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INDEPENDENT ACCOUNTANT'S REPORT

Microsoft Corporation
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We have examined management of Microsoft and its subsidiaries' (referred to as "Microsoft" or the "Company") assertion that the description of consumer profiling techniques applied to its core platform services, Windows PC OS, as of January 6, 2024, set forth in Appendix B which is derived from Section 2 of the *Template Relating to the Audited Description of Consumer Profiling Techniques pursuant to Article 15 of Regulation (EU) 2022/1925 (Digital Markets Act)* (the "Template") is complete, accurate, and presented in accordance with the criteria set forth in Appendix A (the "Criteria"). Microsoft's management is responsible for its assertion set forth in Appendix A. Our responsibility is to express an opinion on the description of consumer profiling techniques applied to its core platform services as of January 6, 2024, set forth in Appendix B, based on our examination.

Management's Responsibility

In addition to management's responsibility for presenting the complete and accurate description of consumer profiling techniques applied to its core platform services as of January 6, 2024, set forth in Appendix B in accordance with the Criteria, management of Microsoft is responsible for:

- Selecting or establishing suitable criteria included in Appendix A for preparing Appendix B, taking into account the requirements included in Article 15 of the Digital Markets Act related to reporting on the description of techniques for profiling of consumers that the Company applied to its core platform services;
- Designing, implementing, and maintaining internal control over information relevant to the preparation of Appendix B that is free from material misstatement, whether due to fraud or error;

Our Responsibility

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants ("AICPA") and with International Standard on Assurance Engagements 3000 (Revised), *Assurance Engagements other than Audits or Reviews of Historical Financial Information* ("ISAE 3000"), issued by the International Auditing and Assurance Standards Board. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Company's description of the consumer profiling techniques applied to its core platform services as of January 6, 2024, set forth in Appendix B, is presented in accordance with the Criteria, in all material respects. An examination involves performing procedures to obtain evidence about the completeness and accuracy of the Company's description of consumer profiling techniques applied to its core platform services set forth in Appendix B.

Examination Procedures

In the course of our examination engagement, we conducted an analysis of the external environment and gained an understanding of the core platform services for which the Company has been designated as a gatekeeper. This was

achieved through inquiries with management and the inspection of relevant evidence. We also evaluated the appropriateness of the criteria used by the Company, including their consistent application and the accuracy of related disclosures in the description of the consumer profiling techniques.

We obtained an understanding of the internal control environment as it pertains to our examination engagement. It is important to note that this understanding was not sought for the purpose of expressing an opinion on the effectiveness of the Company's internal controls. Instead, our focus was on identifying and assessing the risks related to the completeness and accuracy of the description of the consumer profiling techniques, whether these risks were due to fraud or error. In response to these risks, we designed and performed further assurance procedures to obtain evidence that is sufficient and appropriate to provide a basis for our opinion. These procedures may have included sampling, applied in accordance with the professional standards, and included, but were not limited to, performing inquiries of management responsible for the consumer profiling techniques, performing inquiries of relevant personnel responsible for providing and disclosing the data in the description, obtaining evidence to evaluate that the description reconciled with the Company's underlying systems and procedures, and evaluating the reliability of the information provided by the Company. The information we used as evidence in our procedures included, but was not limited to, direct observations of system functionality, technical system specifications, public user disclosures, and internal privacy assessments. We evaluated the accuracy and completeness of this information and assessed whether it was sufficiently precise and detailed for our purposes.

The nature, timing, and extent of the procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the Company's description of the consumer profiling techniques applied to its core platform services as of January 6, 2024, as detailed in Appendix B, whether due to fraud or error. We performed our examination engagement between December 11, 2023, and February 29, 2024, in order to express an opinion on the Company's description of the consumer profiling techniques as of January 6, 2024, set forth in Appendix B. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Our Independence and Quality Control

We are required to be independent and to meet other ethical responsibilities in accordance with the Code of Professional Conduct established by the AICPA and the International Ethics Standards Board of Accountants' Code of Ethics for Professional Accountants (including International Independence Standards). We have complied with those requirements. We applied the Statements on Quality Control Standards established by the AICPA and the International Standards on Quality Management issued by the IAASB and, accordingly, maintain a comprehensive system of quality control.

Inherent Limitations

The description of consumer profiling techniques applied to its core platform services is subject to inherent uncertainty. The services in the digital sector and the types of practices relating to these services can change quickly and to a significant extent. Therefore, projections of any evaluation to future periods are subject to the risk that the consumer profiling techniques may have been changed. Obtaining sufficient appropriate evidence to support our opinion does not reduce the inherent uncertainty.

