Council of the European Union
General Secretariat

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Interinstitutional files:
2025/0360 (COD)

Brussels, 22 September 2026

WK 14017/2026 INIT

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From:	General Secretariat of the Council
To:	Antici Group (Simplification)
Subject:	Omnibus VII (Digital): Steering and Explanatory Note by the Presidency - AGS meeting on 25 September 2026

In view of the AGS meeting on 25 September 2026, delegations will find enclosed the Presidency Steering and Explanatory Note, together with its Explanatory Table.

The document explains the changes made in the Presidency revised compromise text (ST 13112/26) on the Digital Omnibus.

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Antici Group on Simplification
25 September 2026
Omnibus VII (Digital) – Steering and Explanatory Note

The Presidency revised compromise text (ST 13112 2026 INIT) builds upon the extensive discussions to date held within the Antici Group on Simplification (AGS), most recently on 11 September 2026, and on written comments received from delegations.

The changes made in the compromise text primarily concern the General Data Protection Regulation (GDPR), the Data Act and the ePrivacy Directive. Further details on the proposed changes are included in the Explanatory Table below. Changes compared to the previous compromise text appear underlined. In addition, delegations are invited to respond to the discussion questions below.

At the AGS meeting of 25 September 2026, the Presidency will invite delegations to express their views on the changes set out in the compromise text. The following order of discussions on the text is proposed:

- Round 1: GDPR provisions
- Round 2: ePrivacy provisions
- Round 3: Data Act provisions

The Presidency invites delegations to submit written comments by 29 September, 12:00.

1. GDPR

The Presidency has made some limited amendments to the previous compromise text on GDPR. This includes amendments to Article 25a that seek to provide greater clarity on pseudonymisation, and corresponding amendments to Recitals 27a and 27b, as well as changes to Article 9(2)(k), Article 12(5) and Article 13(5).

In addition, the Presidency has taken note of the recent proposal to establish a new category of "low risk controller" under the GDPR. This would include an individual or entity acting in a not-for-profit capacity for the public benefit, or micro, small and medium-sized enterprises, as defined by the Commission Recommendation of 6 May 2003. Such controllers would be exempted from a number of GDPR rules. This would not include processing that is not merely ancillary to the controller's core activity, or where processing of personal data involves complex processing operations, or processing of large amounts of data, special categories of data, data relating to criminal convictions and offences, or employees' personal data.

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The Presidency considers that, while the concept of a low-risk controller may reduce administrative burdens for small businesses and organisations, it would constitute a substantial change to the GDPR and would require a series of significant amendments throughout the Regulation. The Presidency is also conscious that some Member States have highlighted concerns about introducing significant further amendments to the GDPR in the absence of an impact assessment.

A possible alternative would be to insert a requirement to review the proportionality of GDPR requirements in respect of small organisations and low risk activities. This approach would give an opportunity for risk assessment, to consider implications and ensure that any such amendments would achieve their objectives. The European Commission reviews the GDPR every four years under Article 97 of the GDPR. An insertion is possible in the text to ensure that proportionality is assessed in respect of small organisations and the level of risk.

Indicative drafting:
In Article 97, paragraph 2: (c) Chapter IV on controller and processor with particular regard to the proportionality of the obligations and whether they should be further adapted taking into account the level of risk for data subjects and the impact of such obligations on smaller organisations.

- ***Delegations are invited to express their views on this issue, and on the proposal to establish a new category of "low risk controllers" and exempt such controllers from certain key requirements of the GDPR.***

2. E-privacy

In the ePrivacy text, the Presidency has made some clarifying amendments in relation to the proposed "white-list" exemptions, including additional safeguards to prohibit processing for another purpose. In addition, in response to calls from some delegations for more emphasis on Privacy Enhancing Technologies (PETs), the Presidency is proposing to task the Commission to submit a report reviewing and assessing the use of PETs, with a view to incentivising their uptake.

- ***Delegations are invited to express their views on the proposed amendments.***

3. Data Act

The Irish Presidency has opted to introduce targeted changes to the text on the Data Act, notably as regards provisions that aim to strengthen trade secrets protection without altering the underlying logic of the protection afforded by the Data Act.

