

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
JUSTICE AND CONSUMERS
Directorate D Unit D.3.: Union
citizenship rights and Free movement

Political advertising – improving transparency

Summary report – public consultation 2021

Disclaimer: This document should be regarded solely as a summary of the contributions made by stakeholders in the open public consultation on an initiative on the transparency of political advertising. It cannot in any circumstances be regarded as the official position of the Commission or its services. Responses to the consultation activities cannot be considered as a representative sample of the views of the EU population.

1. INTRODUCTION AND OVERVIEW OF RESPONDENTS

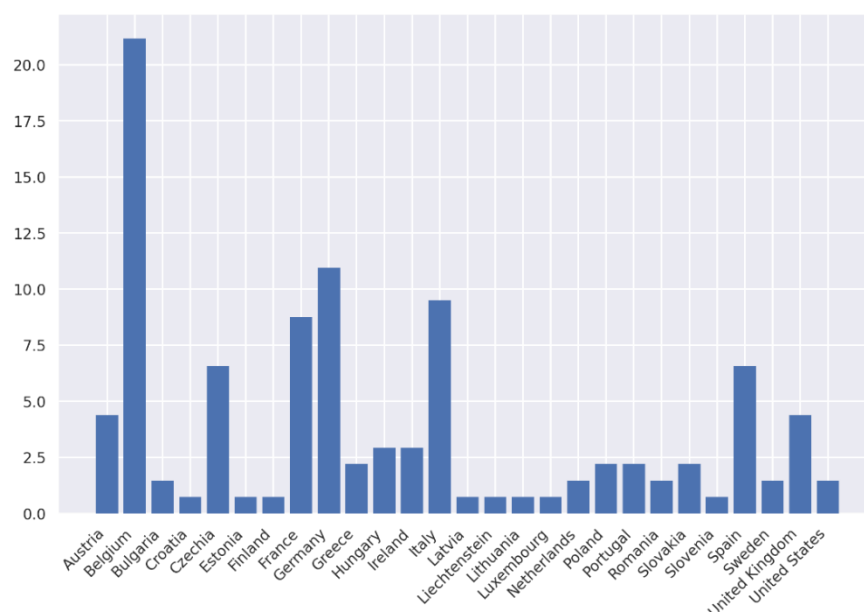
The purpose of the open public consultation was to gather stakeholder input with regard to the initiative on the transparency of political advertising¹, and to ensure that all relevant stakeholders were given the opportunity to share their views. More specifically, the consultation aimed to gather the views of stakeholders on the need and objectives for EU intervention as well as different policy options regarding the transparency and targeting of political advertising.

Open public consultations are not by nature statistically representative of the population (unlike, for example, public opinion polls). Therefore, their purpose is not to find answers that could be generalised, but rather to gain insights that can shed new light on a range of issues.

The questionnaire contained 28 questions, including closed and open questions, which sought to obtain data on the factual situation of political advertising and campaign regulation in the country of residence or establishment of the respondent, and the respondent's views on specific issues. It was divided into six sections: (1) About you, (2) Questions on political advertising and related services, (3) Questions on relevant rules for political advertising, (4) Questions on transparency requirement, (5) Questions on targeting and amplification, (6) Closing questions.

The consultation opened on the Commission's Have Your Say portal on 22 January 2021 and closed on 2 April 2021. 137 individuals or organisations completed the questionnaire within the prescribed consultation period. This summary takes into account all these replies. While not specifically taken into consideration in this summary, the other contributions on this topic, including from stakeholder meetings, general comments and position papers submitted in the consultation are taken into account in the Commission's assessment related to this initiative.

