

European Commission
Transparency and targeting of political advertising

31 January 2022

The Danish Chamber of Commerce's consultation response regarding the transparency and targeting of political advertising

General Remarks

The Danish Chamber of Commerce welcomes the opportunity to provide comments to and supports the overall objective of the European Commission's proposal – namely to contribute to the proper functioning of the internal market for political advertising and to combat disinformation within the European Union.

First of all, the Danish Chamber of Commerce wishes to emphasize that it is vital that the proposal does not inflict unnecessary or disproportionate administrative burdens on advertising providers, publishers or others affected by the proposal. The rules set out in the proposal should be clear and not unnecessarily difficult or burdensome to apply and implement.

As part of the above, the Danish Chamber of Commerce is of the view that additional legislation should not be introduced as regards matters already sufficiently covered by other relevant legislation, e.g. Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. Implementing several sets of rules regulating the same matter creates confusion and presents the risk of diverging rules.

Finally, it is important to have clearly defined terms and clear guidelines that allow advertising providers, publishers etc. to understand and determine the scope and application of the rules in relation to each specific advertisement. The Danish Chamber of Commerce would welcome further clarity on specific matters as set out below in the section 'Specific Remarks'.

Specific Remarks

'Political advertising'

The definition of political advertising includes the preparation, placement, promotion, publication or dissemination, by any means, of a message which is liable to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour, regardless of whether it is by, for or on behalf of a political actor. The extent of this definition is very broad and thus not clear. As set out in preamble 17, "Messages on societal or controversial issues may, as the case may be, be liable to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour". As a result, actors that do not work within the scope of what would ordinarily be viewed as 'political advertising' run the risk of falling within the scope of the

proposal in singular cases. As the obligations set out in the proposal are very extensive, it is necessary to have very clear guidelines as to when and to what extent the obligations apply.

‘Political Actor’

In line with the above, the definition of political actor needs to be clear. In particular, the Danish Chamber of Commerce welcomes clear guidelines on what constitutes a ‘political party’ and a ‘political campaign organisation’. Would the definition apply to e.g. NGOs, trade organisations, chambers of commerce etc.?

‘Service’

The Danish Chamber of Commerce wishes to clarify whether the proposal only applies to political advertising services provided by an advertising service provider on behalf of a third party (the sponsor), or whether the requirements in any way apply to advertising created inhouse by the third party (sponsor) itself.

Division of responsibilities

The division of responsibilities and obligations between the sponsors, the providers of political advertising services and the political advertising publishers need to be clearly defined, e.g. who bears the responsibility if a political advertisement has not been properly identified? To which degree are providers of political advertising services and political advertising publishers expected to verify the information received from sponsors or other providers of political advertising services, e.g. what constitutes “reasonable efforts” in Article 7(3)? The division is made further complex in the event that several providers of political advertising services contribute to the advertisement.

Article 7, Transparency Notice

The proposal sets out extensive requirements regarding information to be provided in connection with political advertising services, e.g. regarding source of funds. The Danish Chamber of Commerce would welcome some insight into whether the European Commission has considered the impact on competition from such a requirement as this will require advertising service providers to make public their prices. It may be considered if the prices according to article 7(2)c could be published within intervals, thus not revealing the exact prices.

Article 12, Targeting and Amplification

The Danish Chamber of Commerce believes that targeting and amplification techniques based on processing of personal data is already sufficiently regulated by Regulation (EU) 2016/679 and Regulation (EU) 2018/1725. The need for any additional regulation should be carefully considered and, if deemed necessary, the Danish Chamber of Commerce would welcome further insight into the reasoning behind. Additional regulation poses a risk of obligations related to the processing of personal data becoming further non-transparent and increasingly difficult and burdensome for businesses to understand and implement.

The Danish Chamber of Commerce is of course available if there are any questions related to the comments given in the above consultation.

Best regards

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