



## COMMUNICATION FROM THE COMMISSION

### Guidelines to support the implementation of Regulation (EU) 2024/900 on the transparency and targeting of political advertising

(C/2025/5514)

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## Introduction

Regulation (EU) 2024/900 was adopted on 13 March 2024. It lays down EU harmonised rules in the internal market for political advertising services, requiring – *inter alia* – clear labelling and transparency notices with additional information, such as the details of the sponsor in the context of the provision of political advertising services.

In accordance with Article 30(2), the Regulation will enter into full application as of 10 October 2025. Political advertisements provided, published, disseminated or delivered after that date, will be required to comply with the Regulation requirements. Only Article 3 and Article 5(1) of the Regulation started applying from the date of its entry into force on 9 April 2024.

Regulation (EU) 2024/900 explicitly calls upon the Commission to draw up common guidance to contribute to the effective implementation of the Regulation and, in particular, to support the sponsors, or providers of advertising services acting on behalf of the sponsors, in declaring and identifying political advertisements, and to support providers of political advertising services in facilitating and appropriately administrating such declarations. Article 8(2) of the Regulation specifically requires the Commission to draw up guidance to help identify political advertising.

These Guidelines are non-binding. They build on the feedback received by the Commission in the context of the relevant networks, the dedicated focus groups, call for evidence and during the publication of the draft guidelines. They should serve as practical guidance to assist competent authorities in their enforcement activities, as well as the different actors that are covered by the Regulation (sponsors, providers of political advertising services - including political advertising publishers) in ensuring compliance with their obligations under that Regulation. They, therefore, focus on the elements of the Regulation which would benefit from additional guidance <sup>(1)</sup>, in view of streamlining the compliance processes and reducing the burden of compliance.

The Commission will establish the European Repository for online political advertisements ('the Repository') in line with Article 13(6) of Regulation (EU) 2024/900. Implementing acts for the effective functioning of the Repository will set out detailed arrangements for the provision of a common data structure, standardised metadata to facilitate the inclusion of political advertisements in the Repository and the indexation of political advertising by online search engines, standardised authentication, and a common application programming interface, with a view to enabling the aggregation of the information published online pursuant to the Regulation to be accessed through a single portal. These implementing acts will be adopted as soon as possible and, in any event, by 10 April 2026, as foreseen in Article 13(6) of the Regulation. The obligations of the publishers related to the Repository will only become relevant as of the date of its deployment.

Additionally, to make sure that publishers of online political advertising have sufficient time to undertake preparations and familiarise themselves with the new metadata standards, the Commission will adopt the corresponding implementing act. To increase legal certainty, the implementing act(s) will include concrete criteria for announcing the date when the Repository will come online, enabling publishers of online political advertisements to have clarity as of when they will have to fulfil the related obligations.

The Commission will closely monitor the application of the Regulation and work with the Network of national contact points established by the Regulation as a platform for regular exchange of information, best practices and structured cooperation between national contact points and the Commission on all aspects of the Regulation, engaging with stakeholders with a view to support its application and, identify further aspects that might need guidance to further support sponsors and providers of political advertising services. The Commission may revise these guidelines to take into account the lessons-learned from the implementation.

<sup>(1)</sup> Reflecting the needs expressed by stakeholders during the dedicated consultations that took place between December 2024 and April 2025, as part of the Call for Evidence, as well as those highlighted by the study conducted to support the preparation of this Guidance.

These Guidelines represent the Commission's interpretation of Regulation (EU) 2024/900 (in particular of its Chapter I and II) with a view to ensuring its consistent, effective and uniform application. Any authoritative interpretation of Regulation (EU) 2024/900 may ultimately only be given by the Court of Justice of the European Union ('CJEU').

These guidelines do not pre-empt and are without prejudice to the guidelines that the European Data Protection Board will issue regarding the use of targeting and ad-delivery techniques under Article 18 and 19 of the Regulation, as referred to in Article 22(2) thereof, as it focuses on the obligations related to the provision political advertising services.

## 1. Who is covered?

Regulation (EU) 2024/900 lays down harmonised rules applicable to sponsors and providers of political advertising services, including political advertising publishers. It applies to messages prepared, placed, promoted, published, delivered or disseminated directly or indirectly by, for or on behalf of a political actor, as well as to messages by other actors which are liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process at Union, national, regional or local level. The Regulation covers political advertising that is normally provided for remuneration or through in-house activities or as part of a political advertising campaign (see further Section 2).

The transparency requirements regarding labels and transparency notices and the due diligence requirements laid down in Chapter II of the Regulation do not apply to Member States' national authorities provided they do not qualify as providers of political advertising services. National authorities requesting political advertising from providers of advertising services may, however, qualify as sponsors and must in that case comply with the obligations laid down in Chapter II. (¹)

### 1.1 Sponsors

Specific rules apply to sponsors of political advertisements under Regulation (EU) 2024/900. Article 3, point (10) of the Regulation defines sponsors as 'natural or legal persons at whose request or on whose behalf a political advertisement is prepared, placed, promoted, published, delivered or disseminated'.

That definition encompasses situations where persons act in their own capacity and where their actions cannot be attributable to another entity ('at whose request'), such as where they are themselves political actors, or where they are running positive or negative campaigns towards candidates or political parties running for elections without those candidates or parties necessarily being involved or aware (e.g. by registered third parties (²) or directly by political actors).

Regulation (EU) 2024/900 also covers situations where political advertising services are requested on behalf of sponsors ('or on whose behalf'), for instance, by providers of political advertising services (e.g. marketing agencies) acting further on behalf of natural or legal persons requesting their services, or by an employee of a political party, acting under the instructions of its employer and thus on behalf of the political party.

Any advertising coming from sponsors qualifying as 'political actors' within the meaning of Article 3, point (4) of Regulation (EU) 2024/900 is *a priori* political in nature, unless it is purely private or purely commercial in nature.

For other types of sponsors, any advertising liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, at Union, national, regional or local level, falls within the scope of the Regulation.

Further assessment of the relevant factors might be needed to identify the advertising (service) as political (see Section 2.3).

(¹) The special rules on targeting and ad-delivery techniques provided for in Chapter III apply to the use of personal data for the purposes of targeting or ad-delivery of online political advertisements. This means that the relevant requirements also cover Member State national authorities and EU institutions and bodies when they engage in such activities as controllers.

(²) Actors (other than candidates in the elections) recognised in certain Member States' electoral laws as being allowed to run their own electoral campaigns, normally upon registration with an oversight authority.

Examples of sponsors:

Political parties, political alliances, political groups, candidates for elected office, individuals running electoral campaign (e.g. third-registered parties), elected politicians, members of governments, ministries, Civil Society Organisations (e.g. Non-Profit Organisations), think tanks, commercial companies.

Recital 22 of Regulation (EU) 2024/900 explains that another entity may ultimately exercise control over a sponsor. Ultimate control over an entity should be first and foremost determined by the ability to exercise a decisive influence, which can be achieved through various mechanisms, such as through rights, contracts, as well as other means.

Decisive influence can manifest itself in different ways, such as through ownership, rights to use assets or to impact the composition of governing bodies, voting rights (i.e. holding a decisive amount of voting shares), or through contractual agreements that impact decision-making processes (e.g. rights to manage entity's business operations or rights allowing a decisive impact over financial or strategic policies). These elements must collectively provide the capability to guide the strategic direction or major decisions of the sponsor.

While the sponsor bears responsibility for declaring an entity ultimately controlling them <sup>(4)</sup> (if relevant), such a declaration does not transfer the sponsor's liability, for complying with the obligations laid down in the Regulation, to that entity (e.g. such declaration does not trigger joint sponsorship).

## 1.2 Providers of political advertising services

Providers of political advertising services <sup>(5)</sup> that provide their services within the internal market will fall within the scope of Regulation (EU) 2024/900 <sup>(6)</sup>. Some situations are excluded from the Regulation (see Sections 1.2.1.1 and 1.2.1.2).

Under Article 3, point (5) of the Regulation, a 'political advertising service' is defined as a service consisting of political advertising with the exception of an online 'intermediary service', as defined in Article 3, point (g) of Regulation (EU) 2022/2065, that is provided without consideration, for the preparation, placement, promotion, publication, delivery or dissemination for the specific message. A provider of a political advertising service is the operator engaged in the provision of such a service, unless the service is purely ancillary in nature, as defined in Article 3, point (6) of the Regulation.

Whether a particular service is a political advertising service does not depend on who provides the service. The aforementioned definitions are functional in nature. What matters is whether the activity being carried out falls within the definition of 'political advertising service' set out in the Regulation.

Therefore, entities that normally would not be considered as service providers, such as organisations pursuing charitable goals, may qualify as providers of political advertising services under Regulation (EU) 2024/900 where they engage in economic activities related to political advertising.

Very large online platforms (VLOPs) and very large online search engines (VLOSEs) play an increasingly significant role in the advertising market, including in the area of political advertising. However, if they only act as intermediary service providers, they have no transparency and due diligence obligations under this Regulation in addition to what they already need to do under Regulation (EU) 2022/2065 (the Digital Services Act or 'DSA') in the context of the provision of such services. These obligations under Regulation (EU) 2024/900 are arising only when they provide political advertising services (e.g. publishing, delivering or disseminating political advertising) against remuneration, and therefore act as political advertising publishers.

<sup>(4)</sup> As part of information needed for the transparency notices under Article 12(1)(a) of the Regulation.

<sup>(5)</sup> According to Article 2(3)(i) of Regulation 2024/900, that Regulation is without prejudice to the rules regarding the provision of intermediary services in the Union laid down in Regulation 2022/2065.

<sup>(6)</sup> Even if providers which are not excluded from the scope of Regulation (EU) 2024/900 make the commercial choice of not providing political advertising, specific obligations will still apply to them, such as the obligation to request the relevant declarations from sponsors under Article 7(1) of the Regulation.

Examples of providers of political advertising services:

Preparation: Copywriters, design agencies, advertising agencies, political consultancies

Publication: Broadcasters, newspapers, billboards, bus shelter wraps, interactive displays, digital screens, LED billboards and other physical media, online platforms, websites (including news sites), forums and blogs, video sharing sites, bloggers, influencers.

Delivery or dissemination: Ad technology providers (e.g. ad networks, ad exchanges, ad platforms), targeting and media consultancies, data brokers.

### 1.2.1 Services covered by the Regulation

An activity must constitute a service to be subject to the obligations laid down in Chapter II of Regulation (EU) 2024/900. Article 3, point (1) of the Regulation defines as 'service' as any self-employed economic activity, normally provided for remuneration, as referred to in Article 57 of the Treaty on the Functioning of the European Union (TFEU).<sup>(7)</sup> This cross-reference to Article 57 TFEU means that the case-law of the Union courts on the notion of 'service' is relevant when determining whether a particular activity falls within the scope of the Regulation.

The essential characteristic of a service normally being provided for remuneration lies in the fact that a 'consideration' for the service is normally agreed upon between the provider and the recipient of the service.<sup>(8)</sup>

The notion of consideration is broad and includes regular payment, as well as benefits in kind. This means that the provision of service does not need to rely solely on monetary compensation, but could also include other considerations in exchange for the provision of the service<sup>(9)</sup>, such as any discounts, travel arrangements, accommodation or access to events or places that would otherwise be paid for. Volunteering (e.g. in electoral campaigns) is not normally provided for remuneration, and should therefore not be regarded as a service. For example:

1. A contractor is tasked by a political party to prepare short advertising videos to support the party's candidacy in local elections that are then published on the social media accounts of local-level political party branches. Even if the contractor is only tasked with creating the video (and not its publication), the activity would fall under the notion of a service 'normally provided for a remuneration', as the contractor is remunerated by the political party for its work.

