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CT 161
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AUDIO 102
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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	20 October 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 6807 final - ANNEXES 1 to 2
Subject:	ANNEXES to COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2022/2065 of the European Parliament and of the Council, by laying down rules on the performance of audits for very large online platforms and very large online search engines

Delegations will find attached document C(2023) 6807 final - ANNEXES 1 to 2.

Encl.: C(2023) 6807 final - ANNEXES 1 to 2



EUROPEAN
COMMISSION

Brussels, 20.10.2023

C(2023) 6807 final

ANNEXES 1 to 2

ANNEXES

to

COMMISSION DELEGATED REGULATION (EU) .../...

supplementing Regulation (EU) 2022/2065 of the European Parliament and of the Council, by laying down rules on the performance of audits for very large online platforms and very large online search engines

ANNEX I - Template for the audit report referred to in Article 6

Table of contents

SECTION A: General Information	
1. Audited service:	
2. Audited provider:	
3. Address of the audited provider:	
4. Point of contact of the audited provider:	
5. Scope of the audit: a. Does the audit report include an assessment of compliance with all the obligations and commitments referred to in Article 37(1) of Regulation (EU) 2022/2065 applicable to the audited provider? Yes/No i. Compliance with Regulation (EU) 2022/2065	
Obligations set out in Chapter III of Regulation (EU) 2022/2065:	
Audited obligation	Period covered
<i>Indicate the precise obligation audited</i> <i>Insert as many lines as necessary</i>	<i>(DD/MM/YYYY)</i> to <i>(DD/MM/YYYY)</i>
ii. Compliance with codes of conduct and crisis protocols	
Commitments undertaken pursuant to codes of conduct referred to in Articles 45 and 46 of Regulation (EU) 2022/2065 and crisis protocols referred to in Article 48 of Regulation (EU) 2022/2065:	
Audited commitment	Period covered
<i>Specify the code of conduct or crisis protocol and the</i>	<i>(DD/MM/YYYY)</i>

<i>specific commitment audited</i> <i>Insert as many lines as necessary</i>	to (DD/MM/YYYY)
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6. a. Audit start date: b. Audit end date:

SECTION B: Auditing organisation(s)

To complete the section below, insert as many lines as necessary per point.

1. Name(s) of organisation(s) constituting the auditing organisation:
.....

2. Information about the auditing team of the auditing organisation:
For each member of the auditing team, provide:

1. *their personal name;*
2. *the individual organisation, part of the auditing organisation, they are affiliated with;*
3. *their professional email address;*
4. *descriptions of their responsibilities and the work they undertook during the audit.*

.....

3. Auditors' qualifications:

.....

- a. Overview of the professional qualifications of the individuals who performed the audit, including domains of expertise, certifications, as applicable:
.....
- b. Documents attesting that the auditing organisation fulfils the requirements laid down in Article 37(3), point (b) of Regulation (EU) 2022/2065 have been attached as an annex to this report:
.....

4. Auditors' independence:

- a. Declaration of interests:
.....
- b. References to any standards relevant for the auditing team's independence that the auditing organisation(s) adheres to:
.....
- c. List of documents attesting that the auditing organisation complies with the obligations laid down in Article 37(3), points (a) and (c) of Regulation (EU) 2022/2065 attached as annexes to this report.
.....

5. References to any auditing standards applied in the audit, as applicable:

.....

6. References to any quality management standards the auditing organisation adheres to, as applicable :

.....

SECTION C: Summary of the main findings

1. Summary of the main findings drawn from the audit (pursuant to paragraph 37(4), point (e) of Regulation (EU) 2022/2065)

.....

SECTION C.1 : Compliance with Regulation (EU) 2022/2065

1. Audit opinion for compliance with the audited obligations referred to in Article 37(1), point (a) of Regulation (EU) 2022/2065:

- ☐ Positive
- ☐ Positive with comments
- ☐ Negative

2. Audit conclusion for each audited obligation:

Audited obligations	Audit conclusions		
Indicate the precise obligation audited <i>Insert as many lines as necessary</i>	<input type="checkbox"/> Positive	<input type="checkbox"/> Positive with comments	<input type="checkbox"/> Negative

SECTION C.2 : Compliance with voluntary commitments in codes of conduct and crisis protocols

