Article 67

Advisory Forum

Commentary by Yijia Liu | Submitted: October 2025

AI Act provision

Article 67

1. An advisory forum shall be established to provide technical expertise and advise the Board and the Commission, and to contribute to their tasks under this Regulation.
2. The membership of the advisory forum shall represent a balanced selection of stakeholders, including industry, start-ups, SMEs, civil society and academia. The membership of the advisory forum shall be balanced with regard to commercial and non-commercial interests and, within the category of commercial interests, with regard to SMEs and other undertakings.
3. The Commission shall appoint the members of the advisory forum, in accordance with the criteria set out in paragraph 2, from amongst stakeholders with recognised expertise in the field of AI.
4. The term of office of the members of the advisory forum shall be two years, which may be extended by up to no more than four years.
5. The Fundamental Rights Agency, ENISA, the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI) shall be permanent members of the advisory forum.
6. The advisory forum shall draw up its rules of procedure. It shall elect two co-chairs from among its members, in accordance with criteria set out in paragraph 2. The term of office of the co-chairs shall be two years, renewable once.
7. The advisory forum shall hold meetings at least twice a year. The advisory forum may invite experts and other stakeholders to its meetings.
8. The advisory forum may prepare opinions, recommendations and written contributions at the request of the Board or the Commission.
9. The advisory forum may establish standing or temporary sub-groups as appropriate for the purpose of examining specific questions related to the objectives of this Regulation.
10. The advisory forum shall prepare an annual report on its activities. That report shall be made publicly available.

Recitals

Recital 148

This Regulation should establish a governance framework that both allows to coordinate and support the application of this Regulation at national level, as well as build capabilities at Union level and integrate stakeholders in the field of AI. The effective implementation and enforcement of this Regulation require a governance framework that allows to coordinate and build up central expertise at Union level. The AI Office was established by Commission Decision and has as its mission to develop Union expertise and capabilities in the field of AI and to contribute to the implementation of Union law on AI. Member States should facilitate the tasks of the AI Office with a view to support the development of Union expertise and capabilities at Union level and to strengthen the functioning of the digital single market. Furthermore, a Board composed of representatives of the Member States, a scientific panel to integrate the scientific community and an advisory forum to contribute stakeholder input to the implementation of this Regulation, at Union and national level, should be established. The development of Union expertise and capabilities should also include making use of existing resources and expertise, in particular through synergies with structures built up in the context of the Union level enforcement of other law and synergies with related initiatives at Union level, such as the EuroHPC Joint Undertaking and the AI testing and experimentation facilities under the Digital Europe Programme.

Recital 150

With a view to ensuring the involvement of stakeholders in the implementation and application of this Regulation, an advisory forum should be established to advise and provide technical expertise to the Board and the Commission. To ensure a varied and balanced stakeholder representation between commercial and non-commercial interest and, within the category of commercial interests, with regards to SMEs and other undertakings, the advisory forum should comprise inter alia industry, start-ups, SMEs, academia, civil society, including the social partners, as well as the Fundamental Rights Agency, ENISA, the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI).

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1. General remarks

1.1. Overview

1. Article 67 states that the Advisory Forum ("the Forum") of stakeholders 'shall be established' with the objective of providing technical expertise and advice to the AI Board and the Commission.[1] The ten paragraphs under the article lay down the membership criteria, appointment process, term of office, permanent membership of several organisations, rules of procedure, and forms of output.

2. At the time of writing (October 2025), the Forum 'is set up' – in the sense of having been established but not yet constituted with members.[2] The Commission launched the first call for expression of interest ("the Call") for applications to join the Forum in July 2025.[3] The Terms of Reference ("ToR") and the Call on the official European Commission website[4] have clarified the status of the Forum as an informal Commission Expert Group ("CEG"). As a CEG, the Forum will be governed by the specific set of rules established by the Commission in 2016 for the creation and operation of CEGs ("the horizontal rules").[5]

3. The Forum is one of two advisory bodies in the governance framework of the AI Act, the other being the Scientific Panel.[6] According to the AI Act's recitals, the purpose of the Forum is to 'integrate stakeholders' and their input into the AI Act's implementation.[7] In the words of the Commission, the Forum 'has a broad role as general advisory body... [and] will ensure targeted and competent stakeholders' input on different aspects of the [AI Act]'.[8]

4. It is worth noting that Article 67 is not exhaustive of the Forum's functions. Articles 40 and 41 AI Act and the corresponding Recital 121 also refer to the Forum and make clear its consultative role to the Commission in preparing for standardisation requests and common specifications.

1.1.1. Tensions between the AI Act and Commission documents

5. There are tensions between the AI Act and Commission documents, with the former appearing to give the Forum more autonomy over its operation than does the latter. For example, Article 67(9) states that the Forum 'may establish standing or temporary sub-groups'. In contrast, the ToR states that 'DG CNECT[9] may set up standing or temporary sub-groups'.[10] Other similar tensions (e.g. who invites experts and other stakeholders) will be pointed out in the specific sections below.

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[1] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L 1689/1 ("AI Act").

[2] European Commission, 'Informal Commission Expert Group AI Act Advisory Forum Terms of Reference' (7 July 2025) ("ToR") <https://ec.europa.eu/newsroom/dae/redirection/document/118258> accessed 13 August 2025.

[3] European Commission, 'Call for Expression of Interest for Appointment of Members of the Advisory Forum Pursuant to Article 67 of the Artificial Intelligence Act' (2025) ("the Call") <https://ec.europa.eu/newsroom/dae/redirection/document/118257> accessed 13 August 2025.

[4] ToR (n 2); the Call (n 3).

[5] European Commission, 'Commission Decision of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups' COM (2016) 3301 final ("Horizontal Rules").

[6] See commentary on Article 68 in this work.

[7] AI Act, recitals 148 and 150.

[8] ToR (n 2) 1–2.

[9] Directorate-General for Communications Networks, Content and Technology ("DG CNECT").

[10] ToR (n 2) 4.

6. Most of these tensions[11] flow from the fact that the Commission has purportedly adopted the horizontal rules (and the standard rules of procedure therein[12]) for the Forum with minimal alterations. However, this appears to overlook Article 1(1) of the horizontal rules, which states that the horizontal rules are 'without prejudice to the provisions included in the legislative acts setting up those entities'.[13] In other words, the text of the AI Act should take precedence.

