

ACT INITIAL FEEDBACK ON THE PROPOSAL FOR A REGULATION ON THE TRANSPARENCY AND TARGETING OF POLITICAL ADVERTISING

CONTEXT

This paper aims to provide initial feedback on the European Commission (EC)'s proposal for a regulation on the transparency and targeting of political advertising consultation and outlines the Association of Commercial Television and Video on Demand Services in Europe's views on political advertising.

Reference documents:

- ACT [response](#) to the EC's Inception Impact Assessment on political advertising
- ACT [perspectives](#) on the Digital Services Act (see pages 18 and 19)
- [Press Release](#): Broadcasters welcome political advertising initiative – Encourage co-legislators to address political advertising online and deliver on transparency

ACT VIEW

Introduction. Commercial broadcasters play a major part in informing the public: we offer diverse and varied opinions and content across the EU. As such, we are subject to heavy regulatory requirements at national and EU level, especially when it comes to political advertising. These requirements often take the form of restrictions or bans to political advertising and strict disclosure obligations related to electoral campaigns whilst online political advertising is barely regulated. We therefore welcome the intent of the EC to move towards a level playing field. This will be best achieved by focusing solutions where the problem lies: online. This should thus result in a levelling up of obligations for video sharing platforms and social networks. The purpose of this regulation should not be to undermine or make more complicated existing regulations - as these reflect different national sensitivities on the topic - but rather to ensure rules apply to unregulated players.

Scope, instrument, proportionality. We welcome the intent to address untransparent political advertising and its effects on the democratic process. In line with stated goals and impact assessment of the initiative, we see that the internal market issues are essentially tied to the online sphere; traditional political advertising in the media, where it is legal, being largely circumscribed to the national level and heavily regulated. As such, the proportionality requirement and choice of instrument call for a scope focused on the online environment to ensure complementarity with, rather than undermining of, national regimes and mechanisms in place. This would ensure a proportionate impact on broadcasters and guarantee the independence of regulators as provided for under AVMSD.

Cross-border & levelling up. The objective of this regulation should not be to facilitate the cross-border provision of political advertising services. Political advertising is not a service like others given its impact on our democracies. The objective should be to rectify imbalances and safeguard national democratic debate, not to facilitate harmful business models cross-border. While the proposal discards outright banning online political advertising, it should *de minimis* deliver very high standards of transparency, reporting and enforcement to ensure that offline restrictions are properly reflected online. Furthermore, the regulation of political advertising must be considered holistically by European and national authorities. Differences in political advertising substantive rules online and in broadcasts do not make sense from the viewer's perspective, and fundamentally alter the competitive landscape and aggravate regulatory distortions.

Platform responsibility. There is no reason for digital platforms to avoid liability for advertising content which they select, place, promote and ultimately profit from. An effective regime should ensure that platforms are directly liable for all advertising content on their services – political, or not – and must make this assessment themselves, as is the case for broadcasters. Unlabelled political advertising should not be published without meeting the regulation’s preconditions.

Interaction with AV law. We welcome the recognition in recital 19 that political views expressed in AV programmes without remuneration are not political ads. National rules already exist to ensure balanced media coverage of political parties in electoral period, the new rules should not conflict with these. This clarification should be moved to the main body of the regulation. It should also be clarified that this applies to programmes both live and on-demand. Content produced and distributed under the editorial control of an AVMS provider and regulated under national law and the AVMSD (eg. rules on sponsorship) should not be affected. To ensure legal certainty, we would encourage co-legislators to specify that the regulation does not apply to regulated AVMS providers, yet applies to online services not covered by national rules on political advertising video.

Effective measures. To ensure regulators have the means to curb problematic political advertising, they need the tools to do so. Platforms must be able to tie specific political ads to legal or natural persons, keep a transparent and up to date repository and verify the identity of customers before allowing the publication of ads (in line with cultural industry demands for a wide scope of the **KYBC** principle in the DSA).

Political micro-targeting. Political advertising is often banned entirely for broadcasters because of their reach. Currently, the lack of rules and nature of online political advertising means unlimited reach and ability to microtarget individuals. This regulation is therefore an opportunity to tackle such problematic practices.

Enforcement. Beyond fines, regulators should be able to order the removal of content or take more important remedies.