Repeat section C.2 for each audited code of conduct and crisis protocol referred to in Article 37(1), point (b) of Regulation (EU) 2022/2065:

1. Audit opinion for compliance with the commitments made under specify the code of conduct or crisis protocol covered by the audit:

- ☐ Positive
- ☐ Positive with comments
- ☐ Negative

2. Audit conclusion for each audited commitment:			
Audited commitments	Audit conclusions		
Indicate the precise commitment audited <i>Insert as many lines as necessary</i>	<input type="checkbox"/> Positive	<input type="checkbox"/> Positive with comments	<input type="checkbox"/> Negative
Section C.3: Where applicable, explanations of the circumstances and the reasons why an audit opinion could not be expressed:			

SECTION D: Description of the findings: compliance with Regulation (EU) 2022/2065	
SECTION D.1: Audit conclusion for obligation (<i>specify</i>) <i>Insert as many entries for section D.1 as necessary to cover the entire scope of the audit, specifying the obligation the section refers to.</i> <i>The information provided should be complete and detailed such that a third party with no previous connection with the audit is able to understand the description of the findings.</i> <i>Insert as many lines as necessary per point when completing this section.</i>	
I. Audit conclusion:	
Audit conclusion	
<input type="checkbox"/> Positive	<input type="checkbox"/> Positive with comments
<input type="checkbox"/> Negative	
Description of the audit conclusion, justification and remarks. As appropriate, include here any comments.	
If the conclusion is not 'positive', operational recommendations on specific measures to achieve compliance. Explanation on the materiality of non-compliance, where applicable	Recommended timeframe to achieve compliance

II. Audit procedures and their results:

1. Description of the audit criteria and materiality threshold used by the auditing organisation pursuant to Article 10(2), point (a) of this Regulation :

.....

2. Audit procedures, methodologies and results:

- (a) Description of the audit procedures performed by the auditing organisation, the methodologies used to assess compliance, and justification of the choice of those procedures and methodologies (including, where applicable, a justification for the choices of standards, benchmarks, sample size(s) and sampling method(s)):

.....

- (b) Description, explanation and justification of any changes to the audit procedures during the audit:

.....

- (c) Results of the audit procedures, including any test and substantive analytical procedures:

.....

3. Overview and description of information relied upon as audit evidence, including, as applicable:

- (a) description of the type of information and its source;
- (b) the period(s) when the evidence was collected;
- (c) the period the evidence refers to;
- (d) any other relevant information and metadata.

.....

4. Explanation of how the reasonable level of assurance was achieved:

.....

5. In cases when:

- 5.1. a specific element could not be audited, as referred to in Article 37(5) of Regulation (EU) 2022/2065, or

- 5.2. an audit conclusion could not be reached with a reasonable level of assurance, as referred to in Article 8(8) of this Regulation,

provide an explanation of the circumstances and the reasons :

Obligation or commitment and relevant elements not audited	Explanation of circumstances and reasons:

6. Notable changes to the systems and functionalities audited during the audited period and explanation of how these changes were taken into account in the performance of

<p>the audit.</p> <p>.....</p> <p>7. Other relevant observations and findings:</p> <p>.....</p>
<p>SECTION D.2: Additional elements pursuant to Article 16 of this Regulation</p>
<p>1. An analysis of the compliance of the audited provider with Article 37(2) of Regulation (EU) 2022/2065 with respect to the current audit:</p> <p>.....</p> <p>2. Description of how the auditing organisation ensured its objectivity in the situation described in Article 16(3) of this Regulation:</p> <p>.....</p>

