Compromise amendments

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC

2020/0361 (COD)

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Version 08/12/2021

CA 6 on Chapter III

Section 4

Additional obligations for very large online platforms to manage systemic risks

Article 25

Very large online platforms

1. This Section shall apply to online platforms which:

(a) provide for at least four consecutive months their services to a number of average monthly active recipients of the service in the Union equal to or higher than 45 million, calculated in accordance with the methodology set out in the delegated acts referred to in paragraph 3. Such a methodology shall take into account, in particular:

(i) the number of active recipients shall be based on each service individually;
(ii) active recipients connected on multiple devices are counted only once;
(iii) indirect use of service, via a third party or linking, shall not be counted;
(iv) where an online platform is hosted by another provider of intermediary services, that the active recipients are assigned solely to the online platform closest to the recipient;
(v) that automated interactions, accounts or data scans by a non-human (“bots”) are not included.

2. The Commission shall adopt delegated acts in accordance with Article 69 to adjust the number of average monthly recipients of the service in the Union referred to in paragraph 1, where the Union’s population increases or decreases at least with 5 % in relation to its population in 2020 or, after adjustment by means of a delegated act, of its population in the year in which the latest delegated act was adopted. In that case, it shall adjust the number so that it corresponds to 10% of the Union’s population in the year in which it adopts the delegated act, rounded up or down to allow the number to be expressed in millions.

3. The Commission shall adopt delegated acts in accordance with Article 69, after consulting the Board, to lay down a specific methodology for calculating the number of average monthly active recipients of the service in the Union, for the purposes of paragraph 1(a). The methodology shall specify, in particular, how to determine the Union’s population and criteria to determine the average monthly active recipients of the service in the Union, taking into account different accessibility features.

4. The Digital Services Coordinator of establishment shall verify, at least every six months, whether the number of average monthly active recipients of the service in the Union of online platforms under their jurisdiction is equal to or higher than the number referred to in paragraph 1. On the basis of that verification, it shall adopt a decision designating the online platform as a very large online platform for the purposes of this
Regulation, or terminating that designation, and communicate that decision, without undue delay, to the online platform concerned and to the Commission.

The Commission shall ensure that the list of designated very large online platforms is published in the Official Journal of the European Union and keep that list updated. The obligations of this Section shall apply, or cease to apply, to the very large online platforms concerned from four months after that publication.

**Article 26**

**Risk assessment**

1. Very large online platforms shall *effectively and diligently* identify, analyse and assess, from the date of application referred to in the second subparagraph of Article 25(4), at least once a year thereafter, *and in any event before launching new services, the probability and severity of* any significant systemic risks stemming from, *the design, algorithmic systems, intrinsic characteristics,* functioning and use made of their services in the Union. The risk assessment shall *take into account risks per Member State in which services are offered and in the Union as a whole, in particular to a specific language or region.* This risk assessment shall be specific to their services and activities, *including technology design, business-model choices,* and shall include the following systemic risks:

- *(a)* the dissemination of illegal content through their services *or content that is in breach with their terms and conditions;*

- *(b)* any *actual and foreseeable* negative effects for the exercise of the fundamental rights, *including for consumer protection,* to respect for *human dignity,* private and family life, *the protection of personal data and the freedom of expression and information,* as well as to the freedom and the pluralism of the *media,* the prohibition of discrimination, *the right to gender equality,* and the rights of the child, as enshrined in Articles 1, 7, 8, 11, 21, 23, 24 and 38 of the *Charter* respectively;

- *(c)* any malfunctioning or intentional manipulation of their service, including by means of inauthentic use or automated exploitation of the service *or risks inherent to the intended operation of the service,* including the amplification of illegal content, *of content that is in breach with their terms and conditions or any other content* with an actual or foreseeable negative effect on the protection of minors and *of other vulnerable groups of recipients of the service,* on *democratic values, media freedom, freedom of expression and civic discourse,* or actual or foreseeable effects related to electoral processes and public security;

- *(ca)* any actual and foreseeable negative effects on the protection of public health as well as behavioural addictions or other serious negative consequences to the person's physical, mental, social and financial well-being.

