

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

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

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

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

We want to hear from you!

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

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

How to take part

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

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

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

About you

* Language of my contribution

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

* I am giving my contribution as

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

- Trade union
- Other

* First name

Eliska

* Surname

Pirkova

* Email (this won't be published)

eliska@accessnow.org

* Organisation name

255 character(s) maximum

Access Now 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

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 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)

Q3.2 Should definitions of political advertising be:

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

Q4. Have you ever encountered political advertising online?

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

Questions on relevant rules for political advertising:

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

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

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

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

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

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

- a. Yes
- b. Maybe

- c. No
- d. Don't know

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

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

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

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

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:

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

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:

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)

In our view, following information should be retained, as suggested by recommendations of Mozilla and the group of independent researchers [<https://blog.mozilla.org/blog/2019/03/27/facebook-and-google-this-is-what-an-effective-ad-archive-api-looks-like/>]:

- The name and contact details of the person, company, organisation or entity (whether that entity has legal personality or otherwise) who paid for the online political advertising;

=> the identity of the ad buyer (the 'sponsor') and the amount spent by the ad sponsor on the ad;

=> Information as to whether the buyer is acting in representation of a third party (either a person, company, or an organisation);

- An electronic copy of the ad displayed on the platform;

- If targeted ads were to be authorised and, in compliance with data protection laws:

=> The targeting criteria used by advertisers in relation to their ad campaign, as well as information about the audience that the ad actually reached;

=> The number of impressions that an ad received within geographic and demographic criteria, broken down by paid vs. organic reach;

=> The amount of engagements that an ad received, including user actions beyond viewing an ad;

=> Exact amount spent on the display and placement of political advertisement;

=> Information about micro-targeting, including:

=> Whether the ad was A/B tested and the different versions of the ad;

=> if the ad used a lookalike audience; the features (, age, gender, geography, interest, etc.) used to create that audience;

=> if the ad was directed at platform-defined user segments or interests, and the segments or interests used;

=> or if the ad was targeted based on a user list the advertiser already possessed.

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)

In our view, service providers and other actors involved in political ads should be required to hold information on the ads they help develop and distribute. We suggest to the European Commission to use the categorisation of actors developed by the Stiftung Neue Verantwortung (authored by Dr. Julian Jaursch) [https://www.stiftung-nv.de/sites/default/files/snv_definingpoliticalads.pdf] that divides the relevant actors into two following categories:

=> Core political advertisers that are actors which exist for the sole purpose of gaining and exercising political representation. This includes political parties, elected officials, candidates, parliamentary factions or political foundations;

=> Peripheral political advertisers, i.e. actors which (1) either receive any form of compensation from core political advertisers to spread their messages or (2) speak on behalf of core political advertisers and their interests.

Both of these actors should be subject to the obligation to retain and provide relevant information.

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

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

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

Please elaborate your response (optional)

Micro-targeting technology is the source of many public policy concerns for both political and commercial advertising. These concerns include discrimination of vulnerable groups, deception of individuals via dark

patterns and privacy intrusive methods deployed by AdTech industry. These threats are relatively undocumented and unregulated in many jurisdictions. Regrettably, ad archives currently fail to address these practices in any meaningful manner.

Regardless of whether offline or online, the information should be comprehensively published about all advertisements, regardless of whether they have been:

- flagged as political;
- revoking any exemptions for media organisations;
- requiring basic verification of ad buyers' identities;
- documenting how ad archive data is verified;
- disclosing all targeting methods selected by the ad buyer .

The transparency around these ads is not only necessary to ensure the respect of democratic rules around election campaigns and public engagement but to also verify compliance with data protection and privacy rules.

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

In order to achieve effective accountability of private actors, it is absolutely crucial that online databases are publicly accessible. This access needs to be enabled to the general public as much as to academia, civil society organisations, regulators, and other relevant stakeholders as they engage in regular audits and compliance checks.

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

	Yes	Maybe	No	Don't know
1. retain the ad itself	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. who placed the ad	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. the amount paid	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. on the use of targeting and amplification techniques	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. on when and where the ad appeared (where available)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Questions on targeting and amplification:

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

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

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

Please explain your response (optional)

Any open content recommender system used for ad presentation has to comply with legal principles and norms for data protection, the principle of equal treatment and the prohibition of discrimination, as established by the existing legal regimes of Member States and the *acquis communautaire* of the European Union. The European Union should adopt measures that will secure the strict compliance of online platforms with these legal standards. Legal compliance will guarantee the mitigation of fundamental rights abuses stemming from users' "engagement on steroids," economic revenue as an underlying reasoning behind open recommendation systems, and the dominant market position of these actors.

