

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

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

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

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

## **We want to hear from you!**

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

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

## **How to take part**

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

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

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

## **About you**

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\* Language of my contribution

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

\* I am giving my contribution as

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

- Trade union
- Other

\* First name

Greg

\* Surname

Mroczkowski

\* Email (this won't be published)

mroczkowski@iabeurope.eu

\* Organisation name

*255 character(s) maximum*

IAB Europe

\* Organisation size

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

Transparency register number

*255 character(s) maximum*

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

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\* Country of origin

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

- |                                     |  |                                     |  |
|-------------------------------------|--|-------------------------------------|--|
| <input type="radio"/> Afghanistan   | <input type="radio"/> Djibouti           | <input type="radio"/> Libya         | <input type="radio"/> Saint Martin                     |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica           | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon        |
| <input type="radio"/> Albania       | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania     | <input type="radio"/> Saint Vincent and the Grenadines |

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

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

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

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

### \* Contribution publication privacy settings

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

**Anonymous**

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

**Public**

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

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

## Questions on political advertising and related services

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

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

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

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

- a. Leaflets
- b. Posters
- c. Radio
- d. TV
- e. Online
- f. Other



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

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

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

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

Please explain your response (optional)

IAB Europe would like to urge caution as far as the matter of the so-called issue-based advertising is concerned. While it is typically construed as a subset of political advertising, yet to-date it has not been delineated with a coherent, broadly accepted and workable definition. The Commission's Impact Assessment does not offer it, similarly to this consultation.

The challenge with defining the issue-based advertising whereby certain 'issues' are discussed in the context of elections are a reminder of the fact that many of our public discussions can be viewed as politicised.

Any future definition of 'issue-based advertising' must clearly exclude commercial advertising and business-oriented activity of brands that may engage with their prospective clientele, and even take views on certain societal issues. If defined too broadly, it could also apply to certain types of commercial advertising, for instance, purpose-driven marketing that focuses on social issues.

Should policy approaches to issue-based advertising be eventually devised, we would advise engagement with expert stakeholders and the broad industry. This would inform developing optimal approaches, in full respect of the aforementioned concerns as well as fundamental rights. An example of a good practice is IAB Canada's partnership with the Canadian Press to create a database that helps to track election-related issues in real time. The initiative is rooted in the amended Elections Canada Act which requires advertisers to register any campaign-related issue message in addition to the standard political advertising one is used to seeing.

### Q3.2 Should definitions of political advertising be:

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

### Please explain your response (optional)

On a general note, a legislator-supported definition does help in creating legal certainty. IAB Europe remains of a view that there should be an agreement by political actors across the EU Member States, on what constitutes a political advertisement and how any rules pertaining to political advertising can be applied without prejudice to binding national-level electoral laws.

### Q4. Have you ever encountered political advertising online?

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

### Questions on relevant rules for political advertising:

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In most Member States, there are rules that limit party spending for election campaigns, which can differ among Member States in their scope and substance, and their applicability online. Within a Member State,

they can differ for national, regional, municipal and European elections, and referenda. Rules include upper limits for spending on specific campaigns or political actors, as well as on who and how funding can be obtained. Other rules include who may place political adverts and when.

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

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

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

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

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

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

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

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

Please explain your response (optional)

Consistent with commentary made in our answer to Q3.1, we would like to submit that the so-called issue-based advertising remain undefined. We would like to reiterate our concerns expressed thereupon. Given the uncertainty around the very concept of such advertising, we would advise against prematurely defining policies around it.

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

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

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

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

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

Q9.1 Do you think the following sources of funding should be permitted to pay for political ads in your country?

	Yes	Maybe	No	Don't know
1. Anonymous donations through online payment services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Crowdfunding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. EU citizens residing in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Individuals or companies from third countries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Third-country state actors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Bank loans	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q9.2. Should there be limits set at EU level to how much money can be spent in total on political advertising in a particular campaign?

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

Q9.3. Should there be limits set at EU level to how much money can be received by a particular party, candidate or campaign from any single source?

- a. Yes

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

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

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

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

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

Please explain your response (optional)

Pursuant to Art. 6 of the eCommerce Directive, currently, all commercial communications – including advertising – must be clearly identifiable as such, along with the natural or legal person on whose behalf the commercial communication is made and various other details such as the conditions for any promotional offers like discounts.