*On the other hand:*

2. A message posted on social media through in-house activities would not be considered a service and would not fall under transparency requirements of the Regulation.

<sup>(7)</sup> This wording follows the definition of services provided in Article 57 TFEU and is used also in other relevant EU legislation. See the Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market or the Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

<sup>(8)</sup> See, for example, judgment of 27 September 1988, *Humbel*, C-263/86, EU:C:1988:451, paragraph 17, and of 22 May 2003, *Freskot*, C-355/00, EU:C:2003:298, paragraph 55.

<sup>(9)</sup> See, for instance, judgment of 19 October 2023, *QB v Commission*, C-88/22 P, EU:C:2023:792, paragraph 30.

### 1.2.1.1 ***Exemption for intermediary services provided without consideration for the specific message***

According to Article 3, point (5) of Regulation (EU) 2024/900, the notion of political advertising services does not include online ‘intermediary services’ that are provided without consideration, for the preparation, placement, promotion, publication, delivery or dissemination for the specific message.

To define what ‘intermediary services’ are, Article 3, point (5) cross refers to Article 3(g) of Regulation (EU) 2022/2065, according to which an ‘intermediary service’<sup>(10)</sup> means a service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services, which consists of either:

- i. a ‘mere conduit’ service (e.g. internet access service providers, open Wi-Fi network providers, web browsers);
- ii. a ‘caching’ service (e.g. provision of content delivery networks, reverse proxies or content adaptation proxies); or
- iii. a ‘hosting’ service (e.g. web hosting, online platforms, cloud storage sites).

The exemption introduced in Article 3, point (5) is meant to exclude from the scope of the Regulation situations in which a provider of online intermediary services enables the provision of political advertising services, but is not directly involved in the production chain thereof. This could be the case where a user (e.g. an influencer) has been remunerated by a third party to post a political advertisement on an online platform without additionally requesting the provider of the online platform to perform a political advertising service, such as paid-for boosting of the specific post (content posted ‘organically’ by the user). While the user would, in such a case, assume the role of a political advertising publisher, the provider of the online platform would, under this exemption, not be considered as providing political advertising services, as it has not received any specific remuneration in relation to that post (see also Section 2.2.2). In other words, the provider of an online platform would not be considered a provider of political advertising for the posting or sharing of organic content. That would be the case even where, for instance, the provider of an online platform charges a subscription fee for the use of its platforms; such a fee would not be regarded as consideration for the specific message.

Since the activities of the users, including influencers, are mediated by providers of online platforms, which control the means by which compliance with Regulation (EU) 2024/900 can be achieved, those providers are encouraged to facilitate compliance by users, where applicable, in line with Recital 55 of the Regulation. In particular, they are encouraged to facilitate the identification of political advertising uploaded or disseminated directly by users via their online intermediary service, for instance, by putting efficient mechanisms at the disposal of users to indicate that an advertisement is political. To further facilitate compliance, those providers could, for instance, provide tools to enable the provision of transparency notices, support the completeness of data fields as part of such tools, or also provide for mechanisms that would allow the notification of possibly non-compliant political advertisements directly to the users.

This would not, in any case, imply assuming the responsibility for transparency related obligations where those obligations lie on the users.

For example:

3. A political message posted on a social media network where the message is not boosted or otherwise paid to be disseminated or delivered to specific users. The platform would simply host the message and transmit it to its audience without a specific payment. As those ‘hosting’ services are provided without a consideration for the specific message, they would not be considered political advertising services.

<sup>(10)</sup> In line with Article 3(g) of Regulation (EU) 2022/2065.

*On the other hand:*

4. A political party requests a provider of a social media network to perform a political advertising service and pays the provider of a social media network for boosting three new messages it posted on its social media account. By boosting these three posts against specific remuneration, the provider of the social media network provides a political advertising service and would constitute a political advertising publisher under the Regulation.

#### 1.2.1.2 **Exemption for ancillary services**

According to Article 3, point (6) of Regulation (EU) 2024/900, purely ancillary services do not fall within the scope of the Regulation. Such services could include, for instance, transportation, financing and investment, purchasing, sales, catering, marketing, computer services, cleaning, maintenance, postal services, printing services, graphic, sound or photographic design.

As outlined in Recital 39 of the Regulation, ancillary services are services which are provided in addition to and which complement political advertising, but which have no direct influence on its content or presentation and no direct control over its preparation, placement, promotion, publication, delivery or dissemination. This should, *inter alia*, mean that an ancillary service does not need to depend on the means or ends of the principal service which it complements, and can be provided as a stand-alone activity (also in other areas than political advertising).

In order to determine whether a service constitutes an ancillary service, particular account should be given to the degree of influence the given service has over the substance, as well as the preparation, placement, promotion, publication, delivery or dissemination.

Ancillary services will typically concern services forming part of the advertising value chain, but without any direct impact on the process or outcome of political advertising, or services provided by providers with no actual knowledge of their involvement in the political advertising production chain. A service should not be considered ancillary if it implies taking strategic decisions with the intention to impact, in particular, the objectives, strategic direction or effectiveness of political advertising, rather than simply carrying out tasks based on predefined instructions.

The assessment of whether a service is ancillary in nature will need to be conducted on case-by-case basis. That assessment should also take into account the fact that a service provider might qualify as a provider of ancillary service in one case, but could be considered a provider of political advertising service in another case, based on the particular service provided and/or degree of influence exercised over the process or outcome of the political advertising.

A set of contextual elements could be taken into account as part of this assessment, such as whether and to what extent the provider acts upon clear instructions from the sponsor, whether the provider offers general services in their field of expertise or specialises (also) in the provision of these services in political or electoral context, and whether the particular service provided represents an example of a wider range of services, which could otherwise be characterised as political advertising services.

Examples of likely ancillary services:

5. A transportation company providing vehicles and logistics for the distribution of campaign materials.
6. Branding or collateral design services engaged in creating a campaign's visual identity, including logos, colour schemes or typography, which can be applied to a variety of campaign materials but without getting involved in conveying political messages.
7. A marketing agency providing guidance on strategic planning of campaign outreach without getting engaged in political advertising itself and provided there is no direct influence on the content or presentation of the messages to be part of the campaign outreach.
8. IT companies providing website security services.

9. Photographic services contracted to solely capture and edit photographs which will be used for campaigning, without an input into the campaign content.
10. Print and copy services when making available printing facilities without control over what is actually being printed.
11. Graphic design companies providing website design for political actors.

### 1.3 Political advertising publishers

Political advertising publishers represent a subset of providers of political advertising services, usually at the end of the production chain. They are bound by the common obligations of all political advertising service providers under Regulation (EU) 2024/900 and, in addition, have specific obligations to comply with.

According to Article 3(13) of Regulation (EU) 2024/900, political advertising publishers are defined as providers of political advertising services that publish, deliver or disseminate political advertising through any medium. This definition encompasses a wide spectrum of channels through which political advertising can be brought to the public, ranging from traditional 'offline' media (e.g. newspapers, television and radio) or printed outlets (e.g. posters, leaflets, billboards) to on-demand audio and video, online platforms, websites, search engines, streaming media, mobile applications, computer games and other digital interfaces, including Digital Out-of-Home (DOOH) advertising, but also influencers (see also examples in Section 1.2).

Where the publication, dissemination or distribution of a political advertisement is not provided as a service, e.g. because it is done through in-house activities, obligations on publishers (see Section 3.3) do not apply.

#### 1.3.1 Ad technology providers

An important role in disseminating political advertisements to the public is often played by intermediaries engaged in placing the advertisements on the relevant publishing interfaces. Providers of ad networks, ad exchanges, ad platforms or other online ad services, including supply-side and demand-side platforms, create instrumental components in the digital advertising ecosystem by acting as intermediaries between the advertiser (i.e. the sponsor) and the public-facing interface (i.e. the ultimate publisher), facilitating or streamlining the interactions and transactions between them. <sup>(11)</sup> As explained in Recital 67 of Regulation (EU) 2024/900, ad technology providers are considered as political advertising publishers jointly with the public-facing interface (e.g. a website where the advertisement, is ultimately published).

#### 1.3.2 Influencers

Influencers, who are increasingly relied upon to promote goods, brands, initiatives or ideas, and receive compensation for collaborations, may also be subject to the obligations laid down in Chapter II of Regulation (EU) 2024/900.

Regulation (EU) 2024/900 imposes specific transparency or due diligence obligations on any natural or legal person engaging in the provision of political advertising services and allocates responsibility related to provision or transmission of information to the entities commissioning the services (i.e. the sponsors). When engaged in the provision of political advertising services, influencers must comply with the transparency or due diligence obligations.

<sup>(11)</sup> Section 3.3.5 below provides more details on the specific responsibilities of the ad technology providers.

The EU consumer law *acquis* <sup>(12)</sup> already provides for specific obligations that influencers, when acting as traders or as persons acting in the name or on behalf of traders (such as brand owners), must comply with in connection with the advertising and supply of goods and services to consumers (in business-to-consumer commercial relations). The Guidance on the Unfair Commercial Practices Directive <sup>(13)</sup> explains that influencers should disclose commercial content in a salient manner. It also explains that, depending on the circumstances of the case, the breach of transparency obligations could be attributed both to the influencer or to the trader/brand owner that has engaged the influencer and benefits from the influencer's endorsement. Furthermore, Directive 2010/13/EU (the Audiovisual Media Services Directive or 'AVMSD') <sup>(14)</sup> may cover influencers' activities when these are classified as audiovisual media services. The AVMSD may thus require influencers, among others, to comply with the requirements related to the transparency of their commercial communications.

## 2. What is political advertising?

### 2.1. Overall scope and definition

#### i) Overall scope

Regulation (EU) 2024/900 concerns the transmission of political advertising where a political advertising service is being provided or when targeting or ad-delivery techniques are being used.

Regulation (EU) 2024/900 is not limited to traditional ways of advertising or of conducting campaigns, but covers the preparation, placement, promotion, publication, delivery or dissemination of a message by any means (see Article 3, point (2) of the Regulation). It could cover, for instance, coordinated posting or disseminating messages on social media through fake accounts or pre-designed bots, when such activities meet the criteria of the definition of political advertising service in Article 3, point (5) of the Regulation (see below).

At the same time, the Regulation does not apply to political opinions expressed in a personal capacity. However, as explained in Recital 30 of the Regulation, a political opinion should not be considered as being expressed in a personal capacity if specific remuneration from third parties, including benefits in kind, is provided for, or in connection with, expressing that opinion. In such cases, the opinion expressed against remuneration may constitute political advertising if it meets the definition's criteria laid down in the Regulation (see section 2.2).

In addition, the Regulation does not cover what information is allowed in political advertisements under EU or Member State law <sup>(15)</sup> or whether the messages are factually correct, and it does not alter the rules on the conduct and funding of political campaigns, including general bans or limitations on political advertising during specified periods, 'silence periods', donations by private individuals or prohibitions on the use of commercial advertising for election campaign purposes. Usually, commercial advertising would not qualify as political advertising, unless the message meets the criteria of the definition of political advertising in Article 3, point (2) of the Regulation (see below).

For example:

12. Political views published by a private individual on their personal blog or on their social media accounts, in their personal capacity, do not constitute political advertising.

<sup>(12)</sup> For instance, the Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market.

<sup>(13)</sup> Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market.

<sup>(14)</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

<sup>(15)</sup> Except for three months before an election or referendum where, in accordance with Article 5(2) of Regulation (EU) 2024/900, political advertising services pertaining to that election or referendum cannot be provided to third-country sponsors regardless of the specific content of the advertisement.

13. Political messages displayed on posters and banners prepared by citizens in view of participating to a political demonstration in their personal capacity do not constitute political advertising. Online influencers discussing political reforms and expressing their individual thoughts on them will not be covered by the Regulation, provided they have not received remuneration to express them.