Our report solely addresses completeness and accuracy of the description of consumer profiling techniques applied to its core platform services in Appendix B. We did not assess if the Company has implemented other profiling techniques not identified by management, and therefore, do not express an opinion on whether all of the profiling techniques used by the Company are included in the descriptions in Appendix B.

We do not develop any conclusions related to legal evaluations made by management, and therefore, do not express an opinion, or any other form of assurance on whether the legal determinations made by management are appropriate.

Other Information

Information outside of Appendix B was not subject to our examination and, accordingly, we do not express an opinion or any form of assurance on such information. Further, any information relating to periods prior to January 6, 2024, or information relating to forward looking statements was not subject to our examination and, accordingly, we do not express an opinion or any form of assurance on such information.

Opinion

In our opinion, the description of the consumer profiling techniques applied to its core platform services as of January 6, 2024, set forth in Appendix B is presented in accordance with the Criteria, in all material respects.

Restricted Use

This report is intended solely for the use of management for the purpose of assisting the Company in submitting the content within Appendix B in the Template to the European Commission and is not to be used for any other purpose. We expressly disclaim any liability or duty to any other party for the content in this report.

Deloitte & Touche LLP

February 29, 2024

Appendix A – Management's Assertion

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We, as members of management of Microsoft, are responsible for the completeness and accuracy of the description of consumer profiling techniques applied to our core platform services, Windows PC OS, as of January 6, 2024, set forth in Appendix B which is derived from Section 2 of the *Template Relating to the Audited Description of Consumer Profiling Techniques pursuant to Article 15 of Regulation (EU) 2022/1925 (Digital Markets Act)* (the "Template"). Management asserts that the description of consumer profiling techniques applied to its core platform services, Windows PC OS, as of January 6, 2024, set forth in Appendix B which is derived from Section 2 of the Template is complete, accurate, and presented in accordance with the criteria set forth below (the "Criteria").

Criteria

Management is responsible for the selection or establishment of the criteria, which management believes provide a basis for reporting the description of consumer profiling techniques applied to the core platform service as of January 6, 2024. The following are defined terms for purposes of the Criteria used by management in preparing Appendix B:

- **Automated decision-making**: decisions based solely on automated processing that produce legal or similarly significant effects as referred to in Articles 22, point (1) and 22, point (4) of Regulation (EU) 2016/679

- **Consent**: consent of the data subject as defined in Article 2, point (32) of Regulation (EU) 2022/1925.

- **Personal data**: personal data as defined in Article 2, point (25) of Regulation (EU) 2022/1925.

- **Profiling**: profiling as defined in Article 2, point (31) of Regulation (EU) 2022/1925.

- **Third party**: third party means a natural or legal person, public authority, agency, or body other than Microsoft.

The following table defines the Criteria used by management in preparing Appendix B, as obtained from Section 2 of the Template:

Appendix B Reference	Item	Information about the Profiling Techniques of Consumers
2.2.1	a	the specific purpose(s) pursued by each profiling technique(s);
2.2.2	b	a description of each category of personal data and data derived from user activity[1] (in particular, distinguish data and personal data categories actively provided by consumers from observed data) and sources (e.g., first or third party service) for each of these categories of data and a description of personal data processed for profiling consumers applied to or across the designated core platform services (in particular, distinguish data and personal data originating from each of the gatekeeper's services);
2.2.3	c	a description of each category of personal data and data originating from third parties (in particular, distinguishing data and personal data originating from

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[1] Observed data are understood as data provided by the consumer by virtue of using a service or device. For 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).

		third parties, such as advertisers, publishers, developers, or others) and/or derived from user activity on third parties' services (in particular, distinguishing data and personal data categories actively provided by consumers from observed data and inferred data originating from third parties);
2.2.4	d	a detailed description of the inferred data[2] about consumers derived from the processing of the data and personal data listed in point (b) and/or (c) as well as an explanation of how such derived or inferred data were created;
2.2.5	e	the retention duration of each category of data and personal data listed in points (b), (c), and (d), or duration of retention of the profile itself;
2.2.6	f	the legal ground relied on by the gatekeeper under Article 6(1) and, where applicable, Article 9(2) of Regulation (EU) 2016/679. The reporting under the present point should distinguish the legal ground relied on under Regulation (EU) 2016/679 for the processing of personal data collected directly by the gatekeeper from the legal ground relied on for the processing of personal data originating from third parties;
2.2.7	g	whether consent is required under Article 5(2) of Regulation (EU) 2022/1925 for the processing of data and personal data listed in points (b), (c) and (d) for each purpose of profiling consumers. The reporting under the present point should distinguish between consent under points (a) to (d) of Article 5(2) of Regulation (EU) 2022/1925. In addition, if consent is not required, the reporting under the present point should provide an explanation;
2.2.8	h	where consumer consent is required for the given purpose and obtained by the gatekeeper 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 visual representations (click-by-click) on how consumers can refuse or withdraw consent, any consequences of such refusal or withdrawal, and how any such consequences are notified to the consumer;
2.2.9	i	where consumer consent is required for the given purpose and obtained by third parties (e.g., as required under Article 5(2)(a) of Regulation (EU) 2022/1925), a description of any steps taken to seek consent to the sharing of personal data with the gatekeeper for the purpose of profiling, including visual representations (click- by-click) on how consumers can refuse or withdraw consent, and how the gatekeeper ensures respect of consumer's consent refusal or withdrawal;
2.2.10	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 and other similarly significant effects that the automated decision-making mechanism is producing or may produce, and a description of the algorithms underpinning the automated decision mechanism;
2.2.11	k	qualitative and quantitative impact or importance of the profiling techniques in question for the services and business operations of the gatekeeper. Under this

