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**Brussels, 13 February 2026**

**WK 2384/2026 INIT**

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## **WORKING DOCUMENT**

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From:	General Secretariat of the Council
To:	Antici Group (Simplification)

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Subject:	Omnibus VII (Digital Omnibus on AI) – Explanatory note on the second Presidency compromise text – AGS on 18 February
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With a view to the meeting of the Antici Group (Simplification) on 18 February 2026, delegations will find attached an explanatory note by the Presidency regarding the second Presidency compromise text on the Proposal for a Regulation regarding the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI) (ST 6245/26).

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## Antici Group on Simplification (AGS)

18 February 2026

### Omnibus VII: Digital Omnibus on Artificial Intelligence – 2<sup>nd</sup> Presidency compromise text

The purpose of this explanatory note is to provide delegations with additional information, clarifications and reasoning for the amendments proposed by the Presidency.

The explanatory note follows the order of the relevant provisions.

This document is for reference only.

<b>Recitals</b>	
Recital 5	Revised to align with the changes in Article 1(4) and to clarify that providers and deployers of high-risk AI systems remain subject to obligations related to AI literacy.
Recital 6	The proposed addition provides further explanation of why it is justified to apply the same conditions to the extended legal basis as to the original one.
Recital 10	The proposed addition aims to define clearly the allocation of responsibilities between the Member States and the AI Office with regard to AI regulatory sandboxes.
Recitals 11 and 11a	Recital 11 has been revised to align with the changes in Article 1(20), and the text referring to voluntary agreements between the Commission and the Member States to enable real-world testing of high-risk AI systems from Annex I of the AI Act has been deleted. Instead, Recital 11a has been added to clarify the rationale and procedure for the newly proposed legal framing for such real-world testing, as provided for in the revised Article 1(20).
Recital 16	The proposed addition aims to provide more clarity on the details that would need to be covered in implementing acts specifying the new supervisory powers of the AI Office.
Recital 22	The addition at the end of the recital is meant to re-emphasise the importance of the timely availability of support tools to facilitate compliance with the AI Act.
<b>Articles</b>	
Article 1(4)	Proposal to add a new paragraph 1a clarifying that despite the shift of the general AI literacy obligations to the Member States and the Commission, providers and deployers of high-risk AI systems remain obliged to ensure appropriate training and competences with regard to AI. Furthermore, the reference to European competence frameworks has been moved to paragraph 2 to clarify that they would only need to be taken into account by the AI Board during its work on the respective recommendations.
Article 1(13)	The addition in the second subparagraph is meant to clarify that for the purposes of benefitting from the transitional period for notified bodies which have been notified under the Union harmonisation legislation referred to in that article, those notified bodies don't require a new notification under sectoral legislation but could use the existing notification to provide evidence that Articles 31(4-11) of the AI Act have been assessed.
Article 1(17)	The changes in the new point (-a) and in point (a) are meant to harmonise the language used to clarify how for the purpose of that Chapter references to national

	<p>competent authorities should be construed. The new wording is based on the existing text in Article 3(48).</p> <p>The new paragraph 3b provides a clarification concerning the competences of the Member States with regard to the establishment of AI regulatory sandboxes for AI systems under their supervision.</p>
Article 1(20)	<p>The newly added Article 60a has been redrafted in order to move away from the legally questionable concept of a voluntary real world testing agreement between the Member States and the Commission to allow real world testing of AI systems covered by Union harmonisation legislation listed in Section B of Annex I. The Presidency considers that the AI Omnibus must determine the essential elements of this special testing regime, because it would be unlawful to delegate those elements under Article 290/291 of the TFEU, in particular to ad hoc contractual agreements. This would include elements with significant impacts on fundamental rights. Instead, the Presidency proposes to set the essential conditions for such testing (paragraph 4). The proposal then leaves the detailed implementation to Member States through frameworks for real-world testing, which may include agreements. It further allows agreements between the various authorities regarding implementation and provides for the Commission's involvement through the possibility to use implementing acts to approve the frameworks.</p>
Article 1(21)	<p>The wording on partner enterprises or linked enterprises in Article 63(1) has been reinstated, in line with the current text of the AI Act, to ensure that bigger enterprises or groups of enterprises do not rely on this provision to bypass some of their obligations under the AI Act.</p>
Article 1(24)	<p>Proposal to add a deadline for the Commission to adopt guidance on the post-market monitoring plan, aligned with the new proposed date for the application of the rules on high-risk AI systems.</p>
Article 1(25)	<p>Article 75 has been slightly modified to clarify that deployers would be excluded from the supervision by the AI Office (unless they are also providers). The proposed changes also address the concerns regarding the consultation mechanism and more involvement of national authorities when decisions of the AI Office would have an impact on the national market.</p> <p>The previously added Articles 75a and 75b have been updated with more detailed provisions and restructured into five new articles (Articles 75a – 75e). The rationale for these changes is to further clarify the provisions on investigation and enforcement in respect of AI systems supervised by the AI Office in the AI Act itself, rather than fully leaving this to further specification in an implementing act, as originally proposed. The proposed wording is based on similar provisions from the Digital Services Act, the Digital Markets Act and the Market Surveillance Regulation. In particular, the proposed modifications provide for greater involvement of national authorities when decisions of the AI Office have an impact on the national market (Article 75a(3)), and they also provide for a procedure that would allow the AI Office to delegate proceedings on AI systems to national authorities, e.g. in cases with a specific national interest or sensitivity (Article 75b(7)). Furthermore, the new articles clarify that the procedural safeguards for operators under Article 18 of Regulation (EU) 2019/1020 apply here, thereby aligning with the safeguards applicable to market surveillance authorities and under Article 94. Various standard points have also added in the newly added articles, e.g. on fines for not respecting binding commitments, on the power for CJEU to review fines, on where the fines go, and on the ceilings for penalty payments.</p>

Article 1(26)	A clerical correction.
Article 1(28)	Article 96(1) has been updated to ensure that the Commission involves the AI Board in the process of the preparation of guidelines.
Article 1(29)	A clerical correction.

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