7. Some of these tensions could be resolved upon the Forum adopting its own rules of procedure, which it is to do under Article 67(7). It is suggested that the Forum should not adopt the standard rules without modification if they would otherwise conflict with the express wording of the AI Act. Modification of the standard rules is clearly possible. In addition to the horizontal rules applying without prejudice to the AI Act (as noted above)[14], CEGs are able to depart from the standard rules 'where this is justified by specific requirements'.[15] Both bases for modification seem to be engaged in the case of the Forum. For example, Article 67(7) states that the Forum may invite experts and other stakeholders, whereas point 7 of the standard rules refers to the Commission or DG CNECT extending such invitations. Accordingly, it is suggested that the text of the AI Act should disapply standard rules point 7 and that the rules of procedure of the Forum, once adopted, could be used to supersede or replace inconsistent statements in the ToR and the Call.

8. However, resolving some of these tensions by adopting appropriate rules of procedure does not address the inconsistencies that affect the very process of adopting those rules. Whereas the AI Act states that the Forum 'shall draw up its rules of procedure'[16], the ToR states that the rules of procedure will be adopted by the Forum '[o]n a proposal by and in agreement with DG CNECT'[17]. It is unclear whether and how these procedural inconsistencies would be resolved.

9. Furthermore, although the analysis above seeks to faithfully apply the text of the AI Act, it is not clear that this course will be taken in practice. It seems possible that the standard rules will be adopted largely as they are, including statements in the ToR which appear inconsistent with the text of the AI Act. Therefore, while the rest of this chapter points out the tensions and inconsistencies when they arise, it also goes on to analyse the horizontal rules as currently adopted and applied in the Commission documents.

1.1.2. Advisory Forum as an informal Commission Expert Group

10. There is no explicit statement in the AI Act that the Forum will be a CEG. While aspects of Article 67's drafting history are consistent with the possibility that the Forum was envisioned as a CEG later in the legislative process,[18] there is little evidence that a decision on the Forum being a CEG was reached at or before the trilogues.

11. The decision to create the Forum as a CEG might itself illustrate the tension discussed above. Since the AI Act is silent on the Forum's nature, there is no express inconsistency between the AI Act and

[11] 'Most' and not 'all' because it is unclear whether the very decision to make the Forum a CEG manifests this tension; see Section 1.1.2. below.
[12] European Commission, 'Annexes to the Commission Decision of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups' (2016) 3301 final, Annex 3 ("Standard Rules").
[13] Horizontal Rules (n 5).
[14] See paragraph above.
[15] Horizontal Rules (n 5) art 17(1).
[16] AI Act, art 67(6).
[17] ToR (n 2) 5.
[18] See Section 1.2.

the ToR on this point. Rather, the tension is more implicit, and lies in the expected control the Commission has over a CEG as compared to another type of body, such as 'other similar entities'[19]. For example, the AI Board, as an entity similar to a CEG, does not need to act at the request of a Commission department (unlike CEGs) and has more initiative, for example, in convening its meetings.[20] It is unclear whether the AI Act intended the Commission to have that extensive degree of control over the Forum.

12. As a CEG, the opinions and advice of the Forum are not binding.[21] 'The Commission and its departments remain fully independent regarding the way they take into account [the CEG's recommendations].'[22] At most, the Interinstitutional Agreement on Better-Lawmaking ("Interinstitutional Agreement") imposes several transparency commitments on the Commission to make documents and meetings accessible to the European Parliament and the European Council regarding delegated acts (i.e. non-legislative acts adopted by the Commission to supplement or amend non-essential elements of a legislative act[23]).[24] There are thus few structured legal obligations on the Commission to ensure that the Forum's output is adequately considered.

13. There is uncertainty as to why the Forum is created as an informal rather than formal CEG.[25] The horizontal rules require the choice between a formal or informal CEG to be made at an 'appropriate hierarchical level, taking into account the anticipated political impact of the work of the group and specific circumstances'.[26] It is unclear who made the decision and how these two factors mandated by the horizontal rules were weighed.

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[19] 'Other similar entities' are defined by article 2(2) of the Horizontal Rules (n 5) as 'consultative entities set up by the Union legislator, the role of which is the same as, or similar to, that set out in Article 3, which are foreseen to meet more than once and for which the Commission departments ensure administrative and/or financial management.' This would have been consistent with the text of the AI Act, since the only explicit role given to the Commission is for it to appoint the members of the Forum in accordance with the criteria in article 67(2)–(3) – which is arguably an administrative role.

[20] See article 3 of the 'Rules of Procedure of the European Artificial Intelligence Board' (10 September 2024) <https://ec.europa.eu/transparency/expert-groups-register/core/api/front/expertGroupAddtitionalInfo/52631/download> accessed 8 September 2025.

[21] This consequence is not inconsistent with the AI Act since article 67 is silent on this point.

[22] European Commission, 'Framework for Commission Expert Groups: Horizontal Rules and Public Register' (Communication) COM (2016) 3300 final ("Communication to the Horizontal Rules"), 3.

[23] Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C326/47 ("TFEU") art 290.

[24] Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better-Law Making [2016] OJ L123/1 ("Interinstitutional Agreement") para 28.

[25] There appears to be some confusion as to the Forum's nature. The EU's online Register of Commission Expert Group and Similar Entities classifies the Forum as a formal CEG rather than an informal one. This is likely a mistake. First, the Registry includes the ToR purporting to establish the Forum, which is common practice for informal CEGs. Formal CEGs, on the other hand, require Commission Decisions to be established (Horizontal Rules (n 5) art 4(1)). Second, the ToR, linked on the Registry and Commission websites, is explicitly titled 'Informal Commission Expert Group AI Advisory Forum'. Third, although informal CEGs are most often created on the initiative of a Commission department rather than mandated by a specific Regulation article, the latter is possible. See, e.g. the Commission Expert Group on Firearms Exports Coordination established to fulfil the requirement for a coordination group in article 20 of Regulation (EU) 258/2012 of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition [2012] OJ L94/1. There, article 20 states that a coordination 'shall be set up'. The future tense is also used in article 67 of the AI Act, in contrast to article 65 for the AI Board.

[26] Horizontal Rules (n 5) art 4.

14. Moreover, there is also uncertainty as to what implications this formal versus informal distinction may have in practice. On paper, there appears to be no major difference between the two types of CEGs in their operation. The horizontal rules contain only procedural differences between formal and informal expert groups in the processes required for their establishment and submitting remuneration requests for their members.[27] Similarly, the Interinstitutional Agreement does not distinguish between the two types of expert groups.[28] This further raises the question (that falls beyond the scope of this work) of why two types of CEGs exist and why the choice between them is viewed as significant enough to deserve a procedural difference in the horizontal rules.