2. When conducting risk assessments, very large online platforms shall take into account, in particular, *whether and how* their content moderation systems, *terms and conditions,* community standards, *algorithmic systems,* recommender systems and
systems for selecting and displaying advertisement, as well as the underlying data collection, processing and profiling, influence any of the systemic risks referred to in paragraph 1, including the potentially rapid and wide dissemination of illegal content and of information that is incompatible with their terms and conditions.

2a. When conducting risk assessments, very large online platforms shall consult, where appropriate, representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations. Their involvement shall be tailored to the specific systemic risks that the very large online platform aim to assess.

2b. The supporting documents of the risk assessment shall be communicated to the Digital Services Coordinator of establishment and to the Commission.

2c. The obligations referred to in paragraphs 1 and 2 shall by no means lead to a general monitoring obligation.

Article 27
Mitigation of risks

1. Very large online platforms shall put in place reasonable, transparent, proportionate and effective mitigation measures, tailored to the specific systemic risks identified pursuant to Article 26. Such measures may include, where applicable:

(a) adapting content moderation, algorithmic systems, or recommender systems and online interfaces, their decision-making processes, the design, the features or functioning of their services, their advertising model or their terms and conditions;

(aa) ensuring appropriate resources to deal with notices and internal complaints, including appropriate technical and operational measures or capacities;

(b) targeted measures aimed at limiting the display of advertisements in association with the service they provide, or the alternative placement and display of public service advertisements or other related factual information;

(ba) where relevant, targeted measures aimed at adapting online interfaces and features to protect minors;

(c) reinforcing the internal processes, and resources, testing, documentation, or supervision of any of their activities in particular as regards detection of systemic risk;

(d) initiating or adjusting cooperation with trusted flaggers in accordance with Article 19;

(e) initiating or adjusting cooperation with other online platforms through the codes of conduct and the crisis protocols referred to in Article 35 and 37 respectively.

1b. Very large online platforms shall, where appropriate, design their risk mitigation measures with the involvement of representatives of the recipients of the service, independent experts and civil society organisations. Where no such involvement is
foreseen, this shall be made clear in the transparency report referred to in Article 33.

1c. Very large online platforms shall provide a detailed list of the risk mitigation measures taken and their justification to the independent auditors in order to prepare the audit report referred to in Article 28.

1d. The Commission shall evaluate the implementation and effectiveness of mitigating measures undertaken by very large online platforms referred to in Article 27(1) and where necessary, may issue recommendations.

2. The Board, in cooperation with the Commission, shall publish comprehensive reports, once a year. The reports shall include the following:

(a) identification and assessment of the most prominent and recurrent systemic risks reported by very large online platforms or identified through other information sources, in particular those provided in compliance with Articles 30, 31 and 33;

(b) best practices for very large online platforms to mitigate the systemic risks identified.

The reports shall be presented per Member State in which the systemic risks occurred and in the Union as a whole. The reports shall be published in all the official languages of the Member States of the Union.

3. The Commission, in cooperation with the Digital Services Coordinators, may issue general guidelines on the application of paragraph 1 in relation to specific risks, in particular to present best practices and recommend possible measures, having due regard to the possible consequences of the measures on fundamental rights enshrined in the Charter of all parties involved. When preparing those guidelines the Commission shall organise public consultations.

3a. The requirement to put in place mitigation measures shall not lead to a general monitoring obligation or active fact-finding obligations.

Article 28
Independent audit

1. Very large online platforms shall be subject, at their own expense and at least once a year, to independent audits to assess compliance with the following:

(a) the obligations set out in Chapter III.

(b) any commitments undertaken pursuant to the codes of conduct referred to in Articles 35 and 36 and the crisis protocols referred to in Article 37.

1a. Very large online platforms shall ensure auditors have access to all relevant data necessary to perform the audit properly.

