

**TEMPLATE RELATING TO THE AUDITED DESCRIPTION OF CONSUMER  
PROFILING TECHNIQUES PURSUANT TO ARTICLE 15 OF REGULATION (EU)  
2022/1925 (Digital Markets Act)**

**INTRODUCTION**

Pursuant to Article 15(1) of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), within 6 months after a gatekeeper's designation pursuant to Article 3 of that Regulation, the gatekeeper shall submit to the Commission an independently audited description of any techniques for profiling of consumers that the gatekeeper applies to or across its core platform services listed in the designation decision pursuant to Article 3(9) of Regulation (EU) 2022/1925. The gatekeeper shall update the audited description at least annually.

This template specifies: (i) information on the identity of the gatekeeper (*section 1*); (ii) the minimum information that the Commission expects gatekeepers to provide to the Commission with the aim of meeting the objectives set out in recital 72 of the Digital Markets Act, including enhancing transparency and accountability regarding gatekeeper's profiling techniques as well as facilitating fairness and contestability of respective core platform services (*section 2*); (iii) general information on the audit (*section 3*); (iv) information on the audit process (*section 4*); and (v) information on the auditor's assessment as to whether, with a reasonable level of assurance, the description is complete and accurate (*section 5*). The Commission may regularly update this template with further information that it expects gatekeepers to provide.

**SECTION 1**

**General information on profiling description**

- 1.1. Please provide the name and point of contact of the gatekeeper submitting the independently audited description of applied consumer profiling techniques.
- 1.2. Please provide the name of each member of your organisation or external expert which contributed to the drafting of the submitted description of the consumer profiling techniques.

**SECTION 2**

**Information about the profiling techniques of consumers**

- 2.1. Provide for each core platform service, listed pursuant to Article 3(9) of Regulation (EU) 2022/1925 in the designation decision based on Article 3(4) or Article 3(8) of Regulation (EU) 2022/1925, a detailed description of all the consumer profiling techniques applied within the core platform service and across multiple core platform services including, at least, information about:
  - a) the specific purpose(s) pursued by the profiling technique(s) and for which they are used;

- b) the legal ground relied on by the gatekeeper under Article 6(1) of Regulation (EU) 2016/679 accompanied by a detailed explanation for the choice of the legal ground, and whether consent is required under points a) to d) of Article 5(2) of Regulation (EU) 2022/1925 for each purpose of profiling consumers;
- c) a numbered list with a detailed description of each category of personal data and data derived from user activity (in particular, distinguish data and personal data categories actively provided by consumers<sup>1</sup> from observed data<sup>2</sup>) and sources for each of these categories of data and personal data processed for profiling consumers applied to or across the designated core platform services (in particular, distinguish data and personal data originating from the gatekeeper's services, including core platform services, from data and personal data originating from third parties);
- d) a detailed description of the inferred data<sup>3</sup> about consumers from the processing of the data and personal data listed in point c);
- e) the retention duration of each category of data and personal data listed in points c) and d) and of the profiling itself;
- f) a numbered list with a detailed description of the technical safeguards in place to avoid the presentation of advertisements on the gatekeeper's interface based on profiling of minors or children, including a description of how user data is collected, used or processed in a way that allows the gatekeeper to identify a user as a minor, as well as quantitative indicators to measure the successful identification of minors;
- g) (NEW) a numbered list with a detailed description of the technical safeguards in place to avoid the presentation of advertisements on the gatekeeper's interface based on profiling of special categories of personal data ("sensitive data") pursuant to Article 9 of Regulation (EU) 2016/679, including where relevant a detailed explanation of how such data may be lawfully collected, used or processed for presenting advertisements;
- h) (NEW) a numbered list with a detailed description of all special categories of personal data ("sensitive data") pursuant to Article 9 of Regulation (EU) 2016/679 collected, used or processed by the gatekeeper, including data that may be declared, observed and inferred;
- i) the processing applied;
- j) whether automated decision-making takes place on the basis of an applied profiling technique, the number and object of such automated decisions, the legal effects<sup>4</sup> the automated-decision making mechanism is producing or may produce, and a description of the algorithms underpinning the automated decision mechanism;
- k) qualitative and quantitative impact or importance of the profiling techniques in question for the business operations of the gatekeeper, including an assessment of whether profiling techniques are strictly necessary for the provision of services;
- l) actions taken to effectively enable consumers to be aware that they are undergoing profiling and the relevant use of such profiling;

<sup>1</sup> For example, profile information (e.g. age, sex, location and other) provided by consumers through any core platform service, or provided through any other service of gatekeeper, when this data is combined or cross-used with that of a core platform service.

<sup>2</sup> Observed data are understood as data provided by the consumer by virtue of using a service or device. For

**Commented [A1]:** See CJEU C-184/20 for ongoing discussion on interpretation of special categories of personal data and whether this should extend to inferred data.

example, data related to, or derived from, the activity of the consumer on the gatekeeper's core platform services or other services (e.g. the content that a user has consulted, shared or liked) as well as data related to, or derived from, the use of devices on which the gatekeepers' core platform services or services are provided (e.g. GPS location).

<sup>3</sup> Inferred data are understood as data derived by the gatekeeper from the processing of observed data or data actively provided by consumer. For example, consumers' interests or socio-economic status. Further guidance on the distinction between provided data, observed data and inferred data, can be found in the European Data Protection Board's [Guidelines on the targeting of social media users](#).

<sup>4</sup> A decision produces legal effects when the subject's legal rights are impacted. This could include, for example, any resulting effect on their right to vote, their ability to take out a loan, and their position in e-recruitment.