We are of a view that standard ad disclosure and transparency rules should be rigorously observed in case of all advertising, inclusive of political advertising. That enables citizens to immediately recognise when a paid-for communication is an ad.

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

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

Please explain your response (optional)

Consistent with commentary made in our answer to Q10, we understand that advertiser must be disclosed.

We are of a view that these rules should be applicable in case of all advertising, inclusive of political advertising.

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

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

Please explain your response (optional)

IAB Europe believes that all advertising practices be legal, decent, honest and truthful, which informs our investment in the robust self-regulatory framework for advertising content which features independently enforced codes of conduct and provides monitoring, training and compliance advice to the industry.

Intuitively, the principles of legality, decency, honesty and truthfulness should be applicable in case of all advertising, inclusive of political advertising.

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

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

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

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

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

- a. Yes

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

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

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

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

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

### Questions on European elections:

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

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

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

Please explain your response (optional)

Generally, political advertising appears to be well, but diversely regulated by national legislation in a number of EU Members States by electoral laws. It would seem that some of the existing rules, for instance, on disclosures or election periods, applied across the board, irrespective of the media where an advertisement appears.

The said divergence does occur, in particular, since online political advertising is often not explicitly taken into account by national laws, there is no harmony on the concept of cross-border political advertising in the EU.

Therefore, as a rule of thumb, we can advise that legal clarity around applicable rules would help to prevent regulatory fragmentation across the EU.

Q18.1 Which rules do you believe should be common in European Parliamentary elections (tick as many responses as you agree with).

- the period during which political ads are permitted
- the types of actor entitled to place political ads
- the types of actor entitled to fund political ads
- the amounts of money permitted to be spent on political ads in a period
- equal or proportionate access to placing political ads on social media platforms for the various political actors contesting an election
- the amounts of public money granted to support smaller parties' campaigns
- Other

Q19. Please indicate your preference

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

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

Campaigns in European elections are organised nationally, but some parties register to promote candidates in more than one Member State, which means that the administrative formalities must be completed and complied with in each state in order to 'register' a campaign. This can be challenging. Similarly, when



citizens wish to campaign for support for a European Citizens Initiative (a way for citizens to help shape the EU by calling on the European Commission to propose new laws), they must do so in multiple Member States.

Q19.1 Should there be a facilitated procedure for registering a pan-European political advertising campaign for use during European Parliamentary elections?

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

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

Q20. Please indicate which you think should apply:

European political parties should

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

### Questions on transparency requirements:

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

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

- a. Yes
- b. Maybe
- c. No

- d. Don't know

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

Proposed formulation of the question does leave a lot of question marks. For instance, it is unclear what kind of 'basic information' one should have in mind, and if the information would fall under the definition of 'personal data' under the GDPR.

More generally, we would like to evoke our response to Q10, whereby we advise on the standard ad disclosure and transparency requirements embedded in the EU legal framework. The aforementioned information about advertising should be visible on the level of a digital property where an advertisement is displayed.

Against this background, we would advise that players should not be required to collect or disclose more information than what they have in their possession. Moreover, it should be elucidated which players would be subject to any obligations and why. Finally, and in line with the existing standard ad disclosure and transparency requirements, any record keeping requirement should entail the essential information disclosures that are also presented to the user.

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

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

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

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

### Please explain your response (optional)

We would like to echo our response to Q21 and further submit that the digital advertising ecosystem is complex and diverse, and as such relies on the interplay of a variety of market participants, from the buy and sell side, from technology and creativity. The buy-side is commonly understood as comprising advertisers buying media, whereas the sell-side comprises publishers offering advertising inventory. Access to data and processing abilities of various players will vary depending on their position in the ecosystem, and their respective roles. It would be disproportionate not to take it into account.

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

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

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

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

Q24. Should all political ads be made similarly accessible:

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

Q24.1 please specify reasons

Without prejudice to the proposed DSA provisions, as the industry body that promotes industry collaboration to deliver frameworks, standards and industry programmes, we would like to respectfully point out that the added value of open standards and joined up approaches manifests itself by the fact that these enable participation of all market players. This should also be reflected upon in case of political ad libraries.

