

# Joint Civil Society Statement: Recommendations on the Implementation of the Regulation on Transparency and Targeting of Political Advertising

February 27, 2024

We, the undersigned civil society organisations, issue this statement in light of the recent European Parliament's plenary vote on the final text of the **Regulation on the Targeting and Transparency of Political Advertising (TTPA)**. Whilst we welcome the adoption of the Regulation and the commitment of EU co-legislators to put in place measures to better protect our electoral processes, we believe there is still a need for stronger safeguards, particularly related to the protection of political expression and participation in elections. A human rights centred implementation is needed to clarify ambiguous provisions, fill in the gaps and properly enforce the new rules. For these reasons, our organisations outline the following recommendations as a contribution to inform the upcoming implementation, specifically;

- 1. Clarify further the interpretation of certain elements of the definition of political advertising and how the prohibition of third country sponsored content 3 months before elections relates to civil society activities**
- 2. Provide interpretation in line with EDPB's assessment on the processing of personal data for targeting purposes**
- 3. Cooperate with civil society on the implementing act on ads repositories by receiving input on possible design and build of the repository**
- 4. Ensure that providers of VLOPs properly assess risks related to political ads on their platforms and make sure that mitigation measures are put in place**
- 5. Provide more clarity on the respective roles and duties of the different authorities tasked with supervisory responsibility and enhance their cooperation**

## Clarifications on certain aspects of the definitions and third country sponsoring

We appreciate the effort to establish a unified definition of political advertising which ensures that non-commercial political speech remains out of scope. We also understand the **inclusion of "in-house activities"** as a means to capture the potential activities of larger political sponsors or service providers who may have the means to engage in all aspects of the political advertising cycle. However, it would be pertinent to ensure that secondary legislation provides additional clarification on the definition and examples of what constitutes 'in-house activities'.

Particularly taking into consideration the activities of civil society organisations, many of whom receive essential funding from entities established in **third country entities, which are prohibited from sponsoring political advertising 3 months prior to an election**. It would therefore be worthwhile to **provide some clarifications** on which activities would actually be in scope to make sure the Regulation does not impose unintended consequences on civil society organisations right before elections, in a time when civil society's contribution is particularly important. This could be done for example by means of the **Guidelines on identification of political advertising** mentioned in Recital 108 as well as the **Guidelines on indication of possibly unlawful political advertisement** (Article 15 and Article 22).

## Processing of personal data for targeting purposes

We welcome the prohibitions on the use of special category data in the context of political advertising, however the failure to prohibit the use of **inferred and observed data, means that not all gaps to prevent the abuse of personal data for targeting and amplification in online political advertising have** note been

addressed and the ability to conduct manipulative practices harmful to privacy and democratic participation remain available.

For this reason we would recommend **providing guidelines to relevant authorities** to align their interpretation with the one provided in the European Data Protection Board [guidelines](#). These indications could be included in the **EDPB guidelines foreseen in Article 22**, 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.

### **Ads repositories: timeline of establishment, design and access**

The European-wide repository for political advertising will be essential for maintaining transparency not only for individual ads but also for broader campaigns and this new level of transparency is to be celebrated. In light of the lapse of 24 months between establishment of the repository and the law coming into force, and this unprecedented year of elections, it is vital, particularly for Very Large Online Platforms (VLOPs) to meet their obligations for ad repositories under the Digital Services Act (DSA). Once the process to design the repositories has commenced it will be vital for civil society and public-interest technologists to be closely involved in the drafting of the **implementing acts establishing the repository (Article 13)** and be able to put forward proposals for design and build of the product.

### **Role of very large online platforms and link with Digital Services Act**

The final text places the **obligation to identify advertising as political on sponsors**. While the identification of political ads should be the responsibility of the sponsors, properly enforced and monitored due diligence obligations of platforms should make sure bad actors do not undermine the system, for example by circumventing the transparency obligations by not indicating that the ads they are running are political. In this context therefore, it will be crucial to provide **clearer guidance on how Very Large Online Platforms and online platforms should respectively “examine” and “make best efforts to examine” the self-declaration by sponsors**. Strong enforcement will be necessary to ensure that VLOPs and VLOSEs properly assess risks related to political ads on their platforms, such as under- or over-identifying undeclared political ads or manipulation through micro- and nanotargeting, and that mitigation measures are put in place to cross-check the accuracy and authenticity of the declarations of the sponsors.

### **Authorities involved in the enforcement**

Enforcing the Regulation seems complex due to its enforcement being distributed among 5 different roles and potentially 5 distinct authorities, namely Data Protection Authorities, Digital Services Coordinators, Media Regulators, Electoral Commissions and any additional authorities designated by Member States. This may slow down implementation and introduce challenges in coordinating efforts among the authorities. Therefore, as secondary legislation and guidance is developed, priority should be placed on providing more clarity on the respective roles and duties of the different authorities tasked with supervisory responsibility and establishing the mechanisms to enhance the collaboration among all relevant authorities to prevent inefficient enforcement.

### **Conclusions**

We hope that these recommendations are well received and we reiterate our contribution to the success of this Regulation so that all can benefit from improved transparency, fairness of elections and open democratic discourse.

**Signed,**

European Partnership for Democracy  
Civil Liberties Union for Europe (Liberties)  
Centre for Democracy & Technology, Europe Office