



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 301

Communication from the Commission - TRIS/(2024) 1147

Directive (EU) 2015/1535

Notification: 2024/0208/FR

Request for supplementary information from the Commission.

Request for supplementary information - Demande d'informations complémentaires - Žádost o doplňující informace - Ersuchen um ergänzende Informationen - Искане за допълнителна информация - Žádost o dodatečné informace - Anmodning om supplerende oplysninger - Αίτηση συμπληρωματικών πληροφοριών - Solicitud de información complementaria - Lisateabe edastamise palve - Lisätietopyyntö - Zahtjev za dodatne informacije - Kiegészítő információ kérése - Domanda di informazioni complementari - Prašymas pateikti papildomos informacijos - Papildu informācijas pieprasījums - Talba għal tagħrif addizzjonali - Verzoek om aanvullende inlichtingen - Prośba o uzupełnienie informacji - Pedido de informações complementares - Solicitare de informații suplimentare - Žiadosť o ďalšie informácie - Zahteva za dodatne informacije - Begäran om kompletterande upplysningar - Iarraidh ar fhaisnéis fhorlíontach

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1. MSG 301 IND 2024 0208 FR EN 16-07-2024 29-04-2024 COM INFOSUP COM 16-07-2024

2. Commission

3. DG GROW/E/3 - N105 04/63

4. 2024/0208/FR - SERV - INFORMATION SOCIETY SERVICES

5.

6. Within the framework of the notification procedure under Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, the French authorities notified to the Commission on 16 April 2024 the “Référentiel relatif aux systèmes de vérification de l’âge” (hereinafter, the “notified draft”).

The Commission services note that the notified draft intends to prepare the implementation of Article 1 of *Projet de loi visant à sécuriser et réguler l’espace numérique (SREN)*, which amends Article 10 of Law No 2004-575 of 21 June 2004 on Confidence in the Digital Economy (SCEN). In view of the latest amendments introduced in the national legislative process of law SREN, which were not part of the notifications 2023/461/FR and 2023/632/FR, in order to allow the Commission services to complete their analysis under the relevant provisions of EU law, the French authorities are kindly invited to reply to the following request for supplementary information:

- The Commission services would like further explanations concerning the service providers that would fall under the scope of the notified draft. In particular:

- o Whether those service providers would include providers of information society services, as per the meaning of Directive 2000/31/EC and the related case law of the CJEU. In the affirmative, whether the notified draft would apply to providers of information society services established in the territory of other Member States than France.
- o In the affirmative, the practical way in which the French authorities will implement the notified draft, and the underlying law, in a way compatible with the recent CJEU case law (C-376/22)
- o Whether those service providers would include on-demand audiovisual media services within the meaning of Directive



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2010/13/EU. In the affirmative, the French authorities are kindly requested to clarify whether the notified draft framework ("Référentiel relatif aux systèmes de vérification de l'âge") covers age verification tools as referred to under Article 6a of Directive 2010/13/EU.

- o Whether the notified draft would apply to providers of intermediary services as defined in Regulation (EU) 2022/2065. The type of services that would fall under the scope of the notified draft, and, to the extent possible, practical examples of such services.

- o The differences between the notions of "online public communication service publisher" with "editorial responsibility" over the pornographic content, as set out in Article 1 of law SREN amending Art 10 (I) of loi SCEN, and "targeted services broadcasting pornographic content" in the notified draft.

- The French authorities are kindly requested to provide additional explanations on the objectives pursued by the notified draft. In particular, in view of the framework provided in Regulation (EU) 2022/2065 and the national rules transposing Directive 2010/13/EU. The French authorities are also kindly requested to describe the interplay between the notified draft, and the underlying law, and the national rules transposing Directive 2010/13/EU.

- The French authorities are kindly requested to clarify whether the notified draft framework ("Référentiel relatif aux systèmes de vérification de l'âge") covers age verification systems applicable to video-sharing platforms in accordance with Article 28b of Directive 2010/13/EU.

- The Commission services would like to receive further information regarding the notified draft and the concrete situations it aims to address. Especially in view of the maximum harmonization effect of Regulation (EU) 2022/2065 and its Recital 9, and its supervisory and enforcement regime set out in its Chapter IV.

- The Commission services would like to better understand the intended interplay between the notified draft, and the underlying law, and the on-going Task Force on Age Verification under the Digital Services Act (DSA), as well as its objective to set up an EU wide solution for age assurance. In particular:

- o What is France understanding of the difference between age verification, age assurance and age estimation (see Research Report: Mapping age assurance typologies and requirements).

- o Whether age estimation is regarded in the notified draft as an effective solution to distinguish with certainty between minors users and adult users in relation to pornographic content.

- The Commission services would welcome more information on the outcome of the testing of the "double anonymity" or "double confidentiality" mechanisms confirming its technical feasibility and its ability to meet the need for privacy protection.

- The Commission services would also welcome further information regarding the timeline for adoption of the technical standards set out in the notified draft.

The French authorities are invited to reply to the above questions by 10 May 2024.

Mary Veronica Tovsak Pleterski
Director
European Commission

Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu