

July 31st, 2025

EASA's position paper on the draft guidance on the Regulation on the transparency and targeting of political advertising

The European Advertising Standards Alliance (EASA) would like to hereby explain its position on the draft guidance published by the European Commission on the Regulation on the transparency and targeting of political advertising.

About EASA and advertising self-regulation

EASA¹ represents and coordinates collective advertising self-regulatory systems across Europe, promoting high ethical standards in commercial communications. Its membership is made up of 28 independent advertising self-regulatory organisations (SROs), which enforce advertising self-regulatory codes of conduct at the national level, 14 advertising industry associations (advertisers, agencies, media) and 2 digital pure players, all of which support the self-regulatory systems and committing to their principles.

EASA's key recommendations

EASA recommends to modify the wording of the current draft in order to make clear and ensure that the guidance:

- Takes a neutral approach and does not start with an assumption of the existence of a link between a message and its alleged political nature;
- Gives space to determine the non-political nature of such message;
- Includes fair, accurate and non-confusing 'questions to consider' in Table 1,
- Leaves "issue-based commercial advertising" out of the scope of the Regulation.

EASA's general position on the guidance

The interpretation of the definition of political advertising is of direct concern to EASA members, as well as several items suggested by the guidance in "Table 1: Elements to be considered for identifying political advertising"². Indeed, from EASA's perspective, it is of utmost importance that this guidance serves as a practical tool to make a **circumscribed and accurate interpretation of the term "political advertising"**, which is a key determinant of the scope of the Regulation, and thus, **guarantees that matters of purely commercial advertising are excluded from it.**

Additionally, from EASA's perspective, the broad definition of political actors under the Regulation's Article 3(4) may be challenging to implement. We believe there is currently no reliable source of information against which service providers can check a customer's or user's

¹ More information about EASA is available [here](#).

² In section 2.3. Practical steps for identification of political advertising

political status to confirm whether they may qualify as a political actor. We note that the Commission is planning to establish a web portal listing elections and their dates in the EU. The Commission may want to consider establishing, in collaboration with EU Member States, a similar solution to identify political actors taking part in each election.

Furthermore, it should be noted that **commercial advertising is already strongly regulated by EU law**, such as the Unfair Commercial Practices Directive (UCPD)³, Audiovisual Media Services Directive (AVMSD)⁴ and Digital Services Act (DSA)⁵. Furthermore, these legal Acts are complemented by the advertising self-regulatory systems, which provide robust, flexible and consumer-friendly mechanisms to ensure responsible advertising. As the core of these systems, EASA's self-regulatory members (SROs) across Europe enforce advertising codes of practice at the national level, as encouraged by the UCPD, AVMSD and DSA.

EASA's recommendations over the identification of political advertising

As stated above, from EASA's perspective, the guidance should serve as a practical tool to help identify what does, and does not, constitute "political advertising", without departing from its boundaries set by Article 3(2) of the Regulation and Article 8. Considering this, EASA believes that the proposed text does not sufficiently keep to the letter and spirit of the Regulation's definition of "political advertising" and, most importantly, that the draft should take a more neutral approach when interpreting the listed features in Article 8(1)(a-g) for the identification of a political advertisement.

As established in Recital 23, a message will only be considered political advertising when a "*clear and substantial link exists between this message and its potential to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour*". Article 8 and its points a-g lists criteria for the purpose of determining this potential link.

The draft guidance presents them as a non-exhaustive list of features that must 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*", in line with the spirit and letter of the Regulation's Article 8. Importantly, the evaluation of an advertisement based on these features **is no more likely to result in the demonstration of a political nature than of a non-political one**. Similarly, the text specifies that the demonstration of a "clear and substantial link" and the fact that the message is "designed" for political purposes "should result from all the relevant factors", **suggesting that all listed features require consideration**.

³ [Directive 2005/29/EC](#), Unfair commercial Practices Directive, Consolidated text, 2022

⁴ [Directive 2010/13/EU](#), Audiovisual Media Services Directive, Consolidated Text, 2018

⁵ [Regulation \(EU\) 2022/2065](#), Digital Services Act, Consolidated Text, 2022

In spite of such a clear and accurate framing of the “features”, the same draft guidance states that “to establish **the 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**”. **This phrasing leads one to think that the proposed guidance aims to establish the existence of such link.** Instead, it should remain neutral and thus give as many chances to demonstrate the non-political nature of the message.

Additionally, when presenting “*Table 1: Elements to be considered for identifying political advertisements*”, the draft guidance states that “*these should supplement one another where a clear link cannot be drawn from only one or a few factors*”. This suggests that the different features will be analysed one after another until finding one that can justify the political nature of the message. Again, **this implies that there is an intention to establish a link.** This is not only inconsistent with the Regulation’s Article 8 introductory paragraph, but it also goes against the spirit and initial goal of the Regulation.