2. Audits performed pursuant to paragraph 1 shall be performed by organisations which having been recognised and vetted by the Commission and which:

(a) are legally and financially independent from, and do not have conflicts of interest with the very large online platform concerned and other very large online platforms;

(aa) auditors and their employees have not provided any other service to the very large online platform audited 12 months before the audit and commit not to
work for the very large online platform audited or a professional organisation
or business association of which the platform is a member for 12 months after
their position in the auditing organisation has ended;

(b) have proven expertise in the area of risk management, technical competence and
capabilities;

(c) have proven objectivity and professional ethics, based in particular on adherence
to codes of practice or appropriate standards.

3. The organisations that perform the audits shall establish an audit report for each audit
subject as referred to in paragraph 1. The report shall be in writing and include at
least the following:

(a) the name, address and the point of contact of the very large online platform
subject to the audit and the period covered;

(b) the name and address of the organisation performing the audit;

(ba) a declaration of interests;

(c) a description of the specific elements audited, and the methodology applied;

(d) a description of the main findings drawn from the audit and a summary of the

(daa) a description of the third parties consulted as part of the audit;

(e) an audit opinion on whether the very large online platform subject to the audit
complied with the obligations and with the commitments referred to in
paragraph 1, either positive, positive with comments or negative;

(f) where the audit opinion is not positive, operational recommendations on specific
measures to achieve compliance;

(fa) a description of specific elements that could not be audited, and an
explanation of why these could not be audited;

(fb) where the audit opinion could not reach a conclusion for specific elements
within the scope of the audit, a statement of reasons for the failure to reach
such conclusion.

4. Very large online platforms receiving an audit report that is not positive shall take due
account of any operational recommendations addressed to them with a view to take
the necessary measures to implement them. They shall, within one month from
receiving those recommendations, adopt an audit implementation report setting out
those measures. Where they do not implement the operational recommendations, they
shall justify in the audit implementation report the reasons for not doing so and set out
any alternative measures they may have taken to address any instances of non-
compliance identified.

4a. The Commission shall publish and regularly update a list of vetted organisations.

4b. Where a very large online platform receives a positive audit report, it shall be
entitled to request from the Commission a seal of excellence.
Article 29
Recommender systems

1. **In addition to the requirements set out in Article 24a**, very large online platforms that use recommender systems shall set out in their terms and conditions, in a clear, accessible and easily comprehensible manner, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters that they may have made available, including **provide at least one option recommender system** which is not based on profiling, within the meaning of Article 4 (4) of Regulation (EU) 2016/679, **as well as an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.**

2. Where several options are available pursuant to paragraph 1, very large online platforms shall provide an easily accessible functionality on their online interface allowing the recipient of the service to select and to modify at any time their preferred option for each of the recommender systems that determines the relative order of information presented to them.

Article 30
Additional online advertising transparency

1. Very large online platforms that display advertising on their online interfaces shall compile and make publicly available **and searchable through easy to access, functional and reliable tools** through application programming interfaces a repository containing the information referred to in paragraph 2, until one year after the advertisement was displayed for the last time on their online interfaces. **They shall ensure that multicriterion queries can be performed per advertiser and per all data points present in the advertisement, the target of the advertisement, and the audience the advertiser wishes to reach.** They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been displayed and shall make reasonable efforts to ensure that the information is accurate and complete.

2. The repository shall include at least all of the following information:

   (a) the content of the advertisement, **including the name of the product, service or brand and the object of the advertisement**;

   (b) the natural or legal person on whose behalf the advertisement is displayed;

   (ba) **the natural or legal person who paid for the advertisement, where that person is different from the one referred to in point (b);**

   (c) the period during which the advertisement was displayed;

   (d) whether the advertisement was intended to be displayed specifically to one or more particular groups of recipients of the service and if so, the main parameters...
used for that purpose including any parameters used to exclude particular groups;

(da) where it is disclosed, a copy of the content of commercial communications published on the very large online platforms that are not marketed, sold or arranged by the very large online platform, which have through appropriate channels been declared as such to the very large online platform;

(e) the total number of recipients of the service reached and, where applicable, aggregate numbers for the group or groups of recipients to whom the advertisement was targeted specifically.

(ea) cases where the advertisement was removed on the basis of a notice submitted in accordance with Article 14 or an order issued pursuant to Article 8.

