

TRIS NOTIFICATION PROCEDURE

French Law to secure and regulate the digital space

October 2023

The Computer & Communications Industry Association (CCIA Europe) welcomes the opportunity to provide its contribution to [TRIS notification procedure](#) 2023/0461/F, regarding the French legislative provisions to secure and regulate the digital space (“*Dispositions législatives visant à sécuriser et réguler l'espace numérique*”, hereinafter referred to as the “draft provisions”).

The draft bill notified to the European Commission aims to cover numerous recently adopted European regulations, including the Digital Services Act (DSA), the Digital Markets Act (DMA) and the Data Act. This notification is the second one on the bill¹, which now includes the amendments adopted in the French Senate during the first reading of the bill.²

CCIA Europe considers that several draft provisions may constitute unnecessary, and potentially harmful duplication of European regulation into national law, since regulations should be directly applicable without transposition in national law. National rules that duplicate EU regulations could make it confusing and difficult for companies to understand and follow EU rules when they are trying to comply. We are also concerned that such duplication risks leading to deviation from EU rules and would fragment the implementation of newly adopted rules across the Internal Market, which would be detrimental to European citizens and businesses.

More specifically, certain notified amendments to the draft are clear deviations from European regulations. For example, the newly introduced Article 2bis would enable the French Digital Services Coordinator to request app stores to stop users from downloading social media applications which do not comply with national obligations on age verification. Such a provision would undermine the horizontal and harmonised approach of the DSA, but also contradict the European ‘Better Internet for Kids’ Strategy, and potentially violate fundamental rights and the freedom to conduct business and to provide services.

It should also be noted that some provisions of the bill are not part of either notification procedure despite needing to be reviewed by the European Commission. For instance, Article 16 of the bill creates an exemption for the Center of Expertise for Digital Platform Regulation ([PEReN](#)) that would allow it to benefit from data access rights under Article 40(12) of the DSA, without any possibility for the Digital Services Coordinator to verify whether the PEReN respects the requirements listed in this article (e.g. independence and specific data security and confidentiality requirement). This important deviation from the DSA could create risks for safeguarding users' and businesses' fundamental rights.

French lawmakers are still reviewing the draft provisions. New problematic amendments to the draft bill are being adopted, e.g. empowering the Pharos platform to ask online

¹ Projet de loi visant à sécuriser et réguler l'espace numérique, Texte n° 593 (2022-2023) de M. Bruno LE MAIRE, ministre de l'économie, des finances et de la souveraineté industrielle et numérique, déposé au Sénat le 10 mai 2023, available [here](#).

² The first notification was the TRIS procedure 2023/0352/FR, available [here](#).

platforms for the removal of certain illegal content under 24 hours.³ Other worrying amendments would impose SecNumCloud certification on a large number of sectors conflict with GDPR provisions and Commission adequacy decisions to transfer EU personal data outside the European Union, and risk derailing the European Commission's work on its own draft Cloud Certification Scheme (EUCS)⁴. As foreseen by Article 5(1) of Directive 98/34/EC, the draft bill should be notified again as significant changes have been made.⁵

The French bill should be notified in its entirety and in its final iteration, given the potential discrepancies with European law. The number of amendments and debates show that the bill fluctuated significantly during the legislative scrutiny. For example, a rejected amendment proposed to prevent software application stores from offering virtual private network (VPN) mobile apps allowing access to an Internet network beyond the jurisdiction of French or European laws⁶. This proposal raised numerous concerns, including infringing upon the principle of technological neutrality by specifically targeting a particular technology and encroaching upon the fundamental rights of Union citizens to freedom of information and expression to access global networks. Given the inherently cross-border nature of the Internet, such national deviations threaten to fragment the internal market, creating unwarranted barriers to service provision and distorting the harmonised approach of the DSA.

Based on the above reasoning, CCIA Europe calls on the European Commission to ask the French government to re-notify the draft bill once the national legislative scrutiny is over, in order to allow all parties involved to review the impact of the entirety of this draft bill and related amendments. CCIA Europe also invites the European Commission to issue a detailed opinion on all provisions which could undermine the harmonisation achieved by recent landmark European legislation.

³ Amendment 347, adopted on 5 October, available [here](#).

⁴ Amendment 1138, adopted on 12 October, available [here](#).

⁵ Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, available [here](#).

⁶ Amendment 915, rejected on 13 October, available [here](#).

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

For more information, visit: twitter.com/CCIAEurope or www.ccianet.org

CCIA is registered in the EU Transparency Register with number 15987896534-82.

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