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MEETING DOCUMENT

From:	Presidency
To:	Delegations
Subject:	Digital Services Act: Compromise suggestions prepared by the Presidency under the Council's mandate on article 31

Artic	le 31				
38 9	Article 31 Data access and scrutiny	Article 31 Data access and scrutiny	Article 31 Data access and scrutiny	Article 31 Data access and scrutiny [Identical to WK 4154/2022 except for modifications highlighted in yellow]	G
Artic	le 31(1)				
39 0	1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.	1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, and without delay specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only request, access and use that data for those purposes.	1. Providers of very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only use that data for those purposes.	1. Providers of very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation.	Υ
Artic	ele 31(1a)				
39 0a		Ia. The very large online platform shall be obliged to explain the design, logic and the functioning of the algorithms if requested by the Digital Service Coordinator of establishment.	1a. Digital Services Coordinators and the Commission shall use that data accessed pursuant to paragraph 1 only for the purpose of monitoring and assessing compliance with this Regulation and shall take due account of the rights and interests of the	1a. Digital Services Coordinators and the Commission shall use that data accessed pursuant to paragraph 1 only for the purpose of monitoring and assessing compliance with this Regulation and shall take due account of the rights and interests of the providers of very large online platforms and the recipients of the	Υ

Article 31(2) 2. Upon a reasoned request from 2. Upon a reasoned request the Digital Services Coordinator from the Digital Services of establishment or the Coordinator of establishment Commission, very large online or the Commission, very platforms shall, within a large online platforms shall, reasonable period, as specified in within a reasonable period, the request, provide access to data as specified in the request, to vetted researchers who meet provide access to data to the requirements in paragraphs 4 vetted researchers, vetted of this Article, for the sole not-for-profit bodies. organisations or purpose of conducting research that contributes to the associations, who meet the identification and understanding requirements in paragraphs 4 of systemic risks as set out in of this Article, for the sole Article 26(1).

providers of very large online platforms and the recipients of the service concerned, including the protection of personal data, the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

service concerned, including the protection of personal data, the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

1a. For the purposes of paragraph 1, Pproviders of very large online platform shall, upon request from either the Digital Service Coordinator of establishment or from the Commission, explain the design, logic and, the functioning and the testing of their *algorithmi*c systems, including their recommender systems.

[To accommodate EP proposal]

purpose of conducting research that contributes to the identification, *mitigation*

2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, providers of very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the detection, identification and understanding of systemic risks in the Union, as set out inpursuant to Article 26(1), including as regards the

2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission. **providers of** very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the **detection**, identification and understanding of systemic risks in the Union, as set out inpursuant to Article 26(1), as well as regards and to the assessment of the adequacy, efficiency and impacts of

and understanding of adequacy, efficiency and the risk mitigation measures systemic risks as set out in impacts of the risk mitigation pursuant to Article 27. Article 26(1) and Article measures pursuant to Article 27. [PCY: deletion of the reference "or the *27(1)*. Commission" in order to adapt the text to the vetting procedure in the GA, dealt with by the DSCe cf L. 392a Addition of the assessment to accommodate EP proposal] [CNL proposal for a recital to include row 391a of the EP mandate: Where possible, this data should include, the number of views or, where relevant, other types of access to content by recipients of the service prior to its removal by the provider of very large online platform either pursuant to an order issued by the relevant national judicial or administrative authorities, or on the basis of other content moderation measures Article 31(2a), introductory part 62a. Within 15 days 6. Within 15 days following 62a. Within 15 days following **62a**. Within 15 days following receipt receipt of a request as referred to receipt of a request as referred to of a request as referred to in paragraph + in paragraph 1 and 2, a very large reauest as referred to in in paragraph 1 and 2, a 2, and 2, a-2, providers of very large online platform may request the paragraph 1 and 2, a very providers of very large online online platforms may request Digital Services Coordinator of large online platform may platform**platforms** may request the Digital Services Coordinator of establishment or the Commission. request the Digital Services the Digital Services Coordinator establishment or the Commission, as as applicable, to amend the Coordinator of applicable, to amend the request, where of establishment or the request, where it considers that it establishment or the Commission, as applicable, to it considers that it is unable to give is unable to give access to the Commission, as applicable, amend the request, where it access to the data requested because one data requested because one of to amend the request, where of following two reasons: considers that it is unable to give it considers that it is unable following two reasons: access to the data requested

