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CLIENT ALERT

Election Integrity Under the Digital Services Act (DSA): Six Takeaways for Platforms Ahead of the Revised EU Election Guidelines

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In December 2024, Romania became the first European Union ("EU") Member State to annul an election over foreign interference, after declassified intelligence pointed to a dormant network of some 800 social media platform accounts reactivated to back a single candidate. Eleven days later, the European Commission (the "Commission") opened formal DSA proceedings against that platform on its recommender systems and its handling of political advertising. Romania was the wake-up call, but others may follow.

The lesson from the elections that followed is simple: platforms have become good at removing posts, but far less effective at dismantling the networks behind them. Across six recent elections, the European Digital Media Observatory ("EDMO") found that flagged content was generally taken down, while the accounts, advertisers and amplification mechanisms behind it largely stayed in place. Political ad bans were sidestepped through misclassification, and AI-generated content travelled furthest when it was paid for.

Brussels has noticed. In October 2026, the European Council called on the Commission "to swiftly finalise the revision of the guidelines on the mitigation of systemic risks for electoral processes" (the "Guidelines" or "Election

Guidelines"). With numerous Member States heading to the polls in 2027, revised Guidelines are likely soon. For very large online platforms and search engines, the message is clear: election integrity is moving from best practice to enforcement priority.

1. The framework in brief: soft law with hard edges

The EU does not lack rules. Four instruments now overlap, and platforms need to manage them as a single risk spectrum rather than four separate compliance silos.

The **DSA** is the backbone. Articles 34 and 35 require VLOPs and VLOSEs to assess and mitigate risks to electoral processes, and the Election Guidelines spell out what the Commission expects: local-language election teams, user control over recommender systems, reduced visibility for disinformation and fact-checking labels. The Guidelines are formally non-binding, but platforms that depart from them should be ready to show that their alternative measures are equally effective. With fines of up to 6% of global turnover at stake, "recommendations" is a misleading label.

The Artificial intelligence Act ("AI Act") adds a transparency layer. Since 2 August 2026, providers of generative AI must mark outputs in a machine-readable format, and deployers must label deepfakes and certain AI-generated text on matters of public interest.

The Political Advertising Regulation harmonizes transparency and targeting rules for political ads. Several major platforms responded by banning political, electoral and social-issue ads in the EU altogether. A ban is a legitimate commercial choice, but it shifts the compliance question from transparency to enforcement: EDMO identified hundreds of paid political ads that ran during the Cyprus campaign despite the ban.

The Code of Conduct on Disinformation (the "Code"), integrated into the DSA under Article 45 in February 2025, has been auditable since 1 July 2025. Its Rapid Response System ("RRS") connects fact-checkers, civil society and platforms, but only around election periods. The result is a framework that is dense on paper yet uneven in practice, and the revised Guidelines are the Commission's chance to close the gaps.

2. Six takeaways for platforms

Based on EDMO's monitoring of recent elections, we expect the revision to focus on six areas. Each is a signal of where Commission scrutiny, and potential enforcement, is heading.

I. Election readiness starts before the campaign. Platforms have invested in dedicated election channels, but EDMO found gaps in local-language moderation and a sharp drop in responsiveness outside RRS periods. Disinformation narratives, such as claims of postal-vote tampering in Spain, recur from one election to the next and resurface well before polling day. *Takeaway:* risk assessments and monitoring may be required to start months, not weeks, before an election, with genuine local-language capacity.

II. Networks, not posts, are the new benchmark. In Moldova, coordinated inauthentic accounts operated for months before many were removed at the end of the campaign. *Takeaway:* post-by-post removal will no longer be

enough. Platforms will need to prepare for network-level investigations, advertiser-level measures against replacement pages, and closer scrutiny of how recommender systems treat engagement from inauthentic accounts.

III. An ad ban is only as good as its enforcement. EDMO found political ads passing through self-attestation checks and being classified under unrelated categories such as "Arts & Entertainment". *Takeaway:* platforms that have opted for bans should be able to attest for pre-publication advertiser verification, published classification criteria and safeguards against misclassification.

IV. The AI Act and the DSA will be read together. In Hungary and Romania, deepfakes targeting leading candidates reached their widest audiences through paid promotion. *Takeaway:* expect the revised Guidelines to reference Article 50 of the AI Act expressly, and to ask platforms to detect and preserve machine-readable marks, label AI content consistently, treat paid ads featuring AI-generated candidate images as high-risk, and stress-test their own chatbots so that voting questions are directed to official sources.

V. Data access and audits will tighten. Researchers reported gaps in content-library coverage and access granted only after polling day, while Code reports scored poorly on verifiability. *Takeaway:* platforms should better anticipate campaign-time deadlines for Article 40 DSA data requests, transparent Application Programming Interface ("API") limits, and election reporting that is verified in the Article 37 DSA independent audit.

VI. Freedom of expression cuts both ways. Removal orders in Romania raised legitimate free-speech concerns, and unexplained takedowns can themselves fuel conspiracy theories. *Takeaway:* clearer rules help platforms too. The revision should clarify the interaction between the DSA and national electoral law. Moreover, it should let platforms decide on how to remedy foreign information manipulation and interference ("FIMI") or illegal content posts. Labelling can, on some occasions, be a more defensible remedy than removal.

3. Looking ahead

The direction of travel is unmistakable: from content moderation to systemic accountability. Elections are influenced not only by individual posts, but by networks, misclassified ads and synthetic content amplified by paid reach, and that is where the Commission's attention is turning. With a busy 2027 electoral calendar, the revised Guidelines are likely to become the yardstick against which future DSA enforcement is measured.

For platforms, the practical advice is to engage early. Those that stress-test their election playbooks now, document their risk-mitigation choices and participate constructively in the consultation will be best placed to shape the final text and to defend their approach once it applies. No set of guidelines can substitute for an informed electorate, but well-designed rules, applied proportionately, can give both voters and platforms the assurances they need.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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