall without undue delay:*
- (a) *make best efforts to examine and address, the notifications received pursuant to paragraph 1, in a diligent, non-arbitrary and objective manner;*

- (b) inform, *at least upon request, the natural or legal persons which made the notification referred to in paragraph 1* of the follow up given to it. *Political advertising publishers qualifying under Article 3, paragraph 1 of Directive 2013/34/EU shall make best efforts to ensure the compliance with this point.*
7. *In the last month preceding an election or a referendum, political advertising publishers shall process any notification they receive about an advertisement linked to that election or referendum within 48 hours, provided that the notification can be processed completely on the basis of the information included in the notification. Political advertising publishers qualifying under Article 3, paragraphs 1 to 3 of Directive 2013/34/EU shall make best efforts to process any notification that they receive about advertisement linked to that election or referendum without undue delay.*
8. *Political advertising publishers shall provide clear and user-friendly information on the possibilities for redress in respect of the advertisement to which the notification relates and, where applicable, on the use of automated means for the processing of notifications.*
9. *Political advertising publishers shall inform without undue delay the sponsors or providers of political advertising services concerned of any measures they take following notifications made under this Article, which affect the availability or the presentation of the political advertisement concerned.*
10. Repetitive notifications under paragraph 1 regarding the same advertisement or advertising campaign may be responded to collectively, including by *making use of automated tools or by* reference to an announcement on the website of the political advertising publisher concerned.
11. *The Commission, after consulting the network of national contact points, may issue guidelines to assist publishers of political advertising in the application of this article.*

Article 16

Transmission of information to competent authorities

1. *To verify compliance with Articles 9, 11, 12 and 14, competent national authorities shall have the power to request that providers of political advertising services transmit any*

necessary information [REDACTED]. The transmitted information **shall** be complete, accurate and trustworthy, and **shall be** provided in a clear, coherent, consolidated and intelligible format. Where technically possible, the information shall be transmitted in a **standardised and** machine readable format.

2. The request **referred to in paragraph 1** shall contain the following elements: [REDACTED]
 - (a) a statement of reasons explaining the objective for which the information is requested [REDACTED], unless the request pursues the objective of the prevention, **detection**, investigation, [REDACTED] and prosecution of criminal **offences or serious administrative** 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.
3. 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 **eight working days**. **However, providers of political advertising services qualifying under Article 3 paragraphs 1 to 3 of Directive 2013/34/EU shall make reasonable efforts to provide the requested information within twelve working days and thereafter, without undue delay.**
4. **By derogation from paragraph 3, in the last month preceding an election or a referendum, providers of political advertising services shall provide the requested information that is in their possession without undue delay and no later than 48 hours. However, providers of political advertising services qualifying under Article 3, paragraphs 1 to 2 of Directive 2013/34/EU shall provide the requested information without undue delay and where possible before the date of the election or referendum.**
5. Providers of political advertising services shall designate a contact point for the interaction with competent national authorities. Providers of political advertising services **qualifying under Article 3, paragraphs 1 to 3 of Directive 2013/34/EU** may appoint an external natural person as contact point.

Article 17
Transmission of information to other interested entities

1. ***Upon request from interested entities***, providers of political advertising services shall ***transmit promptly, free of charge, and where technically possible in a machine readable format*** the information ***they are required to have pursuant to Articles 9, 11 and 12 to these entities.*** ■
■
2. Interested entities 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 **40** of Regulation (EU) **2022/2065**;
 - (b) members of a civil society organisation whose statutory objectives are to protect and promote the public interest, authorised under national or Union law;
 - (c) political actors;
 - (d) national or international electoral observers ***recognised*** in a Member State; ***or***
 - (e) ***journalists.***■
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 ***as soon as possible and, at the latest***, within one month.
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 ***unclear, excessive or concerning information not within the possession of the service provider***, the service provider may refuse to ***provide the requested information.*** ***In such cases***, the relevant service provider shall send a reasoned response to the interested entity making the request ***and information***

on the redress possibilities, including, where applicable, those that exist under Directive (EU) 2020/1828.