	Moved reference text	to give access to the data requested because one of following two reasons: Vetted researchers, vetted not-for-profit bodies, organisations and associations shall have access to aggregate numbers for the total views and view rate of content prior to a removal on the basis of orders issued in accordance with Article 8 or content moderation engaged in at the provider's own initiative and under its terms and conditions.	because one of following two reasons:	[PCY: deletion of the reference "or the Commission" in order to adapt the text to the vetting procedure in the GA, dealt with by the DSCe cf L. 392a]	
Artic	le 31(2a), point (a)		-		
39 1b	(a) it does not have access to the data; Moved reference text		(a) it does not have access to the data;	(a) it does not have access to the data;	Υ
Artic	le 31(2a), point (b)				
39 1c	(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets. Moved reference text		(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.	(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.	Υ

Artic	le 31(7), introductory part				
39 1d	7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request. Moved reference text		72b. Requests for amendment pursuant to point (b) of paragraph 62a shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.	72b. Requests for amendment pursuant to point (b) of paragraph 62a shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.	Υ
Artic	le 31(7), first paragraph				
39 1e	The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request. Moved reference text		The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the provider of very large online platformplatforms its decision and, where relevant, the amended request and the new time period to comply with the request.	The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the provider of very large online platforms its decision and, where relevant, the amended request and the new time period to comply with the request.	Υ
Artic	tle 31(3)		-		
39 2	3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or	3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or	3. Providers of very large online platforms shall facilitate and provide access to data pursuant to paragraphs 1 and 2 through appropriate interfaces specified	3. Providers of very large online platforms shall facilitate and provide access to data pursuant to paragraphs 1 and 2 through appropriate interfaces specified in the request, including	Υ

	application programming interfaces, as appropriate.	application programming interfaces, as appropriate, and with an easily accessible and user-friendly mechanism to search for multiple criteria.	in the request, including online databases or application programming interfaces, as appropriate.	online databases or application programming interfaces, as appropriate.	
Artic	cle 31(4), introductory part				
39 2a			4. Upon a duly substantiated application from researchers, the Digital Services Coordinator of establishment shall award them status of vetted researchers and issue data access requests pursuant to paragraph 2, where the researchers demonstrate that they meet all of the following conditions:	4. Upon a duly substantiated application from researchers, the Digital Services Coordinator of establishment shall award them status of vetted researchers and issue data access requests pursuant to paragraph 2, where the researchers demonstrate that they meet all of the following conditions:	Υ
Artic	cle 31(3b), introductory part				
39 2b			(a) they are affiliated to a research organisation as defined in Article 2 (1) of Directive (EU) 2019/790 of the European Parliament and of the Council;	(a) they are affiliated to a research organisation as defined in Article 2 (1) of Directive (EU) 2019/790 of the European Parliament and of the Council;	Υ
Artic	cle 31(3b), point (a)				
39 2c			(b) they are independent from commercial interests;	(b) they are independent from commercial interests;	Υ

		(ba) the application submitted by the researchers discloses the funding of their research;	
Artic	le 31(3b), point (b)		
39 2d		(c) they are in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request and to protect personal data, and they describe in their request the appropriate technical and organisational measures they put in place to this end; (c) they are in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request and to protect personal data, and they describe in their request the appropriate technical and organisational measures they put in place to this end;	Y
Artic	le 31(3b), point (c)		
39 2e		(d) the application submitted by the researchers justifies the necessity and proportionality for the purpose of their research of the data requested and the timeframes within which they request access to the data, and they demonstrate the contribution of the expected research results to the purposes laid down in paragraph 2; (d) the application submitted by the researchers justifies the necessity and proportionality for the purpose of their research of the data requested and the timeframes within which they request access to the data, and they demonstrate the contribution of the expected research results to the purposes laid down in paragraph 2;	Y
Artic	le 31(3b), point (d)		
39 2f		(e) the planned research activities will be carried out for	Υ

		the purposes laid down in paragraph 2;	(e) the planned research activities will be carried out for the purposes laid down in paragraph 2;
Artic	cle 31(3b), point (e)		
39 2g		(f) they carry their activities according to the procedures laid down in delegated acts referred to in paragraph 5;	(f) they carry their activities according to the procedures laid down in delegated acts referred to in paragraph 5;
Artic	cle 31(3b), point (f)		
39 2h		(g) they have not already filed the same application with the Digital Services Coordinator.	(g) they have not already filed the same application with the Digital Services Coordinator.
Artic	le 31(3b), point (g)		
39 2i		Upon receipt of the application pursuant to this paragraph, the Digital Services Coordinator of establishment shall inform the Commission and the Board.	Upon receipt of the application pursuant to this paragraph, the Digital Services Coordinator of establishment shall inform the Commission and the Board.
Artic	le 31(4-a),		
39 2j		4-a. Researchers may also submit their application to the Digital Services Coordinator of the Member State of the research organisation to which they are affiliated. Upon receipt of the application pursuant to	4-a. Researchers may also submit their application to the Digital Services Coordinator of the Member State of the research organisation to which they are affiliated. Upon receipt of the application pursuant to this paragraph the Digital Services