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[2] Inferred data are understood as data derived by the gatekeeper from the processing of observed data or data actively provided by the 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.

		point, please also include information on the number of end users exposed to each profiling technique per year, and the number of business users using the gatekeeper's services based on profiling per year, within the core platform service and, where relevant, across multiple core platform services;
2.2.12	l	actions taken to effectively enable consumers to be aware that they are undergoing profiling and the relevant use of such profiling;
2.2.13	m	statistics on how many consumers choose to undergo profiling and how many refuse it, if such choice is given;
2.2.14	n	whether and when the profiling technique has been the subject of a data protection impact assessment[3] and the main conclusions thereof;
2.2.15	o	any alternative measures to profiling that have been considered and the reasons for not choosing them.

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[3] 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.

Appendix B – Description of Consumer Profiling Techniques Applied to its Core Platform Services

2.2.1 Specific purpose pursued by the profiling technique

a) the specific purpose(s) pursued by each profiling technique(s);

Microsoft engages in consumer profiling in Windows, and this experience is referred to as Tailored Experiences. Tailored Experiences offer suggestions on how to use and customize Windows, as well as recommendations and promotions for Microsoft and third-party products and services, features, apps, and hardware to improve the Windows experience. Windows uses profiling to place users into different audience segments, which it then uses to improve the relevancy of the promotions for individual users.

2.2.2 Categories of personal data and data derived from user activity processed for profiling consumers

b) a 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[1] from observed data[2]) and sources (e.g., first or third party service) for each of these categories of data and a description of personal data processed for profiling consumers applied to or across the designated core platform services (in particular, distinguish data and personal data originating from each of the gatekeeper's services);

Microsoft performs profiling using personal data and data derived from user activity in the following categories and from the first-party applicable sources to deliver Tailored Experiences.

Data category[3]	Provided or Observed	Data Source
Device, Connectivity, and Configuration data: Data that describes the connections and configuration of the devices connected to the service and the network, including device identifiers (e.g. IP addresses) configuration, setting and performance.	Observed	Windows
Product and Service Usage Data: Data captured about the end user's interaction with a service or product, including through beacons. Captured data includes the records of the end user's actions, the capabilities used, and commands provided to the capabilities.	Observed	Windows, Office, Microsoft Account, Xbox, Microsoft Edge, First-Party Universal Event Tracking (UET)[4]
Product and Service Performance Data: Data collected about the measurement, performance, and operation of	Observed	Windows

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[1] 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.

[2] Observed data are understood as data provided by the consumer by virtue of using a service or device. For 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).

[3] The table above reflects the data categories used for Tailored Experiences. For examples of the types of data in the data categories listed above, *see, e.g.*, Description of Windows optional diagnostic data and Data collection summary for Xbox.

[4] Data Microsoft gets when marketers place Microsoft's web beacons on their sites to allow Microsoft to collect information on their sites. *For additional background information on UET, please see* Universal Event Tracking - Microsoft Advertising.

the capabilities of the product or service. This data represents information about the capability and its use, with a focus on providing the capabilities of the product or service.		
Software Setup and Inventory Data: Data that describes the installation, setup, and update of software.	Observed	Windows
Demographic Information Data: Data containing demographic information about the end user provided to the application or cloud service.	Provided	Microsoft Account, LinkedIn, Xbox
Basic Account Data: Data acquired about an end user's purchases, subscription, and licensing.	Observed	Microsoft Account, Xbox, Consumer Commerce Data & Analytics
Browsing History Data: Data collected from browsing history to personalize advertising, recommendations, and experiences in Windows (e.g., raw search queries, favorite sites, navigation URLs, domain, search clicks).	Observed	Microsoft Edge, Bing, MSN, Microsoft Advertising

2.2.3 Description of personal data originating from third parties

c) a description of each category of personal data and data originating from third parties (in particular, distinguishing data and personal data originating from third parties, such as advertisers, publishers, developers, or others) and/or derived from user activity on third parties' services (in particular, distinguishing data and personal data categories actively

Microsoft uses Universal Event Tracking (UET) data from third party websites to deliver Tailored Experiences.