6. Where *the processing of the requests under paragraph 1* 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 *unclear, excessive or concerning information not in possession of the service provider*, or that requests involve significant costs to process.

CHAPTER III

TARGETING AND *AD DELIVERY* OF ONLINE POLITICAL ADVERTISING

Article 18

Specific requirements related to targeting and ad delivery techniques in the context of online political advertising

1. Targeting or *ad delivery* techniques that involve the processing of personal data *in the context of online political advertising shall be permitted only when the following conditions are fulfilled:*
 - (a) *the controller collected the personal data from the data subject;*
 - (b) *the data subject has provided explicit consent within the meaning of Regulations (EU) 2016/679 and (EU) 2018/1725 to the processing of personal data separately for the purpose of political advertising; and*
 - (c) *those techniques do not involve profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679 and in Article 5, point (4), of Regulation (EU) 2018/1725 using special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and in Article 10(1) of Regulation (EU) 2018/1725.*
2. *Targeting or ad-delivery techniques that involve the processing of personal data of a data subject that is known by the controller with reasonable certainty to be at least one year under the voting age established by national rules in the context of political advertising, are prohibited. Compliance with the obligations set out in this paragraph*

shall not oblige the controller to process additional personal data in order to assess whether the data subject is one year under the voting age.

3. *This Article shall not apply to communications of any 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, 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 processing of personal data to target or otherwise further select the recipients and the messages they receive.*
4. *For the purposes of implementing the requirements of Regulations (EU) 2016/679 and (EU) 2018/1725 on providing explicit consent, as well as on withdrawing it once given, controllers shall make sure that:*
 - (a) *the data subject is not requested to consent if she or he is already indicating by automated means that she or he does not consent to data processing for political advertising purposes, unless the request is justified by a substantial change of circumstances;*
 - (b) *the data subject who does not give her or his consent is to be offered an equivalent alternative for using the online service without receiving political advertising.*

Article 19

Additional transparency requirements related to targeting and ad-delivery techniques in the context of online political advertising

1. When using targeting or **ad delivery** techniques in the context of **online** political advertising ■ involving the processing of personal data, controllers shall, in addition to the requirements laid down in **this Regulation and Regulations (EU) 2016/679 and ■ (EU) 2018/1725**, ■ comply with the following requirements:
 - (a) adopt, **implement and make publicly available** an internal policy describing clearly and in plain language **how** such techniques **are used**, and retain such policy for a period of **seven years from the last use of these techniques**;

- (b) keep records on the use of targeting or *ad-delivery techniques*, the relevant mechanisms and parameters used;
- (c) provide, together with the *indication that it is a* political advertisement, additional information necessary to allow the individual concerned to understand the logic involved and the main parameters of the *techniques* used, *including whether an artificial intelligence system has been used to target or deliver the political advertisement and any* additional analytical techniques. *The* information shall *include the following elements:*
 - (i) *the specific groups of recipients targeted, including the parameters used to determine the recipients to whom the advertising is disseminated;*
 - (ii) *the categories of personal data used for the targeting or ad-delivery techniques;*
 - (iii) *the targeting goals, mechanisms and logic including the inclusion and exclusion parameters, and the reasons for choosing those parameters;*
 - (iv) *meaningful information on the use of artificial intelligence systems in the targeting or ad delivery of the political advertising;*
 - (v) *the period of dissemination of the political advertisement and the number of individuals to whom the political advertisement is disseminated;*
 - (vi) *a link to or a clear indication of where the policy referred to in point (a) can be easily retrieved;*
- (d) *prepare an internal annual risk assessment of the use of those techniques on the fundamental rights and freedoms; the results of these risk assessments shall be made publicly available;*
- (e) *provide, together with the advertisement unless it is included in the transparency notice required under Article 12(1), a reference to effective means to support individuals exercise their rights under Regulations (EU) 2016/679 or (EU) 2018/1725, as applicable, in particular, a reference to individuals' rights to amend personal data or withdraw consent as applicable. Such reference shall include a link to an interface allowing for the exercise of such rights.*

2. *Where the controller is different from the advertising publisher, the controller shall ensure that the information referred to in paragraph 1, points (c) and (e) is communicated to the political advertising publisher to enable the political advertising publisher to comply with its obligations under this Regulation. The 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.*

3. *Providers of political advertising services shall, as necessary, transmit to the controllers the information necessary to comply with paragraphs 1 and 2.*

4. Information to be provided in accordance with *paragraphs 1 to 3* 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.