Figure 1: Country of origin of the respondents



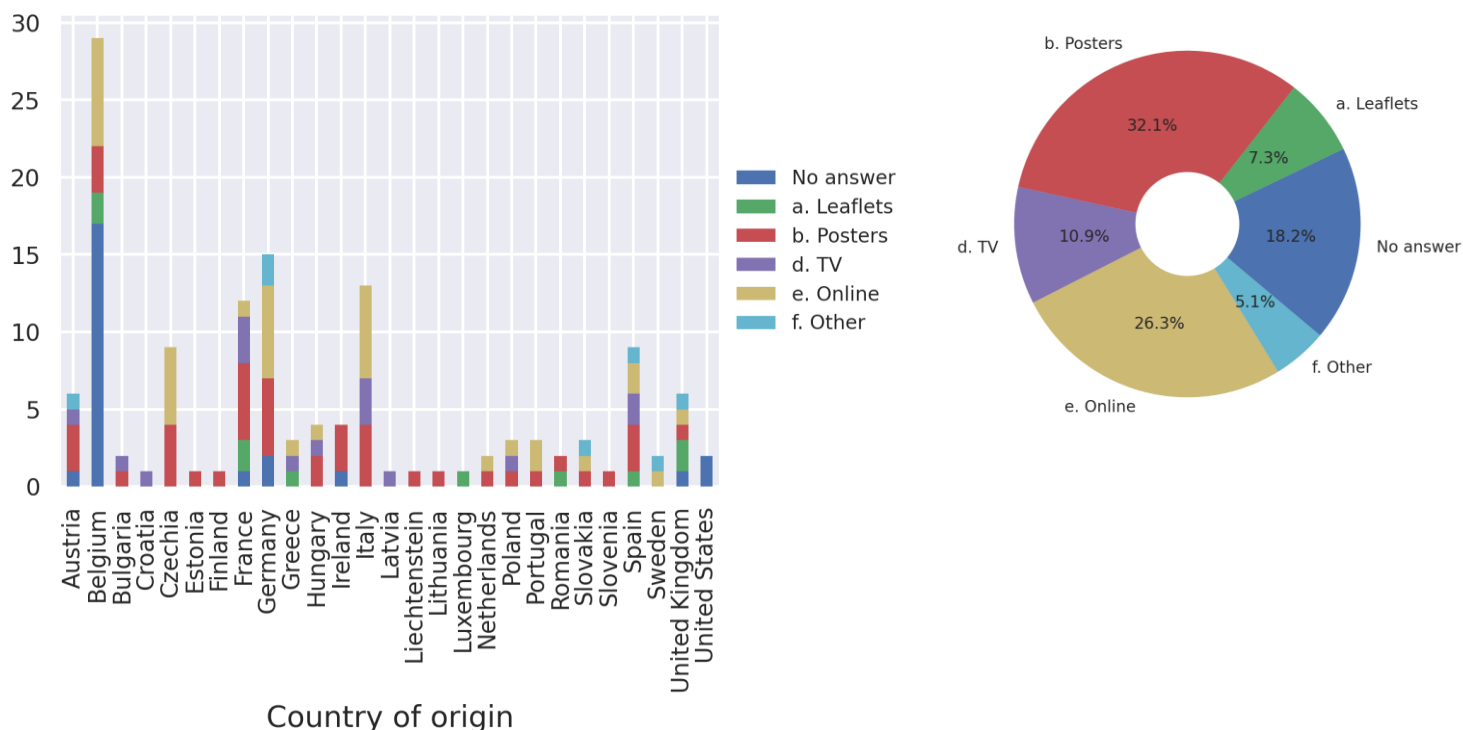
¹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12826-Political-advertising-improving-transparency_en

2. OUTCOME OF REPLIES

Out of the 137 responses received, most of the feedback was from citizens (66 responses from EU citizens, or 48% of all, and 2 responses from non-EU citizens, or 1.4%), NGOs (20.4%), and business associations (9.5%). They were followed by Other (6.5%), private companies (5.8%), public authorities (4.3%), academia (2.1%), consumer organisations (0.7%), and trade unions (0.7%).

The majority of respondents were from the EU. Their six main countries of origin were Belgium (21.1%), Germany (10.9%), Italy (9.4%), France (8.7%), Czech Republic (6.5%) and Spain (6.5%). 12 position papers were submitted directly through the OPC.