1.2. Legislative history

15. The Forum was not included in the first version of the AI Act as proposed by the European Commission in April 2021.[29] Many of the provisions now contained in Article 67 were initially introduced by the European Parliament in June 2023.[30] However, at that point, the Forum was envisioned as a part of the administrative and management structure of the AI Office[31] (which was then envisaged as an autonomous EU body[32]). The creation of the Forum was likely aimed at countering earlier criticisms that stakeholders would have no formalised role in governance under the AI Act.[33]

16. Besides this key structural difference, there were other substantive differences between the earlier version and the final text. First, members were to be appointed by the management board of the AI Office, in contrast to appointment by the Commission in the final AI Act.[34] This change in appointment responsibility flows from the structural difference mentioned above, as the Forum was initially envisaged as part of the AI Office. Second, the 2023 text envisioned the Joint Research Centre to be a permanent member of the Forum, albeit without voting rights. In contrast, the final version of Article 67 omits any reference to the Joint Research Centre and instead includes the Fundamental Rights Agency ("FRA") and the European Union Agency for Cybersecurity ("ENISA") as permanent members. These changes could be explained by the final structure of governance bodies adopted as compared to the 2023 parliamentary proposal.[35] Third, the final text requires the Forum to hold meetings at least twice a year rather than four times a year. Fourth, in the final version of the AI Act, the Forum may prepare opinions, recommendations, and written contributions 'at the request of the Board or the Commission'.[36] This last clause referring to a request was not present in the 2023 text, which stated that the Forum may prepare such materials '[i]n fulfilling its role as set out in paragraph

[27] ibid arts 4 and 21.
[28] Interinstitutional Agreement (n 24).
[29] European Commission, 'Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts' COM (2021) 206 final ("Commission Proposal").
[30] Amendments adopted by the European Parliament on 14 June 2023 on the proposal for a regulation of the European Parliament and of the Council on laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts [2024] OJ C2024/506 ("Parliament Amendments").
[31] ibid proposed art 56a.
[32] See commentary on Article 64 in this work.
[33] Nathalie A Smuha and Karen Yeung, 'The European Union's AI Act: Beyond Motherhood and Apple Pie?' in Nathalie A Smuha (ed) *The Cambridge Handbook on the Law, Ethics and Policy of Artificial Intelligence* (Cambridge University Press 2025), 249.
[34] AI Act, art 67(3).
[35] See Section 2.3.5.
[36] AI Act, art 67(8).

1'[37] (i.e. providing the AI Office with stakeholder input). This change is consistent with the Forum being a CEG, since CEGs typically have to act at the request of the competent Commission departments.[38]

2. Substance

2.1. Objective of the Forum

17. Article 67(1) AI Act states the Forum's objective as providing technical expertise, advising the Board and the Commission, and contributing to their tasks under the AI Act. The underlying purpose is to ensure stakeholder participation in the implementation of the AI Act.[39] Some scholars have argued that the Forum, as a body composed of a balanced selection of stakeholders,[40] will be 'essentially acting as an institutionalised form of lobbying' representing both commercial and non-commercial interests.[41] In contrast, the Scientific Panel is composed of independent experts with an emphasis on their ability to carry out activities objectively.[42]

18. Despite its name, the Forum appears more similar to stakeholder groups than do other bodies designated as Advisory Forums under EU law. For example, the Advisory Forums for the European Centre for Disease Control and Prevention and the European Food Safety Authority ("EFSA") are composed of (primarily) representatives from competent national bodies which undertake similar tasks as that of the advised EU organisation.[43] Although the Advisory Forum for the EFSA also includes representatives of interested parties, unlike the Forum under the AI Act, such representatives are non-voting members. In contrast, stakeholders are the main participants in the Forum, similar to stakeholder groups such as the ones under the European Securities and Markets Authority, European Insurance and Occupational Pensions Authority, and the European Banking Authority.[44] These groups all share the same structural need to represent a balanced selection of stakeholder interests, as does the Forum.

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[37] Parliament Amendments (n 30) art 58(8).

[38] Horizontal Rules (n 5) art 13(1).

[39] AI Act, recitals 148 and 150.

[40] AI Act, art 67(2).

[41] Claudio Novelli and others, 'A Robust Governance for the AI Act: AI Office, AI Board, Scientific Panel, and National Authorities' (2025) 16 European Journal of Risk Regulation 566, 580.

[42] See commentary on Article 68 in this work.

[43] Regulation (EC) 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control [2004] OJ L142/1 art 18; Regulation (EC) 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [2002] OJ L31/1 art 27.

[44] Regulation (EU) 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC [2010] OJ L331/84 art 37; Regulation (EU) 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC [2010] OJ L331/48 art 37; Regulation (EU) 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC [2010] OJ L331/12 ("EBA Regulation") art 37.

19. Given this core structural similarity, differences between the Forum and these stakeholder groups are particularly illustrative of the former's design.

20. The first significant difference is in their (prospective) impact. Under the relevant constitutive legislation, an important role of a stakeholder group is to function as an efficient way for the relevant EU body to fulfill its obligation of conducting impact studies for proposed measures.[45] In contrast, according to the AI Act's recitals, the main role of the Forum is to provide stakeholder input to the implementation and application of the AI Act.[46] Moreover, its nature as a CEG means that the Forum is unlikely to achieve the same level of impact as some of the stakeholder groups. This is for three reasons. First, the Forum's ability to prepare opinions, recommendations and written contributions are constrained by the need to receive such a request from the Board or Commission.[47] Second, the Commission is not required to defer to the Forum's recommendations.[48] Third, the Board, an entity similar to a CEG under the Commission, is also unlikely to have any obligation to adopt the Forum's views.