2b. The Board shall, after consulting vetted researchers, publish guidelines on the structure and organisation on repositories created pursuant to paragraph 1.

Article 30a
Deep fakes

Where a very large online platform becomes aware that a piece of content is a generated or manipulated image, audio or video content that appreciably resembles existing persons, objects, places or other entities or events and falsely appears to a person to be authentic or truthful (deep fakes), the provider shall label the content in a way that informs that the content is inauthentic and that is clearly visible for the recipient of the services.

Article 31
Data access and scrutiny

1. Very large online platforms shall provide the Digital Services Coordinator of establishment or the Commission, upon their reasoned request and within a reasonable period, and without delay specified in the request, access to data that are necessary to monitor and assess compliance with this Regulation. That Digital Services Coordinator and the Commission shall only request, access and use that data for those purposes.

1a. The very large online platform shall be obliged to explain the design, logic and the functioning of the algorithms if requested by the Digital Service Coordinator of establishment.

2. Upon a reasoned request from the Digital Services Coordinator of establishment or the Commission, very large online platforms shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers, vetted not-for-profit bodies, organisations or associations, who meet the requirements in paragraphs 4 of this Article, for the sole purpose of conducting research that contributes to the identification, mitigation and understanding of systemic risks as set out in Article 26(1) and Article 27(1).
2a. Vetted researchers, vetted not-for-profit bodies, organisations and associations shall have access to aggregate numbers for the total views and view rate of content prior to a removal on the basis of orders issued in accordance with Article 8 or content moderation engaged in at the provider’s own initiative and under its terms and conditions.

3. Very large online platforms shall provide access to data pursuant to paragraphs 1 and 2 through online databases or application programming interfaces, as appropriate, and with an easily accessible and user-friendly mechanism to search for multiple criteria.

4. In order to be vetted by the Digital Services Coordinator of establishment or the Commission, researchers, not-for-profit bodies, organisations or associations shall:
   (a) be affiliated with academic institutions or civil society organisations representing the public interest and meeting the requirements under Article 68;
   (b) be independent from commercial interests, including from any very large online platform;
   (c) disclose the funding financing the research;
   (d) be independent from any government, administrative or other state bodies, outside the academic institution of affiliation if public;
   (e) have proven records of expertise in the fields related to the risks investigated or related research methodologies; and
   (f) shall commit and be in a capacity to preserve the specific data security and confidentiality requirements corresponding to each request.

4a. Where a very large online platform has grounds to believe that a researcher, a not-for-profit body, an organisation or association is acting outside the purpose of paragraph 2 or no longer respects the conditions of paragraph 4, it shall immediately inform the relevant authority, either the Digital Service Coordinator of establishment or the Commission, which shall decide without undue delay if access shall be withdrawn and when the access shall be restored and under what conditions.

4b. Where the Digital Services Coordinator of establishment, or the Commission have grounds to believe that a researcher, a not-for-profit body, an organisation or association is acting outside the purpose of paragraph 2 or no longer respects the conditions of paragraph 4, it shall immediately inform the very large online platform. The very large online platform shall be entitled to withdraw access to data upon receiving the information. The Digital Services Coordinator of establishment, or the Commission shall decide if and when access shall be restored and under what conditions.

5. The Commission shall, after consulting the Board, and no later than one year after entry into force of this legislation, adopt delegated acts laying down the technical conditions under which very large online platforms are to share data pursuant to paragraphs 1 and 2 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with vetted researchers or not-for-profit bodies, organisations or associations can take place in compliance with Regulation (EU) 2016/679, taking into account the rights
and interests of the very large online platforms and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.

6. Within 15 days following receipt of a request as referred to in paragraph 1 and 2, a very large online platform may request the Digital Services Coordinator of establishment or the Commission, as applicable, to amend the request, where it considers that it is unable to give access to the data requested because one of following two reasons:

(a) it does not have access to the data;

(b) giving access to the data will lead to significant vulnerabilities for the security of its service or the protection of confidential information, in particular trade secrets.

