

The case for universal transparency of political campaigns over ad libraries



When we speak about transparency of political advertising, we must distinguish three levels of transparency, which are defined depending on who information is made available to: the viewers of the ads themselves, the wider public, or public authorities. In this paper we focus on the transparency obligations at the second level, which entail the use of online ad libraries, also called online ad repositories.

We regard such public-level transparency as key to addressing the most important problems associated with online political advertising. Well-functioning ad libraries allow watchdogs such as CSOs and journalists to monitor online political campaigns in real time and keep the public informed about online campaigns. We assess the merits of the Commission's proposal on public-level transparency of political ads and suggest amendments to enable more effective public scrutiny and greater integrity of online campaigns. This paper is the third of a series of briefs on online political advertising and the regulatory proposal.

Why we need ad libraries

Meaningful transparency for political advertising requires more than transparency to the viewer of the ad, as political advertising is information of public interest. While billboards and TV ads are visible to anyone driving by or watching the channel, online ads are only visible to those individuals who have been targeted with an ad, and have been chosen by the ad optimisation algorithms by platforms. This means online ads evade public scrutiny. When citizens cannot be informed about how political parties and political candidates campaign for elections, their right to information is effectively harmed, as recognised in the jurisprudence of the European Court of Human Rights ([ECHR](#)). Citizens need to be able

to have a complete picture of political parties' promises and visions.

Ad libraries are a technological solution to enhance transparency of online ads. They can be defined as online interfaces where information on advertisements is compiled and made public through application programming interfaces (APIs). When ad libraries contain information on political ads that is **complete, real-time and detailed**, watchdogs such as journalists, CSOs and other political parties can easily monitor the online campaigning of political actors, thereby dissuading them from engaging in bad practices, such as violations in campaign finance rules, unethical uses of personal data or the spread of disinformation.

Ad libraries in the Commission regulatory proposals

Ad libraries started to be implemented by a few Very Large Online Platforms (VLOPs) such as Facebook, Google and Twitter as a self-regulatory measure following the adoption of the [Code of Practice against Disinformation in 2018](#). Reports, however, indicate that this self-regulation has failed, as the data available on political ads over these ad libraries was found to be [incomplete](#), provided with delay and [incorrect](#).

Therefore, the Commission has included mandates for ad libraries in 3 regulations: the Digital Services Act (DSA), the Regulation on political advertising, and the recast of the Regulation on the statute and funding of European Political Parties and European Political Foundations. Before discussing their shortcomings, we present below the obligations regarding transparency over ad libraries in the three above mentioned regulations.

Digital Services Act

The **DSA** formalises the mandate for VLOPs to host ad libraries in Article 30, and to make publicly available information over these ad libraries for all ads (commercial or political) which appear over their platform including:

- The content of the advertisement;
- The sponsor of the ad;
- The period when the ad is run;
- The targeting criteria used; and
- The audience of the ads in Article 30 (see Annex I).

It is worth noting that this list might be extended following DSA trilogies.

Regulation on Online Political Advertising

The **regulation on political advertisement** as proposed by the Commission mandates that VLOPs make publicly available over ad libraries for political ads more information than for commercial ads (article 7.6). The information that must be made public over ad libraries for political ads published on VLOPs includes:

- the identity and contact details of the sponsor;
- the period of publication and dissemination;
- information on the aggregated amounts spent on the ad;
- information of the election or referendum linked with the ad if applicable;
- link to online repositories for ads over VLOPs;
- information on how to notify the political advertisements as unlawful; and
- information on the targeting and amplification techniques used, including among other information the specific groups of recipients targeted, the parameters used to determine the recipients, the number of individuals who saw the ad, the source of personal data and a link to effective means to support the individual's exercise of their rights under the GDPR.

It is worth noting that the list of information to be made available over ad libraires is the same as the list of information that needs to be shared with the viewer of the ad over the transparency notice (as specified in Article 7.2).