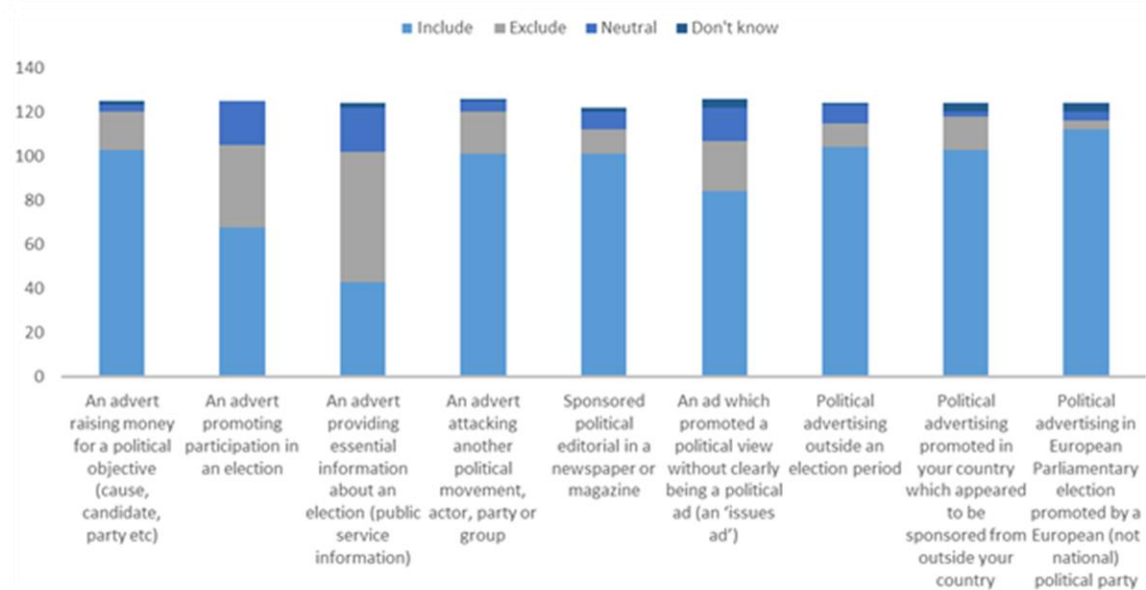
Participants were asked (see the two graphs below) about the kind of political ads they had encountered the most, from which it appeared that posters were the most common form of political ad (32%), followed by online ads (26%). 77% have seen online political advertising.



The participants were presented various elements and asked whether, according to them, it should be an element qualifying an ad for the category political ad (*Should definitions of political advertising include the following: an advert raising money for a political objective; an advert attacking another political movement, actor, party or group; an ad which promoted a political view without clearly being a political ad (an "issues ad"); political advertising promoted in your country which appeared to be sponsored from outside your country; political advertising in European Parliamentary election promoted by a European (not national) political party;*

political advertising outside an election period?). A majority was in favour each time (between 63 and 81% support), except in two cases (*an advert promoting participation in an election; an advert providing essential information about an election*). (See figure below²)

Further, 58.3% of respondents considered that the definition of political ads should be set in law,



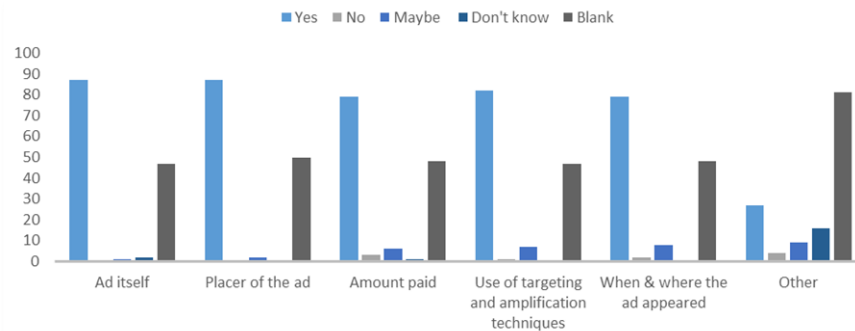
while 27% deem that it should be dynamically adaptable. Respondents supporting the former indicate that a legal definition is required to (a) provide legal certainty, (b) prevent grey areas and loopholes, (c) have a strong framework to prevent electoral manipulation and (d) to clearly frame restrictions on the freedom of expression. The arguments offered in support of a dynamic definition are (a) to allow quick modifications due to rapid evolutions in technology, (b) to ensure fair competition and (c) to include political contents which is not clearly a political ad on the basis of a fixed definition. Some respondents indicated a preference for a legal definition, which was nonetheless dynamically adaptable.

Participants were asked about the information provided in political ads. They were asked whether (a) they had been provided a specific element in political ads they encountered, and whether (b) they believed such an element *should* be made publicly available through rules set at EU level (for a visual presentation of (b), see figure below):

- clear labelling of the ad as political ad:
 - (a) 30% yes, 23% maybe, 23% no;
 - (b) 80% yes, 5% maybe, 6% no.
- information about who placed the ad:
 - (a) 28% yes, 22% maybe, 23% no;
 - (b) 64% yes, 2% maybe, 0% no.
- information about entities sponsoring or co-sponsoring the ad:

² Note: the vertical axis is not the percentage but the number of responses (total N=137).