21. The second significant difference is that participation in the AI Advisory Forum is not remunerated for commercial or non-commercial representatives.[49] In contrast, representatives of non-profit organisations in stakeholder groups are adequately compensated for their work in those groups to ensure non-commercial actors are able to participate meaningfully without financial constraints.[50] This is, again, at least in part due to the Forum's nature as a CEG. As per the horizontal rules, members of the CEG are, in principle, not paid for their services.[51] It is to be seen whether the lack of remuneration will, de facto, deter those without adequate funding to express their interest in joining the Forum and tilt its membership towards well-resourced, commercial interests. This would go against the express legislative mandate for the Forum to have a varied and balanced stakeholder representation.[52]

22. Beyond issues in design, there is also the question of whether the Forum, once constituted, will, in practice, operate to represent stakeholder interests as envisioned by the AI Act. As will be discussed,[53] depending on the rules of procedure adopted, either the Forum or the Commission will have extensive control over the Forum's operation. Either the Forum or the Commission would then have the opportunity to use its powers to organise the Forum to overcome logistical challenges presented by coordination of a large number of members.[54] More generally, absent any legal obligation to defer to the Forum's recommendations,[55] the Commission could, as a matter of policy, routinely give careful thought and weight to the Forum's output. It is suggested that such a policy would have the advantage of supporting the apparent intention behind Article 67, which is to facilitate stakeholder engagement in the implementation of the AI Act.[56] The obligation for the Forum to publish an annual report on

[45] ibid, e.g. EBA Regulation (n 44) recital 48.
[46] AI Act, recital 150.
[47] AI Act, art 67(8).
[48] Interinstitutional Agreement (n 24) and the Communication to the Horizontal Rules (n 22); see Section 1.1.2.
[49] The Call (n 3) 6.
[50] See, e.g. EBA Regulation (n 44) recital 49; European Banking Authority, 'Call for Expression of Interest Banking Stakeholder Group' (2024) <https://www.eba.europa.eu/sites/default/files/2024-02/030fabee-01b7-4a9d-b894-230ab477d267/Call%20for%20expression%20of%20interest%20BSG.pdf> accessed 26 August 2025.
[51] Horizontal Rules (n 5) art 21(1).
[52] AI Act, art 67(2).
[53] See Section 2.2.
[54] See Section 2.2.4.
[55] See Section 1.1.2.
[56] See, e.g. AI Act, recital 148.

its activities[57] could also be an opportunity for public scrutiny in this area; the report could readily highlight those matters on which the Forum had been engaged and the corresponding action (or inaction) of the Commission and the Board.[58]

2.2. Tasks and powers of the Forum

23. Beyond the broad objective of providing technical expertise and advising the Board and the Commission in their tasks,[59] Articles 67(6)–(10) AI Act also lay out some specific tasks and powers of the Forum. These are discussed in the following subsections.

24. At the general level, there is significant tension between the text of the AI Act and the Commission documents. The AI Act explicitly involves the Commission and the Board in only one paragraph:[60] the Forum 'may prepare opinions, recommendations and written contributions at the request of the Board or the Commission'.[61] In contrast, the Commission documents state that the Forum 'shall act at the request of DG CNECT (the AI Office) and the AI Board', purportedly in compliance with horizontal rule Article 13(1).[62] This latter position appears to give the Commission and the Board a broad and directional role vis-à-vis the Forum, which could be in tension with the specific, limited role expressed by the AI Act.

25. There are also tensions and inconsistencies at the level of the specific tasks and powers, which will be discussed in the respective sections below.

26. The following subsections are organised thematically to follow the likely chronology of the Forum's work. Rules of procedure come first as they underpin the operation of the Forum. Meetings are discussed secondly as they are central to the Forum's work. Sub-groups, under the policy proposal below, are likely needed for the efficient production of opinions, recommendations and written contributions. Lastly, the annual report is addressed as it will conclude and summarise the Forum's year-round activities.

2.2.1. Article 67(6): Rules of procedure

27. Article 67(6) AI Act directs the Forum to draw up its own rules of procedure.

28. As indicated above,[63] there is tension between the text of the AI Act and the ToR on this point. The latter states that the rules of procedure are to be adopted on a proposal by, and in agreement with, DG CNECT. This is arguably in conflict with the statement that it is the *Forum* which shall draw up its own rules of procedure. Moreover, under the ToR, the Forum would, prima facie, be required to adopt such rules 'on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules'.[64] The horizontal rules clarify that while departures from these rules are allowed for CEGs, such departures have to be justified by 'specific requirements'.[65] These rules

[57] AI Act, art 67(10).
[58] See Section 2.2.5.
[59] AI Act, art 67(1).
[60] This does not include the Commission's task in appointing members, art 67(3) AI Act; also see Section 2.3.
[61] AI Act, art 67(8).
[62] ToR (n 2) 3.
[63] See sections 1.1.1. and 2.2.
[64] ToR (n 2) 5.
[65] Horizontal Rules (n 5) art 17(1).

constrain the Forum's freedom in *drawing up* its procedural rules, perhaps to an extent not intended by the AI Act.

29. For completeness, there are also two procedural points in the ToR which are not in tension with the text of the AI Act as the latter makes no mention of them: first, the Forum's rules of procedure will be adopted by a simple majority of its members; and second, sub-groups within the Forum will also operate under the same rules of procedure.

30. If the standard rules are adopted by the Forum without major revisions,[66] one significant feature of those rules would be the degree of control the Commission will have (through DG CNECT/AI Office) over the operation of the Forum. In particular, the Forum will have to act at the request of the Commission[67], meetings will only be convened with the agreement of the Commission[68], the Commission will make the decision to set up sub-groups[69] and invite experts[70], and deliberations will only be made public if the Commission so agrees[71].

31. Again,[72] such consequences appear in tension with the text of the AI Act where the only explicit roles given to the Commission are to appoint members of the Forum in accordance with the legislative criteria[73] and to request opinions, recommendations, and written contributions[74]. It is to be seen whether the rules of procedure as adopted by the Forum will depart significantly from the standard rules in order to stay more faithful to the language of Article 67. It is also to be seen what procedure will be followed in adopting these rules.

2.2.2. Article 67(7): Meetings and invitations of experts and other stakeholders

32. Article 67(7) AI Act directs the Forum to hold meetings at least twice a year. It also states that the Forum may invite experts and other stakeholders to its meetings.

33. There is, again, tension between the text of the AI Act and Commission documents on both of these points. First, in contrast to the absence of a reference to the Commission in Article 67(7) AI Act, point 2 of the standard rules adds the requirement that meetings shall be convened only with the agreement of DG CNECT. Second, and similarly, the ToR and standard rules state that it is DG CNECT who may, on its own initiative or following a request from the Forum, invite experts and other stakeholders.[75] It is uncertain which position will be adopted in the Forum's rules of procedure.