		this paragraph the Digital Services Coordinator shall conduct an initial assessment whether the respective researchers meet all of the conditions set out in paragraph 4 and subsequently send the application, together with the supporting documents submitted by the respective researchers and the initial assessment, to the Digital Services Coordinator of establishment.	Coordinator shall conduct an initial assessment whether the respective researchers meet all of the conditions set out in paragraph 4 and subsequently send the application, together with the supporting documents submitted by the respective researchers and the initial assessment, to the Digital Services Coordinator of establishment.	
Artic	le 31(4-a), first paragraph			
39 2k		While taking due account of the provided initial assessment, the final decision to award a researcher the status of vetted researcher lies within the competence of Digital Services Coordinator of establishment, pursuant to paragraph 4.	While taking due account of the provided initial assessment, the final decision to award a researcher the status of vetted researcher lies within the competence of Digital Services Coordinator of establishment, pursuant to paragraph 4.	Y
Artic	le 31(4a)			
39 21		4a. The Digital Services Coordinator that awarded the status of vetted researcher and issued the access request in favour of a vetted researcher shall issue a decision terminating the access if it determines, following an	4a. The Digital Services Coordinator that awarded the status of vetted researcher and issued the access request in favour of a vetted researcher shall issue a decision terminating the access if it determines, following an investigation either on its own initiative or on the	Υ

Artic	Jo 21/4h)	investigation either on its own initiative or on the basis information received from third parties, that the vetted researcher no longer meets the conditions set out in paragraph 4. Before terminating the access, the Digital Services Coordinator shall allow the vetted researcher to react to the findings of its investigation and its intention to terminate the access.	basis of information received from third parties, that the vetted researcher no longer meets the conditions set out in paragraph 4, and shall inform the concerned provider of very large online platform of the decision. Before terminating the access, the Digital Services Coordinator shall allow the vetted researcher to react to the findings of its investigation and its intention to terminate the access.	
Artic	ele 31(4b)	•		
39 2m		4b. Digital Services Coordinators shall communicate to the Board the names and contact information of the natural persons or entities to which they have awarded the status of the vetted researcher as well as the purpose of the research underpinning the request in accordance with paragraph 4 or that they have terminated it in accordance with paragraph 4a.	4b. Digital Services Coordinators shall communicate to the Board the names and contact information of the natural persons or entities to which they have awarded the status of the vetted researcher as well as the purpose of the research underpinning the request in accordance with paragraph 4 or that they have terminated it in accordance with paragraph 4a.	Y
Artic	le 31(4c)			
39 2n		4c. Providers of very large online platforms shall not restrict or prevent in any way access to data publicly accessible in their online interface for	4c. Providers of very large online platforms shall not restrict or prevent in any way access to data publicly accessible in their online interface for researchers, including those affiliated	Υ

		researchers who comply with the conditions set in points a), b), c) and d) of paragraph 4 and who use the data solely for performing research that contributes to the detection, identification and understanding of systemic risks in the Union as set out pursuant to Article 26(1).	c) and d) of paragraph 4 and who use the data solely for performing research that contributes to the detection, identification and understanding of systemic risks in the
Artic	cle 31(4d)		1
39 20		4d. Upon completion of the research envisaged in paragraphs 2 and 4, the vetted researchers shall make their research results publicly available free of charge, taking into account the rights and interests of the recipients of the	4d. Upon completion of the research envisaged in paragraphs 2 and 4, the vetted researchers shall make their research results publicly available free of charge, taking into account the rights and interests of the recipients of the service concerned in compliance with Regulation (EU) 2016/679.

