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From:	General Secretariat of the Council
To:	Antici Group (Simplification)
N° prev. doc.:	ST 6245/26
Subject:	Omnibus VII (Digital Omnibus on AI) – Explanatory note on the third compromise text – AGS meeting on 9 March 2026

DRAFT!

Dear Delegates,

In view to the meeting of the Antici Group (Simplification) on 9 March 2026, delegations will find attached an explanatory note by the Presidency on the third 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).

Kiind regards,

Simplification (GIP.B)

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Antici Group on Simplification (AGS)

9 March 2026

Omnibus VII: Digital Omnibus on Artificial Intelligence – 3rd 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	
Recitals	
Recital 6	Inclusion of examples of non-high-risk AI systems that could adversely affect individuals based on protected characteristics, added as further justification for the extension of the legal basis for the processing of special categories of data to counter such bias and prevent discriminatory treatment prohibited under Union law.
Recital 7	Alignment and clarification corresponding to the changes in Article 1(10) and Article 1(11) concerning the unified assessment procedure.
Recital 8	Clarification corresponding to the changes in Article 1(13) on conformity assessment bodies.
Recital 11a	Revised to align with the changes in Articles 1(3) and 1(20) and to clarify which authorities are responsible for ensuring compliance with the regimes for real-world testing of high-risk AI systems that are safety components of or constitute products subject to sectoral legislation listed in Section B of Annex I of the AI Act.
Recital 14	Amendment to clarify the delineation between the AI Office's and national authorities' competences regarding AI systems built on general-purpose AI models where both the system and the model are developed by the same provider.
Recital 15	Clarification of the scope and rationale of the Commission's supervisory competences regarding AI systems that qualify as very large online platforms or very large online search engines and AI systems embedded in such platforms or search engines.
Recitals 16-18	Additions clarifying the powers and responsibilities of the AI Office as a market surveillance authority with regard to AI systems under its supervision.
Recital 19a	New recital added to provide further clarifications on the interplay between the requirements for high-risk AI systems laid down in the AI Act and the requirements laid down in Union harmonisation legislation listed in its Annex I Section A. Furthermore, the recital includes a reference to the new obligation imposed on the Commission in Article 96 of the AI Act to provide guidance to assist economic operators of high-risk AI systems covered in Annex I on complying with these requirements and on mechanisms to minimise the compliance burden.
Recital 23	Modifications providing further justification for the removal of the empowerment of the Commission to approve codes of practice by

	implementing acts, linking this removal to the limited legal effect of such codes of practice.
Articles	
Article 1(2)	Modification to Article 2(7) of the AI Act to align the wording with the changes introduced in in the new Article 4a, which has replaced Article 10(5) of the AI Act.
Article 1(3)	Update of the definition of ‘testing in real-world conditions’ in point 57 of Article 3 of the AI Act to take into account real-world testing of high-risk AI systems that are safety components of or constitute products subject to sectoral legislation listed in Section B of Annex I of the AI Act, as provided for in the new Article 60a.
Article 1(8)	Reference to SMCs moved to a position after the reference to SMEs and startups, to further highlight the need to focus on SMEs and startups in the context of the regulatory privileges concerning technical documentation referred in that provision. Such re-ordering has been done throughout the entire text whenever SMEs and SMCs are mentioned.
Article 1(10) Article 1(11)	The references to a <i>single</i> assessment procedure have been changed to a <i>unified</i> assessment procedure. This is to indicate that it is not required that the assessment is performed by only one notifying authority, so long as it is carried out in a unified way, allowing conformity assessment bodies to have a single procedure to be designated as notified body under the AI Act and under Union harmonisation legislation listed in Section A of Annex I of the AI Act.
Article 1(13)	Replacing the reference to Annex VII by a reference to points 3, 4.3, 4.4, 4.5, the fifth paragraph of point 4.6 and 5 of Annex VII, to clarify that the conformity assessment of high-risk AI systems covered by the Union harmonisation legislation listed in Section A of Annex I does not need to cover all elements of Annex VII with regard to the assessment of the quality management system .
Article 1(17)	Amendment of Article 57(1) of the AI Act to postpone the deadline for the establishment of AI regulatory sandboxes by competent authorities at national level until 2 December 2027.
Article 1(20)	In the new Article 60a(3) of the AI Act the reference to market surveillance authorities has been changed to national competence authorities and appropriate authorities [<i>and public authorities responsible for the management and operation of infrastructure and products covered by Union harmonisation legislation listed in Section B of Annex I</i>]. This is to have a broader reference because the supervisory authorities under Union harmonisation legislation in Section B of Annex I are not necessarily market surveillance authorities within the meaning of Regulation (EU) 2019/1020 .
Article 1(24)	Amendment of Article 72(3) of the AI Act obliging the Commission to take into account the opinion of the AI Board before issuing guidance on the post-market monitoring plan. Furthermore, the deadline for the publication of this guidance has been brought forward from 2 December 2027 to 2 September 2027.
Article 1(25)	Modification of Article 75(1) of the AI Act to further clarify the competence of the AI Office for the supervision of AI systems based on general-purpose AI models where the model and that system are developed by the same provider. The modification clearly lists exceptions where national authorities remain competent. These exceptions are extended to law

	<p>enforcement, border management and judicial authorities as well as financial institutions.</p> <p>Addition of a new paragraph 1ba clarifying that where access to a public authority's data or AI system would be required by the AI Office, the relevant market surveillance authority would need to provide assistance.</p> <p>Former paragraph 1b concerning Article 18 of the AI Act applying mutatis mutandis has been deleted because it is now included in the Article 75e(2).</p> <p>Pre-market conformity assessment for AI system falling within the scope of Article 75(1) has been amended, establishing that Commission shall entrust the assessment to notified bodies designated under the AI Act.</p>
Article 1(25a)	<p>Clarification of the scope of the AI Office's responsibilities and powers in respect of AI systems supervised by it, under Regulation (EU) 2019/1020, including several essential elements on the powers based on the DSA, in particular limitation periods, rights of the defence/access to the file; and publication of decisions.</p> <p>Inclusion of more detail on the cooperation between the AI Office and national competent authorities as well as on the types of infringements subject to administrative fines.</p> <p>Additional clarification of the scope of implementing acts which will further define the rules and the procedures for the exercise of the enforcement, monitoring and supervision tasks of the AI Office, including on the procedure when objections are raised by the market surveillance authority of a Member State.</p>
Article 1(28)	<p>Addition of a new obligation for the Commission in Article 96 of the AI Act to provide guidance to assist economic operators of high-risk AI systems covered by Union harmonisation legislation listed in Annex I Section A in complying with the AI Act in a manner that minimises compliance burden.</p>
Article 1(29)	<p>Clarification that the national rules on penalties and other enforcement measures for all infringements of the AI Act's obligations may also include administrative fines for all those infringements, not only those specified in paragraphs 3-5. This remains subject to the overarching requirement that penalties be proportionate.</p>
Annex XIV	<p>Modification of the NANDO codes to ensure a clearer and simpler structure. The amendments do not change the scope, main categories or the general logic of the NANDO codes but reduce the number of sub-codes. 9 biometric codes have been reduced to 3 codes, and 14 AI specific codes to 8 codes. Furthermore, category 'Agentic AI' has been renamed into 'Emerging AI technologies' to have it more open.</p>