



PRAGUE, FEBRUARY 16, 2023

Dear Commissioner,
Dear Member of the European Parliament,
Dear Swedish Presidency,

The European businesses associations and start-ups share the goal of strengthening electoral integrity, protecting European democracy against voter manipulation and providing greater transparency around political campaigns. While we support the efforts to create an appropriate legislative framework to meet this goal, we are concerned that the ongoing negotiations on the Political Ads Regulation are quickly moving in a direction that could have far-reaching consequences and seems to diverge from the carefully negotiated provisions adopted in the DSA.

In particular, we note that amendments adopted in the Council alongside those currently discussed in the European Parliament would create unintended risks not only for the ad's ecosystem but for the future of political discourse in Europe more broadly.

In particular, we urge the legislators to:

Limit the definition of political advertising to paid content

In its General Approach, the Council extends the definition of political advertising to unpaid content. This would effectively include any expressions of views on societal issues online in the scope of the legislation, limiting the ability of stakeholders and citizens to receive such information and hence engage in meaningful political and societal discourse in Europe. We call on legislators to restrict the scope of Article 12 of the regulation to “political advertising services”, in line with the recently implemented DSA.

Set proportionate due diligence obligations

Information provided by advertisers and sponsors is critical to the efforts to increase transparency of political advertising in Europe. In doing so, platforms cannot be made liable for checking the accuracy and completeness of information that they do not have direct access to. In line with the ban on general monitoring requirements adopted in the DSA, platforms should not have to proactively check information related to all ads. We must be able to rely on self-declarations made in good faith by advertisers and sponsors. Due diligence requirements should reflect that.

Limit the potential for abusive user flags

The regulation would impose strict, 48-hour turnaround times on user notices during election periods. With any user being able to flag any political ad, this opens the notification system to widespread abuse and even election interference, as anyone can “flag” an opponent’s messages to force their take-down. Indeed, such a short turnaround time is not conducive to proper reviews of user flags and is likely to lead to over-removals in an effort to comply with the Regulation. In line with the DSA, we urge legislators to remove the strict turnaround time from the Regulation, to allow only Competent Authorities and DSA Trusted Flaggers to flag content, and to introduce a requirement for notices to be substantiated.

Align targeting restrictions with the DSA and GDPR

We understand the sensitive nature of political ads and the efforts made to achieve a compromise in negotiations. It is important to note that there is already a robust framework governing ad targeting in Europe, notably set out by the DSA in addition to existing requirements under GDPR. For example, under the DSA online platforms already cannot present ads based on profiling using personal data for minors or to use sensitive personal data. The DSA also introduced additional requirements for the transparency of platforms’ recommended systems and for user controls, and even more stringent requirements for very large online platforms. Where legislators believe that additional restrictions are necessary for political ads, we urge them to build on the approach adopted in these regulations and focus only on paid-for political ads.



