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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	ST 14629/23 + ADD 1 - C(2023) 6807
Subject:	Commission Delegated Regulation (EU) .../... of 20.10.2023 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 - Intention not to raise objections to a delegated act

1. On 20 October 2023, the Commission submitted the above draft Delegated Regulation to the Council, in accordance with Article 37(7) of Regulation (EU) 2022/2065 (Digital Services Act, DSA)¹.

¹ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1)

2. Article 37 of DSA requires providers of very large online platforms (‘VLOPs’) and of very large online search engines (‘VLOSEs’) to subject themselves to an annual independent audit to assess their compliance with the obligations the DSA imposes upon them and with any commitments undertaken pursuant to codes of conduct and crisis protocols adopted pursuant to Articles 45, 46, and 48 of that Regulation. This delegated act provides a framework to guide providers of VLOPs and VLOSEs, and auditing organisations in the preparation and issuance of audit reports and audit implementation reports.
 3. On 24 October 2023, delegations were asked to indicate their possible opposition to the above draft delegated regulation by 28 November 2023. No delegation raised any relevant grounds for opposition within the deadline period. The official three-month deadline for scrutiny expires on 21 January 2024.
 4. Against this background, the Permanent Representatives Committee could invite the Council to confirm the non-opposition to the delegated act, as laid out in document ST 14629/23 + ADD 1 as an item without discussion at one of its forthcoming meetings, and that the Commission and the European Parliament are to be informed thereof. This implies that unless the European Parliament objects to it, the delegated act shall be adopted and published after 21 January 2024, in accordance with Article 87 of DSA.
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