

EACA Feedback on the European Commission's Roadmap On the Guidance on Strengthening the Code of Practice on Disinformation

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The European Association of Communications Agencies (EACA) represents more than 2,500 communications agencies and agency associations from nearly 30 European countries that directly employ more than 120,000 people. EACA members include advertising, media, digital, branding and PR agencies.

EACA is signatory of the Code of Practice on Disinformation, so are four of our national association members, namely: AACC (French association), SAR (Polish association), AKA (Czech association), and Kreativitet & Kommunikation (Danish association).

Our members are committed to contributing to the fight against disinformation, in particular when it comes to avoiding ad misplacement and inadvertently funding purveyors of disinformation. We welcome the opportunity to provide feedback on the [roadmap](#).

Keeping users and brands safe: We agree with the Commission's observation that "disinformation is disseminated regardless of borders", can threaten democratic processes and put people's health in danger. The key twin-objective of our members is to keep users and brands safe. This means that agencies do not want to inadvertently fund illegal content through advertisement. Instead, they wish to keep working with all parties to prevent its monetisation. In addition, they want to make sure that the brands that they advertise for are not associated with and do not show next to or inadvertently fund illegal content.

Investing in brand safety practices: Our members make considerable investments in brand safety practices to prevent advertising from funding illegal and harmful content. This includes specific brand safety policies, the use of technologies capable of identifying and blocking said content, the diligent vetting of media supply, as well as cross-industry cooperation on the definitions of illegal and harmful content. They also inform and alert clients of potential risks associated with the placement of ads in certain contexts.

Giving users transparency on why they see certain ads: Also, our members have long been contributing to and applying industry-wide transparency mechanisms and initiatives, informing consumers about the provenance of an ad, why they are seeing certain ads and how they can control what types of ads they see.

With regards to the roadmap, we are asking for more clarity on potential legal implications of the Code of Practice on Disinformation.

We would like to point out that the roadmap refers to the voluntary nature of the Code of Practice on Disinformation and the non-legislative nature of the envisaged Guidance (it "will not impose legal obligations", "a self-regulatory initiative to which signatories will adhere on a voluntary basis"). At the same time, the roadmap speaks about evolving the existing Code into a "co-regulatory instrument" and links it to initiatives that are legal in nature (e.g. the Digital Services Act) or likely to be legal in nature (e.g. Political Advertising).

For the sake of legal certainty and given the link to ongoing (legislative) initiatives, we would welcome more clarity regarding the future of the Code of Practice and the potential legal dimension and implications of the solutions that will address the "aspects" that the Guidance will seek to improve.

With regards to the various aspects named in the roadmap, we would also like to refer to our past contributions, namely:

EACA comment on European Commission proposal for a regulation on a single market for digital services (digital services act) (COM (2020) 825 final) (23 February 2021), emphasising the need to maintain the clear distinction between advertising for commercial and non-commercial purposes and not to dilute the definition of advertising, which will inadvertently lead to legal uncertainty.

EACA position on the European Commission's Inception Impact Assessment on the proposal for an initiative on greater transparency in sponsored political content, and other supporting measures (Ares (2021) 622166) (23 February 2021) emphasising the need to clearly distinguish political advertising from commercial communications, the need for harmonisation of electoral law to efficiently and effectively address transparency in political advertising, to make sure that it is the political advertiser and not the service provider that is responsible and liable for the content of their political advertisement.

EACA's response to the public survey for the European Democracy Action Plan (15 September 2021), highlighting the involvement of agencies in the industry initiative Global Alliance on Responsible Media and its work on an actionable definition of misinformation/disinformation.

Also, as we have mentioned previously and as is stated in the Code itself "trade associations that have signed this Code are not entering into obligations on behalf of their members", and cannot do so. It is therefore important to distinguish among the different kinds of signatories and what is expected from them.

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