*On the other hand:*

14. Political messages presented by online influencers, that are published upon request of a politician against remuneration, i.e. in exchange for monetary benefits or benefits in kind cannot be regarded as political opinions expressed in a personal capacity and may therefore constitute political advertising.

15. Identical political messages posted by individuals against remuneration from a third party during the period before a referendum and which advocate for or against a particular outcome of that referendum cannot be regarded as political opinions expressed in a personal capacity and may therefore constitute political advertising.

Further, the Regulation does not affect the editorial freedom of the media. Expressing political opinions or providing political content under the media's editorial responsibility plays an essential role in the freedom of expression and information, and should not be confused with political advertising. To safeguards these principles, Article 1(2) of the Regulation specifies that it does not apply to political views or other content that fall under the editorial responsibility of the media, unless specific payment, in money or in kind, is made by third parties for or in connection with the preparation, placement, promotion, publication, delivery or dissemination of such views or content.

For example:

16. Opinions or assessments shared as part of a political debate, or an interview broadcasted on television or radio would normally fall under the editorial responsibility exception and therefore would not constitute political advertising.

17. Editorial opinion columns commenting on recent legislative proposals, political events or other developments would normally fall under the editorial responsibility exception and therefore would not constitute political advertising.

As provided in Article 2(3) of the Regulation (EU) 2024/900, the Regulation is without prejudice to the rules laid down in other Union legal acts which are listed in that Article, such as Directive 2000/31/EC<sup>(16)</sup> and Regulation (EU) 2022/2065<sup>(17)</sup>.

ii) Definition

Regulation (EU) 2024/900 defines political advertising as follows:

Article 3, point (2)

'political advertising' means the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message, normally provided for remuneration or through in-house activities or as part of a political advertising campaign:

(a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or

<sup>(16)</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

<sup>(17)</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, pp. 1).

(b) which is liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, at Union, national, regional or local level;

and does not include:

- (i) messages from official sources of Member States or the Union that are strictly limited to the organisation and modalities for participating in elections or referendums, including the announcement of candidacies or the question put to the referendum, or for promoting participation in elections or referendums;
- (ii) public communication that aims to provide official information to the public by, for or on behalf of any public authority of a Member State or by, for or on behalf of the Union, including by, for or on behalf of members of the government of a Member State, provided that they are not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;
- (iii) presenting candidates in specified public spaces or in the media which is explicitly provided for by law and allocated free of charge, while ensuring equal treatment of candidates;

Article 3(2) of Regulation (EU) 2024/900 defines both what constitutes 'political advertising' and what does not. The first part of the definition of political advertising covers all stages of the production of a political advertisement, from its preparation to its dissemination. It also covers all forms of preparatory engagement in political advertising and all forms in which political advertisements may be circulated to the public, such as by being published or disseminated through various media, including traditional offline media (e.g. newspapers, television and radio), printed outlets (e.g. posters, leaflets, banners, billboards, or, where applicable, merchandise), transportation and bus shelter wraps, online platforms, websites, mobile applications, computer games and other digital interfaces, including Digital Out-of-Home (DOOH) advertising. Furthermore, the definition of political advertising relates to 'messages', meaning that content that cannot be classified as a message, such as a logo or the name of a political actor (e.g. on promotional merchandise), when not further accompanied by any political message, does not fall within its scope.

The second part of the definition clarifies that not all messages constitute political advertising, but only those whose preparation, placement, promotion, publication, delivery or dissemination is 'normally provided for remuneration'; that are prepared, placed, promoted, published, delivered or disseminated 'through in-house activities'; or that form 'part of a political advertising campaign'.

The third part of the definition is to be found in points (a) and (b) of Article 3, point (2). The criteria in those points are not cumulative. In other words, in order to constitute political advertising, it is sufficient that a message falls under only one of them. Messages that do not meet any of those criteria do not qualify as political advertising under the Regulation and do not fall under its application.

The definition of political advertising contains three exceptions. According to Article 3, point (2) of Regulation (EU) 2024/900, the Regulation does not apply to any of the following messages:

- 1) Messages from official Member State or EU sources that are strictly limited to the organisation of and modalities for participating in elections or referendums, including the announcement of candidacies, the question put for vote in referendum, or messages to promote participation in elections or referendums;
- 2) Public communication that aims to provide official information to the public, provided that such public communication is not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, where such communication is by, for or on behalf of: (a) any public authority of a Member State, including public communication by, for or on behalf of the members of the government of a Member State, or (b) the EU (e.g. press releases or conferences announcing legislative or regulatory initiatives and explaining the policy choice underpinning such initiatives);
- 3) Presentation of candidates in specified public spaces or in the media, where the allocation of such spaces or media coverage is explicitly provided by law, is free of charge and ensures the equal treatment of candidates.

As far as the second exception is concerned, public communication can take many forms and can be used by various actors, including commercial brands. Regulation (EU) 2024/900 lists several criteria <sup>(18)</sup> which must be fulfilled in order to benefit from the exception. If these criteria are not fulfilled, a public communication could be considered political advertising.

The third exception is limited to the presentation of candidates in electoral processes and does not apply to referenda or legislative or regulatory processes.

Such presentation would be normally framed by the specific provisions in the national law, typically electoral law. It could cover, for instance, broadcasting video spots on national TV or hanging posters depicting electoral candidates, including only logos of political parties running for elections, as the case may be.

The 'free of charge' allocation refers to allocating space for presentation or providing de facto advertising space for free, meaning that the provider does not charge anything in exchange for the presentation, allocation of space or media coverage. This does not affect how the content, such as a poster or video, was created, which may involve a political advertising service.

As long as all three conditions (i.e. free of charge allocation, explicitly provided for by law and equal treatment) are met, the message will not constitute political advertising.

The requirement of 'equal treatment' means that the presentation should be conducted on an equitable basis, ensuring equality of opportunity and applying objective criteria. This typically means ensuring balanced amounts of airtime or advertising space. It could also include proportional distribution based on the share of votes.

For example:

18. A public information campaign explaining how and when to vote, organised by a Member State authority in charge of elections before the national parliamentary elections, does not constitute political advertising (first exception).
19. A public information campaign explaining to EU citizens how and when to register to vote in their Member State of residence, organised before the European elections by an EU institution, does not constitute political advertising (first exception).
20. A technical briefing organised by a ministry to present the details of the policy choices made in a proposed legislative instrument would normally be factual and would not seek to influence the legislative process and, therefore, would not constitute political advertising (second exception).
21. Press releases that explain a decision made by a ministry or its minister, including reactional statements that serve to clarify issues or to correct inaccurate or misleading information in the public space, do not constitute political advertising, as they would normally be factual and seek to provide official information to the public, even if published during an election period or decision-making processes (second exception).
22. A public information campaign organised by a ministry or its minister informing about a public consultation on a legislative proposal that is being prepared does not constitute political advertising (second exception).
23. A public information campaign launched by an EU institution during a peak travel period to inform citizens about their free movement rights does not constitute political advertising (second exception)
24. Guides or handbooks shared online or via physical copies seeking to guide the public through rules or procedures do not constitute political advertising (second exception).
25. Objective presentation of candidates in public spaces (e.g. billboards) or in the media (e.g. TV, by allocation of broadcasting time for this objective presentation, or in the printed media or online news portals), free of charge, ensuring equal treatment, and as provided for by law, do not constitute political advertising (third exception).

<sup>(18)</sup> The public communication 1) must come from the public authorities of Member States or the EU or Member States' members of the government, 2) must aim to provide official information and 3) is not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process.

## 2.2 Constitutive elements of the definition of political advertising

### 2.2.1 Messages 'normally provided for remuneration'

Messages whose preparation, placement, promotion, publication, delivery, or dissemination is 'normally provided for remuneration' refer to political advertising services which are typically paid for.

The notion of remuneration under EU law is generally broad and includes payment or benefits in kind <sup>(19)</sup>, such as travel arrangements, accommodation or access to events or places that would otherwise require payment (see also the elements on service providers in Section 1.2.1).

This does not affect the fact that political opinions or other editorial content should not be considered political advertising unless specific payments or other remuneration are provided for, or in connection with, their preparation, placement, promotion, publication, delivery or dissemination by third parties.

See also the elements provided above on service providers.

### 2.2.2 Messages provided 'through in-house activities'

Political advertising conducted through 'in-house activities' concerns situations where no service is provided, i.e. where entities (e.g. political parties, companies or public bodies) prepare, place, promote, publish, deliver or disseminate messages using their own resources (e.g. employees or party members), rather than outsourcing activities to external political advertising service providers. This will cover activities of legal persons and may also cover activities of associations without legal personality.

Recital 24 of Regulation (EU) 2024/900 clarifies that such activities are carried out within an entity that is acting on its own behalf and that comprise or substantially contribute to political advertising.

When messages are posted organically on social media, i.e. without the use of paid-boosting or any other publishing services provided against a specific remuneration, or when messages are disseminated to the public, via other means, through in-house activities, transparency obligations applicable to publishers of political advertisements under Chapter II would not apply.

For example:

26. The posting of a political advertisement by a political party on social media on its own behalf (without paid publishing service involved), even where the preparation involved a paid service (e.g. with a PR company), would be considered political advertising published through in-house activities, and no labelling and transparency notice will be needed.
27. A political party prepares the content and visuals of messages through its internal marketing team and posts the messages directly on its social media account and its website. This would be political advertising prepared and published through in-house activities, and no labelling and transparency notice will be needed.
28. An industry association prepares and shares, on behalf of its members, a position statement on its social media account to promote the views of its members designed to influence an ongoing legislative process. This would be considered political advertising prepared and published through in-house activities, and no labelling and transparency notice will be needed.
29. Party members themselves distribute, for the party, political merchandise with campaign messages (i.e. falling within the scope of the Regulation). This would be considered political advertising disseminated through in-house activities, and hence no labelling and transparency notice will be needed.

<sup>(19)</sup> As confirmed by judgment of 27 September 1988, Humbel, C-263/86, EU:C:1988:451, paragraph 17 and judgment of 19 October 2023, QB v Commission, C-88/22 P, EU:C:2023:792, paragraph 30.

In-house activities which do not involve using targeting or ad-delivery techniques would not trigger any obligations under Chapter III of the Regulation.

However, if providers of a political advertising service engage in the preparation of a political advertisement which is later published, delivered or disseminated as part of in-house activities (e.g. as could be the case in example 26), they will still have to comply with the other obligations applicable to providers of political advertising services in Chapter II<sup>(20)</sup>.

If political advertising publishers publish, deliver or disseminate political advertisements that were prepared in-house, they will have to comply with the obligations applicable to publishers. This would include the obligation of users of online platforms to properly label the message they upload, if it qualifies as political advertising and if they received remuneration in exchange for uploading the message, as those users would in such cases be considered political advertising publishers (e.g. influencers being paid for posting messages to support political actors, prepared by the communication internal services of these actors).

### 2.2.3 Messages provided as part of a political advertising campaign

Article 3, point (7) of Regulation (EU) 2024/900 defines a 'political advertising campaign' as 'the preparation, placement, promotion, publication, delivery or dissemination of a series of linked political advertisements in the course of a contract for political advertising on the basis of common preparation, sponsorship or funding'.

This definition covers situations in which linked political advertisements are disseminated under a common framework based on contractual arrangements, without remuneration being directly associated with each advertisement. This is particularly relevant for the dissemination of content on social media and other activities based on a common preparation, if there is a contract.

For political advertisements to fall under an advertising campaign, there must be elements of common preparation (e.g. the content of the advertisements is the same, the advertisements share the same base/visuals/tone but are tailored to different audiences or there is evidence of coordination and planning). At the same time, the campaign must be conducted on the basis of a contractual relationship.