Recast of the regulation on the statute and funding of EUPPs and foundations

The **recast of the regulation on the statute and funding of European political parties (EUPPs) and European political foundations** foresees the creation of an **ad repository** as part of the Register of European political parties and European political foundations (Article 8) administered by the Authority for European political parties and European political foundations (APPF). EUPPs have to provide:

- links to the ads or copies of the audio-visual material;
- a statement of the amounts spent;
- the source of funding; and
- meaningful information on the targeting techniques used if applicable.

The APPF is thereby effectively mandated to set up an ad repository for EUPPs, however, the technology used for this ad library is very different to that in the DSA and the Regulation on political advertising. It appears that EUPPs are obliged to share (manually) information with the APPF in parallel to the information they share with platforms over which the ads are published.

Importantly, this proposal specifies that EUPPs have 5 working days for the EUPP to share the relevant information with the APPF after the ad is first published. No such specification on the timeline for transparency is provided under the DSA or political ads regulation.

Lastly, this proposal also has a different legal basis from that of the DSA and the Regulation on political advertising. The legal basis for the mandate to establish and operate ad repositories in the DSA and the regulation on political advertisement is Article 114 of the Treaty on the Functioning of the EU (TFEU), as it applies to **economic operators (VLOPs)** who have collected the relevant data from parties. The legal basis for the establishment of an ad repository operated by the APPF is Article 224 TFEU as the obligation falls on **political actors (EUPPs)**.

We regard these proposals as **steps in the right direction**, but they remain partial solutions. The online political ads regulation fails to consider the need for ad libraries for the approximately 10% of online political ads published in platforms other than VLOPs, thereby **incentivising**

(malign) actors to shift to media platforms and small online platforms to escape scrutiny. Moreover, the recast of the regulation on the statute and funding of EUPPs puts European political parties at a disadvantage over national political parties as their compliance costs would be higher.

The regulations can be amended to be made more coherent, reduce costs and enhance the level of transparency to the public, by providing more specific obligations and establishing a level playing field for both political actors and economic operators.

Amendments for a single universal ad library

We think that there is a need to ensure that all political ads are available over publicly accessible, online ad repositories, regardless of whether they are published on a VLOP or a small online platform. The information on political ads should be complete, detailed and provided in real-time.

This can be achieved by building upon the DSA with simple amendments to the Regulation on online political advertising, the recast of the Regulation on the statute and funding of EUPPs, at a relatively low financial cost for the industry.

Amendments to the regulation on political advertising

Mandate online ad libraries for all platforms, including non VLOPs, by introducing the obligation for all political advertising publishers to publish the information contained in the transparency notice on ad libraries.

This would require amending Article 7.6 of the Regulation on political advertising. We understand that it would be disproportionate to mandate that publishers and online platforms that are not VLOPs create and manage their own ad libraries. Therefore, we propose that the European Commission purchases the service to host and manage an ad library available for platforms that are not VLOPs through public procurement. This ad repository would function as a universal ad library for political ads in the EU published in platforms that are not VLOPs as defined in the DSA. To facilitate the use of the different online ad libraries by watchdogs and the public, the Commission would make public a frequently updated and exhaustive list of ad libraries.

The creation of such a [universal ad library for political ads](#) will require on the technical side that the Commission establishes in collaboration with the industry and independent experts the technical standards for APIs for the automatic transmission of the information contained in transparency notices. Publishers of political ads that are not VLOPs would have to provide such user-level transparency anyway, and the development of the API for automatic data transmission should be a low, one-off cost.

Specify the period within which the information contained in the transparency notice is made publicly available in the ad repository following the publication of the ad, as well as the time the information should remain publicly available in the ad library.

A period of one working day should be sufficient for information to be placed in the ad library considering the technological solutions available and the need for real-time information for watchdogs to hold political actors accountable. Following amendments to the DSA in Parliament, Article 7.6 must also be amended to specify that information on individual ads stays in the repository for five years, instead of one year as proposed.

