Weaknesses in Google's Ad Library Threaten European Election Integrity

As part of a political advertising monitoring project conducted during the 2024 European Parliament elections campaign, we, the undersigned civil society organisations, have identified significant concerns regarding the functionality of Google's advertisement repository.

The Electoral Integrity and Political Microtargeting: An Evidence-Based Analysis in Six EU Member States project led by the Civil Liberties Union for Europe with the support of *Who Targets Me* aims to investigate how targeted political advertising may impact democratic discourse, potentially leading to information silos and polarisation.

We believe that the right to access objective, transparent, and pluralistic information is essential to uphold the fairness of elections and the right to vote as enshrined in the Charter of Fundamental Rights. It is essential for the preservation of democratic safeguards that voters and the general public gain a clear understanding of who is behind political advertisements, as well as how and why they are being targeted. This knowledge is crucial for informed decision-making in a democratic society.

Our observations show that Google's current policy on political advertising fails to adequately capture all relevant political advertisements. This deficiency impedes watchdogs, journalists, academics and researchers from effectively monitoring the political discourse and creates opportunities for covert manipulation.

Consequently, we strongly urge Google to swiftly revise its policy to ensure comprehensive coverage of political advertisements. Additionally, we call upon the European Commission to take decisive action to address these shortcomings and enforce compliance with relevant EU regulations.

Observations:

1) The web-based political advertising repository

Google's web-based political advertising repository is limited to displaying "election ads" only. Google's definition of election ads is narrower than the definition of the *Regulation on the transparency and targeting of political advertising* (Regulation (EU) 2024/900, henceforth TTPA) on "political advertising".

In the <u>Ads Transparency Center</u>, Google employs the terms "election ads" and "political advertising" interchangeably, despite the distinct scope of these categories. The term "election ads" typically refers to a narrower subset of political advertising, limited to within the campaign period. Furthermore, the repository fails to include advertisements at the regional or local levels, even within the narrower category of election ads. This inconsistency and omission in categorisation and coverage compromises the repository's utility and transparency in political advertising at critical administrative levels.

According to the <u>description</u> found in the Transparency Center "in the EU, election ads include ads that feature:

- a political party, a current elected officeholder, or candidate for the EU Parliament

- a political party, a current officeholder, or candidate for an elected national office within an EU member state. Examples include members of a national parliament and presidents that are directly elected

- a referendum question up for vote, a referendum campaign group, or a call to vote related to a national referendum or a state or provincial referendum on sovereignty".

According to the TTPA (Article 3(2)), "political advertising" <u>means</u> "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

(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. (...)"

Comparing these definitions, it becomes clear that the scope of "political advertising" as defined by the TTPA is *significantly broader* than that of "election ads" as categorised by Google. This broader definition not only includes campaigns related to elections and referenda but also communications designed to influence legislative or regulatory processes at various administrative levels, including regional and local levels.

The TTPA's definition is broader not only in terms of the target of the influencing and the administrative level, but also on who is behind or "feature[s]" in the ad. For an ad to qualify as an election ad in Google's systems, it needs to "feature" politicians working on a fairly high administrative level or an issue connected to a referendum. According to TTPA, advertising posted "by, for, or on behalf" of a political actor (where "political actor" is defined broadly in Article 3(4)) or where the political campaign is "liable and designed to influence the outcome" electoral, regulatory, legislative process or outcomes, irrespective of who is behind them, qualifies as political advertising.

Google's narrower classification may inadvertently allow covert and potentially illegitimate attempts to influence electoral outcomes. A case in point, <u>reported</u> by Balkan Insight, involves the Hungarian government's interference in the politics of other European Union Member States through online anti-immigration ad campaigns. These campaigns, which were extensively funded and did not explicitly endorse any political party, exploited Google's flawed ad policy. The campaigns reached significant portions of the electorate without being classified as political ads due to their general messaging rather than direct political endorsement. As Balkan Insight reports, in Slovakia, "the ads reached almost a third of the population and targeted voters two days before the September general election. Robert Fico campaigned on an anti-immigration ticket and his Smer party won the most votes. Jaroslav Nad, Slovakia's former defence minister, told Direkt36 that, 'Hungary played an intense role in helping Fico win the elections'".

2) The web-based general advertising repository

While advertisements that are not included in the political ad repository can, in theory, be found in the general ad repository, this broader repository also presents significant challenges.