For example:

30. A political party contracts a marketing agency to prepare a series of posts to be uploaded directly on the party's social media account. These posts would qualify as political advertising.
31. An association hires a digital consultancy firm to design and distribute a series of infographics highlighting the positive impact of proposed government policies on citizens' health. The infographics are tailored to audiences of different ages, have a uniform visual theme and message. As such, the infographics are likely intended to influence an ongoing legislative process and could, therefore, fall within the scope of a political advertising campaign.
32. An entity works with a creative agency to launch a campaign to increase voter turnout in the upcoming elections. The campaign uses a series of animated videos, each designed to resonate with different cultural contexts, but conveying the same core message and aesthetic qualities. Given that the aim of the campaign is to influence voting behaviour or ultimately the outcome of the elections, it would qualify as a political advertising campaign.
33. Ahead of national elections in a Member State, an influencer is paid, in the course of a contract for political advertising, to post over a certain period of time, a large quantity of messages aimed at discouraging voting turnout. This would qualify as political advertising as part of a political advertising campaign, irrespective of whether remuneration was provided for each message posted.

<sup>(20)</sup> All obligations laid down in Chapter II are not exclusively addressed to publishers.

#### 2.2.4 Messages by, for or on behalf of a political actor

According to Article 3, point (2)(a) of Regulation (EU) 2024/900, the definition of political advertising includes advertising prepared, placed, promoted, published, delivered or disseminated by, for or on behalf of a political actor. Beyond politicians and political parties themselves, this also includes various entities which sometimes act as proxies for political parties.

Article 3, point (4) of the Regulation defines political actors as any of the following:

- a. a 'political party' <sup>(21)</sup>, or an entity directly or indirectly related to the sphere of activity of such a political party;
- b. a 'political alliance' <sup>(22)</sup>;
- c. a 'European political party' <sup>(23)</sup>;
- d. a candidate for or holder of any elected office at Union, national, regional and local level, or any leadership position within a political party;
- e. a member of Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors, or of a government of a Member State at national, regional or local level;
- f. a political campaign organisation with or without legal personality, established solely for the purpose of influencing the outcome of an election or referendum;
- g. any natural or legal person representing or acting on behalf of any of the persons or organisations referred to in points (a) to (f), and promoting the political objectives of any of those persons or organisations.

To be classified as political advertising, a message by, for or on behalf of a political actor does not need to be liable and designed to influence elections, referendums or legislative or regulatory processes. The two criteria listed in the definition of political advertising in Article 3, point (2)(a) and (b) of Regulation (EU) 2024/900 are not cumulative.

Messages by, for or on behalf of a political actor that are purely private or purely of a commercial nature are excluded from the definition of political advertising. An analysis of the concrete situation is necessary to determine whether political advertising is being conducted directly 'by' a political actor or whether another entity is acting 'for' or 'on behalf' of a political actor in a particular case. Recital 22 of the Regulation explains that elements that could be taken into account for this assessment include contractual arrangements, instructions and approvals given by the political actor.

Member States could further support compliance by making available and easily accessible a list of candidates in each election or, where feasible, a list of relevant political actors (e.g. a register of political parties).

For example:

34. A politician hires a PR company to promote his or her image across the country. The PR company prepares the messages to be published in relevant newspapers and in social media posts. The messages are approved by the politician and disseminated by the PR company. Since the messages are prepared and disseminated on behalf of the politician, they constitute political advertising.
35. In the run-up to elections, a politician pays a network of influencers to post similar messages indirectly promoting them. This constitutes political advertising.

<sup>(21)</sup> As defined in Article 2, point (1) of Regulation (EU, Euratom) No 1141/2014.

<sup>(22)</sup> As defined in Article 2, point (2) of Regulation (EU, Euratom) No 1141/2014.

<sup>(23)</sup> As defined in Article 2, point (3) of Regulation (EU, Euratom) No 1141/2014.

## 2.2.5 Messages that are of a purely private or a purely commercial nature

Article 3, point (2)(a) of Regulation (EU) 2024/900 provides that messages by, for or on behalf of political actors that are purely private or purely commercial in nature do not constitute political advertising.

As explained in Recital 22 of the Regulation, to determine whether a message is of a purely private or purely commercial nature, a variety of factors should be taken into account (see also Section 2.3 on this matter). The content of the message is the first aspect to consider, as it can indicate whether the message relates to personal life or commercial interests. In addition, understanding who the sponsor or initiator of a message is, assessing the language used, its tone and the overall context, including when and where the message is shared, can help unravel the intended purpose.

For example:

36. A political party posting a message to fill an internal vacancy, specifying the main contractual terms, is *a priori* purely commercial in nature and does not constitute political advertising.
37. An announcement by a candidate of the wedding of their daughter on social media is purely private in nature and does not constitute political advertising.
38. An advertising campaign launched by a local elected person who is also the owner of a hotel to promote holiday packages, including local attractions and sights, when booking accommodation at their new hotel is commercial in nature and does not constitute political advertising.
39. Advertisements placed by a political campaign organisation on social media solely to introduce its services (i.e. without promoting any specific policies, outcomes or candidates) would likely be considered commercial in nature and does not constitute political advertising.

## 2.2.6 Messages liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process

In addition to messages by, for or on behalf of political actors, the definition of political advertising in Article 3, point (2) of Regulation (EU) 2024/900 also covers messages that are liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour.

To constitute political advertising, the message must be both liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process. A message that may influence voting behaviour, without having been initially designed for that purpose, does not constitute political advertising under this part of the definition.

The assessment whether a message is liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour, needs to be based on objective elements and take into account all necessary features (see Section 2.3).

The approach is functional. The identity of the sponsor or initiator of the message is therefore not decisive, although it could help to determine the political nature of the message.

For the purposes of assessing whether a message is liable and designed to influence the outcome of elections, Recital 31 of Regulation (EU) 2024/900 clarifies that 'elections' should be understood as:

- (i) elections to the European Parliament;
- (ii) all elections or referendums organised at national, regional and local level in the Member States; and
- (iii) elections within political parties to choose their leadership.

The latter elections would include internal elections within a political party, including a European political party, to select individuals for leadership positions, typically the party leaders (e.g. presidents) and collegiate bodies (e.g. vice-presidents). This could cover the central governance and other levels (including regional or local levels) at which political parties choose their leadership.

Furthermore, messages liable and designed to influence the outcome of a legislative or regulatory process generally refer to messages that are aimed at influencing the preparation, negotiation, adoption or implementation of laws or regulations and should relate to existing processes, as well as efforts to initiate, prevent or block such processes.

This will mainly involve legislative or regulatory processes which have formally started (e.g. officially registered or codified), but could also cover the preparatory stage of a legislative or regulatory process, if there is sufficient evidence that such a process is underway or imminent (e.g. from public consultation or press releases by the relevant authorities indicating preparation toward a legislative proposal or regulatory measure or where consultations with stakeholders are held) or messages aimed at influencing the initiation of such processes, including messages aimed at deterring the launch of these processes.

For example:

40. A campaign initiated in response to a specific amendment discussed in a legislative process would likely seek to influence the legislative process, and would constitute political advertising.
41. A campaign using slogans like 'Make your vote count' launched ahead of a referendum on a topic covered by the questions asked in the referendum is likely to be designed to influence the outcome of that referendum, and would constitute political advertising.
42. An association launches a campaign to push for more restrictive advertising legislation on specific categories of food and drinks. Since the campaign aims at initiating the drafting and adoption of a legislation, this would be considered as liable and designed to influence the outcome of a legislative or regulatory process, and would constitute political advertising.

On the other hand:

43. A public information campaign raising awareness that is launched after a new legislative proposal has been introduced and which aims at educating the public is not likely to be liable and designed to influence the legislative process, and would not constitute political advertising.
44. A public information campaign to support prevention in health is unlikely to be liable and designed to influence an electoral or regulatory processes, and would not constitute political advertising.
45. A telecom operator promoting its latest offers during a national parliamentary debate on new telecom regulations is likely engaging in purely commercial advertising and not intended to influence any legislative or regulatory processes. Hence, it would not constitute political advertising.
46. A campaign launched by a charity organisation to raise funds for cancer research is unlikely to be liable and designed to influence the outcome of an electoral, legislative or regulatory process, and would not constitute political advertising.
47. An awareness raising campaign launched by a NGO about online scams and protection of vulnerable groups (like seniors and young adults) from fraud is unlikely to be liable and designed to influence the outcome of an electoral, legislative or regulatory process, and would not constitute political advertising.

## 2.3 Practical elements to be considered for the identification of political advertising

Article 8(1) of Regulation (EU) 2024/900 provides a non-exhaustive list of elements to be considered when determining whether a message is liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process and could therefore be identified as political advertising. These include elements related to:

- (i) the sponsor of the message;
- (ii) the language used to convey the message;

- (iii) the context in which the message is conveyed, including the period of dissemination (e.g. an electoral period);
- (iv) the means by which the message is prepared, placed, promoted, published, delivered or disseminated;
- (v) the target audience;
- (vi) the objective of the message.

The list above relates explicitly only to point (b) of the definition of political advertising in Article 3, point (2) of the Regulation.

In cases covered by Article 3(2)(b) of Regulation (EU) 2024/900, a clear and substantial link must exist between the message and its potential to influence the outcome of an election or referendum, a legislative or regulatory process, or people's voting behaviour. The fact that the message is designed for this purpose should result from all the relevant factors. In addition, the link should not be established retroactively purely on the basis of the message's impact (e.g. if the message goes viral).

Table 1 below lists objective elements to consider when assessing specific messages, building on criteria listed in Article 8(1) of Regulation (EU) 2024/900. To establish a link between the message and its political nature, a holistic analytical approach should be taken, as it is likely to be based on more than one indicative element. Their use could be cumulative. Such approach could also involve considering additional elements on a case-by-case basis.

In line with Recital 108 of Regulation (EU) 2024/900, Table 1 should serve first and foremost the national competent authorities to support the effective implementation and enforcement of this Regulation. It should be recalled that the primary responsibility to identify and declare political advertisements lies with the sponsors (see Section 3.2.4.3).