Data category	Provided or Observed	Data Source
Product and Service Usage Data: Data captured about the end user's interaction with a service or product, including through beacons.	Observed	Universal Event Tracking (UET) from third-party Websites

2.2.4 Description of inferred data about consumers

d) a detailed description of the inferred data[5] about consumers derived from the processing of the data and personal data listed in point (b) and/or (c) as well as an explanation of how such derived or inferred data were created;

Windows processes personal data in the categories listed above to produce the following inferences:

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[5] Inferred data are understood as data derived by the gatekeeper from the processing of observed data or data actively provided by the 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.

Inferred Data	Inferred Data Description	Inferred Data Creation
Audience Segments	Sorting people into groups of similar characteristics and interests. These groups are called "audience segments." The available segments change over time and new segments may be created for specific campaigns used to deliver particular promotions. Some examples of audience segments are listed below: ● Avid Gamers ● Edge Primary Browser ● Game Launchers ● High System Spec Devices ● Medium System Spec Devices	Audience segments may either be created based on programmatic groupings, or through custom segments that are built for specific targeted campaigns.
Remarketing Segments	Sorting people into groups (segments) based on the usage of Microsoft websites. For example: ● Browsing behavior patterns ● Cart abandonment ● Checkout	Remarketing segments are created based off a user's website usage patterns.
Similar Audience Modeling	Sorting people into groups (segments) based off a remarketing or audience segment. Used when an advertiser wants additional users in a segment that have synonymous characteristics to existing segments.	Created based off a prior segment (either audience segment or remarketing segment).
User Representation in Modeling	Mathematically modeling a representation of a given user as a vector to compare its distance to promotion vectors. The relative distance between a user representation vector and promotion vectors is then used to determine which targeted campaign to promote to the user. The mathematical model is built by encoding user activities into digital tuples to represent users. These tuples are used in multiple modeling projects like Selection and Audience Segments.	UET Data, Product and Service Usage Data are used in the training of the model that represents a given user as a vector. Additional data sources such as location, device and machine learning estimations of behavior are also used.

2.2.5. Retention duration of provided, observed, and inferred data

e) the retention duration of each category of data and personal data listed in points (b), (c), and (d), or duration of retention of the profile itself;

Microsoft retains personal data for as long as necessary to provide products, fulfill transactions, or for other legitimate purposes. As indicated in the Microsoft Privacy Statement, because these needs can vary for different data types, the context of Microsoft's interactions with customers or their use of products, actual retention periods can vary significantly[6]. For example, personal data collected from Windows and used by Tailored Experiences is typically retained for 10 days, but may be stored for up to 18 months. Microsoft uses the personal data processed for Tailored Experiences (listed in **Section 2.2.2** and **Section 2.2.3** above) for other purposes, which determine for how long that personal data is retained.

Regarding the inferred data described in **Section 2.2.4** above, users are sorted into audience segments for promotions and this data is retained for a maximum of 30 days. Audience Segments are typically refreshed every 24 hours. Similar Audience Modeling data is stored for 30 days. Remarketing segments are defined by advertisers, so these segments could be active for any duration between 1 day and 390 days.

2.2.6. Legal ground for consumer profiling

f) the legal ground relied on by the gatekeeper under Article 6(1) and, where applicable, Article 9(2) of Regulation (EU) 2016/679. The reporting under the present point should distinguish the legal ground relied on under Regulation (EU) 2016/679 for the processing of personal data collected directly by the gatekeeper from the legal ground relied on for the processing of personal data originating from third parties;

The primary legal ground for the processing of personal data collected directly by Microsoft to deliver Tailored Experiences includes the provisions described in the table below.

Data Source	Legal ground under GDPR Article 6(1)
Windows	(a) Consent for Diagnostic Data, (f) Legitimate Interest for Beacon Data
Microsoft Edge	(a) Consent
Xbox (Purchase, User dimensions, Titles)	(f) Legitimate Interest
Consumer Commerce Data & Analytics	(f) Legitimate Interest
Microsoft Advertising (Ad impressions, clicks)	(f) Legitimate Interest
UET (from 1P websites)	(f) Legitimate Interest
Bing (Search queries, results, page titles)	(f) Legitimate Interest
Office	(f) Legitimate Interest
MSN	(f) Legitimate Interest
Microsoft Account	(f) Legitimate Interest
LinkedIn	(f) Legitimate Interest

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[6] Microsoft's data retention practices are described in Microsoft Privacy Statement

The primary legal ground for the processing of personal data collected by third parties to deliver Tailored Experiences includes the provisions described in the table below.

