

Mr Roberto Viola
Director General
DG CONNECT
European Commission



Brussels, 15 September 2023

Dear Mr Viola

EC request for feedback on the template relating to the reporting on consumer profiling techniques (the “Template”) and audit of such reports that designated gatekeepers will have to submit under Article 15 of the Digital Markets Act (‘DMA’)

On behalf of the European Contact Group (ECG), which brings together the six largest accounting networks in the EU, I am pleased to send you our feedback on the template relating to the reporting on consumer profiling techniques and audit of such reports that designated gatekeepers will have to submit under Article 15 of the Digital Markets Act (‘DMA’).

Consistent with our feedback on the Digital Services Act (DSA) and the draft Delegated Regulations (DR) we welcome the ongoing willingness of the European Commission (EC) to receive feedback on these important topics and believe that such a constructive approach is essential to the development of workable and sustainable solutions.

The table we have included below is intended to provide specific reference to sections of the Template, a summary of the potential audit considerations and concerns that need to be considered based on our collective experience and potential solutions to explore. We have focused these examples on four sections of the Template where we consider further clarification could be most helpful, both to the DMA auditors and the different users of the reports.



We would be happy to work with the EC and other experts over the coming months to provide further input and support to efforts that would facilitate the delivery of high-quality audits and enable transparent, understandable and consistent reporting which delivers on its intended purpose.

Yours sincerely,

Maurizio Donvito
Chairman of the European Contact Group (ECG)

The ECG is registered in the EU Transparency Register under number 0633841538-63

DMA – reference to Template	Audit considerations and concerns	Proposed solutions
1. Reduce risk and improve comparability by acknowledging auditors may use already recognized standards and frameworks.		
<p>Section 4 sets out the information required regarding the audit procedures performed by the independent auditor or auditing organisation. It specifies the requirement to disclose the methodologies used to perform the audit, including, where applicable, a justification for the choice of standards, benchmarks, sample size(s) and sampling method(s).</p>	<p>The template establishes the requirement to disclose the methodologies used to perform the audit but does not describe or suggest an assurance standard that may be used. This potentially gives rise to the use of different standards which is unlikely to result in comparability of audit reports.</p>	<p>Auditors applying the pronouncements of the IAASB have consistent standards for planning and performing assurance engagements – we propose that the Template refers to ISAE 3000 (Revised), or equivalent, as an example of a standard that could be applied. We believe this better achieves the objectives of Article 15 by acknowledging that the auditing organisation may use a more comprehensive, already tested framework that is well understood. ISAE 3000 (Revised) also has the advantage of being available for use by a broad spectrum of auditing organizations. We would also suggest to disclose the framework used by the auditor which would support the objective of transparency alongside building trust and confidence by users of the report and is in the public interest. Such standards also provide sufficient and comprehensible explanation of the role of the audit, the approaches undertaken and the conclusion reached.</p>
2. Clarify the requirements of the Act specifically related to the assessment of the completeness and accuracy of the consumer profiling description		
<p>Section 5 of the template describes that the audit conclusion is an assessment of the auditor as to whether the information provided by</p>	<p>Section 2 describes the information about the profiling techniques of consumers required to be reported. The wording appears clear that the auditor is assessing the completeness and accuracy of the description (“operating as described”) versus the</p>	<p>We suggest adding language within Section 5 that clarifies that where the disclosure of profiling techniques consist of describing mechanisms, processes or controls, the audit conclusions are based solely upon obtaining sufficient and appropriate evidence of their design, implementation and</p>

<p>the gatekeeper in the description is complete and accurate, in particular given the information requirements laid down in Section 2 of the template which require a detailed description of all the consumer profiling techniques applied.</p>	<p>operating effectiveness of controls or the compliance activities</p> <p>In addition, Section 5.1(b) requires detailed justifications and comments concerning potential misstatements, omissions, misrepresentations, or errors without reference to the concept of materiality. As such, any resulting reporting could become too detailed and lack appropriate context with a resulting negative impact on the quality and understandability of reporting.</p>	<p>operation to a level to determine whether disclosures are complete and accurate and free from material error or omission which might otherwise render them misleading.</p>
<p>3. Considerations related to providing detailed personal information including an overview of professional qualifications regarding members of the auditing team</p>		
<p>Section 3 of the template describes the required disclosure of general information on the audit.</p>	<p>Section 3.1(a) requires details of personal names, professional email addresses and professional qualifications. This raises the practical challenge of requiring a level of public disclosure of personal information of individuals who may have had limited involvement in the overall audit and/or junior members of the engagement team who are not responsible for the overall conclusions being reported. The level of detail potentially distracts from the primary objective of understanding the identification of individual authorized to issue the opinion and conclusion alongside their professional qualification.</p>	<p>We suggest amending Section 3.1(a) to require only disclosure of the individual responsible for the issuance of the opinion and reported conclusion(s). Such an approach would be in line with emerging practice for audit and assurance engagements, for example sustainability reporting. Additional details of personnel involved in the audit, including professional email addresses and professional qualifications, etc., can be provided either upon request or through a separate, non-public reporting mechanism. We also suggest Section 3.1 (a) recognises that the public disclosure of the engagement leaders name may not be possible, in certain circumstances, for example, if such disclosure is reasonably expected to lead to a significant personal security threat or data privacy concerns.</p>

4. Specify the audit period

Section 4 of the template describes the required disclosure of information about the audit procedures, including the audit period.

Section 4.2(b) and (c) describes the required disclosure of the observed period(s) which is subject to audit and the period(s) when the audit was conducted. This raises the possibility that the period of audit was at more than one point of time. Whether the period subject to audit is at one or multiple points of time could significantly impact the nature and extent of procedures performed by the auditor as well as the comparability of audit reports between entities.

We suggest adding language within Section 4.2 (and elsewhere as deemed necessary) that clarifies the audit evidence obtained, and related procedures are intended to support an audit conclusion as of one point in time. Such an approach would improve the clarity of reporting and enhance comparability.