**Table 1**  
**Elements to be considered for identifying political advertisements**

	Questions to consider:
(a) the content of the message;	<p>Main elements:</p> <ul style="list-style-type: none"> <li>— Does the message include political terminology or phrases commonly associated with political campaigns?</li> <li>— Does the message concern issues or policies associated with a specific political actor or issues relevant for an upcoming election?</li> <li>— Does the message include political endorsements, calls to action, or discussions of political issues?</li> <li>— Does the message promote or oppose politicians, political parties, topical public policies or measures?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Does the message attempt to set the agenda, by promoting the salience of a politically relevant issue?</li> <li>— Is the message discussing specific elections, referendums, policies or measures, such a "proposition X" or "initiative Y"?</li> </ul>
(b) the sponsor of the message;	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— Is the sponsor, or the entity ultimately controlling the sponsor, a political actor or affiliated with a political actor?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Is the sponsor, the entity ultimately controlling the sponsor or the person or entity providing remuneration in exchange for political advertising services, financing political advertising or electoral campaigns, or making donations to political actors?</li> <li>— Is the sponsor, or the entity ultimately controlling the sponsor, engaging in political advertising or electoral campaigns, or in running for elections?</li> </ul>

	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— Which language is used to convey the message?</li> <li>— Does the language used indicate potential targeting of linguistic minorities?</li> <li>— Is the entire message conveyed in only one language indicating potential targeting of a specific country?</li> </ul>
(c) the language used to convey the message (2 <sup>4</sup> );	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— What is the timing of dissemination of the message in relation to elections, referendums, or legislative or regulatory processes (e.g. pre-election, election, during a legislative or regulatory process)?</li> <li>— Does the message relate to any recent political developments or controversies?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Is the message being published or disseminated during significant political events?</li> <li>— Is the message part of a broader campaign strategy, or a larger coordinated campaign?</li> </ul>
(d) the context in which the message is conveyed, including the period of dissemination;	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— Which channel(s) has(ve) been used to publish or disseminate the message (e.g. social media, email, television, print)?</li> <li>— By which technological means was the message delivered (e.g. mobile apps, websites, streaming services)?</li> <li>— Is the message part of a coordinated multi-channel campaign?</li> <li>— Are there any specific platforms or services that are predominantly used for dissemination?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Is the message prepared, published or disseminated in different formats?</li> <li>— In what volumes or how frequently is the message circulated or repeated?</li> </ul>
(e) the means by which the message is prepared, placed, promoted, published, delivered or disseminated;	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— Is the ad relying on targeting techniques to reach (a) specific audience(s)?</li> <li>— If targeting or ad-delivery techniques are applied, on which criteria was the audience targeted?</li> <li>— Is it clear from the message itself which audience it seeks to target?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Does the message highlight issues that resonate with specific geographic areas (e.g. urban, rural or coastal areas) or that use language or visuals that can be attributed to those areas?</li> </ul>
(f) the target audience;	

<sup>(24)</sup> Language could be an important indicator with regard to messages targeted only at selected audiences (e.g. minorities) or geographic areas. Language should be understood to include any language used in the EU, i.e. not just the official languages of the EU, but also regional dialects, sign language or non-EU-country languages, and to use any means of communication or codification, such as braille and other means.

	<p>Questions to consider:</p> <p>Main elements:</p> <ul style="list-style-type: none"> <li>— Does the message include calls to action/non-action related to an election, referendum, voting behaviour or a legislative or regulatory process (e.g. calls for voting, appealing to decision-makers, mobilising supporters or dissuading opponents)?</li> <li>— Is the message framed with a clear objective to shape the opinion about a specific issue, as opposed to simply informing people so that they can form their own opinions?</li> </ul> <p>Additional elements that could be taken into account:</p> <ul style="list-style-type: none"> <li>— Is it clear from the message that it is intended to influence an election or referendum, voting behaviour or a legislative or regulatory process?</li> </ul>
(g) the objective of the message.	

Table 1 is a supporting tool and should be used as such. It does not aim to introduce a one-size-fits-all solution, as it does not capture all possible elements.

Political advertisements should be assessed on a case-by-case basis and the elements to be considered (individually or jointly), listed in Table 1, should not be interpreted as automatically establishing a definite link between an advertisement and its political nature. There should be a solid basis for drawing conclusions from the respective considerations.

This is particularly relevant in terms of the distinction between political and purely commercial advertising.

Commercial advertising could qualify as political advertising if the message meets the criteria of the definition of political advertising in Article 3(2) of Regulation (EU) 2024/900, but it should not be automatically confused with political advertising. Where, for instance, advertising campaigns by commercial brands feature social or ethical issues (e.g. social equality or sustainability), not designed to influence a legislative or regulatory process, this would in principle mirror that brand's identity and core values, rather than aiming to influence electoral or regulatory processes. Similarly, if topics that have been present in commercial advertising campaigns (e.g. ads featuring local production or renewable energy solutions) are or become also relevant in the political discourse ahead of elections or referendum, it does not automatically make those advertisements political.

Examples:

48. A tech company advertisement featuring its online learning platform providing free courses to specific targeted groups, underlining themes of broad educational access is likely purely commercial, and would not constitute political advertising.
49. A company advertisement showcasing its commitment to donate part of its proceeds to a social cause is likely purely commercial, and would not constitute political advertising.

*On the other hand:*

50. A cross-border transportation company promoting the potential cost savings for its customers if highway rules were to be changed, while such changes are being debated in parliament, would constitute political advertising.

If advertisements are not by, for or on behalf of a political actor, they must be liable and designed to influence elections or referendums, voting behaviour or legislative or regulatory processes to constitute political advertising. The link to its political nature must be substantial, not coincidental or constructed based on seemingly fitting indicators.

To further facilitate the smooth application of Regulation (EU) 2024/900, Member States could provide additional guidance, including via dedicated websites, on assessing whether a particular message is likely to be considered political advertising, also taking into account the relevant national, regional or local specifics.

In this context, Member States, with the support of the Commission, should also regularly exchange on the identification of political advertising, including on the individual cases, within the framework of the Network of national contact points.

### 3. Obligations under Chapter II of the Regulation

This section concerns the obligations for sponsors, providers of political advertising services and publishers of political advertisements under Chapter II of Regulation (EU) 2024/900. The Commission notes that these obligations also apply to controllers (in addition to obligations under Chapter III) if they assume the role of sponsors, providers of political advertising services or publishers of political advertisements, as the case may be. Sanctions for non-compliance with these obligations are to be laid down by Member States and, in accordance with Article 25(1) of the Regulation, must be effective, proportionate and dissuasive.

#### 3.1 Obligations for sponsors

Regulation (EU) 2024/900 imposes specific obligations for sponsors of political advertising, which are detailed in Article 7 of the Regulation.

These obligations primarily relate to declaring political advertising and providing the information necessary for providers to ensure compliance with their transparency or due diligence obligations under Chapter II of the Regulation.

Sponsors are responsible for the accuracy of their declarations. They must promptly update or correct any inaccuracies detected.

When requesting an advertising service, sponsors (or providers of advertising services acting on behalf of sponsors) need to truthfully declare whether the service demanded constitutes political advertising, as defined in the Regulation.

Where sponsors request political advertising services in the last three months preceding an election or referendum (organised at Union level or at national, regional or local level in a Member State), which pertain to that election or referendum, they must in particular declare that they are entitled to request such advertising. As further detailed in Section 3.2.2, Article 5(2) of Regulation (EU) 2024/900, only allows political advertising services to be provided to:

- EU citizens,
- non-EU citizens permanently living in the Union and having the right to vote in that election or referendum, or
- legal persons which are not ultimately owned or controlled by third-country nationals (unless they permanently live in the Union and have the right to vote in that election or referendum) or by legal persons established in third countries.

According to Article 7(3) of Regulation (EU) 2024/900 sponsors (or providers of advertising services acting on their behalf) must provide information that is necessary for providers to comply with their record-keeping obligations under Article 9(1) of the Regulation, as well as, in case of political advertising publishers, with the labelling and transparency requirements under Articles 11(1) and 12(1) of the Regulation.

In line with Regulation (EU) 2024/900, such information should always include <sup>(25)</sup>:

- ✓ information on the political advertisement or the political advertising campaign to which the service or services are connected (Article 9);
- ✓ the identity and the contact details of the sponsor and, where applicable, of the entity ultimately controlling the sponsor, including their name, email address, and, where made public, their postal address, and, when the sponsor is not a natural person, the address where it has its place of establishment (Article 9, 11, and 12);

<sup>(25)</sup> Article 7(3) of Regulation (EU) 2024/900 provides that sponsors shall provide and ensure the accuracy of the information necessary for the providers of political advertising services to comply with Article 9(1), points (a), (d), (e) and (f), Article 11(1), points (a) to (d), and Article 12(1), points (a), (b), (c), (e), (h) and (k) of the Regulation, before or during the period of publication, delivery, or dissemination of the political advertisement.

- ✓ the identity and the contact details of the natural or legal person providing remuneration in exchange for the political advertisement if this person is different from the sponsor or the entity ultimately controlling the sponsor (Article 12);
- ✓ the period during which the political advertisement is intended to be published, delivered or disseminated (Article 12);
- ✓ information on the public or private origin of the amounts and other benefits received in exchange for the service, as well as whether they originated from inside or outside of the Union (Article 9 and 12);
- ✓ where applicable, an indication of the election, referendum, legislative or regulatory process to which the political advertisement is linked (Article 9, 11 and 12);
- ✓ where connected to particular elections or referendum, links to official information about the modalities for participation in the election or referendum concerned (Article 12);
- ✓ where applicable, a statement to the effect that the political advertisement has been subject to targeting or ad-delivery techniques (Article 11 and 12);
- ✓ where applicable, whether a previous publication of the political advertisement or of its earlier version has been suspended or discontinued due to an infringement of this Regulation (Article 12).

Where sponsors are ultimately controlled by another entity, the details of such entity need to be disclosed.

If sponsors (or providers of advertising services acting on their behalf) realise that any information they had previously provided has changed, they must promptly send the updated information to the relevant service provider in a complete and accurate way. Similarly, if they discover that any information transmitted to or published by the publisher is incomplete or inaccurate, they must immediately reach out to that publisher and provide the correct or missing information.

In accordance with Article 7(4) of Regulation (EU) 2024/900, whenever a sponsor is approached by a service provider in relation to a manifestly erroneous declarations or information, and is asked to correct the relevant information, the sponsor should respond to the request as soon as possible, and either complete or correct the relevant information. Such an approach should be maintained also as regards completing or correcting the information contained in labels or transparency notices in accordance with Article 12(2) of the Regulation or addressing notifications about possibly non-compliant political advertisements under Article 15 of the Regulation.

### 3.2 Obligations for providers of political advertising services

#### 3.2.1 Article 5(1): Non-discrimination

The cross-border provision of political advertising services in the internal market, just like the cross-border provision of all other services in the internal market, is subject to the principle of non-discrimination.

On that basis, Article 5(1) of Regulation (EU) 2024/900 provides that access by a recipient to a service on offer to the public is not to be restricted solely on the grounds of the recipient's place of residence or establishment. Providers of political advertising services are not allowed to discriminate against sponsors residing or legally established in the Union solely on the grounds of their place of residence or establishment, except where the difference of treatment is justified and proportionate in accordance with Union law.

This should not be understood as imposing a general obligation to provide services throughout the Union. The possibility of differences of treatment remains but has to be based on justified objective reasons (e.g. when providing services only in one Member State), especially where providers otherwise do provide services in the Member State where the service in question is intended to be provided.

The non-discrimination principle is particularly relevant for European political parties when conducting political campaigns across the Union and fulfilling the role assigned to them by the Treaties. Its application under the Regulation extends to European political parties or political groups in the European Parliament when acting as sponsors, in which case the providers should not deny or hinder their services or make them less attractive when requested by European political parties or European political groups solely on the grounds of their place of establishment, including registration.

### 3.2.2 Article 5(2): Ban on third-country sponsors

Under Article 5(2) of Regulation (EU) 2024/900, in the three months leading up to an election or referendum, political advertising services pertaining to that election or referendum cannot be provided to third-country sponsors, without prejudice to stricter national rules (possibly including total bans).

Political advertising services can only be provided to sponsors who declare themselves to be:

- a. EU citizens; or
- b. non-EU citizens permanently living in the Union and having the right to vote in that election or referendum, according to the laws of the Member State where they reside; or
- c. a legal entity based in the Union that is not ultimately owned or controlled by non-EU citizens from outside the Union (except where the individuals permanently live in the Union and have the right to vote in that election or referendum), or by a company based outside the Union.

This provision does not affect national laws which might prohibit political advertising during certain periods. It also does not affect national laws which prohibit the provision of political advertising on behalf of specific categories of entity, such as legal entities or third country nationals.

Considering there are diverse electoral frameworks across the Member States providing for different electoral periods (where applicable) or deadlines which can be shorter than three months, including as regards the possibility for snap elections, providers cannot be required to comply with this rule before the election or referendum was announced.

Member States shall publish the dates of their elections and referendums and, where applicable of their electoral periods, in an easily accessible place. The Commission will make available to the public a common EU portal through which the Member States will provide the relevant dates, immediately after the announcement of their elections and referendums. On this basis, providers will be aware of an election or referendum from the date it is officially announced in accordance with national legislation.