34. The standard rules also include some potentially useful procedural points on which the AI Act is silent. Joint meetings with other groups may be possible.[76] Meetings will be held on Commission

[66] See Section 1.1.1.
[67] Standard Rules (n 12) point 1.
[68] ibid point 2.
[69] ibid point 6.
[70] ibid point 7.
[71] ibid point 17.
[72] See Section 1.1.1. and Section 2.2.
[73] AI Act, art 67(3).
[74] AI Act, art 67(8).
[75] ToR (n 2) 4; Standard Rules (n 12) point 7.
[76] Standard Rules (n 12) points 2(1) and (2). There is uncertainty as to which groups these could be and whether they need to also be within the CEG structure. There is evidence that CEGs could conduct joint meetings with each other (e.g. Joint Meeting of the Civil Dialogue Groups on 23 July 2025).

premises or virtually, in principle.[77] The AI Office will act as Secretariat to the Forum[78] and be responsible for drawing up and sending out the agenda ahead of meetings[79], sharing relevant documents[80], drafting minutes of the meetings[81], and creating an attendance list[82]. As a general rule, English will be used for the working documents and in conducting meetings.[83]

35. As noted above,[84] the participants in the Forum will not be remunerated for the services they offer. This is despite the fact that they are expected to 'attend meetings systematically, contribute actively to discussions in the group, be involved in preparatory work ahead of meetings, examine and provide comments on documents under discussion, and act, as appropriate, as "rapporteurs" on [an] ad hoc basis'.[85]

2.2.3. Article 67(8): Opinions, recommendations and written contributions

36. Article 67(8) AI Act states that the Forum may prepare opinions, recommendations, and written contributions at the request of the Board or the Commission. This appears to be one of the primary ways (given its express reference in the AI Act and prominent place in the ToR amongst other tasks) that the Forum is expected to achieve its overarching task of providing technical expertise and advice to the AI Board and the Commission.[86] The ToR clarifies that the subject matter of these contributions will be 'the implementation and application of the AI Act', echoing the language of Recital 150 AI Act.[87]

37. Since the AI Act explicitly states that these contributions will be made at the request of the Board or the Commission, giving these bodies significant roles, there is no tension here between the AI Act and Commission documents. If the standard rules are adopted to supplement the legislative text on this task, there will be the following consequences. As far as possible, opinions, recommendations, and written contributions are to be adopted by consensus.[88] Failing that, simple majority voting shall be used.[89] Members who have voted against the relevant document or abstained are entitled to have their positions summarised and annexed to the final document.[90] As noted above,[91] if the Commission (DG CNECT/AI Office) agrees, the members could also by simple majority make the deliberations public. As a matter of policy, it is suggested that, subject to any confidentiality protection offered by Article 78 AI Act, making the Forum's deliberations public may be useful whenever there is significant public interest in the topic concerned. This also seems consistent with the CEG policy of

[77] ToR (n 2) 3.
[78] ToR (n 2) 4; Standard Rules (n 12) point 10.
[79] Standard Rules (n 12) point 3(1).
[80] ibid point 4(2).
[81] ibid point 11.
[82] ibid point 12.
[83] ToR (n 2) 4.
[84] See Section 2.1.
[85] ToR (n 2) 4.
[86] ToR (n 2) 2.
[87] ibid.
[88] ToR (n 2) 4; Horizontal Rules (n 5) art 13(8).
[89] ibid.
[90] ibid.
[91] See Section 2.2.1.

transparency as reflected by various obligations to make documents available on the Register of Commission expert groups and other similar entities ("the Register").[92]

2.2.4. Article 67(9): Sub-groups for examining specific questions

38. Article 67(9) AI Act states that the Forum 'may establish standing or temporary sub-groups as appropriate for the purpose of examining specific questions related to the objectives of this Regulation.'

39. There is an inconsistency between the AI Act and the Commission documents on this point. Whereas the former seems to give this power directly to the Forum, the ToR states that this power to create sub-groups will be exercised by DG CNECT.[93] It is to be seen whether this tension will be resolved in the rules of procedure.[94]

40. There are also some procedural matters addressed in the Commission documents but not in the AI Act. Under the horizontal rules, members of sub-groups that are not members of the Forum shall be selected via a public call for applications.[95] Sub-groups will function under the rules of procedure adopted by the Forum and shall report to the latter.[96] Temporary sub-groups will be dissolved once their mandates are fulfilled.[97]

41. In practice, since the Forum could have up to 200 members,[98] the establishment and use of sub-groups with fewer members could be significant, as the large size of the Forum presents coordination and management difficulties. As a matter of policy, it is suggested that either the Forum or the Commission (depending on who is allocated this power in the rules of procedure) would be well advised to create balanced (in terms of expertise and interests) sub-groups in order to reflect the spirit of Art 67(2) AI Act, especially as these sub-groups could well be the primary units responsible for drafting opinions, recommendations or written contributions.[99]

2.2.5. Article 67(10): Annual report

42. Article 67(10) AI Act directs the Forum to prepare an annual, public report on its activities.

43. Since this is an obligation distinct from the ones included in the horizontal rules and standard rules of procedure, Article 67(10) stands unaffected by the Commission documents, which are silent on this task. As indicated above,[100] the publication of the annual report could, in practice, be an opportunity for the Forum to publicly, formally and transparently present its work. From a policy perspective, this could benefit the Forum in two ways. First, it could allow the public to better understand its work, potentially attracting more stakeholders to join, which would increase the Forum's diversity and public engagement. Second, public scrutiny of the Forum's operation could be

[92] ToR (n 2) 5; 'Register of Commission expert groups and other similar entities' (European Commission) <https://ec.europa.eu/transparency/expert-groups-register/screen/home?lang=en> accessed 8 September 2025.
[93] ToR (n 2) 8; Standard Rules (n 12) point 6. See also Section 2.3.
[94] See Section 1.1.1.
[95] ToR (n 2) 4.
[96] Standard Rules (n 12) article 8.
[97] ToR (n 2) 4; Horizontal Rules (n 5) art 14.
[98] ToR (n 2) 2; the Call (n 3) 3.
[99] Under this policy suggestion, the more that the Forum's work is dependent on the sub-groups, the stronger the argument that the article 67(2) requirement for a balanced selection of stakeholders should apply, within those sub-groups, so as to not make the use of sub-groups a way to circumvent article 67(2).
[100] See Section 2.1.

advantageous to put pressure on the Forum itself or the Commission, if necessary, to better utilise and organise the Forum's expertise.