Data Source	Legal ground under GDPR Article 6(1)
UET (from 3P websites)	(f) Legitimate Interest

Microsoft does not rely on any legal ground under Article 9(2) of the GDPR for processing of personal data for Tailored Experiences.

2.2.7: Consent for consumer profiling under Article 5(2) of the DMA

g) whether consent is required under Article 5(2) of Regulation (EU) 2022/1925 for the processing of data and personal data listed in points (b), (c) and (d) for each purpose of profiling consumers. The reporting under the present point should distinguish between consent under points (a) to (d) of Article 5(2) of Regulation (EU) 2022/1925. In addition, if consent is not required, the reporting under the present point should provide an explanation;

Consent was not required under Article 5(2) of the DMA for the practices in effect on 6 January 2024 because this was prior to the DMA compliance deadline.

2.2.8: Steps taken to seek consent for consumer profiling

h) where consumer consent is required for the given purpose and obtained by the gatekeeper 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 visual representations (click-by-click) on how consumers can refuse or withdraw consent, any consequences of such refusal or withdrawal, and how any such consequences are notified to the consumer;[7]

The consent to use Windows diagnostic data for Tailored Experiences is called the "tailored experiences" consent. Windows requests this consent during the device setup experience (see **Figure 5** copied below) and the user can also control the consent in Windows settings (see **Figure 6** copied below).

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[7] 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.

Figure 5. Windows "Tailored Experiences" Consent During Device Setup Experience
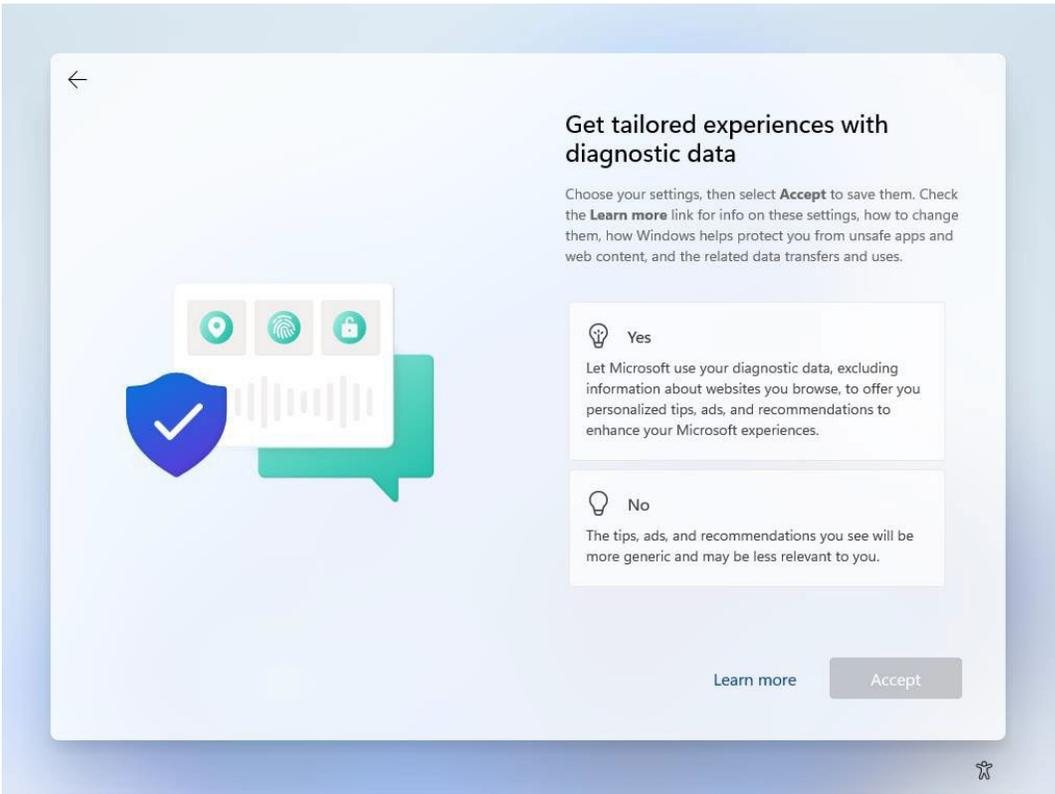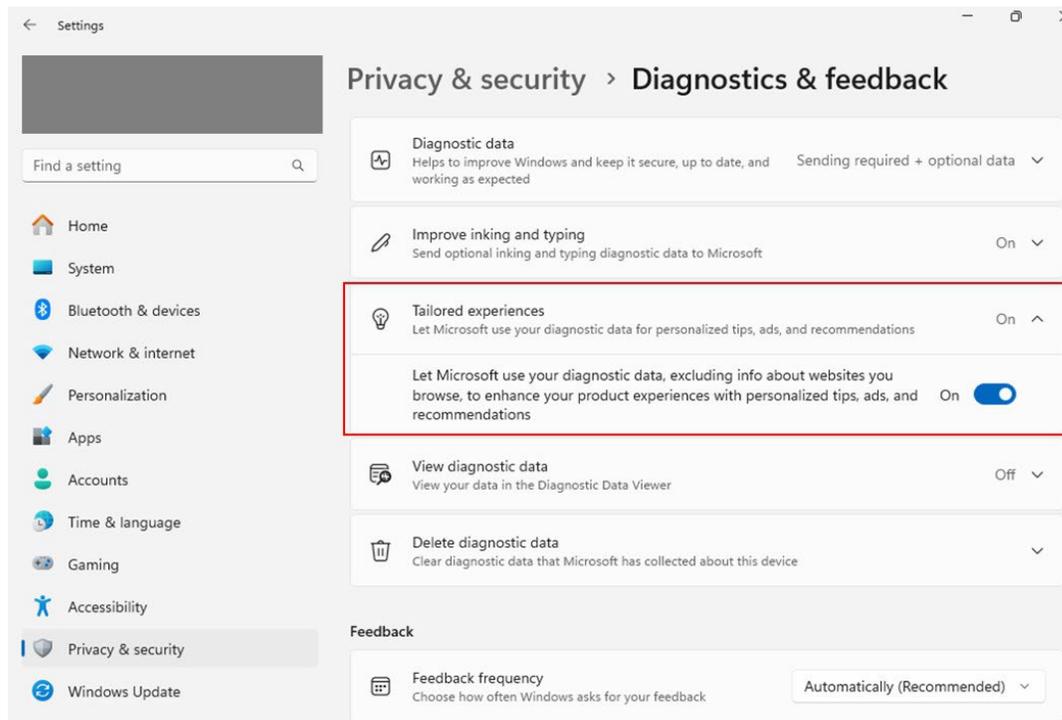
Figure 6. Windows "Tailored Experiences" Control In Settings