**Questions on targeting and amplification:**

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Advertising can be targeted to reach specific people, and it can be amplified to boost its actual or apparent popularity. Targeting can be simple: a political party can circulate campaign material to its registered members. However, increasingly sophisticated tools have come to be used in this process – such as microtargeting, where sophisticated tools and personal and other data are used to direct ads to particular groups of users, allowing the messaging to be personalised and even manipulative. Other techniques exploit features of the online architecture to increase the impact of ads, for instance through deliberately polarising messaging to exploit user-interaction based ranking, or even through manipulated interactions to increase the circulation of messages.

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

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

Please explain your response (optional)

As a general point, we would like to challenge the characterisation of targeting which suggests that the mere fact of addressing a message to a particular group of people could by default be manipulative. Portraying it as a malpractice is arbitrary and unjustified.

Digital advertising industry has indeed pioneered addressability, but the business practice must only be carried out when compliance with the law can be ensured. In the EU, a special attention should be given to the EU privacy and data protection framework, given the fact that in most cases delivery of digital advertising will involve processing of the 'personal data' as defined by the General Data Protection Regulation (GDPR). We would therefore like to reiterate that there already exist relevant legal rules that are applicable to the business practices in question.

Furthermore, on the matter of opt-in and opt-out, the ePrivacy Directive instrument requires consent for the storing of information or accessing of information stored on end-user devices. All data-driven advertising, which is all digital advertising these days, will be subject to these rules. This is without prejudice to a GDPR legal ground that must also be obtained for any relevant processing.

Against this legal background, it is important to note that the GDPR has justifiably (and at no small compliance cost to businesses) contributed to creating unprecedented levels of transparency and user control in the digital advertising sector. Where there are failures to deliver on transparency and user empowerment across the EU, these are not due to insufficiently prohibitive regulation. Rather, they are the result of divergent interpretations and inconsistent enforcement by regulators of the existing rules.

It is unclear if the formulation of the aforementioned question takes account of the existing EU privacy and data protection framework.

Demonstrably illegal behaviour under the existing law – for instance, when data is used for advertising purposes despite having been collected for non-advertising purposes, or processing of special categories of personal data without a specific legal basis required – must be condemned and this is where one benefits from enforcement tools envisaged by the lawmaker in the GDPR.

Q25.2 Complete all which apply

Should EU rules control the following other amplification methods?

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

3. paid for influencers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

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

Please specify which criteria could be allowed

The formulation of the question appears to cast doubt on lawfulness of targeting as a business practice used in the field of marketing, which would be unjustified and inaccurate given the existing EU legal requirements.

Addressability has been pioneered by the digital advertising industry for the benefit of the user and economic benefits. For instance, profiling based on non-sensitive categories of user data serves the interests of consumers by enabling the sustainability of such content. It also ensures the provision of higher quality advertising that is likely to be relevant for them and reduces the chance of their being exposed to ads too frequently. Whereas, in the political realm, it can be assumed that targeting can benefit public discourse. It can give candidates and movements with less resources the ability to engage with the most relevant audience at a lesser cost, and means they can have much more impact on the public debate than their size or resource would otherwise permit them to.

For avoidance of doubt, the GDPR unambiguously established the principles of data protection in the digital advertising context. The scope of the law is comprehensive and guarantees the protection of personal data both in the context of electronic communication services and information society services. Pseudonymous identifiers (Rec. 26), online identifiers, such as cookies, and device identifiers, are examples of personal data under the GDPR (Art. 4(1), Rec. 30). In addition, the GDPR contains rules on profiling and provides enhanced rights to users where profiling takes place (Art. 4(4), Art. 22, Rec. 72), including where user behaviour is tracked online (Rec. 24). The GDPR also explicitly calls out online advertising (Rec. 58).

Given the contents of the questions Q26, one should also recall relevant rules concerning processing of special categories of personal data, such as personal data revealing political opinions.

IAB Europe fully supports compliance with all existing legal requirements of relevance, and we do believe that ensuring that obligations are met can allow for lawful, but also safe and responsible advertising.

Closing questions:

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

*3000 character(s) maximum*

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

- Yes
- No

## Contact

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