7. Requests for amendment pursuant to point (b) of paragraph 6 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.

The Digital Services Coordinator of establishment or the Commission shall decide upon the request for amendment within 15 days and communicate to the very large online platform its decision and, where relevant, the amended request and the new time period to comply with the request.

7a. **Digital Service Coordinators and the Commission shall, once a year, report the following information:**

(a) the number of requests made to them as referred to in paragraphs 1, 2 and 6;

(b) the number of such requests that have been declined or withdrawn by the Digital Service Coordinator or the Commission and the reasons for which they have been declined or withdrawn, including following a request to the Digital Service Coordinator or the Commission from a very large online platform to amend a request as referred to in paragraphs 1, 2 and 6;

7b. Upon completion of their research, the vetted researchers that have been granted access to data shall publish their findings without disclosing confidential data and in compliance with Regulation (EU) 2016/679.

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**Article 32**

**Compliance officers**

1. Very large online platforms shall appoint one or more compliance officers responsible for monitoring their compliance with this Regulation.

2. Very large online platforms shall only designate as compliance officers persons who have the professional qualifications, knowledge, experience and ability necessary to fulfil the tasks referred to in paragraph 3 as compliance officers. Compliance officers may either be staff members of, or fulfil those tasks on the basis of a contract with, the very large online platform concerned.

3. Compliance officers shall have the following tasks:
(a) cooperating with the Digital Services Coordinator of establishment, the Board and the Commission for the purpose of this Regulation;

(b) organising and supervising the very large online platform’s activities relating to the independent audit pursuant to Article 28;

(c) informing and advising the management and employees of the very large online platform about relevant obligations under this Regulation;

(d) monitoring the very large online platform’s compliance with its obligations under this Regulation.

4. Very large online platforms shall take the necessary measures to ensure that the compliance officers can perform their tasks in an independent manner.

5. Very large online platforms shall communicate the name and contact details of the compliance officer to the Digital Services Coordinator of establishment and the Commission.

6. Very large online platforms shall support the compliance officer in the performance of his or her tasks and provide him or her with the resources necessary to adequately carry out those tasks. The compliance officer shall directly report to the highest management level of the platform.

**Article 33**

**Transparency reporting obligations for very large online platforms**

1. Very large online platforms shall publish the reports referred to in Article 13 within six months from the date of application referred to in Article 25(4), and thereafter every six months in a standardised, machine-readable and easily accessible format.

1a. Such reports shall include content moderation information separated and presented for each Member State in which the services are offered and for the Union as a whole. The reports shall be published in at least one of the official languages of the Member States of the Union in which services are offered.

2. In addition to the reports provided for in Article 13, very large online platforms shall make publicly available, and transmit to the Digital Services Coordinator of establishment and the Commission, at least once a year and within 30 days following the adoption of the audit implementing report provided for in Article 28(4):

   (a) a report setting out the results of the risk assessment pursuant to Article 26;

   (b) the related risk specific mitigation measures identified and implemented pursuant to Article 27;

   (c) the audit report provided for in Article 28(3);

   (d) the audit implementation report provided for in Article 28(4).

   (da) where appropriate, information about the representatives of the recipients of the service, independent experts and civil society organisations, consulted for the risk assessment in Article 26.

3. Where a very large online platform considers that the publication of information pursuant to paragraph 2 may result in the disclosure of confidential information of that platform or of the recipients of the service, may cause significant vulnerabilities for the security of its service, may undermine public security or may harm recipients,
platform may remove such information from the reports. In that case, that platform shall transmit the complete reports to the Digital Services Coordinator of establishment and the Commission, accompanied by a statement of the reasons for removing the information from the public reports, in compliance with Regulation (EU) 2016/679.

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Recitals


(53) Given the importance of very large online platforms, due to their reach, in particular as expressed in number of recipients of the service, in facilitating public debate, economic transactions and the dissemination of information, opinions and ideas and in influencing how recipients obtain and communicate information online, it is necessary to impose specific obligations on those platforms, in addition to the obligations applicable to all online platforms. Those additional obligations on very large online platforms are necessary to address those public policy concerns, there being no proportionate alternative and less restrictive measures that would effectively achieve the same result.

