

To

6<sup>th</sup> February 2019

**Commissioner Julian King,**  
**Commissioner Vera Jourova,**  
**Commissioner Mariya Gabriel,**  
 European Commission, B-1049 Brussels

**Subject: On our policies towards Ads for European Parliament Elections**

Dear Commissioners,

As you know, we are working hard to put in place systems to support the integrity of the elections to the European Parliament in May of this year. This is a highly complex task given the variety of political systems, national electoral regulations and languages across the 27 countries where the elections will be held, but we are determined to ensure we make the necessary investments to get this right.

Key elements of the package we will be deploying are systems to help us identify advertisements on our platform that are intended to influence the election, show additional information for these adverts and place copies of them in a publicly-accessible library. When we have identified an advert as being related to the election we are also able to ask the advertiser for more information and reject advertisers who do not satisfactorily complete our authorisation process.

We see our checks on advertisers as complementary to the work carried out by election regulators in each country who have the primary responsibility for enforcing applicable laws on participation in elections.

Our systems check whether an advertiser is located in a particular country and require the advertiser to provide information about who is funding an advertisement for use in a public disclaimer.

Election regulators typically have extensive powers over eligibility of participants in an election and over campaign finance. These rules can vary widely from country to country as they reflect local political structures and traditions.

We do not believe that it is realistic or desirable for us to act as the enforcement body for these detailed eligibility and campaign finance rules but that we should rather defer to national regulators on these matters. The fact that we will put adverts into an archive means that election regulators can easily identify campaigns that cause them concern and investigate these or issue legal orders to stop them.

The criteria we apply for the location of political advertisers will mean we will reject campaigns that originate from anyone from outside the EU where these are intended to influence the outcome of the election. We have further considered the question of whether we should permit an advertiser in one EU member state to purchase adverts to influence the outcome of the election in another EU member state.

Our conclusion is that allowing advertisers to authorise in one country and then run adverts across all 27 countries could present a material risk to the integrity of the elections. We are therefore planning to allow advertisers only to buy political adverts in their own country of residence. Our proposed system would allow for the same campaigns to be run across multiple member states if the campaign has local representatives in each country where they want to run advertising.

A key rationale for taking this approach is that electoral law enforcement takes place at the national level. Election regulators typically have little or no ability to enforce against anyone who is outside their jurisdiction. Our approach requires an advertiser always to be in the jurisdiction where their political adverts are running so they can be held accountable by the regulator for their campaigns. If we allowed people in other countries to run political adverts then there may not be an effective way for the election regulator in any particular country to enforce against these campaigns.

I hope that you will agree with this rationale for our general approach of only permitting political adverts to be run by people and entities that are within the jurisdiction of the supervising authority in each of the 27 member states.

We also recognise the argument that some entities have competencies across the entire EU and that there will be questions about their ability to run adverts during the election period. If their adverts appear to have the potential to influence the outcome of the election then the advertisers will be required to register as a political advertiser including checking their location. If the organisation has representatives in each member state where they wish to run adverts then they would be able to run a multi-country campaign by having each local representative register like anyone else and run the set of adverts for their country.

We can see that this may be challenging for some pan-EU organisations who run their campaigns from a single country. We are writing now to seek your guidance on the important question of how to treat these organisations. The question of allowing any organisation to run adverts in a nationally regulated election without being in that country is highly sensitive.

The default option would be for these campaigns simply not to be run during the election period. Such an approach where we maintain the principle that you must be in country to run political adverts has the virtues of simplicity and clarity. You may, on the other hand, feel that there are compelling circumstances for an exception to the general principle such that certain pan-EU entities can run multi-country adverts related to certain types of political content such as voter education

and other informative campaigns. If so, then we would need to have a process for determining which organisations should be on the list of those permitted to advertise without the advertiser being resident in the targeted country.

We would be very interested to hear your response to these questions :

1. Do you agree with the general approach that we should require political advertisers to be resident in the country where they want to run their campaigns?
2. If you agree with this approach, then do you think it is better to disallow pan-EU campaigns during the election period (except where the entity runs the adverts through representatives in each member state) or do you think that there is a need to treat some organisations as exceptions?
3. If you think there is a need for exceptions then what is the right process to get a definitive list of EU-wide organisations signed off by the relevant stakeholders in the European Commission, the European Parliament and the 27 Member States?

We are focused on putting the right systems in place for the election period from April through May of this year. We recognise there are longer term questions to address around political advertising from one EU country to another and would like to meet with interested parties to discuss these questions in due course. However, we need to make decisions very soon about the rules for the election period if we are to have the transparency tools deployed in time. We would therefore like to limit the immediate discussion only to the election period and to try to reach agreement on the questions above by the 22 February.

I hope that this is a helpful explanation of our thinking in this area and that we are able to agree on an approach that has broad support. We would be happy to meet with relevant people in your teams to discuss this further if that would be helpful.

Yours sincerely,



Managing Director, EU Affairs;  
Head of Office, Facebook Brussels.