Firstly, the search functionality of the general repository is notably inadequate. The interface is not user-friendly, which poses particular challenges for researchers. Political advertisements not classified under Google's election ad categorisation, such as non-election or local election ads, are exceptionally difficult to locate. Specifically, the repository does not support keyword searches; instead, one must know and input the official names of advertisers to investigate potential illegitimate activities. This limitation severely restricts the ability to effectively monitor and scrutinize a broad spectrum of political advertising.

Secondly, there is a lack of clarity regarding on which of Google's platforms the ads were displayed. Although it is possible to search by ad format, there is no option to filter ads based on where they were shown, such as on "YouTube" or "Google Search." This limitation hampers the ability to comprehensively track and analyse the dissemination of advertising content across Google's services.

These issues significantly impede the effectiveness of the general ad repository as a tool for transparency and enforcement of the rules on political advertising.

Concerns

We contend that the above-described deficiencies demonstrate Google's insufficient compliance with the *Digital Services Act* (Regulation (EU) 2022/2065, henceforth DSA). Although the TTPA is not yet fully in force, the DSA entered into full effect on 17 February 2024. Article 34 of the DSA mandates that Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs), must mitigate systemic risks to the electoral process. The European Commission's *Guidelines for providers of Very Large Online Platforms and Very Large Online Search Engines on the mitigation of systemic risks for electoral processes pursuant to the Digital Services Act* (henceforth Guidelines) recommend that VLOPs and VLOSEs maintain a publicly searchable political ad repository and align their policies with the TTPA even before it enters into full force.

Article 3 of the TTPA, which defines "political advertising", is already in effect. This definition should be considered as *lex specialis*, while the DSA is l*ex generalis*. Therefore, terms of services should build on the definition set out by the TTPA. Furthermore, DSA's directive under Article 34 that VLOPs and VLOSEs identify, assess, and mitigate systemic risks to the electoral process should rely on the definition set out in Article 3 of the TTPA.

While the recommendations put forward by the Guidelines are not mandatory to follow word-by-word, VLOPs' and VLOSE's mitigation measures should be based on the best available science, are are proven to be efficient, proportionate, and reasonable. In our assessment, Google's current restrictive approach to its ad repositories hardly meets these criteria, particularly in light of the searchability issues in the general ad repository.

It is important to note that the DSA stipulates obligations for VLOPs and VLOSEs to fulfil by each separate service. Although having a political ad repository that allows for searches across services may be very helpful to researchers, enabling searches restricted to specific services is a fundamental requirement. This capability is crucial for watchdogs and researchers who need to access information across different platforms effectively. The lack of opportunity to search for advertisements presented on a specific VLOP or VLOSE also hampers the enforcement of national election laws and monitoring activity of online political advertisements.

It should also be noted that Article 39 and Recital 95 of the DSA explicitly require VLOPs and VLOSEs that present advertisements on their online interfaces to compile and make publicly available a repository that is searchable and allows multi-criteria queries. Google's web-based general ad repository clearly fails to meet this requirement.

Recommendations to Google

To enhance the utility and transparency of the Ads Transparency Center, we suggest the following improvements:

- Expand the Scope of Ad Categorization: Google should align its categorisation with the broader TTPA definition, ensuring that all forms of political advertising are encompassed, including those trying to influence legislative or regulatory processes outside the elections cycle and including those initiated by actors that currently do not fall within the scope of Google's policy.

- Include Regional and Local Level Ads: It is crucial for the repository to include ads that target regional or local elections and issues, reflecting the full spectrum of political discourse and ensuring comprehensive transparency.

- Enhance Searchability: Google should implement sophisticated search functionalities within the repositories. This enhancement should include the ability to see all the ads, search by keywords, utilise customisable filters, and have sorting capabilities that facilitate better navigation and analysis of the advertisements in line with the DSA requirements.

- Ensure Data Integrity: The list of advertisers should be comprehensive and regularly updated, including all actors as defined by the law and all their ads. We advise Google to request feedback from researchers, academia and watchdogs on how to ensure data integrity in their repositories.

- Specify Ad Display Locations: It should be explicitly indicated where each ad was displayed, with functionality to restrict searches to specific platforms, such as YouTube or Google Search. This detail is essential to trace the reach and impact of political ads effectively.

Recommendations to the European Commission

- Ensure Appropriate Enforcement: The European Commission must investigate the above-described shortcomings and take decisive action to ensure that all digital platforms, including Google, fully comply with the Digital Services Act.

Yours sincerely,

Signatories

- Civil Liberties Union for Europe (Europe)

- Bulgarian Helsinki Committee (Bulgaria)

- Hungarian Civil Liberties Union (Hungary)

- Responsible Politics Foundation (Poland)

- VoxPublic (France)

- Who Targets Me (International)

- Xnet (Spain)