- (a) 14% yes, 13% maybe, 42% no;
- (b) 72% yes, 12% maybe, 8% no.
- information about the amount paid:
 - (a) 6% yes, 12% maybe, 56% no;
 - (b) 58% yes, 4% maybe, 2% no.
- information regarding the use of targeting:
 - (a) 8% yes, 11% maybe, 52% no;
 - (b) 60% yes, 5% maybe, 0.7% no.
- Other information about the ad: (a) 6% yes, 13% maybe, 31% no, 20% don't know.
 - (b) Information on when and where the ad appeared (where available): 60% yes, 6% maybe, 2% no.



The responses referred to unequal transparency in a number of information categories, and indicated that a higher standard of transparency was desired. A majority of respondents (62%) were in favour of a legislation at EU level on the funding of political advertising, mainly focusing on transparency of funding of political parties and foreign donations. In their comments, several underlined the diversity of legislation across Member States as an issue. Some respondents wrote that harmonised EU legislation would prevent national rules from being circumvented. A significant minority respondents (29%) did not position themselves on this issue (11.7% maybe, 5.8% don't know, 11.7% blank), mainly business associations and companies. Among the respondents opposed to EU legislative intervention, the most common reason offered was that electoral matters is a national prerogative. These respondents nevertheless supported the exchange of best practices and the adoption of guiding principles.

Respondents were asked about their knowledge of and views on party spending limits. Their views on the rules regarding the funding of political adverts were also queried (e.g. the sources permitted, spending limits).

The majority (80%) were in favour of rules set at EU level requiring all political advertising to be clearly and specifically labelled as such, and (72%) of rules requiring all the sponsors of political ads to be disclosed within the ad itself.

70% of respondents were concerned about the possibility of foreign actors being able to sponsor political advertising to increase their own influence within the EU. 85% were concerned about political advertising, especially online, being used to intentionally spread false or misleading information.

Most respondents considered that specific measures are needed to ensure that the competent authorities can have more effective oversight over political advertisement online (74% yes, 5% no, 9% maybe). Most respondents also considered that there should be common rules for political ads in European Parliamentary elections (69% yes, 12% maybe, 4% no).

Respondents considered that European political parties should: disclose their ad spending online in real time (68% yes, 4% no), maintain examples on their website of the ads they sponsor (68% yes, 5% no), disclose the advert targeting services they use (72% yes, 4% no), refrain from using certain technologies which can be used to mislead (e.g. micro-targeting and other data-driven techniques, ad amplification, etc.) (55% yes, 12% no). Respondents were not particularly in favour of European political parties having to refrain from political advertising altogether (rely on national campaigns only) (12% in favour, 50% against).

They considered that publishers of political ads should retain certain basic information from those placing such ads (72% yes, 9% maybe, 5% no). An open-ended question allowed respondents to specify which information they believe should be (or should not be) retained. Respondents were overall of the view that service providers involved in political ads should also have obligations to retain and provide information (67% yes, 12% maybe; 9% no) – and this regardless of whether the political ad is online or offline (79% yes, 5% maybe, 4% no). 70% of respondents were in favour of all political ads being made accessible to everyone.

58% were in favour of additional limits on targeting and amplification methods, besides compliance with data protection rules (18% maybe, 13% no). 27% were in favour of a ban of the targeting and amplification of political ads (14% maybe and 10% against). Respondents preferred an opt-in mechanism (31% yes, 10% maybe, 12% no) rather than an opt-out mechanism (11% yes, 11% maybe, 28% no). Respondents were broadly in favour of EU rules controlling other amplification methods such as paid-for likes (71% yes), bot software (68% yes), paid-for influencers (66% yes). Provided relevant data protection rules are complied with (e.g. that explicit consent to the use of the relevant data was obtained), 42% of respondents thought that the targeting of political ads could be allowed for certain criteria (e.g. by geographic location, income bracket, gender, age, political affiliation, and general preferences and interests derived from a user's online activity) (18% maybe, 29% no).

3. NEXT STEPS

The replies to the public consultation on political advertising helped the European Commission assess the options available to improve the situation with regard to the transparency requirements across the EU for political advertising. This assessment was done in an Impact Assessment analysis, which examined the expected economic and social impacts on EU businesses and citizens, as well as the expected impact on fundamental rights³.

³ https://ec.europa.eu/info/files/impact-assessment-political-advertising_en