Providers of political advertising services are only limited in the provision of their services to third-country sponsors three months before specific elections or referendums in accordance with Article 5(2) of the Regulation. This should not affect the provision of services to such sponsors outside those periods.

Compliance can be supported by having in place effective monitoring mechanisms to allow providers of political advertising services to keep track of the respective services provided to third-country sponsors, so that the provision of services can operatively stop.

### 3.2.3 Article 6(2): Contractual arrangements

Article 6(2) of Regulation (EU) 2024/900 requires providers of political advertising services to ensure that the contractual arrangements concluded for the provision of a political advertising service enable compliance with the relevant provisions of the Regulation, including those related to the allocation of responsibility and those related to the completeness and accuracy of information.

This requirement will support the provision of the necessary information flows across the value chain, also in light of Article 10 of the Regulation and the obligation to transmit the relevant information to the political advertising publisher.

There may be cases where the providers enter the chain without an overall knowledge of the outcome of the process or connection to the overall production (e.g. by means of sub-contracting). This could involve situations where, for example, a marketing agency is only contracted for the preparation of the advertisement, with the subsequent use of the advertisement in the hands of the sponsor, as they see fit. In such cases, the marketing agency should not a priori be liable for the provision of information to a publisher where the publisher is unknown to them.

Furthermore, there may also be cases of publishers acting as joint publishers, which could, among others, give rise to the need to determine who is responsible for the labelling of the political advertisement so that the labelling and transparency efforts are not duplicated. Regulation (EU) 2024/900 leaves it to the joint publishers to organise such labelling and transparency. When doing so, they should consider efficiency as well as user-friendliness (see also Section 3.3.5).

For instance, if a sponsor requests an advertising company to produce campaign flyers but later on also hires a distinct contractor to disseminate the flyers, the most efficient way may be one where the advertising company, rather than the flyer contractor, ensures that all obligations related to labelling are complied with, meaning that the sponsor would need to provide updated information to the advertising company when the need arises, as required by Article 7(3) of the Regulation.

Such cases should be determined in a contractual framework, allocating the obligation and liability for transmission of information accordingly. In the interests of process efficiency and reducing administrative burdens, a good practice would be the contractual allocation of those responsibilities to the relevant sponsor, or provider acting on behalf of the sponsor, which is further requesting services from the publisher. Otherwise, there could be a clause that the relevant provider is to be in due course informed of all contracted publishers for advertisements to which their services relate.

However, Article 6(2) of the Regulation does not exempt providers from liability for obligations which, in substance, do not enter into any framework of shared compliance, such as in the case of co-publishers. This means that each provider would still have to individually comply with the relevant obligations relating essentially to the specific service they provide, including record-keeping or reporting obligations.

### 3.2.4 Article 7: Identification of political advertising services

In line with Article 7(1) of Regulation (EU) 2024/900, all providers of advertising services (i.e. including those that do not engage in political advertising specifically) must request from their clients a declaration on whether the content for which they request an advertising service falls within the scope of the definition of political advertising under the Regulation.

In addition, providers also need to request the client to provide a declaration that they comply with the criteria under Article 5(2) of the Regulation (see Section 3.2.2). Considering that the restriction is only relevant to political advertising services, providers could for example implement a stepwise approach and only seek declarations when political advertising is at stake. Otherwise, providers could also seek these declarations a priori from all sponsors but would then need to distinguish its applicability and apply accurate wording to this end. In any case, the declarations could be as simple as a toggle box in an online form.

In order to support their ability to demonstrate compliance, providers should keep the declarations or records that declarations were provided, including any relevant records hereto (e.g. where the sponsor was further contacted to correct the declarations), along with the information they are required to keep in accordance with Article 9 of the Regulation.

#### 3.2.4.1 **Contractual arrangements**

Under Article 7(2) of Regulation (EU) 2024/900, providers of political advertising services shall ensure that contracts concluded for the provision of a political advertising service require sponsors, or providers of advertising services acting on behalf of sponsors, to provide declarations about the political nature of the service and the eligibility to be provided services as per Article 5(2) of the Regulation.

Additionally, providers of political advertising services shall ensure that such contracts require the provision of relevant information to enable compliance with the record-keeping obligations under Article 9(1) of the Regulation and, in case of political advertising publishers, with the labelling and transparency requirements under Articles 11(1) and 12(1) of the Regulation (see Sections 3.2.5 and 3.3.1).

Recital 53 of the Regulation explains that where any conduct as part of commercial or contractual arrangement seeks or would risk circumventing the transparency obligations, those obligations are attributable to the entities that in substance provide the advertising service.

### 3.2.4.2 ***Administration of declarations and the necessary information***

To support the effective administration of information, providers should develop functional methods for the submission and collection of the declarations and all the necessary information to be provided by the sponsors. Uniformity in the collection system will serve to streamline the process, help reduce errors or omissions and ultimately support compliance by guiding the sponsors to provide everything that is required.

In accordance with Article 7(5) of Regulation (EU) 2024/900, which requires providers using an online interface to ensure that the online interface is designed and organized in a way that facilitates compliance by sponsors, or providers of advertising services acting on behalf of sponsors, any system developed should aim to be user-friendly and, as much as possible, assisting the sponsor as well.

This could, for instance, involve:

- ✓ providing standardised forms for sponsors to fill in (e.g. by pre-determining data fields to be filled or via ticking a box);
- ✓ where technically feasible, providing the opportunity to submit information via a digital interface;
- ✓ where using digital interfaces, automating the procedural steps and providing real-time evaluation of the data entries as the forms are completed (e.g. by automated indication of missing data entries or erroneous format, initial assessment of the completeness of the information provided or cross-checking verification of the sponsor against previous submissions with the provider);
- ✓ where using digital interfaces, facilitating follow-up interactions, including the opportunity to complement, update or correct the declaration or information provided by sponsors directly through the interface;
- ✓ enabling direct access to the relevant provisions of the Regulation, either through a hyperlink or by incorporating the wording of the provisions directly (e.g. within the declaration or as a pop-up window);
- ✓ making sure to employ accurate language to guide the collection system so as not to mislead the sponsor (e.g. not to imply extended scope of the ban beyond services pertaining to and provided within 3 months ahead of elections or referendum).

### 3.2.4.3 ***Accuracy of information***

Regulation (EU) 2024/900 is based on a system of truthful declaration and accurate information provision from the sponsor and attributes the responsibility to the sponsor as regards those types of information that are, a priori, outside of the control of the provider.

The Regulation does not impose any general obligation for providers of political advertising services to monitor the truthfulness of the declarations.

Providers of political advertising services, including publishers, are not required to verify the provided declarations or information, unless it appears to be manifestly erroneous without the need of further verifications or fact-finding exercises. This also means that they are not required to verify whether the advertisement is political. They should only request sponsors to correct declarations or information if they are manifestly erroneous (e.g. a candidate for a presidential election wants to launch a political campaign and erroneously indicated to the provider that such campaign was for a regional election, while the advertisement clearly refers to the presidential election).

Where a declaration or the information provided appears to be manifestly erroneous, the provider shall contact the sponsor, or the provider acting on its behalf, and ask them to correct the relevant information.

Recital 45 of the Regulation explains that providers of advertising services should consider a declaration or information as manifestly erroneous if that is directly apparent from the documents provided, the content of the advertisement, the identity of the sponsor, or the context in which the relevant service is provided, without the need to carry out further assessments or engage in fact-finding exercises. (26)

### 3.2.5 Article 9: Record-keeping

As part of their due diligence obligations, providers of political advertising services are required to keep specific pieces of information they collect while offering their services, as necessary to comply with relevant obligations.

The records shall in particular include the following:

- a) the political advertisement or political advertising campaign to which the service(s) is connected;
- b) the specific service(s) provided in connection with the political advertising;
- c) the amounts invoiced and the value of other benefits received for the service(s) provided;
- d) information on the public or private origin of the amounts and other benefits referred to in point (c), as well as whether they originated from inside or outside of the Union;
- e) the identity and the contact details of the sponsor and, where applicable, of the entity ultimately controlling the sponsor and, for legal persons, their place of establishment; and
- f) where applicable, an indication of the election, referendum, legislative or regulatory process to which the political advertisement is linked.

While providers should make reasonable efforts to ensure the accuracy and completeness of this information, it is the sponsor who is responsible for the accuracy of the points (a), (d), (e) and (f). The provider is thus responsible only for points which are in their direct control (i.e. as regards the specific service they provided and the amounts they invoiced, or the value of other benefits received).

The information needs to be retained by the service provider for a period of 7 years after the provision of service ended (i.e. from the date of the last preparation, placement, promotion, publication, delivery or dissemination, as the case may be). While it can be collected in written or electronic form, it has to be retained in a machine-readable format. As regards the information on the political advertisement or political advertising campaign to which the service or services are connected, providers could store the political advertisements as such but could also keep only the metadata on the respective political advertisements or campaigns as long as the metadata enables adequate identification or assessment.

The record-keeping obligation does not apply where a provider qualifies as a micro-undertaking under Article 3(1) of Directive 2013/34/EU and the provision of advertising services is purely marginal and ancillary to their main activities. Nevertheless, providers will still have to comply in such cases with the other obligations in Chapter II of the Regulation. Therefore, in order to enhance providers' capacity to assert their compliance with the different obligations, they could, on a voluntary basis, keep a record of the political advertising services provided in accordance with Article 9 of the Regulation to the extent possible (e.g. keeping only paper records).

<sup>(26)</sup> See also, for instance, Judgement of 8 March 2016, Greece v Commission, Case C-431/14 P, EU:C:2016:145, paragraph 32.

### 3.2.6 Article 10: Transmission of information to the political advertising publisher

Pursuant to Article 10 of Regulation (EU) 2024/900, providers are required to transmit the information they collect in accordance with Article 9(1) of the Regulation, during the provision of the relevant service, in a timely, complete and accurate manner to the political advertising publishers so that the latter can comply with their obligations under the Regulation.

If the provider becomes aware that the transmitted information has changed, they must provide the publishers with the updated information. As outlined in Section 3.2.3, this responsibility could be allocated to a sponsor or provider acting on behalf of the sponsor.

### 3.2.7 Article 16: Transmission of information to national competent authorities

Pursuant to Article 16 of Regulation (EU) 2024/900, competent national authorities may request information from providers of political advertising services to verify compliance with Articles 9, 11, 12 and 14 of the Regulation (i.e. obligations regarding record-keeping, labelling and transparency notices). Where the authorities ask for the relevant information, they must include a statement explaining the purpose of the request, unless doing so would hinder criminal investigations, and information on the available redress.

For the purposes of interacting with the authorities, providers must designate a contact point, which, in the case of micro to medium undertakings, may be an external natural person. In this sense, while the Regulation only requires the 'designation' of a contact point, providers should make that contact point easily accessible (e.g. by indicating the details on their website). For publishers, good additional practice could also be to indicate the contact point on the interface through which transparency notices are provided, when provided separately from the labels.

Where requests by national competent authorities are made, providers must acknowledge them within two working days, informing the authority also of the steps taken to comply with them, and supply the necessary information within 8 working days, although micro to medium-sized providers are only required to make reasonable efforts to follow up within 12 working days. That said, during the month leading up to an election or referendum, information that is already in the possession of the provider must be supplied within 48 hours, while micro or small providers are only required to comply as soon as possible and, ideally, before the relevant election or referendum.