The consequences of accepting, refusing, or withdrawing the "tailored experiences" consent are the following: 1) if the user has agreed to the "tailored experiences" consent, then Windows diagnostic data will be included in the consumer profiling, and 2) if the user has not agreed to the "tailored experiences" consent, the cloud service will not use Windows Diagnostic Data for consumer profiling, but in some cases may still use the results of consumer profiling using data from other Microsoft products and services.

The steps taken to notify consumers are described in **Section 2.2.12** below.

The consent for Windows to use Edge browsing activity for Tailored Experiences is the "Search, Advertising, and News" consent, or SAN consent, which is presented separately to the user either during the Windows device setup experience or when Edge is first run (see **Figure 7** copied below). The user can also control this consent in Edge settings (see **Figure 8** copied below). There are no consequences to refusing or withdrawing this consent except that the associated data will not be used for the purposes indicated in the consent language, which includes Tailored Experiences.

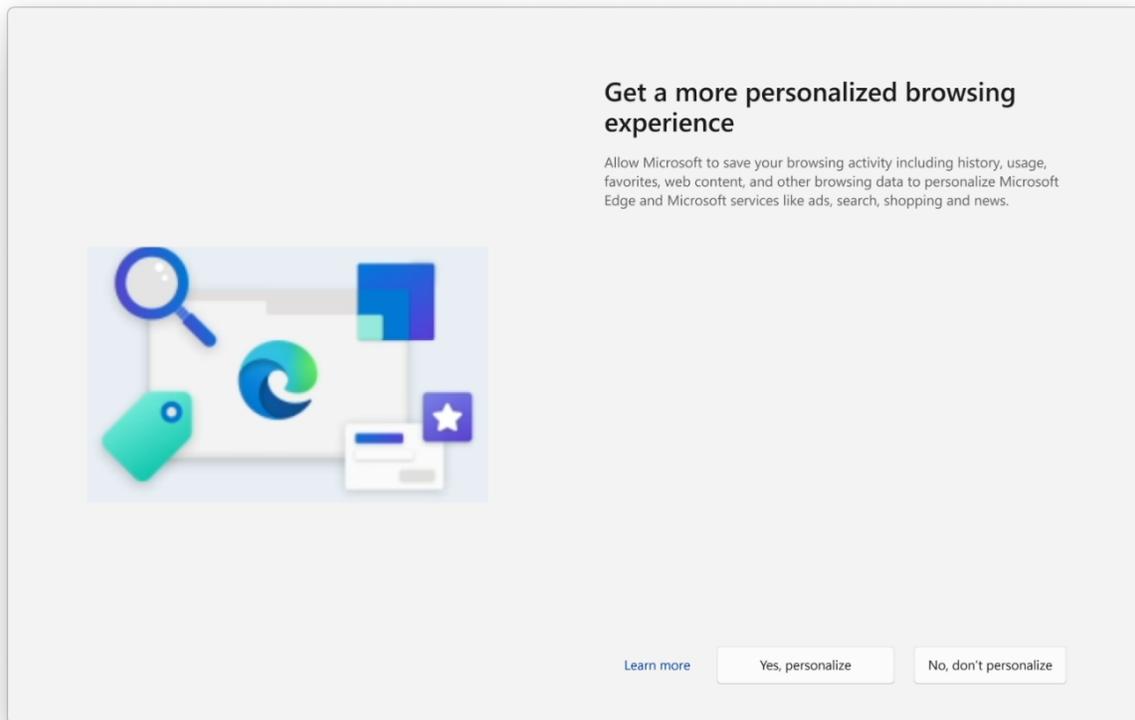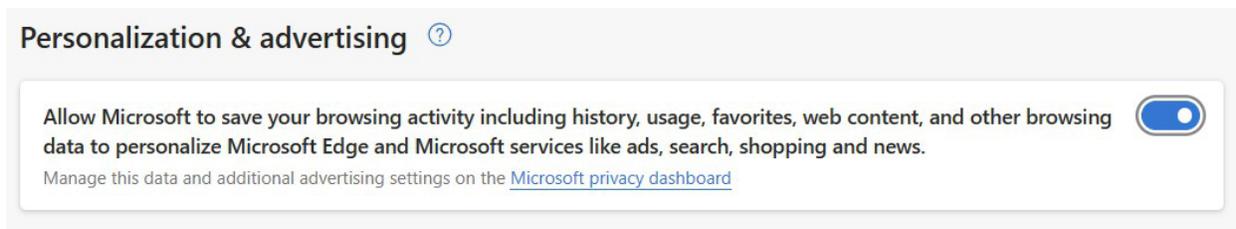**Figure 7. Microsoft Edge "SAN" Consent In Device Setup Experience**

Figure 8. Microsoft Edge "SAN" Consent In Edge Settings

2.2.9. Steps taken to seek consent obtained by third-parties for consumer profiling

i) where consumer consent is required for the given purpose and obtained by third parties (e.g., as required under Article 5(2)(a) of Regulation (EU) 2022/1925), a description of any steps taken to seek consent to the sharing of personal data with the gatekeeper for the purpose of profiling, including visual representations (click-by-click) on how consumers can refuse or withdraw consent, and how the gatekeeper ensures respect of consumer's consent refusal or withdrawal;[8]

Microsoft does not rely on consent and instead relies on legitimate interest to use third-party data for Tailored Experiences.

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[8] The gatekeeper should refer to a consent framework to which it adheres.

2.2.10. Whether automated decision-making takes place on the basis of an applied profiling technique