2.3. Membership of the Forum

2.3.1. Introduction

44. Article 67(2) and (3) AI Act require the Commission to appoint members to 'represent a balanced selection of stakeholders' and 'from amongst stakeholders with recognised expertise in the field of AI'. Article 67(4) AI Act states the members' term of office. Article 67(5) AI Act designates the permanent members. Parts of Article 67(6) and (7) AI Act concern the co-chairs and non-member participants of the Forum's meetings. These will be discussed in the subsections below.

45. Given that the Commission is empowered by Article 67(3) to appoint members, it seems defensible that it should have some discretion to interpret and apply the legislative selection criteria where the language is general or ambiguous,[101] provided that the exercise of the discretion does not contradict the text or frustrate the apparent purpose of Article 67 AI Act.

46. Together, the ToR and the horizontal rules state that members of the Forum will be Type C members, defined as 'organisations in the broad sense of the word, including companies, associations, Non-Governmental Organisations, trade unions, universities, research institutes, law firms and consultancies'.[102] This membership designation is arguably consistent with the AI Act, as the latter does not directly comment on the member type. Whilst organisations seem to be reasonable units for stakeholder interests, the requirement does rule out any independent researcher or expert from Forum membership.

47. Member organisations must nominate representatives with high levels of expertise to participate in the Forum.[103] However, DG CNECT may refuse the nomination if it considers the nomination inappropriate in light of requirements in the Call. In such cases, DG CNECT may ask the organisation to nominate another representative.[104] This illustrates the potentially influential role that DG CNECT has on the Forum's membership.

48. As discussed in greater detail below, the Forum will have up to 200 members.[105]

2.3.2. Article 67(2): Balanced selection of stakeholders

49. Article 67(2) AI Act sets out the membership criteria for the Forum: it shall 'represent a balanced selection of stakeholders'. There appear to be three dimensions to this requirement of 'balanced selection'. The first two dimensions are explicitly mentioned in Article 67(2) AI Act and further supplemented by Commission documents. The last dimension is only included in the Call.

50. The first dimension is that of organisation types. As a non-exhaustive list, the AI Act refers to 'industry, start-ups, SMEs[106], civil society and academia.'[107] The Call additionally states that two types

[101] See, e.g. Anne Paschke and Sarah Rachut, 'Art. 67 Beratungsforum' in Jens Schefzig and Robert Kilian (eds) *BeckOK KI-Recht* (3rd edn, CH Beck 2025) para 6.
[102] Horizontal Rules (n 5) art 7; ToR (n 2) 2.
[103] Horizontal Rules (n 5) art 9; ToR (n 2) 2.
[104] ToR (n 2) 2.
[105] ibid; see Section 2.3.5.
[106] Small and medium-sized enterprises ("SMEs").
[107] AI Act, art 67(2); the Call (n 3) 9.

of organisations – universities and research institutes – may propose more than one representative to the Forum and they shall be academics.[108] This special rule for universities and research institutes might have been included to accommodate diverse academic views within such an organisation. This is different from commercial organisations that unite around aligned economic interests or think-tanks centred around shared views and missions. Giving universities and research institutes special recognition in this respect could be viewed as a positive step towards achieving the legislatively mandated diversity of organisation types and opinions.

51. The second dimension relevant to a 'balanced selection of stakeholders' is that of interest. In the language of the AI Act, this operates at two levels: between commercial and non-commercial interests, and, within the former, between 'SMEs and other undertakings'.[109] The Call defines members with commercial interests as 'those engaged in activities driven by economic motivations that can influence trade and business relationships.'[110] Some examples of commercial interests include 'investment, production, marketing, resale, distribution, or market expansion.'[111] SMEs are small and medium-sized enterprises as defined under EU law, mainly by reference to the number of employees and either turnover or balance sheet total.[112] Prima facie, that definition includes start-ups, a position endorsed by Recital 8 of the AI Act. '[O]ther undertakings' is not defined but seems to be anything that is not an SME. Start-ups and SMEs may propose more than one representative to the Forum.[113] This rule is in line with the special position given to SMEs and start-ups in other parts of the AI Act.[114]

52. The third and last dimension relevant to a 'balanced selection of stakeholders' is demographic profiles, including factors like regional distribution and gender that are expressly mentioned in the Call.[115] Although this dimension is not explicitly mentioned in Article 67 AI Act, it is arguable that demographic diversity contributes to the broader goal of a 'balanced selection of stakeholders' and is, therefore, consistent with the AI Act. It is worth noting that a perfect balance of demographic profiles is likely unachievable, given the concentration of industry and research in certain Member States and the general under-representation of women in technology-related fields. Nonetheless, efforts in these areas would pave the way for the Forum deriving greater legitimacy from its diversity of representation.

53. Another point included in the Call, but on which the AI Act is silent, is the discretion conferred on DG CNECT to give priority to collective interests, represented through associations, in the interest of achieving the broadest representation.[116] This appears consistent with the legislative intention behind the Forum as a vehicle for diverse stakeholder input.

2.3.3. Article 67(3): Stakeholders with recognised expertise in the field of AI

54. Article 67(3) AI Act states that the 'Commission shall appoint the members of the advisory forum, in accordance with the criteria set out in [Article 67(2)], from amongst stakeholders with recognised expertise in the field of AI.'

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[108] The Call (n 3) 9.
[109] AI Act, art 67(2).
[110] The Call (n 3) fn 13.
[111] ibid.
[112] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Text with EEA relevance) [2003] OJ L124/36.
[113] The Call (n 3) 9.
[114] AI Act, art 62; recital 8.
[115] The Call (n 3) 3.
[116] ibid, 9.

55. This, in effect, adds another (albeit well-justified) layer to the selection criteria. The Call clarifies that 'recognised expertise in the field of AI' could encompass 'various sectors and contexts of application of AI', including, for example, 'machinery safety', 'toy safety', 'migration and asylum', 'agricultural vehicles'.[117] In the Call, this expertise criterion further breaks down into three factors to be considered in the selection process.[118]

56. The first factor is the '[r]elevance of AI to the applicant organisation'.[119] There are three ways of demonstrating such relevance.[120] Firstly, the organisation participates in the development or deployment of AI models or systems. This mostly includes industry and commercial actors. Secondly, the organisation assesses or documents the impact of AI. This mostly includes academic and research institutions. Lastly, the organisation represents stakeholders whose common interest may be significantly affected by AI. This could include workers' unions and civil society organisations.