5. The Commission is empowered to adopt delegated acts in accordance with Article 28 to *add points* to paragraph *1 of* this Article in *the* light of technological developments, *market practices*, relevant scientific research, and developments in supervision by competent authorities and relevant guidance issued by competent bodies. ■

Article 20

*Transmission of information concerning targeting or **ad delivery of online political advertising** to other interested entities*

Controllers shall take appropriate measures to transmit, upon request by interested entities in accordance with Article 17(1), *and free of charge*, the information referred to in Article *19*.

Article 21

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.

The designated legal representative shall register with the competent authority referred to in paragraph 4 in the Member State where it resides or is established. For this purpose, service providers shall submit the name, postal address, email address and telephone number of their legal representative to that competent authority. The information submitted shall be accurate and in a machine-readable format and kept up to date.

2. The legal representative shall be responsible for ensuring compliance with the *obligations under this Regulation and may be held liable for non-compliance with the obligations under this Regulation, without prejudice to the service provider's liability and legal actions that could be initiated against it. The legal representative* 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.
3. *Service providers shall provide their legal representative with necessary powers and sufficient resources to guarantee efficient and timely cooperation with the Member States' competent authorities and, where relevant, the Commission, and to ensure the compliance with their decisions.*
4. *Member States shall designate one competent authority responsible to keep publicly available, and machine-readable online registers of all legal representatives registered on their territory under this Regulation and shall ensure that information is easily accessible and that it is complete and regularly updated. Member States shall provide the links to the relevant websites to the Commission.*
5. *The Commission shall set up and maintain a publicly available portal linking to the websites provided by Member States pursuant to paragraph 4.*

Article 22

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 **Articles 18 and 19** 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 **Articles 18 and 19** of this Regulation.

2. ***The European Data Protection Board shall, on its own initiative or at the request of the Commission, prepare guidelines for the purpose of assisting the supervisory authorities referred to in Regulation (EU) 2016/679 in assessing compliance with the requirements of this Regulation.***
3. Member States shall designate competent authorities to ***supervise*** the compliance of providers of intermediary services within the meaning of Regulation (EU) 2022/2065 with the obligations laid down in Articles 7 to 17 and 21 of this Regulation, where applicable. The competent authorities designated under Regulation (EU) 2022/2065 may also be one of the competent authorities designated to ***supervise*** the compliance of online intermediaries with the obligations laid down in Articles 7 to 17 and 21 of this Regulation. The Digital Services Coordinator referred to in Article 49 of Regulation (EU) 2022/2065 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) 2022/2065. ***Articles 49, 58(1) to (4) and Article 60(1) of Regulation (EU) 2022/2065 shall be applicable for matters related to the application of this Regulation as regards providers of intermediary services. Article 51 of Regulation (EU) 2022/2065 shall apply mutatis mutandis as regards the powers of authorities designated under this paragraph.***
4. Each Member State shall designate one or more competent authorities to be responsible for the application and enforcement of the aspects of this Regulation not referred to in paragraphs 1 and 3. ***These competent authorities may be different from those referred to in paragraphs 1 and 3 and may be those referred to in Article 30 of Directive 2010/13/EU.*** Each competent authority designated under this paragraph shall structurally enjoy full independence both from the sector and from any external intervention or political pressure. It shall, ***acting*** in full independence, effectively monitor and take the measures necessary and proportionate to ensure ***supervision, compliance and enforcement of this Regulation.***
5. Competent authorities referred to in paragraph 4, where ***performing*** their ***tasks*** in relation to this Regulation, shall have the power to:

- (a) *request access to data, documents or any necessary information, in particular from the sponsor or the providers of political advertising services concerned.*