<p>SECTION E: Description of the findings concerning compliance with codes of conduct and crisis protocol</p>															
<p>Code of conduct or crisis protocol: <i>(specify)</i></p> <p><i>Repeat this section for each code of conduct and crisis protocol</i></p> <p>SECTION E.1: Audit conclusion for commitment <i>(specify)</i></p> <p><i>Insert as many entries for section E.1 as necessary to cover the entire scope of the audit, specifying the commitment audited.</i></p> <p><i>The information provided should be complete and detailed such that a third party with no previous connection with the audit is able to understand the description of the findings.</i></p> <p><i>Insert as many lines as necessary per point when completing this section.</i></p>															
<p>III. Audit conclusion:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <th colspan="3" style="padding: 5px;">Audit conclusion</th> </tr> <tr> <td style="width: 33%; text-align: center; padding: 10px;"> <input type="checkbox"/> Positive </td> <td style="width: 33%; text-align: center; padding: 10px;"> <input type="checkbox"/> Positive with comments </td> <td style="width: 33%; text-align: center; padding: 10px;"> <input type="checkbox"/> Negative </td> </tr> <tr> <td colspan="3" style="padding: 5px;"> <p><i>Description of the audit conclusion, justification and any comments.</i></p> </td> </tr> <tr> <td colspan="2" style="padding: 10px;"> <p><i>If the conclusion is not 'positive', operational recommendations on specific measures to achieve compliance.</i></p> <p><i>Explanation on the materiality of non-compliance, where applicable</i></p> </td> <td style="padding: 10px;"> <p><i>Recommended timeframe to achieve compliance</i></p> </td> </tr> <tr> <td colspan="2" style="height: 30px;"></td> <td style="height: 30px;"></td> </tr> </table>	Audit conclusion			<input type="checkbox"/> Positive	<input type="checkbox"/> Positive with comments	<input type="checkbox"/> Negative	<p><i>Description of the audit conclusion, justification and any comments.</i></p>			<p><i>If the conclusion is not 'positive', operational recommendations on specific measures to achieve compliance.</i></p> <p><i>Explanation on the materiality of non-compliance, where applicable</i></p>		<p><i>Recommended timeframe to achieve compliance</i></p>			
Audit conclusion															
<input type="checkbox"/> Positive	<input type="checkbox"/> Positive with comments	<input type="checkbox"/> Negative													
<p><i>Description of the audit conclusion, justification and any comments.</i></p>															
<p><i>If the conclusion is not 'positive', operational recommendations on specific measures to achieve compliance.</i></p> <p><i>Explanation on the materiality of non-compliance, where applicable</i></p>		<p><i>Recommended timeframe to achieve compliance</i></p>													

IV. Audit procedures and their results:

Description of the audit criteria and materiality threshold used by the auditing organisation pursuant to Article 10(2), point (a) of this Regulation :

.....

2. Audit procedures, methodologies and results:

(a) Description of the audit procedures performed by the auditing organisation, the methodologies used to assess compliance, and justification of the choice of those procedures and methodologies (including, where applicable, a justification for the choices of standards, benchmarks, sample size(s) and sampling method(s)):

.....

(b) Description, explanation and justification of any changes to the audit procedures during the audit:

.....

(c) Results of the audit procedures, including any test and substantive analytical procedures:

.....

3. Overview and description of information relied upon as audit evidence, including, as applicable:

- (a) description of the type of information and its source;
 - (b) the period(s) when the evidence was collected;
 - (c) the period to which the evidence refers;
 - (d) any other relevant information and metadata.
-

4. Explanation of how the reasonable level of assurance was achieved:

.....

.....

5. In cases when:

- (a) a specific element could not be audited, as referred to in Article 37(5) of Regulation (EU) 2022/2065, or
- (b) an audit conclusion could not be reached with a reasonable level of assurance, as referred to in Article 8(8) of this Regulation,

provide an explanation of the circumstances and the reasons :

Obligation or commitment and relevant elements not audited	Explanation of circumstances and reasons:

6.	Notable changes to the systems and functionalities audited during the audited period and explanation of how these changes were taken into account in the performance of the audit.

7.	
	Other relevant observations and findings:

SECTION F.1: Third-parties consulted	
<i>Repeat this section per third-party consulted, incrementing the name of the section by one (for example, F.1, F.2, and so forth).</i>	
1. Name of third party consulted:
2. Representative and contact information of consulted third party:
3. Date(s) of consultation:
4. Input provided by third-party

SECTION G: Any other information the auditing body wishes to include in the audit report (such as a description of possible inherent limitations).

Include as many lines as necessary in accordance with the allocation of responsibilities and empowerment as referred to in Article 7(1) point b)

Date:
.....

Signed by:
.....

Place:

In the name of:

.....

.....

Responsible for:

.....

Annexes to the Audit Report (as applicable):

Documents requested pursuant to Article 7(2) of this Regulation.

Documents relating to the audit risk analysis pursuant to Article 9 of this Regulation.