57. The second factor is the organisation representative's background in an AI or AI-related field. Such fields include 'technical[[121]], legal, ethical, cultural, societal, economic, environmental, or safety aspects of AI models or systems'.[122]

58. The third factor is the organisation representative's proven and relevant experience in AI. Some relevant experiences listed by the Call include experience with high-risk AI systems, general-purpose AI ("GPAI") models (whether or not with systemic risks), 'standardisation relevant to the context of the AI Act, regulatory sandboxes, real-world testing, AI literacy, [and] conformity assessment procedures'.[123]

59. Beyond these three necessary factors, the Call also states some other factors which will enhance an application to join the Forum. These include 'economic, policy, societal or legal knowledge' and 'comprehensive understanding of the development and use of AI technologies'.[124]

60. Although the above details were not included in the AI Act, Article 67(3) does implicitly give the Commission some discretion to interpret and apply the legislative criteria.[125] In defining 'recognised expertise in the field of AI' in the Call, the Commission appears to have taken into account a multitude of factors and refrained from excluding any type of stakeholders pre-emptively.[126] Therefore, the Commission documents appear consistent with the AI Act on these points.

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[117] The Call (n 3) 3 fn 3: 'Fields and backgrounds include, but are not limited to, machinery safety, toy safety, recreational craft safety, lift safety, explosive atmospheres, radio equipment, pressure equipment, cableway installations, personal protective equipment, gas appliances, medical devices, in vitro diagnostics, civil aviation security, two- or three-wheel vehicles, agricultural vehicles, marine equipment, rail interoperability, motor vehicle approval, vehicle safety, aviation safety, biometric systems, critical infrastructure, education and vocational training, employment, worker's management, access to self-employment, access to and enjoyment of essential private services and essential public services and benefits, law enforcement, migration and asylum, administration of justice and democratic processes.'

[118] ibid, 8.

[119] ibid.

[120] ibid.

[121] ibid; this is further defined in footnote 12 to include 'the design, the modification, the assessment, or the application of AI models or systems, potentially in specific sectors.'

[122] ibid, 8.

[123] ibid, 8–9.

[124] ibid, 9.

[125] See Section 2.3.1.

[126] This approach of defining the 'expertise' criterion broadly is also taken in Paschke and Rachut (n 101) para 10.

2.3.4. Article 67(4): Term of office

61. Article 67(4) AI Act states that each member's term of office is two years, which could be renewed once for up to four years.

2.3.5. Article 67(5): Permanent membership

62. Article 67(5) AI Act establishes five permanent members of the Forum. They are FRA, ENISA, the European Committee for Standardization ("CEN"), the European Committee for Electrotechnical Standardization ("CENELEC"), and the European Telecommunications Standards Institute ("ETSI").

63. FRA is an EU agency established in 2007 to provide EU and national decision makers with assistance and expertise on fundamental rights.[127] ENISA is an EU agency established in 2004[128] with a current mandate[129] to achieve a high common level of cybersecurity across the EU. CEN, CENELEC and ETSI are the three officially recognised European Standardisation Organisations ("ESOs") which develop European standards.[130] In CEN and CENELEC, the final decision makers are national standardisation bodies and National Electrotechnical Committees of the Member States.[131] ETSI, in contrast, functions through direct participation of industry actors.[132]

64. Having the ESOs – CEN, CENELEC and ETSI – as members of the Forum is valuable because the Forum also serves the role of advising the Commission on standardisation requests and common specifications under the AI Act.[133] Indeed, the ESOs were already envisioned by the European Parliament as permanent members of the Forum in its June 2023 proposal.[134] Also in that proposal, the Joint Research Centre (a Commission department responsible for providing independent scientific advice) was also included as a permanent member, albeit without voting rights. The Joint Research Centre plays an active (although non-central) role in the European standardisation system and is mentioned alongside the ESOs in the Regulation which recognised the latter.[135] However, there is no mention of the Joint Research Centre in the final text of the AI Act.

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[127] Council Regulation (EC) 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights [2007] OJ L53/1.

[128] Council Regulation (EC) 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency [2004] OJ L77/1 (superseded by later Regulations).

[129] Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act) [2019] OJ L151/15.

[130] Regulation (EU) 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council Text with EEA relevance [2012] OJ L316/12 ("ESO Regulation")

[131] ibid recital 2; CEN and CENELEC, 'CEN and CENELEC' <https://www.cencenelec.eu/european-standardization/cen-and-cenelec/> accessed 28 August 2025.

[132] ibid; European Commission, 'Key players in European Standardisation' <https://single-market-economy.ec.europa.eu/single-market/goods/european-standards/key-players-european-standardisation_en#:~:text=ESOs%20%2D%20The%20European%20Standardisation%20Organisations&text=CEN%2C%20CENELEC%2C%20and%20ETSI%20have,down%20general%20guidelines%20for%20cooperation.> accessed 28 August 2025.

[133] AI Act, arts 40 and 41.

[134] Parliament Amendments (n 30) art 58(5).

[135] ESO Regulation (n 130) recital 26.

65. Interestingly, FRA and ENISA were first proposed by the European Parliament in June 2023 to be permanent, non-voting members of the AI Office management board.[136] This management board appears to be the precursor of the European Artificial Intelligence Board now established under Article 65 AI Act, although the two have significant differences (a discussion of which goes beyond the scope of this chapter). The effect of including FRA and ENISA as part of the Forum rather than the Board in the final AI Act decreases these organisations' power and influence over AI governance. First, since the Forum is tasked with assisting the Board and the Commission in accomplishing their tasks, as analysed above, it is possible that the Forum will have little autonomy in practice, even if this is in tension with the text of the AI Act.[137] This general lack of autonomy at the Forum level would, of course, decrease the individual member's influence. Second, although FRA and ENISA now have voting rights in the Forum (but did not in the formerly proposed management board), the voting rights are unlikely to make a difference in practice as the Forum will have up to 200 members. In other words, the permanent members, although given a special place on paper in the AI Act, could be easily outvoted in practice. This last observation exemplifies the practical implications of the ToR and the Call and the tension they generate with the express terms of the AI Act. Although the AI Act is silent on the size of the Forum's membership, the significance of expressly designating five permanent members in Article 67(5) is reduced so materially by the prospect of 200 members that it seems perhaps unlikely that such a large number of Forum members was contemplated by the AI Act.