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 and other similarly significant effects[9] that the automated decision-making mechanism is producing or may produce, and a description of the algorithms underpinning the automated decision mechanism;

Windows, including Tailored Experiences, does not perform any automated decision-making, which means decisions based solely on automated processing that produce legal or similarly significant effects as referred to in Articles 22(1) and 22(4) of the GDPR. There is no profiling performed in Windows that produces legal or similarly significant effects for end users. Tailored Experiences only provides promotions within Windows, and users can disable these promotions with no impact to any other feature of Windows.

2.2.11 Qualitative and quantitative impact or importance of the profiling techniques

k) qualitative and quantitative impact or importance of the profiling techniques in question for the services and business operations of the gatekeeper. Under this point, please also include information on the number of end users exposed to each profiling technique per year, and the number of business users using the gatekeeper's services based on profiling per year, within the core platform service and, where relevant, across multiple core platform services;

Using profiling techniques to deliver Tailored Experiences allows Microsoft to target campaigns to users that are more relevant, which increases the likelihood that a user will engage with a promotion including making a purchase where that is offered.

Windows does not routinely produce and monitor metrics that compare Tailored Experiences with and without consumer profiling. Microsoft has identified anecdotal examples from ad- hoc analyses that compared outcomes with and without personalization based on profiling.

In the first example, Windows displayed a promotion for trials of the Microsoft Game Pass service during the Windows device setup experience. An A/B test result showed that there was significantly more engagement by users identified as gamers versus showing the promotion to users without knowing if they were gamers. In a second example, Microsoft offered users personalized recommendations for websites they might find helpful in the Windows Start menu.