(54) Very large online platforms may cause societal risks, different in scope and impact from those caused by smaller platforms. Once the number of recipients of a platform reaches a significant share of the Union population, the systemic risks the platform poses have a disproportionately negative impact in the Union. Such significant reach should be considered to exist where the number of recipients exceeds an operational threshold set at 45 million, that is, a number equivalent to 10% of the Union population. The operational threshold should be kept up to date through amendments enacted by delegated acts, where necessary. Such very large online platforms should therefore bear the highest standard of due diligence obligations, proportionate to their societal impact and means. Accordingly, the number of average monthly recipients of the service should reflect the recipients actually reached by the service either by being exposed to content or by providing content disseminated on the platforms’ interface in that period of time.

(55) In view of the network effects characterising the platform economy, the user base of an online platform may quickly expand and reach the dimension of a very large online platform, with the related impact on the internal market. This may be the case in the event of exponential growth experienced in short periods of time, or by a large global presence and turnover allowing the online platform to fully exploit network effects and
economies of scale and of scope. A high annual turnover or market capitalisation can in particular be an indication of fast scalability in terms of user reach. In those cases, the Digital Services Coordinator should be able to request more frequent reporting from the platform on the user base to be able to timely identify the moment at which that platform should be designated as a very large online platform for the purposes of this Regulation.

(56) Very large online platforms are used in a way that strongly influences safety online, the shaping of public opinion and discourse, as well as on online trade. The way they design their services is generally optimised to benefit their often advertising-driven business models and can cause societal concerns. In the absence of effective regulation and enforcement, they can set the rules of the game, without effectively identifying and mitigating the risks and the societal and economic harm they can cause. Under this Regulation, very large online platforms should therefore assess the systemic risks stemming from the functioning and use of their service, as well as by potential misuses by the recipients of the service, and take appropriate mitigating measures where mitigation is possible without adversely impacting fundamental rights.

(57) Four categories of systemic risks should be assessed in-depth. A first category concerns the risks associated with the misuse of their service through the dissemination and amplification of illegal content, such as the dissemination of child sexual abuse material or illegal hate speech, and the conduct of illegal activities, such as the sale of products or services prohibited by Union or national law, including dangerous and counterfeit products and illegally-traded animals. For example, and without prejudice to the personal responsibility of the recipient of the service of very large online platforms for possible illegality of his or her activity under the applicable law, such dissemination or activities may constitute a significant systematic risk where access to such content may be amplified through accounts with a particularly wide reach. A second category concerns the actual and foreseeable impact of the service on the exercise of fundamental rights, as protected by the Charter of Fundamental Rights, including the freedom of expression and information, freedom of the press, human dignity, the right to private life, the right to gender equality, the right to non-discrimination and the rights of the child. Such risks may arise, for example, in relation to the design of the algorithmic systems used by the very large online platform or the misuse of their service through the submission of abusive notices or other methods for silencing speech or hampering competition. A third category of risks concerns the intentional and, oftentimes, coordinated manipulation of the platform’s service, with a foreseeable impact on health, civic discourse, electoral processes, public security and protection of minors, having regard to the need to safeguard public order, protect privacy and fight fraudulent and deceptive commercial practices. Such risks may arise, for example, through the creation of fake accounts, the use of bots, and other automated or partially automated behaviours, which may lead to the rapid and widespread dissemination of information that is illegal content or incompatible with an online platform’s terms and conditions. A fourth category of risks concerns any actual and foreseeable negative effects on the protection of public health, including behavioural addictions due to excessive use of a service or other serious negative effects to the person’s physical, mental, social and financial well-being.

