



EUROPEAN COMMISSION

Brussels, 7.7.2022  
C(2022) 4901 final

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Opinion on the Commission's proposal for a Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising {COM(2021) 731 final}.*

*The Commission welcomes the inquiry that the Senato della Repubblica has carried out into this important subject and would like to ensure the Senato della Repubblica that its detailed work constitutes an important contribution to ongoing discussions.*

*The Opinion expresses the concern that the proportionality principle is not respected fully because the Article 114 of the Treaty on the Functioning of the European Union is no sufficient legal base to justify intervention in national and local election campaigns and to impose obligations on national electoral candidates and political parties. The Commission notes that to the extent that the proposed regulation includes provisions addressing the aims of Article 114, it seeks to establish harmonised transparency obligations for providers of political advertising and related services to retain, disclose and publish information connected to the provision of such services. As such, these rules do not impose obligations on national electoral candidates and national political parties with the exception that they would be required to declare the political nature of the advertising they sponsor. Beyond this, the proposed regulation is not intended to affect national rules on the organisation of national and local election campaigns.*

*It is furthermore necessary for achieving the aim of an intervention under Article 114 of the Treaty on the Functioning of the European Union, to remove the obstacles resulting from legal uncertainty and fragmentation, that the proposed measures applicable to political advertising service providers should apply uniformly in all Member States, in cross-border and purely internal situations, and irrespective of the level of election being organised.*

*The limitations on the targeting of political advertising included in the proposal under Article 16 of the Treaty on the Functioning of the European Union apply to all relevant*

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*actors using targeting and amplification techniques in the context of the publication, dissemination or promotion of political advertising that involve the use of personal data, irrespective of the provision of services. They are proportionate because they are strictly limited in scope to the specific targeting activities in the political context that have been identified as posing a significant risk to individual's fundamental rights.*

*Regarding the question of whether minimum standards could be introduced, and by means of a directive, the Commission notes that the choice of instrument is justified by the need for a uniform application of the new rules, such as the definition of political advertising and the transparency obligations that providers of political advertising services must fulfil when preparing or disseminating political advertisements. A high standard of transparency also needs to be provided to ensure the effectiveness of the measures in support of national authorities in their task to ensure a fair and open democratic process in all Member States. National concerns regarding regulatory gaps in relation to political advertising have prompted Member States to intervene with measures which cannot address the cross border issues and contribute to the fragmentation in legislation identified. Minimum standards are not sufficient to fully remove fragmentation in the internal market.*

*The use of a regulation is also justified by the need to provide for strengthened protections for natural persons with regard to the processing of personal data through harmonised rules on the use of targeting and amplification techniques in the context of the publication, dissemination or promotion of political advertising that involve the use of personal data, aligned to and within the framework established by Regulation (EU) 2016/679, which is itself a regulation.*

*It would therefore also not be consistent with the aims of the proposal to provide only for minimum standards in the Commission's proposal.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Senato della Repubblica and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Věra Jourová  
Vice-President*