The Presidency has taken note of proposals to strengthen trade secrets protection under the Data Act. Currently the Data Act affords certain protections to trade secrets, while maintaining as a general principle that data holders should make data available.

One proposal suggests that, as a general rule, trade secrets need not be disclosed. The data holder in this case would identify the data which are protected as trade secrets, which not be shared. Limited exceptions would apply, for example where the data holder and user have reached an explicit agreement on the sharing of the data identified as trade secrets. Other delegations have suggested measures to alleviate the burden on data holders.

The Presidency proposes to lower the burden of proof required from the data holder to substantiate its refusal for access to data, and to lower the reporting burden for data holders by moving from an obligation to notify each rejection to authorities to an obligation to notify all rejections cumulatively each quarter (Art 4.8, Art 5.11 and Recital 12).

- ***Delegations are invited to express their views on the proposed amendments and on the issue of trade secrets.***

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Annex - Explanation of Changes

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Recitals	
Data acquis	
Recital (17)	The text is reverted to the previous wording 'custom-made', as the term 'custom-built' has a different definition in Article 31(1) of the DA, and using the term 'adapted' could risk widening the scope.
Recital (26a)	The additional part aims to clarify the responsibility of the supervisory authorities after the deletion of Article 37(1)(b) DA.
GDPR	
Recital (27a)	• General reference to "measures" and addition of a reference to Article 25 GDPR, which specifically refers to pseudonymisation. • Deletion of the sentence related to the legal effect of pseudonymisation, which is addressed in the following recital. • Addition of a sentence to support and encourage the drawing up of codes of conducts with regard to the pseudonymisation of personal data .
Recital (27b)	Restructuring, clarification and wording alignment with the proposed compromise text in the corresponding operative part of the text. The Recital starts with a focus on the need for further clarity and a reference to the general principle, followed by further details and elements concerning the identifiability of a natural person, and the means reasonably likely to be used. Addition of the following developments to support corresponding elements in the compromise text. • The second sentence reinstates paragraph 86 of the CJEU ruling in the SRB case. • Clarification that a third party who processes the pseudonymised data should not be considered to have access to such means, if the likelihood of identification appears in reality to be insignificant, because it would be impossible to do or would involve disproportionate effort in terms of time, cost and labour, or because of a legal prohibition. • Clarification, for a controller applying pseudonymisation or a processor processing on behalf of the controller, that the data subject remains identifiable and therefore Regulation (EU) 2016/670 applies.
Recital (29)	Deletion of the reference to "lawful", in order to avoid confusion between the compatibility of purpose (as addressed in the operative part of the text), with the lawfulness of processing in accordance with Article 6 GDPR.
Recital (33)	Alignment with proposed changes to Article 9(2)(k) and 9(5) – references to "incidentally" and "manifestly disproportionate".
Recital (33a)	Addition of a reference to data minimisation as an example of technical measures and safeguards.
Recital (34)	Clarification with regard to safeguards laid down in Union or national law – "where applicable".
ePrivacy	

Recital (44b)	Wording adjustments and clarification – reference to "storing of or gaining access to information", "personal data", and deletion of "third party" to refer directly to a market research company in the example.
Recital (44c)	Wording adjustments and clarification – addition of "the" (the user).
Recital (44d)	Wording adjustments and clarification – addition of "and" (anonymous "and" aggregated).
Recital (44e)	Formerly second part of Recital (44d) – wording adjustment and clarifications. Addition of a reference to decisions regarding advertising allocation and pricing, and clarification that reports containing anonymous and aggregated information could be shared with third parties, including companies and non-commercial organisations.
Recital (44f)	Formerly Recital (44e) – Updated and clarified wording on the applicable conditions for the exemption related to the maintaining or restoring of a service.
Recital (44g)	Formerly Recital (44f) – Updated and clarified wording on the applicable conditions for the exemption related to contextual advertising, aligned with the corresponding operative text.
Cyber	
Recital (49)	Wording adjustment to further align with the compromise text under Article 6 – deletion of the reference to "submitting notifications to a single interface" and to the "single-entry point" (replaced by "national entry point".
Recital (54)	Wording adjustment to further align with the compromise text under Article 6 – deletion of the reference to the assessment phase and functioning. Additional clarification to confirm that sector-specific adaptation should remain possible.
Recital (55)	Wording adjustment to further align with the compromise text under Article 6 – deletion of the reference to a single level for the exchange of information for each relevant Union legal act.
Articles	
Data acquis	
Article 1.1 *(Article 1(2)(a)(aa))*	The added sub-paragraph (f) is an alignment with Article 32 of the DA, which includes these entities in its scope.
Article 1.3 *(Article 4(8))*	The amendment simplifies the procedure for the data holder concerning trade secrets in two ways: • Firstly, it deletes the obligation to take technical and organisational measures before it can demonstrate the likelihood of economic damage from the disclosure. • Secondly, in the second part of the paragraph, the refusals should now be reported to the competent authority every three months, instead of on a case-by-case basis.
Article 1.18 *(Article 32la(2))*	The deletion aims to avoid a contradiction with the original provision in Article 4(2) of the ODD, which states that public authorities may set their own time limits.