From EASA’s perspective, **this biased approach is problematic, as it could inadvertently capture within scope issue-based purely commercial advertising, whereby a brand supports social causes in alignment with its core values.** This ambiguity risks creating a chilling effect on public disclosure, as brands, fearing they may run afoul of EU regulation, will retreat from participating in conversations about societal issues. Thereby, reducing the diversity of voices contributing to public debates and impoverishing the marketplace of ideas on critical topics.

In this regard, it should be stressed that consumers are becoming increasingly conscious about the products and services they purchase and want confidence that retailers and service providers adopt fair, ethical, and sustainable business practices. As such, it is important for advertising to be able to reflect this, for example, through issue-based ads. Nonetheless, in spite of these being purely for commercial purposes, under the Guidance as currently drafted, issue-based commercial ads could mistakenly fall under the Regulation, which would thereby depart from its material scope and its objectives and generate the chilling effect on public disclosure mentioned above.

Additionally, EASA considers that some of the elements outlined in Table 1 are not appropriate for determining whether a message constitutes political advertising. On the one hand, because they could be indicative of targeted advertising that is purely commercial and not political in nature. And on the other hand, because they are impossible to consider at scale. Some problematic items detected by EASA include the following.

- Regarding the **content** of the message (feature ‘a’), it should be stressed that a message that is not “purely factual” is not necessarily political. Because of its nature, an issue-based commercial ad cannot be purely factual and might touch on a “politically relevant issue” and/or “issues likely to become relevant in an upcoming election” (e.g. fighting racism, environmental matters, diversity, inclusion etc.).

- Likewise, the tone of all types of advertising, whether political or purely commercial, does “rely on emotional appeal” to an extent. Consequently, the use of emotional appeal in marketing does not imply that a message is political in nature. Often commercial advertising uses emotions such as humour, excitement, nostalgia, fear of missing out, etc., to create appeal for the product or service that is being marketed. In this regard, EASA recommends the deletion of the “emotional appeal” criterion, which would not enable to differentiate between purely commercial and political advertising.
- Additionally, whether the message concerns issues “likely to become relevant in an upcoming election” are elements impossible to reflect on at scale.
- The **language** (feature ‘c’) used to convey any advertising message, whether political or commercial, would indeed be employed to “target linguistic minorities” or a “specific country or audience” in order to “appeal to selected groups”. Nonetheless, the usage of a specific language and jargon may be used equally in political advertising as in purely commercial, non-political, practices and marketing strategies. Such criteria can therefore not be used to qualify an advertisement as political.
- The **objective** (feature ‘g’) of an issue-based commercial ad is certainly not political; however, it does “raise awareness about a specific issue”. Yet it is not a political message, it has no intention to be, and the message does not, in any case, “attempt to set a political agenda”. The presence of the brand logo and/or identity in the advertisement, for instance, could serve as a useful element to prove that the objective of it is not political but rather commercial (e.g. generate more sales, brand awareness, etc.).
- Regarding the **context** (feature ‘d’) in which the message is conveyed, issue-based commercial ads will most probably always “relate to any recent political developments or controversies”. Issue-based ads, again due to their nature, are associated with social matters that are commonly and persistently subjects of political controversies (e.g. healthcare, climate change, immigration, social justice, etc.). Yet, these types of ads, even if they are disseminated during a period of “relevant political events”, are not part of a “broader campaign strategy”.

Consequently, **the guidance should clarify that purpose-driven marketing practices, whereby a brand supports social causes in alignment with its core values, also called “issue-based commercial advertising”, are not in any case covered by this Regulation.** This could be the case, for instance, of a telecom operator advertising against hate speech, a brand conveying some immigration-friendly or environment-friendly messages in their ads, or even so ads containing references to the defence of traditions. **Hereafter are a couple of concrete examples of “issue-based commercial advertising” handled by EASA Self-Regulatory Organisations, which do not fall in the category of political advertising:**

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| <ul style="list-style-type: none">• 2019 Coca Cola advertisement in which Santa Claus was depicted as an immigrant being warmly welcomed by children and families. |
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- 2022 Pantene [advertisement](#) sponsoring the operation of the telephone help line 11528 that provides psychological assistance to the LGBTQ+ community in Greece and disseminating it with the hashtag #HairHasNoGender.

These initiatives are more about promoting diversity and tolerance, in line with a brand's communication about its core values, rather than aiming at setting a political agenda or influencing an ongoing or future political campaign.

This clarification is of utmost relevance because **the Regulation was never developed nor written with the purpose to equalise “issue-based commercial advertising” with advertising aiming at influencing political outcomes.**

The guidance should stick to the aim and scope of the Regulation and to the strict definition and accurate interpretation of the term “political advertising” as described in its Art. 3(2). Similarly, the guidance should also help to ensure that all features listed in Article 8 are properly considered when determining whether a message constitutes political advertising. Finally, the currently suggested “Elements to consider” in Table 1 should be rethought. The term “designed to” used in the Regulation’s Article 3(2)(b) should be better reflected in Table 1, along with its inherent notions of aim and intention. These “Elements to consider” in Table 1 should provide accurate questions that allow determining if the analysed message is actual political advertising and, in turn, avoid inadvertently capturing issue-based commercial ads within the scope of the Regulation.