~~k)n)~~ where consumer consent is required for the given purpose under Regulation (EU) 2016/679, Directive 2002/58/EC and/or Regulation (EU) 2022/1925, a description of any steps taken to seek such consent to profiling, including details on how consumers can refuse consent or withdraw it, and any consequences of such refusal or withdrawal;<sup>5</sup>

~~h)n)~~ statistics on how many consumers choose to undergo profiling if they are given a choice;

~~m)o)~~ whether and when the profiling technique has been the object of a data protection impact assessment<sup>6</sup> and the conclusion of such assessment;

~~n)p)~~ any alternative measures to profiling that have been implemented and their description, including reasons for choosing them;<sup>7</sup>

~~o)q)~~ any alternative measures to profiling that have been considered and the reasons for not choosing them.

## SECTION 3

### General information on the audit

- 3.1. Please provide the name of the auditor(s) or auditing organisation(s) which verified and audited the submitted description along with the members of the auditing team, including for each of them:
  - a) personal names, auditing organisation affiliations, professional email addresses.
  - b) overview of the professional qualifications, including domains of expertise, certifications, as applicable and descriptions of the responsibilities and work the respective member undertook during the audit.
  - c) declaration of interests by each auditing organisation, which contributed to the drafting of the submitted description, specifying in particular any relationship (including commercial or contractual) to the audited gatekeeper.
- 3.2. If applicable, the names of any consulted third parties and their contact points.
- 3.3. If there was, at any time, a change in appointed auditor(s) or auditing organisation, the names and contact information for all previously appointed auditor(s) or auditing organisations.

<sup>5</sup> It should be clear from the description what measures (e.g. in design) the gatekeeper takes to guarantee a neutral presentation of choices to the end user, and the level of facility or ease (e.g. how many clicks) for an end user to

refuse or change their consent. The consequences of such refusal or withdrawal should also be clear from the description.

<sup>6</sup> A data controller must carry out a data protection impact assessment under Article 35 of Regulation (EU) 2016/679 in certain circumstances that may also involve profiling.

<sup>7</sup> Asking for alternatives to profiling allows assessing whether gatekeepers have considered less intrusive measures and is particularly informative in terms of accountability.

## **SECTION 4**

### **Information about audit procedure**

- 4.1. A description of the audit procedures performed by the independent auditor or auditing organisation, 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)).
- 4.2. An overview and description of information relied upon as audit evidence, including, as applicable:
  - a) a description of the type and source of audited information;
  - b) the observed period(s) which is subject to the audit into profiling techniques;
  - c) the period(s) when the audit was conducted;
  - d) any other relevant information.
- 4.3. A detailed description of any data sources of potential relevance to information required under Section 2 that were not included in the scope of the audit, in particular:
  - a) detailed reasons for non-inclusion;
  - b) details on any steps taken to mitigate the consequences of non-inclusion of such data on the completeness and accuracy of information provided in Section 2 as well as audit conclusions and recommendations.
- 4.4. Any circumstances that could have prevented the audit organisation from performing with a reasonable level of assurance the audit of one or more of the techniques applied for the profiling of consumers.

## **SECTION 5**

### **Audit conclusions**

- 5.1. The assessment of the auditor(s) or auditing organisation(s) as to whether, with a reasonable level of assurance, the information provided by the gatekeeper in the description is complete and accurate, in particular in view of the information requirements laid down in Section 2 of this template, including:
  - a) an assessment of “positive”, “positive with comments”, or “negative”, that the description provided is based on sufficient evidence derived from sufficient information provided by the gatekeeper; and
  - b) detailed justifications for the assessment in paragraph (a) and any comments concerning potential misstatements, omissions, misrepresentations or errors.

## SECTION 6

### Non-confidential overview

- 6.1. A clear and comprehensive non-confidential overview of the audited description of each profiling technique of consumers applied to or across core platform services listed in the designation decision. This non-confidential overview will be made publicly available in line with the requirements in Article 15(3) of Regulation (EU) 2022/1925.<sup>8</sup>

## SECTION 7

### Declaration

The submission should conclude with the following declaration, which is to be signed by or on behalf of the gatekeeper:

*‘[insert the name of the company] declares that, to the best of its knowledge and belief, the information given in this submission is true, correct, and complete, that all estimates are identified as such and are its best estimates of the underlying facts, and that all the opinions expressed are sincere.’*

For digitally signed forms, the following fields are for information purposes only. They should correspond to the metadata of the corresponding electronic signature(s).

Date:

[signatory 1]  
Name:  
Organisation:  
Position:  
Address:  
Phone number:  
E-mail:  
[“e-signed” / signature]

<sup>8</sup> For further guidance on the type of information which can be considered as “business secrets and other confidential information” that the gatekeepers can take into account for the purpose of the “clear and comprehensible non-confidential summary” that will be made “publicly available” in line with recital 68 of Regulation (EU) 2022/1925, please refer to the Commission’s guidance in relation to antitrust and mergers procedures: [https://ec.europa.eu/competition-policy/document/download/ea2cbf27-412c-4394-b872-dd4b4e3a840b\\_en](https://ec.europa.eu/competition-policy/document/download/ea2cbf27-412c-4394-b872-dd4b4e3a840b_en); [https://competition-policy.ec.europa.eu/system/files/2021-03/guidance\\_on\\_preparation\\_of\\_public\\_versions\\_mergers\\_26052015.pdf](https://competition-policy.ec.europa.eu/system/files/2021-03/guidance_on_preparation_of_public_versions_mergers_26052015.pdf).