Competent authorities shall use that data only for the purpose of monitoring and assessing compliance with this Regulation, in accordance with relevant legislation on the protection of personal data and the protection of confidential information;

- (b) issue warnings addressed to the providers of political advertising services regarding their non-compliance with the obligations under this Regulation;
- (c) *order the cessation of infringements and require sponsors or providers of political advertising services to take the steps necessary to comply with this Regulation;*
- (d) *impose or request the imposition by a judicial authority of fines or financial penalties or other financial measures as appropriate;*
- (e) *where appropriate impose a periodic penalty payment, or request a judicial authority in their Member State to do so;*
- (f) *where appropriate, impose remedies that are proportionate to the infringement and necessary to bring it effectively to an end or request a judicial authority in their Member State to do so;*
- (g) 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;
- (h) *carry out, or request a judicial authority to order or authorise, inspections of any premises that providers of political advertising services use for purposes related to their trade, business, craft or profession, or request other public authorities to do so, in order to examine, seize, take or obtain copies or extracts of information in any form, irrespective of the storage medium.*

6. *Member States shall ensure that national competent authorities have all necessary means to carry out their tasks under this regulation, including sufficient technical, financial and human resources to adequately supervise compliance of sponsors and providers of political advertising services under their competence with this regulation.*

7. Member States shall ensure *that there is effective and structured* cooperation *and coordination at national level* among *all relevant* authorities *referred to in paragraphs 1 to 4, so as* to facilitate the swift and secured exchange of information on issues connected to the exercise of their supervisory and enforcements tasks *and powers* pursuant to this Regulation, including by *notifying detected* infringements *which are relevant for other authorities*, sharing findings and expertise, and liaising on the application and enforcement of relevant rules.
8. *The national contact points designated by Member States pursuant to paragraph 9 shall meet periodically at Union level in the network of national contact points. The network of national contact points shall serve as a platform for regular exchange of information, best practices and structured cooperation between national contact points and the Commission on all aspects of this Regulation. In particular, the Network of national contact points shall facilitate the cooperation at Union level regarding the application and enforcement of this regulation and shall facilitate the preparation, in cooperation with relevant stakeholders, of guidelines to support sponsors and providers of political advertising services comply with the requirements of this regulation. The network of national contact points shall meet at least twice a year and, where necessary, at the duly justified request of the Commission or a Member State. It shall work in close cooperation with the European Cooperation Network on Elections, European Regulators Group for Audiovisual Media and other relevant networks or bodies, to facilitate the swift and secured exchange of information on issues connected to the supervision and enforcement of this Regulation. The Commission shall take part in the meetings of the Network of National Contact Points and provide administrative support.*
9. *Where a Member State designates more than one competent authorities, it shall ensure that the respective tasks of those authorities are clearly defined and that they cooperate closely and effectively when performing their tasks.*

Each Member State shall designate one competent authority as a *national* contact point at Union level for the purposes of *all aspects of* this Regulation.

National contact points shall support and facilitate effective cooperation between national competent authorities and with the national contact points of other Member States. Member States shall make publicly available the contact details of their national contact points. Member States concerned shall where relevant communicate the name of

the other competent authorities and their respective tasks to the Network of National Contact Points.

Article 23

Cross-border cooperation

1. *Compliance with this Regulation by providers of political advertising services and sponsors shall be subject to the competence of the Member State where the provider has its establishment. In case the provider is established in more than one Member State, it shall be deemed to be under the jurisdiction of the Member State in which it has its main establishment.*
2. *Without prejudice to paragraphs 1 and 2 of Article 22 and paragraph 1 of this Article, the competent authority **or** authorities of *all* Member States shall cooperate with and assist each other as necessary. █*
█
3. *A competent authority shall, upon receipt of a justified request from another competent authority, provide the other competent authority with assistance **without undue delay and no later than one month after receiving the request** so that the supervision or enforcement measures referred to in *paragraph 5 of Article 22* can be implemented in an effective, efficient and consistent manner. A competent authority █ shall, **upon receipt of a justified request for information from the competent authority of another Member State, via the contact points referred to in paragraph 9 of Article 22, provide that competent authority with the required information without undue delay and no later than 14 days after receiving the request. The deadline may be extended to one month in cases requiring additional investigation or information from multiple competent authorities.***
4. *Where a national competent authority of a Member State has a reason to suspect that this regulation has been infringed in its territory, it shall notify the competent authority of the main establishment of the service provider and request it, where appropriate, to assess the matter and to take the necessary investigatory and enforcement measures referred to in paragraph 5 of this Article.*
5. *A notification pursuant to paragraph 4 shall be substantiated, duly reasoned and proportionate and at least indicate:*