Specify that the transparency information should be complete, granular and user-friendly.

Information in ad repositories and notices has to be made publicly available with a **high level of granularity** (exact spend, the same targeting information as advertisers receive, etc) and be **complete**. The Commission must also ensure that these repositories are **user friendly**, developing guidelines in the context of the Code of Practice against Disinformation 2.0. Civil society organisations need such precise information on spending and user-friendly ad repositories for effective monitoring of political campaigns.

Amendments to the recast on EUPPs and foundations

Eliminate the obligation under Article 5.2 of the proposal for EUPPs to share information not only with the platforms where they publish ads but also in parallel with the APPF.

Article 5.2 effectively duplicates the obligations for EUPPs, as they will have to provide information both to the ad publishers and to the APPF. This leads to needless duplication of costs that must be avoided, considering that excessive administrative costs might put EUPPs at a disadvantage vis-à-vis national political parties. Moreover, our proposals for the online political ads regulation above would already provide the necessary transparency for EUPPs.

A proportionate proposal that strengthens transparency, competition and coherence

Taken together, the proposal for amendments that we outline above addresses the following problems and has the following advantages:

- It **prevents circumvention**. The transparency obligations in the regulation on political advertisement and the recast of the statute and funding of EUPPs are easy to circumvent, as it is enough to publish ads over online platforms that are not VLOPs so that they do not appear on ad repositories. Meanwhile, EUPPs wishing to avoid scrutiny can have their national members advertise on their behalf.

Our proposal **entails identical standards and obligations of transparency** over ad repositories **for all political ads regardless of the actor sponsoring** them (EUPPs or national political parties) and **regardless of the platform where they are published** (a VLOP or an online platform that is not a VLOP).

- It ensures a **very high level of transparency for the public**, allowing watchdogs such as journalists, CSOs and political actors to scrutinise political advertising campaigns more effectively. This will dissuade (malign) political actors from **unethical** practices in the use of data in targeting, spreading disinformation and misleading messages. It will also curtail foreign **interference in democratic processes and violations of campaign expenditure rules**.
- It is more **proportionate** than the proposal for the regulation on political advertising and the recast of the statute and funding of EUPPs combined. The proposed measures reach better transparency

results without incurring significant additional costs. The relatively high costs of creating an ad repository run by APPF as proposed would be more proportionate if this repository would also host the political ads hosted by online platforms that are not VLOPs and do not have an ad repository of their own. The proposed ad repository linked to the APPF register is a costly tool, so the investment in its creation is better justified if the repository hosts political ads by both EUPPs and platforms that are not VLOPs. Additionally, **costs for the industry might decrease** as the number of requests for information by interested parties under Article 11 in the online political ads regulation will drop if meaningful information is provided over ad repositories.

- It follows that our proposal enhances the **coherence** between the proposals in line with the Better Regulation Guidelines. It also fits the **subsidiarity check** as the Union would continue to act within the limits of Article 114 TFEU, by providing further harmonisation on the provision of services imposing obligations on economic operators only.
- It **enhances the Single Market and prevents its further fragmentation** by establishing more similar rules for all economic operators. It will also further dissuade Member States from developing their own regulation of transparency, hence eliminating a future threat to the Single Market for political advertising.

- It contributes to a **level playing field between European and national political parties** as it imposes the same transparency obligations and administrative costs on both. Thereby, our proposal contributes to the **Europeanisation of the European Parliament and national elections**, making it more economically feasible for European political parties to sponsor ads as their administrative costs will be levelled. This is coherent with the establishment of **transnational lists** and the **Spitzenkandidaten** system as these should lead to European political parties conducting more advertising of their own instead of relying on national political parties to advertise on their behalf.

In sum, our proposal will ensure high levels of transparency over ad repositories for all ads, regardless of the platform where they are published and who publishes them. It will reduce costs for European political parties and make the regulations more coherent, efficient and proportionate, without compromising the subsidiarity of the proposals.