(58) Very large online platforms should deploy the necessary means to diligently mitigate the systemic risks identified in the risk assessment where mitigation is possible without adversely impacting fundamental rights. Very large online platforms should under
such mitigating measures consider, for example, enhancing or otherwise adapting the design and functioning of their content moderation, algorithmic recommender systems and online interfaces, so that they discourage and limit the dissemination of illegal content and of content that is incompatible with their terms and conditions. They should also consider mitigation measures in case of malfunctioning or intentional manipulation and exploitation of the service, or in case of risks inherent to the intended operation of the service, including the amplification of illegal content, of content that is in breach with their terms and conditions or any other content having negative effects, by adapting their decision-making processes, or adapting their terms and conditions and content moderation policies and how those policies are enforced, while being fully transparent to the recipients of the service. They may also include corrective measures, such as discontinuing advertising revenue for specific content, or other actions, such as improving the visibility of authoritative information sources. Very large online platforms may reinforce their internal processes or supervision of any of their activities, in particular as regards the detection of systemic risks. They may also initiate or increase cooperation with trusted flaggers, organise training sessions and exchanges with trusted flagger organisations, and cooperate with other service providers, including by initiating or joining existing codes of conduct or other self-regulatory measures. The decision as to the choice of measures should remain with the very large online platform. Any measures adopted should respect the due diligence requirements of this Regulation and be effective and appropriate for mitigating the specific risks identified, in the interest of safeguarding public order, protecting privacy and fighting fraudulent and deceptive commercial practices, and should be proportionate in light of the very large online platform’s economic capacity and the need to avoid unnecessary restrictions on the use of their service, taking due account of potential negative effects on the fundamental rights of the recipients of the service. The Commission should evaluate the implementation and effectiveness of the mitigating measures and issue recommendations when the measures implemented are deemed inappropriate or ineffective to address the systemic risk at stake.

(59) Very large online platforms should, where appropriate, conduct their risk assessments and design their risk mitigation measures with the involvement of representatives of the recipients of the service, representatives of groups potentially impacted by their services, independent experts and civil society organisations.

(60) Given the need to ensure verification by independent experts, very large online platforms should be accountable, through external independent auditing, for their compliance with the obligations laid down by this Regulation. In particular, audits should assess the clarity, coherence and predictable enforcement of terms of service, the completeness, methodology and consistency of the transparency reporting obligations, the accuracy, predictability and clarity of the provider’s follow-up for recipients of the service and notice providers regarding notices of illegal content and terms of service violations, the accuracy of classification of removed information, the internal complaint handling mechanism, the interaction with trusted flaggers and assessment of their accuracy, the diligence with regard to the verification of the traceability of traders, the adequateness and correctness of the risk assessment, the adequateness and effectiveness of the risk mitigation measures taken and, where relevant, any complementary commitments undertaken pursuant to codes of conduct and crises protocols. They should give the vetted auditor access to all relevant data necessary to perform the audit properly. Auditors should also be able to make use of other sources of objective information, including studies by vetted researchers. Vetted
Auditors should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks and have the necessary expertise in the area of risk management and technical competence to audit algorithms. This guarantee should not be a means to circumvent the applicability of audit obligations in this Regulation applicable to very large online platforms. Auditors should be legally and financially independent and should not have conflict of interest involving the very large online platform concerned and other very large online platforms, so as to be able to perform their tasks in an adequate and trustworthy manner. Additionally, vetted auditors and their employees should not have provided any service to the very large online platform audited for 12 months before the audit. They should also commit not to work for the very large online platform audited or a professional organisation or business association of which the platform is a member for 12 months after their position in the auditing organisation has ended. If their independence is not beyond doubt, they should resign or abstain from the audit engagement.

The audit report should be substantiated, so as to give a meaningful account of the activities undertaken and the conclusions reached. It should help inform, and where appropriate suggest improvements to the measures taken by the very large online platform to comply with their obligations under this Regulation. The report should be transmitted to the Digital Services Coordinator of establishment and the Board without delay, together with the risk assessment and the mitigation measures, as well as the platform’s plans for addressing the audit’s recommendations. Where applicable, the report should include a description of specific elements that could not be audited, and an explanation of why these could not be audited. The report should include an audit opinion based on the conclusions drawn from the audit evidence obtained. A positive opinion should be given where all evidence shows that the very large online platform complies with the obligations laid down by this Regulation or, where applicable, any commitments it has undertaken pursuant to a code of conduct or crisis protocol, in particular by identifying, evaluating and mitigating the systemic risks posed by its system and services. A positive opinion should be accompanied by comments where the auditor wishes to include remarks that do not have a substantial effect on the outcome of the audit. A negative opinion should be given where the auditor considers that the very large online platform does not comply with this Regulation or the commitments undertaken. Where the audit opinion could not reach a conclusion for specific elements that fall within the scope of the audit, a statement of reasons for the failure to reach such a conclusion should be included in the audit opinion.