			service concerned in compliance with Regulation (EU) 2016/679.		
Aı	rticle 31(4)	·			
3 3 3		4. In order to be vetted by the Digital Services Coordinator of establishment or the Commission, researchers, not-for-profit bodies, organisations or associations shall: (a) shall be affiliated with academic institutions, or civil society organisations representing the public interest and meeting the requirements under Article 68; (b) be independent from commercial interests, including from any very large online platform; (c) disclose the funding financing the research; (d) be independent from any government, administrative or other state bodies, outside the academic institution of affiliation if public; (e) have proven records of expertise in the fields related to the risks investigated or related	4. In order to be vetted, researchers shall be affiliated with academic institutions, be independent from commercial interests, have proven records of expertise in the fields related to the risks investigated or related research methodologies, and shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.[amended and moved to paragraps 4a, 4b and 4c]	[partially amended and moved to paragraphs 4a, 4b and 4c]	Y

Artic	cle 31(4a)	research methodologies, and shall commit and be in a capacity to; and file preserve the specific data security and confidentiality requirements corresponding to each request.	
39 3a	TE 31(4a)	4a. Where a very large online platform has grounds to believe that a researcher, a not-for-profit body, an organisation or association is acting outside the purpose of paragraph 2 or no longer respects the conditions of paragraph 4, it shall immediately inform the relevant authority, either the Digital Service Coordinator of establishment or the Commission, which shall decide without undue delay if access shall be withdrawn and when the access shall be restored and under what conditions.	[deleted]
Artic	le 31(4b)	,	
39 3b		4b. Where the Digital Services Coordinator of	[see proposal in row 392 l]

		establishment, or the Commission have grounds to believe that a researcher, a not-for-profit body, an organisation or association is acting outside the purpose of paragraph 2 or no longer respects the conditions of paragraph 4, it shall immediately inform the very large online platform. The very large online platform shall be entitled to withdraw access to data upon receiving the information. The Digital Services Coordinator of establishment, or the Commission shall decide if and when access shall be restored and under what conditions.			
Artic	l :le 31(5)				
39 4	5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers can take	5. The Commission shall, after consulting the Board, and no later than one year after entry into force of this legislation, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those	5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which providers of very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions and relevant objective indicators, as well as procedures	[PCY: following the changes in L. 391 and 391a, this addition in the delegated act empowerment allows the Commission to provide more centralised assistance to DSCs in the vetting process.] 5. The Commission shall, after consulting the Board, adopt delegated acts laying down the technical conditions under which providers of very large online platforms are to share	Y

place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers or not-for-profit bodies, organisations or associations can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

under which such sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the **providers of** very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service. Those delegated acts shall also lav down the conditions for access to the database referred to in **Article 23(2a).**

data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions and relevant objective indicators, as well as procedures and, where necessary. independent advisory mechanisms under which such in support of sharing of data with vetted researchers can take place in compliance with Regulation (EU) 2016/679, taking into account the rights and interests of the providers of very large online platforms and the recipients of the service concerned. including the protection of confidential information, in particular trade secrets, and maintaining the security of their service. Those delegated acts shall also lay down the conditions for access to the database referred to in Article 23(2a).

Article 31(6), introductory part-moved to paragraph 2a

- 6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:
- 6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:
- 6. Within 15 days following receipt of a request as referred to in moved to new paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:2al

[Moved to row 391a]

v

	Article 31(6), introductory part-moved to paragraph 2a, point (a)						
39 6	(a) it does not have access to the data;	(a) it does not have access to the data;	(a)	[Moved to row 391a]			
Article 31(6), introductory part-moved to paragraph 2a, point (b)							
39 7	(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.	(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.	(b)	[Moved to row 391a]			
Artic	le 31(7), introductory part- moved to	paragraph 2b	l				
39 8	7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.	7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.	7. Requests for amendment pursuant to point (b) of.[moved to new paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.2b]	[Moved to row 391d]			
Article 31(7), introductory part- moved to paragraph 2b, first paragraph							

39 9	The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.	The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.	The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.	[Moved to row 391e]	Υ
Artic	cle 31(7a)	<u> </u>			
39 9a		7a. Digital Service Coordinators and the Commission shall, once a year, report the following information: (a) the number of requests made to them as referred to in paragraphs 1, 2 and 6; (b) the number of such requests that have been declined or withdrawn by the Digital Service Coordinator or the Commission and the reasons for which they have been declined or withdrawn, including following a request to the Digital Service Coordinator or the Commission from a very large online platform to		[deleted]	Y

		amend a request as referred to in paragraphs 1, 2 and 6.		
Artic	cle 31(7b)			
39 9b		7b. Upon completion of their research, the vetted researchers that have been granted access to data shall publish their findings without disclosing confidential data and in compliance with Regulation (EU) 2016/679.	[deleted - Already in row 3920 of the GA]	Υ