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Article 1.18 *(Article 32v(2)(d))*	The consultations on identifying high-value datasets also extended to cover complementarity with the Directive establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).
Article 1.18 *(Article 32w(2)(b))*	The deletion of 'documents' is an alignment with the scope of the other provisions on the re-use of protected data.
Article 10(3)	The date of the repeal of Chapters I and II of the DGA and ODD is extended in alignment with the other deadlines in the proposal.
GDPR	
Article 3(3) *Article 9(2)(k)*	The wording of the derogation has been clarified further: "unintentional and residual processing" is replaced by "incidental processing of residual data, where not intended by the controller".
Article 3(3) *Article 9(2)(k)*	Deletion of the word "including".
Article 3(3) *Article 9(2)(k)*	Addition of a reference to "technical operation" and reinstatement of the word "manifestly".
Article 3(4) *Article 12(5)*	A limitation to requests made under Article 15 GDPR, and alignment in the last paragraph on the burden of proof for data controllers. Nb: the corresponding Recital (35) needs to be adjusted to align with the proposed changes under this Article.
Article 3(5) *Article 13(5)*	Deletion of the criterion where "the provision of information would prove impossible" under a), and update of the criterion now referring to "processing not likely to result in a high risk" under b). The reference to personal data referred to in Articles 9 and 10 is maintained in the last paragraph.
Article 3(10) *Article 25a*	Article 25a has been updated and clarified, and some paragraphs have been reordered: • Additional sentence in paragraph 1 referring to appropriate technical and organisational measures to prevent other persons from identifying the data subject. • Reference to "third party" throughout the relevant paragraph of the Article, which, in accordance with the definition under Article 4 GDPR, means means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data. • The reference to the likelihood of identification being insignificant in practice has been deleted and further addressed and reworded in the corresponding Recital 27b. • The former paragraph (5) has been moved up and is now paragraph (3). Paragraph (3a) has been moved down and is now paragraph (5).
EUDPR	
Article 4	• The changes and amendments made to the GDPR have been aligned in the corresponding provisions of the EUDPR. • Changes to Article 37 have been deleted, since this Article under the EUDPR refers directly to the application of the rules Article 5(3) of the ePrivacy Directive.

	• The amendment to Article 39 has been adjusted to refer generally to the lists, templates and methodology referred to in Article 35 GDPR.
ePrivacy	
Article 5(2) *Article 5(3)*	• Introduction of wording adjustments and clarifications for the exemptions to the consent requirements under c) on audience measurement, d) on EMFA audience measurement and f) on contextual advertising measurement: deletion of "immediately", clarification and additional safeguards to prohibit processing for another purpose, and additional references to the subscriber or user's past or future activity, "including activity across sites or services". • Under e) the reference to "information society service" has been deleted to refer to the "provision of a service".
Article 5(2c) *Article 18*	A new paragraph has been introduced under Article 18 of the ePrivacy Directive, tasking the Commission to submit to the Parliament and Council a report reviewing and assessing the use of privacy-enhancing technologies, including in relation to the storing of, or gaining access to information on terminal equipment.
Cyber	
Articles 6 to 9	No changes were made compared to the previous version of the compromise text.

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