The future EU legislative framework regulating political ads with the emphasis on meaningful transparency should establish measures that will enable national oversight bodies to enforce a prohibition on the deployment of open content recommendation systems at least until compliance is guaranteed and the fundamental rights of online users are sufficiently protected. The prohibition should be lifted by public regulators only if online platforms are able to sufficiently demonstrate their compliance with legal regimes. If they continue to use open content recommender systems despite the prohibition, they should be subjected to proportional fines determined by the European Union. This model of prohibition is based on Article 58(2) (f) of the GDPR that enables Data Protection Authorities to impose a temporary or definitive ban on the processing of data in the case of systemic violations.

The European Union should establish a minimum requirement for online platforms to keep logs of recommended content and criteria used for such recommendations so that they can be reviewed by users and by competent public regulators. The legislation should acknowledge that the nature of the record and structure of the record should be adjusted to the needs of a particular audience. Users' access to a simple information summary should be enabled by platforms as default setting. Users should also be able to rectify or request the deletion of profiles. Online platforms should be legally obliged to provide information to users on where content comes from and reasoning about why it has been recommended.

Q25.1 Complete all which apply

Should targeting and amplification methods

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

Please specify (optional)

The European Union should establish minimum safeguards for users default settings to require an “opt-in” to personalised content recommender systems rather than the current default “opt-out.” Platforms should design “consent” and privacy policies in a way that facilitates informed choice for users and is compliant with data protection laws. Users have to be able to exercise minimal control over recommender systems that can be secured by an “opt-in” mechanism.

Making content recommender systems available via “opt-in” by default would be a desirable mechanism because even those users who are less aware of how these systems operate will not be treated less favourably. Those users who decide to receive content recommendations should be able to:

- Exclude certain content from their recommendations;
- Exclude certain sources of content from their recommendations;
- Deleted their profiles;
- Access the service even when refusing to use content recommendations, to ensure the opt-in is meaningful. Users should be able to do so in an easy and free manner, and at any time they wish.

Access Now is not in favor of singling out political advertisement by the regulator but to rather focus on more effective and strict regulation of targeted content in general. Access Now supports banning practices that adversely impact people’s rights to privacy and freedom of expression. This includes targeted behavioural tracking and individual cross-party tracking.

Furthermore, we would like to emphasize that the EU already has rules that apply to behavioural targeting and other forms of tracking online (that can be found under the General Data Protection Regulation and the ePrivacy Directive). All actors of the AdTech industry must comply with these privacy and data protection rules when using personal information of online users and placing trackers on their device(s). However, far too often actors do not properly comply with these rules. We call on regulators to increase the enforcement of these rules.

Q25.2 Complete all which apply

Should EU rules control the following other amplification methods?

	Yes	Maybe	No	Don't know

1. paid for likes	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. bot software	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. paid for influencers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Other	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify (optional)

The sponsored content that is being created by influencers and other content creators to promote some messages or ideas do necessarily not fall into the scope of political ads. However these actors create sponsored content based on paid partnership agreements. Currently there is no EU-wide regulatory framework that would oblige such sponsored content to be included in political ads archives, despite the fact that this type of content is being shared on social media platforms on a regular basis, often as a part of political campaigns.

Individuals should be informed that the sponsor content they are viewing is a result of paid sponsored partnership. They should be able to fully understand who is the sponsor behind such agreements. Labels of sponsored content can be particularly useful. However, transparency can only be a meaningful way to empower users and hold political advertisers and platforms to account if regulatory design of such labels reflects on evidence-based best practices on what information and how such information is being conveyed. For further details, please consult the recent study conducted by researchers at the University of Amsterdam titled 'Effectiveness of Online Political and Disclosure Labels: Empirical Findings' [<https://riipl.rutgers.edu/2021/03/09/research-collaboration-on-online-political-ad-transparency/>]

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

Closing questions:

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

3000 character(s) maximum

We thank you for the opportunity to provide answers to the Public consultation on a proposal for an initiative on greater transparency in sponsored political content, and other supporting measures. For more information, including recommendations content recommender systems and inline targeting, we refer to our full position on the DSA [<https://www.accessnow.org/cms/assets/uploads/2020/10/Access-Nows-Position-on->

the-Digital-Services-Act-Package.pdf].

We remain available for any questions you may have and we look forward to engaging with the European Commission in further strengthening the proposal with the view of delivering a robust framework for the protection of users' fundamental rights and freedoms.

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

- Yes
- No

Contact

[Contact Form](#)