- (a) the information allowing the identification of the sponsor or political advertising service provider;*
- (b) a description of the relevant facts, the relevant provisions of this Regulation and the reasons why the notifying competent authority suspects an infringement of this regulation, including, as relevant, a description of the circumstances allowing the assessment of the criteria set out in Article 25(4);*
- (c) information where the relevant political advertisement or a copy of it can be retrieved;*
- (d) any other information that the notifying competent authority considers relevant, including, where appropriate, information gathered on its own initiative.*

6. Where the competent authority of the main establishment does not have sufficient information to act upon a notification referred to in paragraph 4, it may request additional information from the competent authority that made the notification which shall provide the requested information without undue delay.

The time period laid down in paragraph 7 of this Article shall be suspended until that additional information is provided.

7. The competent authority of the main establishment shall, without undue delay and no later than one month following receipt of the notification referred to in paragraph 4 or, where applicable, of the information referred to in paragraph 6, communicate to the competent authority that made the notification and to the Network of National Contact Points, its assessment of the suspected infringement and information on the investigatory or enforcement measures taken, or intended to be taken, in order to ensure compliance with this Regulation.

8. Where the investigation of an alleged infringement concerns the provision of political advertising services in one or more Member States in which the provider does not have its main establishment, the competent authority of the main establishment may launch and lead a joint investigation with the participation of the competent authority or authorities concerned:

- (a) *at its own initiative and after obtaining the agreement of the competent authority or authorities requested; or*
- (b) *upon the request of another competent authority or authorities, based on the reasoned suspicion that the provision of political advertising services by a service provider established in the Member State of the main establishment has infringed this Regulation or substantially affected individuals in the territory of the competent authority or authorities making the request.*

9. *For the purposes of paragraph 8 the competent authority requesting the launch of a joint investigation shall provide the other competent authority or authorities with the information referred to in paragraph 5. If a competent authority decides not to participate in a joint investigation, it shall provide to the other competent authority or authorities with a reasoned explanation to that effect.*
10. *In carrying out a joint investigation, competent authorities shall cooperate in good faith, and exercise their investigative powers as necessary for the investigation of the alleged infringement. Competent authorities in a joint investigation shall inform each other of any relevant enforcement action which they initiate or intend to initiate.*

Article 24

Right to lodge a complaint

Without prejudice to other administrative procedures or judicial remedies, competent authorities shall duly address every notification of possible infringements of this Regulation and, at least upon request, inform the person or entity who made the notification of the follow-up given to it. During the last month preceding elections or referendum, any notification received in relation to these elections or referendum shall be addressed without undue delay.

Competent authorities shall transmit complaints that fall within the competence of another competent authority in another Member State without undue delay to that competent authority.

Article 25

Sanctions

1.  Member States shall lay down rules on sanctions *or other measures as needed* applicable to *sponsors or* providers of political advertising services  for infringements of

Articles 5 to 17, 20 and 21 and shall take all measures necessary to ensure that they are timely applied.

The sanctions shall in each individual case be effective, proportionate and dissuasive. In setting out the rules on sanctions, Member States shall take into account the rules governing the freedom of the press and freedom of expression in other media and the rules or codes governing the journalist profession.