### 3.2.8 Article 17: Transmission of information to other interested entities

Under Article 17 of Regulation (EU) 2024/900, interested entities (i.e. vetted researchers<sup>(27)</sup>, journalists, political actors, national or international electoral observers recognised in a Member State and members of a civil society organisations that are authorised under national or Union law and whose statutory objectives are to protect and promote the public interest) are entitled to request providers of political advertising services to share with them the information that they are required to have in their possession pursuant to Articles 9, 11 and 12 of the Regulation, including information under Article 19(1), point (c) on the main parameters of targeting or ad-delivery techniques where applicable. With regard to financial information, providers of political advertising services may aggregate the relevant amounts or place them in a range, to the extent necessary to protect their commercial legitimate interests, in accordance with Article 17(4) of the Regulation.

Generally, providers must transmit the requested information to the interested entity free of charge and, where technically possible, in a machine-readable format.

The providers may, however, charge a reasonable and proportionate fee where processing of the information request entails significant cost.

<sup>(27)</sup> Granted such status in accordance with Article 40(8) of Regulation (EU) 2022/2065. Article 17 of Regulation (EU) 2024/900 specifies which interested entities can request transmission of information and how. In this context, it empowers, among others, vetted researchers, as defined by Regulation (EU) 2022/2065, to request information on Articles 9, 11 and 12, Regulation (EU) 2024/900.

Where such requests are manifestly unclear, excessive or concern information not within the possession of the providers, they may refuse to provide the requested information, but they must follow up with a reasoned response to the relevant interested entity, outlining also information on the possibilities for redress, including, where applicable, those that exist under Directive (EU) 2020/1828 (28).

In any case, providers bear the burden of demonstrating any of the above and must transmit either the information requested or the reasoned response promptly and no later than within one month of the request.

### 3.2.9 Article 21: Legal representative

According to Article 21 of Regulation (EU) 2024/900, those service providers that provide political advertising services in the Union but do not have an establishment in the Union must designate, in writing, a natural or legal person as their legal representative in one of the Member States where they offer services. In addition, the legal representative must also be officially registered with the relevant competent authority of that Member State.

For the purpose of the registration, the service provider must submit, in a machine-readable format, a set of identification data of their legal representative (i.e. their name, postal address, email address and telephone number) and must ensure that the information is accurate and kept up to date.

The legal representative will be appointed as one for all Member States. To enable the representative to efficiently fulfil its tasks, the service provider must equip the representative with the necessary powers and resources, as they shall be responsible for ensuring compliance with the obligations of the represented service provider and may be held liable for any non-compliance with the obligations under this Regulation.

The Commission shall set up and maintain a publicly available portal linking to the online registers of all legal representatives registered on the territory of Member States under the Regulation.

## 3.3 Obligations for political advertising publishers

### 3.3.1 Articles 11 and 12: Labelling and transparency notices

Political advertising publishers, which are a subset of providers of political advertising services, are subject to specific obligations laid down in Chapter II of Regulation (EU) 2024/900, in addition to the transparency and due diligence obligations applicable to all political advertising services providers. Such publishers must ensure that each political advertisement is made available together with a label and a transparency notice, which can be provided either directly through the label or can be published separately if the label contains a clear indication of where it can be easily and directly retrieved. At least where political advertising is made available electronically, including through an online medium, the accompanying transparency notice should also be available electronically and in a machine-readable format.

The transparency notices, together with any modifications thereto, must be kept for a period of 7 years after the last publication of the political advertisement concerned. All transparency notices may be retained electronically, i.e. without the need to store a specific hardcopy.

The format, template and technical specifications of the labels and transparency notices of political advertisements are set out in the Commission Implementing Regulation (EU) 2025/1410 (29).

While political advertising publishers are only responsible for the accuracy of certain information, in particular the location at which the transparency notice can be retrieved (when not directly part of the label) and the information listed in Article 12(1) points (d), (f), (i), (j) and (m) of Regulation (EU) 2024/900, they are responsible for the completeness of the information listed in Article 12 of the Regulation (i.e. political advertisements should not be made available with any of the necessary information missing) and are required to make best efforts to complete or correct any of that information without undue delay if they become aware that it is incomplete or inaccurate.

(28) Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers.

(29) Commission Implementing Regulation (EU) 2025/1410 of 9 July 2025 on the format, template and technical specifications of the labels and transparency notices of political advertisements in accordance with Articles 11 and 12 of Regulation (EU) 2024/900 of the European Parliament and of the Council.

If the information cannot be completed or corrected without undue delay, the political advertising publisher must not make the political advertisement available or must promptly discontinue its publication, delivery or dissemination. Where this is the case, publishers must immediately inform the sponsors or the providers of political advertising services concerned about any decisions taken in this regard.

Given the potential need to update the necessary information, as well as the visual or technical aspects of the political advertising presentation and the need to ensure the clarity of the label, the use of dedicated webpage links or QR codes to provide a reference from where the transparency notice can be retrieved may be more effective than providing the transparency notice as part of the label. That is why Commission Implementing Regulation (EU) 2025/1410 provides for the use of dedicated webpage links, notably in the case of political advertisements made available through television and digital media.

In principle, where publisher(s) publish, deliver or disseminate the same political advertisement, including where this is done multiple times or through different media, they should provide only one transparency notice.

For example:

51. If a single political advertisement appears on billboards of the same publishing company all over a city, the transparency notice should be the same for all billboards presenting the same advertisement.
52. If a newspaper provider is contracted to publish the same political advertisement on the printed and online version of the newspaper, the transparency notice should be the same for all appearances of that political advertisement.
53. If a political advertising campaign is executed through different advertising products and the information to be included in the transparency notices is not different, there could be one transparency notice for all political advertisements in the political advertising campaign (e.g. each label would contain the same webpage link to the transparency notice).

According to Article 12(1), point (d) of Regulation (EU) 2024/900, the transparency notice will need to reflect the aggregated amounts received for the particular political advertisement, as well as for the whole political advertising campaign. This is further explained in Recital 57 of the Regulation. As sometimes the exact amounts for specific political advertisements are not explicitly invoiced, budgeted or charged, in particular in cases of political advertising campaigns, publishers may provide in such cases the aggregated amounts for the entire campaign.

### 3.3.2 Article 13: European repository for online political ads

Pursuant to Article 13 of Regulation (EU) 2024/900, political advertising publishers providing online political advertising services must make each political advertisement they disseminate, and the information required under Article 12(1) of the Regulation available in the European repository for online political advertisements (the Repository), which is to be established by the Commission in accordance with that Article.

Political advertising publishers who have been designated as providers of very large online platforms or of very large online search engines under Regulation (EU) 2022/2065 must make each political advertisement, together with the information required under transparency notices, available in the repositories they are required to compile pursuant to Article 39 of the Regulation (EU) 2022/2065 and enable access to that information through the European repository. As long as all relevant obligations are complied with, those publishers are then free to decide whether they want to establish a separate repository dedicated only to political advertising.

The obligations relating to the Repository will only become relevant as of the date of its deployment. <sup>(30)</sup>

### 3.3.3 Article 14: Periodic reporting

Pursuant to Article 14 of Regulation (EU) 2024/900, political advertising publishers, with the exception of micro to medium-sized undertakings, must attach to their management report, as part of financial reporting under the Directive 2013/34/EU <sup>(31)</sup>, details about the money or value of other benefits they received, either completely or partially, in exchange for the provision of political advertising services, including information about the use of targeting and ad-delivery techniques, which should be aggregated by campaign.

Additionally, such publishers must provide this information to the relevant authorities in charge of auditing or supervising political actors, if such authorities exist under national law.

### 3.3.4 Article 15: Notification mechanism

Pursuant to Article 15 of Regulation (EU) 2024/900, political advertising publishers must implement mechanisms enabling individuals and other stakeholders to notify advertisements that do not comply with the Regulation. These mechanisms must be accessible, user-friendly and free of charge and, where technically possible, those publishers are also required to enable electronic submissions to support the ease of use.

If those mechanisms are not available, individuals should be able to report such political advertisements directly to the competent authorities.

To help publishers quickly identify and address the concerned political advertisement as well as the potential non-compliance, the notification mechanisms are to facilitate the submission of detailed and substantiated notifications which include all of the following elements:

- ✓ a substantiated explanation of the reasons why the natural or legal person submitting the notification alleges that the political advertisement in question does not comply with the Regulation;
- ✓ information enabling the identification of the political advertisement;
- ✓ the name and email address of the natural or legal person submitting the notification.

Political advertising publishers could consider including more data fields in their mechanisms to help them properly address any potential non-compliance. Such data fields should not in any way be presented as mandatory for the notifying entities. The lack of information required in those additional data fields should not be interpreted as creating obstacles to processing a complete notification on the basis of the information included in the notification within the meaning of Article 15(7) of the Regulation.

The implementation of such mechanisms and the handling of the notifications received though it should not in any case be considered as requiring political advertising publishers, including online platforms when acting as such, to engage in general monitoring.

Once a notification is received, it must be promptly acknowledged to the notifier. Political advertising publishers who are providers of very large online platforms or of very large search engines must, without undue delay, diligently and objectively examine and address notifications, informing the notifier about the steps taken in response.

<sup>(30)</sup> By 10 April 2026, the Commission will adopt an implementing act setting out the arrangement for the functioning of the Repository. The Commission may issue further guidance on the compliance with the relevant obligations along with the establishment of the Repository.

<sup>(31)</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

Conversely, political advertising publishers who are neither providers of very large online platforms or of very large search engines are only required to make best efforts to examine and address the notifications without undue delay, while acting in a diligent and objective manner, and, at least when specifically requested, they should also inform the notifier about the follow-up given to the notification.

That said, specific deadlines for addressing the notifications apply, especially during critical periods such as the month leading up to elections or referendums. During this time, publishers must process notifications linked to those elections or referendums within 48 hours (i.e. two calendar days, regardless of weekend or public holidays), provided the notification contains all necessary information required by Article 15(3) of Regulation (EU) 2024/900. Publishers qualifying as micro to medium-sized undertakings shall make best efforts to process notifications linked to the elections or referendums without undue delay.

To streamline the process, publishers are allowed to respond to multiple notifications about the same political advertisement or campaign collectively, using automated tools or by referring to the notification via an announcement on their website if needed.

In accordance with Article 12(2) of Regulation (EU) 2024/900, when the political advertising publisher becomes aware by any means that a political advertisement does not fulfil the transparency requirements laid down in the Regulation, including following an individual notification, the Regulation provides for a stepwise approach.

In such cases, that publisher should make best efforts, including by contacting the sponsor or the relevant service provider when the incompleteness or inaccuracy does not come from the publisher, to complete or correct the information about the political advertisement. The publisher is required to stop the publication or dissemination of the political advertisement only when the information cannot be completed or corrected without undue delay, bearing in mind the particular circumstances of each case, including the importance of the missing information.

If any action that affects the availability or the presentation of the notified political advertisement is taken, publishers must immediately inform the sponsors or providers of the political advertising services concerned. All publishers must provide clear and user-friendly information on redress options related to the notification in question and disclose any automated processing in handling the notifications.

### 3.3.4.1 ***Interplay with the ‘notice and action mechanism’ under Regulation (EU) 2022/2065 – Digital Services Act (DSA)***

Providers of online platforms, including providers of very large online platforms, might not be in all cases political advertising publishers, such as when falling under the exception for intermediary service providers for messages uploaded directly by users without further consideration for their publication, delivery or dissemination. In such situations, providers of online platforms are not subject to obligations laid down in the Regulation. They remain subject to possible relevant obligations under the DSA.

Pursuant to Article 8 of the DSA, no general monitoring obligation shall be imposed on intermediary service providers as regards monitoring the legality of content shared by natural or legal persons on their services, nor are intermediary service providers required to take proactive measures in relation to illegal content.

