

European democracy: new transparency rules on political advertising and targeting

#EUDemocracy

25 November 2021

Political advertising is increasingly disseminated in Europe, including across borders. Political advertising is currently regulated heterogeneously in the Member States with a specific focus on traditional media (television, newspaper), and gaps and loopholes exist. High standards of transparency of political ads supports accountability of those behind such ads and the right for citizens to be informed in an objective, transparent and pluralistic way.

It is not always easy for citizens to recognise political ads as such especially online, and on this basis exercise their democratic rights and for competent authorities and other actors to exercise their oversight functions.

Sometimes, personal data are also used to target and amplify political advertising, which can create specific additional problems for the democratic process.

1 TRANSPARENCY AND TARGETING

TRANSPARENCY

Political ads will be subject to strict transparency rules. They will need to include:

- a clear indication that it is a political ad
- the identity of who sponsored the ad
- a transparency notice

A **transparency notice** should be included in the political ad or be easily retrievable from the ad.

This notice will include:

TRANSPARENCY NOTICE

- who is the sponsor of the ad
- how long it will be in circulation
- amounts spent and their sources
- which election or referendum it is linked to

EXAMPLE OF POLITICAL AD LABELLING

"This is a political ad,
which is sponsored by ABC.

You can learn more about
it in the TRANSPARENCY NOTICE."



POLITICAL TARGETING

Political targeting and amplification techniques using sensitive personal data will be banned – unless a person has explicitly consented to it. Targeting could be allowed in the context of legitimate activities of foundations, associations or not-for-profit bodies with a political, philosophical, religious or trade union aim, when it targets their own members.

Those making use of political targeting and amplification will also need:

- to include, along with the ad, information about the specific groups of people targeted, including the parameters used to target them; the period during which the ad is disseminated and the size of the targeted audience, the source of the personal data and a link to how people can exercise their data protection rights in this context.
- to implement and publish an internal policy on the use of such techniques
- to keep records of the techniques used and sources of personal information

The principle is that anyone who cannot provide transparency i.e. explain how targeting is done, it cannot target at all.



What is sensitive personal data?

This term refers to data that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, as well as genetic, biometric and health data or information concerning a person's sex life or sexual orientation. Processing this type of information is more strictly regulated under the EU's data protection rules.

2 WHO IS COVERED BY THE NEW RULES?

The entire production chain of advertisement – whether a PR company or an online platform – will have to abide by the new rules. The targeting rules will also cover actors outside of the production chain, including politicians, political parties and campaign organisations – anyone who targets political ads.

3 HOW WILL THE NEW RULES BE ENFORCED?

The use of personal data in political targeting and amplification will be monitored by the national Data Protection Authorities (DPAs), which will also have the power to impose fines in line with EU data protection rules. For the other elements of the proposal, relating to the transparency rules, designated national authorities – which may be the same authorities responsible for the enforcement of the Digital Services Act – will monitor the compliance with the new rules.