2. *The maximum amount of the financial sanction that may be imposed shall be based on the economic capacity of the entity subject to sanctions, which shall be:*
 - (a) *6% of the annual income or budget of the sponsor or of the provider of political advertising services as applicable and whichever is the highest; or*
 - (b) *6% of the annual worldwide turnover of the sponsor or the provider of political advertising services in the preceding financial year.*
3. Member States shall notify the Commission of those rules within **twenty one** months of the entry into force of this Regulation and shall notify it, without delay, of any subsequent amendments affecting them.
4. When deciding on the type of **sanction** and its level, due regard shall be given in each individual case, among others, to the following:
 - (a) the nature, gravity, **recurrence** 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; ■
 - (e) the degree of cooperation with the competent authority; **and**
 - (f) *the size and economic capacity of the entity subject to sanctions, where applicable.*
5. Infringements of **Articles 5, 7, 11, 12, 13, 15, 16 and 18** shall be considered to be particularly serious where they concern political advertising published or disseminated

during *the last month preceding an election or referendum* and directed to citizens in the Member State in which the relevant election *or referendum* is being organised. *Member States may also impose periodic penalty payments to compel sponsors, providers of political advertising services and publishers to put to an end to a serious and repeated violation of this Regulation.*

6. For infringements of the obligations laid down in *Articles 18 and 19*, the supervisory authorities referred to in Article 51 of the Regulation (EU) 2016/679 may within their scope of competence impose ■ 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.
7. For infringements of the obligations laid down in *Articles 18 and 19*, the supervisory authority referred to in Article 52 of Regulation (EU) 2018/1725 may impose within its scope of competence ■ fines in line with Article 66 of Regulation (EU) 2018/1725 up to the amount referred to in Article 66 (3) of that Regulation.
8. *Member States shall report annually to the Commission on the sanctions imposed to enforce the provisions of this Regulation, in particular on the type of sanctions applied and the amount of the fines and financial penalties. The Commission shall take into account this information when drawing up the report required under Article 27 of this Regulation.*

Article 26
Publication of dates of elections and referendums

1. Member States shall publish the dates of their *elections and referendums and, where applicable, of their* electoral periods, in an easily accessible place, *and* with an appropriate reference to this Regulation.
2. *The Commission shall provide a portal through which Member States shall provide, immediately after announcement, the dates of their elections, referendums and where applicable their national electoral periods. The portal shall be publicly available.*

CHAPTER V
FINAL PROVISIONS

Article 27
Evaluation and review

Within two years after each election to the European Parliament **■** , the Commission shall submit a report on the evaluation and review of this Regulation *to the European Parliament and to the Council*. This report shall assess the need for amendment to this Regulation, *in particular with regard to:*

- (a) *the scope of the Regulation and definition of political advertising in point 2 of Article 3;*
- (b) *the effectiveness of this Regulation as regards specific means of political advertising;*
- (c) *the effectiveness of the transparency measures, especially the declaration and mechanisms to identify the political nature of an advertisement in Articles 7 and 8;*
- (d) *the effectiveness of the rules restricting the processing of personal data for the purposes of the targeting and ad delivery techniques;*
- (e) *the effectiveness of the supervision and enforcement structure, as well as the type and amount of sanctions imposed by the Member States;*
- (f) *the impact of this Regulation on micro, small and medium-sized media actors*
- (g) *the effectiveness of this Regulation in view of technological, scientific and other developments;*
- (h) *the interplay of this Regulation with the legal acts referred to in Article 2(3);*
- (i) *the progress made in establishing an European repository for online political advertisements and its subsequent functioning.*

The report shall be made public.

Article 28
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 **12(6)** and Article **19(5)** shall be conferred on the Commission for a period of **4 years from the ... [date of entry into force of this Regulation]**. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. The delegation of power referred to in Article **12(6)** and Article **19(5)** 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. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
5. As soon as it adopts a delegated act, the Commission shall notify that act simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article **12(6)** or Article **19(5)** 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 29 **Committee procedure**

1. *The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Regulation (EU) No **182/2011**.*

2. *Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.*

Article 30
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 ... *[18 months from the date of entry into force]. However, within the scope of application of this Regulation, Article 3 and Article 5 (1) shall apply as from the date of entry into force.*
3. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...

For the European Parliament
The President

For the Council
The President