According to Article 16 of the DSA, a provider of an online platform may still act under the ‘notice and action mechanism’<sup>(32)</sup>. Article 16 of the DSA does not oblige providers of online platforms to act upon notices. It only requires the processing of notices, and that the provider decides upon them in a timely, diligent, non-arbitrary and objective manner, i.e. the provider will have to decide whether they agree with the assessment of the person or entity notifying potentially illegal content.

<sup>(32)</sup> On which they may also rely under this Regulation when acting as political advertising publishers.

In the context of political advertising, this could mean that providers of online platforms within the meaning of the DSA are notified pursuant to Article 16 of the DSA of alleged illegal political advertisements, for which they are not acting as political advertising publishers. If in such a case the provider obtains actual knowledge or awareness of an illegal advertisement, they should act expeditiously to remove or to disable access to that advertisement if they wish to benefit from the exemption from liability for hosting services pursuant to Article 6 of the DSA. To give rise to actual knowledge or awareness pursuant to Article 6 DSA, the illegality of the content should be identifiable by a diligent online platform without a detailed legal examination (for instance, where the platform is provided with a decision of a competent national authority finding the content, or identical content disseminated via other channels, illegal).

Where a provider of an online platform removes or disables access to a political advertisement on the ground that advertisement constitutes illegal content pursuant to Article 3(h) of the DSA, it shall provide a clear and specific statement of reasons to the recipient of its service that uploaded the advertisement pursuant to Article 17 of the DSA, including clear and user-friendly information on the possibilities for redress available to the recipient of the service in respect of the decision, in particular, where applicable, through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.

This interplay can be illustrated by the following example: An advertising agency was paid to publish identical political advertisements for a sponsor on several online platforms. Following complaints regarding one of the advertisements, a competent authority decided that the advertisement was illegal, as it was being disseminated in the course of a contract with a third-country sponsor who did not declare itself as such, within 3 months before an election, as required by Regulation (EU) 2024/900. Following this decision, the advertisement was removed from one online platform. Any citizen or interested entity encountering the same advertisement may make use of the notice and action mechanism required pursuant to Article 16 of the DSA, to notify to the providers of online platforms, that the advertisement had been identified as illegal by a competent authority. The online platforms would need to process the notice according to the DSA.

### 3.3.4.2 *The notion of 'best efforts'*

The notion of 'best efforts' used in Article 15 of Regulation (EU) 2024/900 generally refers to sensible means and actions to achieve a specified objective. It assumes acting in good faith and employing logical steps that could be reasonably expected to be undertaken in similar circumstances to achieve the desired outcome, without necessarily determining the result of the process.

In principle, in terms of handling notifications, this could include:

- ✓ implementing a clear protocol or set of guidelines for staff to follow when dealing with notifications;
- ✓ training staff to recognise and prioritise notifications related to compliance with the rules on transparency of political advertising;
- ✓ establishing a dedicated team (with sufficient technical, financial and human resources) or assigning specific personnel to handle and prioritize the notifications;
- ✓ utilising technology or software to sort out or categorise notifications;
- ✓ contacting the sponsor as soon as possible after a need arises.

During the last month before an election or referendum, this could also include:

- ✓ allocating additional resources or personnel;
- ✓ implementing a dedicated schedule or overtime system for staff within the 48-hour timeframe;
- ✓ prioritising these notifications over less urgent matters.

In any event, whether actions taken by a provider satisfy the requirement of 'making best effort' must be determined on a case-by-case basis, as the context (e.g. complexity, timing or overall number of notifications received) or the resources available to providers differ in each particular situation. For instance, acting on 'best efforts' is likely to manifest itself differently in the case of SMEs.

### 3.3.5 Obligations for ad technology providers

Regulation (EU) 2024/900 foresees a shared responsibility between ad technology providers and the providers of the publishing interfaces (which can be websites or mobile apps, for instance).

Recital 67 of Regulation (EU) 2024/900 explains that where providers of political advertising services that host or otherwise store and provide the content of political advertisements are separate from those service providers that control the publishing interface, both providers should be considered political advertising publishers with responsibility in respect of the specific service they provide to ensure that labelling is provided and that the transparency notice and relevant information made available in accordance with the Regulation (see also Section 3.3).

The allocation of responsibilities should be framed by contractual arrangements and should by no means lead to the duplication of the labelling and transparency efforts.

So long as all the relevant obligations are complied with, Regulation (EU) 2024/900 provides the ad technology providers and providers of publishing interfaces with flexibility in arranging themselves and allocating the different responsibilities, taking into account the distinct services provided. Therefore, both providers should be able to rely on existing industry standards, codes of conduct or any other effective means to channel the provision of the necessary information. That said, considering that when an advertisement is conveyed by an ad technology provider it typically gets displayed on a great number of individual interfaces, the labelling and provision of the transparency notices being ensured by that provider may be the most efficient arrangement to ensure compliance with the Regulation. Further, in the same spirit, it would be sensible that those who provide the labelling and transparency notices are also responsible for compliance with the obligations related to the European repository under Article 13 of the Regulation.

Where such an allocation of responsibilities is not chosen, the ad technology providers would have to ensure the channelling of all the necessary information from sponsors to the providers of publishing interfaces which do not come in contact nor enter into contractual relationships with the sponsors, or providers acting on their behalf, and hence do not have the means to collect on their own all the necessary information listed in Article 11(1) and Article 12(1) of the Regulation. Where it is the provider of the publishing interface being in charge of the labels and transparency notices, that provider should build upon the information received and adapt it where relevant, to reflect the additional provision of service they provide as the ultimate publishers, before including it in the transparency notice, in particular as regards the information listed in Article 12(1) of the Regulation.

This would include the information listed in the following points of Article 12(1) of the Regulation:

- (d) the aggregated amounts and the aggregated value of other benefits received by the providers of political advertising services, including those received by the publisher in part or full exchange for the political advertising services, and, where relevant, of the political advertising campaign;
- (f) the methodology used for the calculation of the amounts and value referred to in point (d);
- (i) where applicable, links to the European repository for online political advertisements referred to in Article 13;
- (j) information on the mechanisms referred to in Article 15(1);
- (l) where applicable, a statement to the effect that the political advertisement has been subject to targeting techniques or ad-delivery techniques on the basis of the use of personal data, including information specified in Article 19(1), points (c) and (e).

Finally, with regard to missing or incorrect information, given that the Regulation presupposes political advertising publishers to undertake targeted actions serving to first and foremost rectify the situations that may arise and, only as a last resort, to discontinue the publication, delivery or dissemination of the political advertisement, appropriate arrangements should be made to that effect between the ad technology provider and the provider of the publishing interface, taking into account the spirit of the provisions already established under the Regulation.

In particular, without prejudice to the provisions of Regulation (EU) 2022/2065, effective means should be established to ensure that where one of the joint publishers becomes aware that the information in the labels or the transparency notices is incomplete or inaccurate, it is ensured that best efforts are made to complete or correct the information without undue delay, as required by Article 12(2) of Regulation (EU) 2024/900, and that the sponsor is contacted or informed as necessary.

Similarly, where more publishers are involved (e.g. where the ad technology provider places one version of a political advertisement on various interfaces) and where a political advertisement is further subject to corrections, completions or discontinuations, the ad technology provider should ensure that all publishers of that advertisement are adequately informed within the spirit of Article 12(2) of Regulation (EU) 2024/900, including to enable adapting the transparency notices with regard to point (k) of Article 12(1) of that Regulation if the advertisement has been suspended or discontinued due to an infringement of the Regulation.

### 3.3.6 Obligations for influencers

Since influencers are typically involved at the end of the political advertising production chain (e.g. engaging in the publication or dissemination of the political advertisements), they must comply with the obligations applicable to political advertising publishers where the Regulation applies to them (i.e. obligations common for all political advertising service providers and those specific for political advertising publishers).

There are also cases where influencers are merely involved within the preparatory stage of the political advertisement (e.g. by providing consultancy), in which case only the obligations applicable to all political advertising providers would apply to them (see Section 3.2).

When acting as political advertising publishers, influencers must:

- ✓ request the sponsor to declare whether the service requested constitutes a political advertising service;
- ✓ request the sponsor to declare their eligibility to be provided with political advertising services, in accordance with the prohibitions towards third-country sponsors under Article 5(2);
- ✓ request the sponsor to provide them with the relevant information to ensure compliance with the record-keeping obligations under Article 9(1), as well as with the labelling and transparency requirements under Articles 11(1) and 12(1);
- ✓ label the political advertisements and provide a transparency notice (or make it clear from the labels where they can be found);
- ✓ put in place mechanisms for users to allow for notifying the influencer's content as potentially non-compliant political advertising;
- ✓ make the political advertisement, together with the transparency notice, available in the European repository.

Recital 55 of Regulation (EU) 2024/900 explains that influencers, when engaged in political advertising via online platforms, may be able to rely on tools provided by the provider of an online platform, such as tools for labelling content as political advertising. By providing such tools, the provider of an online platform should not be considered to constitute the publisher of the political advertisement instead of the influencer.

That said, since influencers normally operate as single individuals or within smaller teams, certain exemptions may apply as part of the alleviation of burden for SMEs (see Section 3.4), in particular as regards:

- Article 9(4): Record-keeping obligations.
- Article 12(5): The retention of transparency notices for a period of seven years after the last publication of the political ad.

- Article 14(2): Annual reporting on the amounts invoiced for their political advertising services.
- Article 15(6)(b) and (7): Addressing the notifications about possibly non-compliant political advertisements.
- Article 16(3) and (4): Provision of information to national authorities.

### 3.4 Minimising burdens for SMEs

Small actors also play a key role in the political advertising ecosystem. Regulation (EU) 2024/900 takes into account their specificities and provides for the following tailored requirements:

- i. Micro-undertakings for which the provision of (all) advertising services is only marginal and ancillary to their main activities are entirely exempted from the record-keeping obligations, <sup>(33)</sup> as well as from the requirement to retain the transparency notices together with any modifications thereto for a period of seven years after the last publication of the relevant political advertisements <sup>(34)</sup>.
- ii. SMEs which are political advertising publishers do not need to annually report on the amounts invoiced for their political advertising services <sup>(35)</sup>. In the last month preceding an election or a referendum, they also do not need to comply with the 48-hour deadline to process notifications about possibly non-compliant political advertisements pertaining to that election or referendum. They should, however, make best efforts to process the notification without undue delay <sup>(36)</sup>.
- iii. When handling notifications, micro-undertaking shall make best effort to ensure that, where requested, the person notifying the publisher about possible non-compliant political advertisements receives a follow-up that was given to the notification <sup>(37)</sup>.
- iv. When national authorities request information to verify compliance with the Regulation, extended deadlines apply to SMEs, which shall make reasonable efforts to provide the requested information within 12 working days and thereafter, without undue delay <sup>(38)</sup>.
- v. When national authorities request information to verify compliance with the Regulation in the last month preceding an election or a referendum, micro or small undertakings shall provide the information without undue delay and where possible before the date of the election or referendum, as compared to other providers to which 48-hour deadline applies <sup>(39)</sup>.
- vi. SMEs may appoint an external person as their contact point for the interaction with competent national authorities <sup>(40)</sup>.

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<sup>(33)</sup> Article 9(4) of Regulation (EU) 2024/900.

<sup>(34)</sup> Article 12(5) of Regulation (EU) 2024/900.

<sup>(35)</sup> Article 14(2) of Regulation (EU) 2024/900.

<sup>(36)</sup> Article 15(7) of Regulation (EU) 2024/900.

<sup>(37)</sup> Article 15(6)(b) of Regulation (EU) 2024/900.

<sup>(38)</sup> Article 16(3) of Regulation (EU) 2024/900.

<sup>(39)</sup> Article 16(4) of Regulation (EU) 2024/900.

<sup>(40)</sup> Article 16(5) of Regulation (EU) 2024/900.