2.3.6. Article 67(6): Co-chairs

66. The second and third sentences of Article 67(6) AI Act direct the Forum to elect two co-chairs from the members, in accordance with the selection criteria in Article 67(2).[138] The term of office of the co-chairs will be the same as for other members, that is two years renewable once for up to four years. The ToR further clarifies that the procedure for election will be by simple majority at the beginning of each term of office. The same procedure will be used for the replacement of any co-chairs during that term.[139]

67. Since there are only two co-chairs, satisfying all three dimensions of the selection criteria in Article 67(2) AI Act might be difficult. The only binary distinction in the Article 67(2) criteria is between commercial and non-commercial interests; therefore, it can be inferred that the legislator intended that the co-chairs, at any point in time, will be two members representing commercial and non-commercial interests, respectively.[140] However, as this distinction is only one of three dimensions within the selection criteria, it is unclear whether (and perhaps unlikely) that this would amount to a formal legal requirement that the two co-chairs always represent commercial and non-commercial interests, respectively.[141] Similarly, the other dimensions – for example, interests of SMEs to be balanced with other undertakings within commercial interests; organisation types – might only be adequately represented across multiple sets of co-chairs over time. The selection criteria in Article 67(2) may therefore need to benefit from some flexibility in their application, whilst obvious infringements[142] would likely not be tolerated.

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[136] Parliament Amendments (n 30) art 57A.

[137] If the standard rules of procedure are adopted largely unmodified; see Sections 1.1.1. and 2.2.

[138] See Section 2.3.1.

[139] ToR (n 2) 3.

[140] This is also the position taken in Paschke and Rachut (n 101) para 13.

[141] David Roth-Isigkeit, 'Art. 67 Beratungsforum' in Mario Martini and Christiane Wendehorst (eds), *KI-VO: Verordnung über Künstliche Intelligenz: Kommentar* (CH Beck 2024) para 12.

[142] E.g. Both co-chairs are representatives of multinational corporations.

68. The powers of the co-chairs, according to the standard rules of procedure, are various. However, if the standard rules are adopted unamended, the chairs will likely share all of their powers with the Commission. For example, under the standard rules, the Forum may act at the request of the chairs with the agreement of DG CNECT[143]; the chairs convene the meetings with the agreement of DG CNECT[144]; the AI Office, as the Secretariat[145] will draw up the agenda for meetings 'under the responsibility of the Chair[s]'[146]; the co-chairs can permit observers to take part in discussions, though it is DG CNECT who grants observer status[147]; and correspondence to the Forum shall be for the attention of the chairs but be addressed to DG CNECT[148]. On one view, this leaves the Forum unable to exercise its own initiative and with little autonomy, as noted above. On another view, close cooperation, perhaps even collaboration, between the co-chairs and the Commission can catalyse the Forum to have greater impact on, and greater engagement with, Commission decisions. If the Forum instead adopts rules of procedure more in line with the higher degree of autonomy seemingly intended by the AI Act, the co-chairs will likely exercise some or most of these powers on their own initiative.

2.3.7. Article 67(7): Experts and other stakeholders

69. The second sentence of Article 67(7) AI Act states that the Forum 'may invite experts and other stakeholders to its meetings'. Since the membership criteria of the Forum are expressly and somewhat precisely delineated by the AI Act, there needs to be a balance between ensuring access to outside expertise where necessary while preserving the balanced selection of interests intentionally achieved through the closed membership of the Forum.

70. Section 2.2.2. above discussed the tension between the AI Act and Commission documents on *who* can invite experts and other stakeholders.[149] This section will focus on the nature of these non-member participants. As the AI Act is silent on this point, Commission documents may supplement its text. Taking inspiration from the horizontal rules, these non-member participants in the Forum will likely fall into three categories.

71. The first category of non-member participants is likely to be invited experts. These are non-member experts 'with specific expertise with respect to a subject matter on the agenda' who are invited to work with the Forum or its sub-groups on an ad hoc basis.[150] This provision ensures some flexibility to access outside expertise as required for any particular piece of work. However, as a matter of policy, the Forum or DG CNECT may need to exercise this power with caution. The need for, and introduction of, external expertise could potentially upset the balance of interests internally achieved in the Forum. Accordingly, the Forum or DG CNECT should keep in mind the overarching objective of creating a body with a balanced selection of stakeholders even when inviting ad hoc, outside experts. Moreover, since the tasks of invited experts are not expressly circumscribed in any of the Forum's constitutional documents, there may be a need to restrict an invited expert's input to particular issues being considered by the Forum on a case-by-case basis, rather than inviting them to articulate general or wide-ranging views. Additionally, it is unclear from the standard rules whether

[143] Standard Rules (n 12) point 1.
[144] ibid point 2.
[145] See Section 2.2.2.
[146] Standard Rules (n 12) point 3.
[147] See Section 2.3.5.
[148] Standard Rules (n 12) point 14.
[149] See Section 2.2.2.
[150] Standard Rules (n 12) point 7.

invited experts will have voting rights. It is proposed that, as a matter of policy, they should not have voting rights or only have those rights in limited scenarios, for the same reasons as above. These restrictions could be adopted in the Forum's rules of procedure.

72. The second category of non-member participants is likely to be observers. These are individuals, organisations, and public entities who are granted such status by the Forum[151] or DG CNECT.[152] Limitations on the role of the observers explicitly recognise the need to preserve the membership balance noted above. While observers may be permitted to participate in meetings and provide expertise, they will not have voting rights and will not participate in the formulation of recommendations and advice.[153] This ensures that observers' interests do not have an outsized influence on the Forum's final decision or output, while still allowing observers to contribute their expertise.

73. The third and last category of non-member participants is likely to be Commission officials from other departments with an interest in the proceedings. The ToR and horizontal rules state that they may attend the meetings of the Forum and its sub-groups.[154] This is arguably consistent with the AI Act since Article 67 AI Act foresees a close advisory relationship between the Forum, the Commission and the Board. This also underscores the Forum's interconnectedness with other parts of the Commission as a CEG. The presence of Commission officials in the Forum could allow them to provide expertise in related areas (perhaps in connection with the Digital Services Act or the Digital Markets Act) and facilitate the exchange of expertise. Again, caution will likely be needed to avoid the Commission officials' contributions outweighing those of members and, in effect, defeating the purpose of the Forum as a consultative *stakeholder* body. Accordingly, although the horizontal rules are silent on whether Commission officials will have voting rights,[155] it is suggested that they should not, as a matter of policy.

[151] If the rules of procedure adopted are more in line with the wordings of article 67(7).
[152] ToR (n 2) 4; Standard Rules (n 12) point 8.
[153] ibid.
[154] ToR (n 2) 4; Horizontal Rules (n 5) art 13.
[155] Though the more straightforward interpretation would be that they don't, since their role appears closer to that of observers, who explicitly lack voting rights.