In an A/B test comparing personalized website recommendations in Start against a control sample without personalization, Microsoft observed statistically significant increases in user engagement with the personalized websites versus the non-personalized control.

Windows allows multiple accounts on a single PC, which lets each user provide or withhold consent for Tailored Experiences. As of 6 January 2024, out of approximately 275 million potential Windows PCs in the EEA, approximately 74 million have users who have provided consent to the Tailored Experiences profiling technique.

Microsoft selects the content included in promotions. Microsoft does not have business users who use Tailored Experiences to choose content to be included in promotions.

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[9] 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.

2.2.12. Actions taken to effectively enable consumers to be aware that they are undergoing profiling and the relevant use of such profiling

l) actions taken to effectively enable consumers to be aware that they are undergoing profiling and the relevant use of such profiling;

Since Windows does not conduct profiling that has a legal or similarly significant effect on the user as described in Article 22 of the GDPR, Microsoft has not specifically identified profiling when describing the personal data processing involved in Windows. However, the action Microsoft takes to enable consumers to be aware that they are undergoing profiling is to describe the relevant data processing in consent screens, in-product notices, and the Microsoft Privacy Statement.

When users give consent for personal data to be processed, there is a "Learn More" link that explains what happens when a user turns on Tailored Experiences. Specifically, the "Learn More" link provides:

> "*If you choose to turn on Tailored experiences, we will use your Windows diagnostic data to offer you personalized tips, ads, and recommendations to enhance Microsoft experiences... Tailored experiences include suggestions on how to customize and optimize Windows, as well as ads and recommendations for Microsoft and third-party products and services, features, apps, and hardware for your Windows experiences. For example, to help you get the most out of your device, we may tell you about features you may not know about or that are new. If you are having a problem with your Windows device, you may be offered a solution. You may be offered a chance to customize your lock screen with pictures, or to be shown more pictures of the kind you like, or fewer of the ones you don't. Or, if you are running out of space on your hard drive, Windows may recommend you try OneDrive or purchase hardware to gain more space.*"

In addition, the Microsoft Privacy Statement contains similar language as the Learn More, making it easy for users to find this information and become aware that this profiling is taking place.

2.2.13. Statistics on how many consumers choose to undergo profiling if they are given a choice

m) statistics on how many consumers choose to undergo profiling and how many refuse it, if such choice is given;

Windows does not explicitly ask consumers to undergo profiling and consequently there are no statistics specifically for how many consumers choose or refuse to undergo profiling in Windows. As indicated in **Section 2.2.11** above, as of 6 January 2024, approximately 27% of PCs in the EEA have a user who opted-in to the "tailored experiences" consent, but as described in Section 2.2.8 above, consumers may undergo profiling even if they refuse the "tailored experiences" consent.

2.2.14. Whether and when the profiling technique has been the object of a data protection impact assessment and the conclusion of such assessment

n) whether and when the profiling technique has been the subject of a data protection impact assessment[10] and the main conclusions thereof;

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[10] 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.

The use of Windows Diagnostic Data for Tailored Experiences is covered in the relevant Windows DPIA[11]. DPIAs are reviewed and updated at least annually or when significant changes occur to data processing by Windows. The DPIA was last updated on 24 January 2024. The DPIA concludes that this processing is acceptable and within the data subject's reasonable expectations because Windows obtains consent and provides the user with controls to prevent the use of Windows Diagnostic Data for Tailored Experiences and the use of data from other sources is reasonable given the consent experiences for those products and/or the legitimate interests that exist for the purposes used.

2.2.15: Any alternative measures to profiling that have been considered and the reasons for not choosing them

o) any alternative measures to profiling that have been considered and the reasons for not choosing them.[12]

Microsoft interprets "any" to not require a discussion of "all" alternate measures. As of 6 January 2024, Windows provides Tailored Experiences both using profiling and without using profiling. The alternative measures to profiling for Tailored Experiences are delivering content using only Session Context or untargeted campaigns. The reason Microsoft does not prefer these alternatives over consumer profiling is that Microsoft has concluded that they are not as effective as measured by ad-hoc analyses as described in Section 2.2.11 above.

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[11] Windows performs data protection impact assessments ("DPIA") for features and services as a result of privacy reviews, not for individual profiling techniques. Privacy reviews are more granular than DPIAs and are more detailed. However, within the Microsoft DPIA template there is a question that asks specifically whether profiling occurs.
[12] Asking for alternatives to profiling allows an assessment of whether gatekeepers have considered less intrusive measures and is particularly informative in terms of accountability.