Documents attesting that the auditing organisation complies with the obligations laid down in Article 37(3), point (a) of Regulation (EU) 2022/2065.

Documents attesting that the auditing organisation complies with the obligations laid down in Article 37(3), point (b) of Regulation (EU) 2022/2065.

Documents attesting that the auditing organisation complies with the obligations laid down in Article 37(3), point (c) of Regulation (EU) 2022/2065.

Documentation and results of any tests performed by the auditing organisation, including as regards algorithmic systems of the audited provider.

Codes of conduct referred to in Article 45 and 46 of Regulation (EU) 2022/2065 under which the audited provider made commitments, including a clear indication of any commitment undertaken and of any agreed key performance indicator for that commitment.

Crisis protocols referred to in Article 48 of Regulation (EU) 2022/2065 implemented by the audited provider.

Any other annex the auditing organisation wishes to include.

ANNEX II - Template for the audit implementation report referred to in Article 6

Table of contents

SECTION A: General Information	
1.	Audited provider:
2.	Address of the audited provider:
3.	Audit report on which this implementation report is based Date of adoption of the audit report: Reference to the audit report (for example an URL):
4.	Information on the underlying audit and the involved parties (refer to sections A and B of the audit report of reference):
5.	Does the audit implementation report refer to an audit report on compliance with all the obligations and commitments pursuant to Article 37(1) of Regulation (EU) 2022/2065 applicable to the audited provider? <i>Yes/No (if “No”, indicate which obligations and commitments are covered in the audit report of reference)</i>
6.	Where applicable, references to other audit reports resulting from audits pursuant to Article 37 of Regulation (EU) 2022/2065 that the audited provider is or will be subject to concerning the audited period:

SECTION B: Follow-up to the operational recommendations concerning audited obligations set out in Chapter III of Regulation (EU) 2022/2065
--

B.1 - Recommendation X

Insert as many entries as necessary to cover all recommendations from the audit of reference. Replace 'Recommendation X' with the respective recommendation and increment the name of the item by one (for example, B.2, B.3, and so forth) each time.

Fill in either sub-section 1 or 2.

1. Measures to implement the operational recommendation

1.1. Planned measure(s)

- (a) Description of the measure(s) (indicate the objective(s), any milestones, revision steps and, where applicable, performance indicators):

- (b) Timing for implementation:

1.2. Measures taken since the end of the period on which the audit report is based

- a) Description of the measures:

- b) Time when the measure(s) were implemented or are planned to be implemented:

- c) Result (include references to external resources, for example links to websites, as applicable):

- d) Explanation of how the measure(s) implement the recommendation from the audit report effectively and why the resulting situation constitutes compliance or how the effects of the measures will lead to compliance, where this is not immediately observable:

1.3. Where applicable, description of any measure(s) to adjust benchmarks for compliance and internal controls:

.....

2. Reasons for not implementing the recommendation, if applicable

a) Justification for not implementing the recommendation:

.....

b) Alternative measure(s) taken to achieve compliance:

.....

SECTION C (where applicable): Follow-up to the operational recommendations concerning audited commitments undertaken by the audited provider pursuant to the codes of conduct referred to in Articles 45 and 46 of Regulation (EU) 2022/2065 and the crisis protocols referred to Article 48 of Regulation (EU) 2022/2065

C.1 - Recommendation X

Insert as many entries as necessary to cover all recommendations from the audit of reference. Replace 'Recommendation X' with the respective recommendation and increment the name of the item by one (for example, C.2, C.3, and so forth) each time.

Fill in either sub-section 1 or 2.

1. Measures to implement the operational recommendation

1.1. Planned measure(s)

(a) Description of the measure(s) (please indicate the objective(s), any milestones, revision steps and, where applicable, performance indicators):

.....

(b) Timing for implementation:

.....

1.2. Measures taken since the end of the period on which the audit report is based

a) Description of the measure(s):

.....

b) Time when the measure(s) were implemented or are planned to be implemented:

.....

c) Result (include references to external resources, for example links to websites, as applicable):

.....

d) Explanation of how the measure(s) implement the recommendations from the audit report effectively:

.....

3. Reasons for not implementing the recommendation, if applicable

a) Justification for not implementing the recommendation:

.....

b) Alternative measure(s) taken to achieve compliance:

.....

SECTION D: Any other information the audited provider wishes to convey
.....