A core part of a very large online platform’s business is the manner in which information is prioritised and presented on its online interface to facilitate and optimise access to information for the recipients of the service. This is done, for example, by algorithmically suggesting, ranking and prioritising information, distinguishing through text or other visual representations, or otherwise curating information provided by recipients. Such recommender systems can have a significant impact on the ability of recipients to retrieve and interact with information online. Often, they facilitate the search for relevant content for recipients of the service and contribute to an improved user experience. They also play an important role in the amplification of certain messages, the viral dissemination of information and the stimulation of online behaviour. Consequently, very large online platforms should let the recipients decide
whether they want to be subject to recommender systems based on profiling and ensure that there is an option which is not based on profiling. In addition, very large online platforms should ensure that recipients are appropriately informed, on the use of recommender systems, and that recipients can influence the information presented to them through making active choices. They should clearly present the main parameters for such recommender systems in an easily comprehensible and user-friendly manner to ensure that the recipients understand how information is prioritised for them, the reason why, and how to modify the parameters used to curate the content presented for the recipients. Very large online platforms should implement appropriate technical and organisational measures for ensuring that recommender systems are designed in a consumer friendly manner and do not influence end users’ behaviour through dark patterns.

(63) Advertising systems used by very large online platforms pose particular risks and require further public and regulatory supervision on account of their scale and ability to target and reach recipients of the service based on their behaviour within and outside that platform’s online interface. Very large online platforms should ensure public access to repositories of advertisements displayed on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality. Repositories should include the content of advertisements, including the name of the product, service or brand and the object of the advertisement, and related data on the advertiser, and, if different, the natural or legal person who paid for the advertisement, and the delivery of the advertisement, in particular where targeted advertising is concerned. In addition, very large online platforms should label any known deep fake videos, audio or other files.

(64) In order to appropriately supervise the compliance of very large online platforms with the obligations laid down by this Regulation, the Digital Services Coordinator of establishment or the Commission may require access to or reporting of specific data and algorithms. Such a requirement may include, for example, the data necessary to assess the risks and possible harms brought about by the platform’s systems, data on the accuracy, functioning and testing of algorithmic systems for content moderation, recommender systems or advertising systems, or data on processes and outputs of content moderation or of internal complaint-handling systems within the meaning of this Regulation. Investigations by vetted researchers, vetted not-for-profit bodies, organisations or associations, on the evolution and severity of online systemic risks are particularly important for bridging information asymmetries and establishing a resilient system of risk mitigation, informing online platforms, Digital Services Coordinators, other competent authorities, the Commission and the public. This Regulation therefore provides a framework for compelling access to data from very large online platforms to vetted researchers, not-for-profit bodies, organisations or associations. All requirements for access to data under that framework should be proportionate and appropriately protect the rights and legitimate interests, including personal data, trade secrets and other confidential information, of the platform and any other parties concerned, including the recipients of the service. Vetted researchers, not-for-profit bodies, organisations or associations should guarantee the confidentiality, security and integrity of the information, such as trade secrets, that they obtain when performing their tasks.
Given the complexity of the functioning of the systems deployed and the systemic risks they present to society, very large online platforms should appoint compliance officers, which should have the necessary qualifications to operationalise measures and monitor the compliance with this Regulation within the platform’s organisation. Very large online platforms should ensure that the compliance officer is involved, properly and in a timely manner, in all issues which relate to this Regulation. In view of the additional risks relating to their activities and their additional obligations under this Regulation, the other transparency requirements set out in this Regulation should be complemented by additional transparency requirements applicable specifically to very large online platforms, notably to report on the risk assessments performed and subsequent measures adopted as provided by this Regulation.