



EUROPEAN COMMISSION

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

Message 201

Communication from the Commission - TRIS/(2025) 1454

Directive (EU) 2015/1535

Notification: 2025/0223/FR

Forwarding of the response of the Member State notifying a draft (France) to request for supplementary information (INFOSUP) of European Commission.

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5.

6. Question 1:

a) The PEReN may collect publicly accessible data on the online services of the actors falling within its scope of study referred to in Article 36(1) of Act no. 2021-1382 of 25 October 2021 on the regulation and protection of access to cultural works in the digital age, regardless of their territory of establishment.

Those services, to which the notified draft decree refers, are: (i) core platform services, listed in Article 2 of Regulation DMA (Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828), (ii) online public communication services relying on the processing of content, goods or services by means of computer algorithms, (iii) platform partners and subcontractors, (iv) operating system providers, (v) artificial intelligence system providers.

b) According to Article 2(i) of Directive 2000/31/EC, "The coordinated field relates to requirements which the provider must satisfy and which concern: / - access to the activity of an information society service, such as qualification, authorisation or notification requirements, / - the exercise of the activity of an information society service, such as requirements concerning the behaviour of the provider, the quality or content of the service, including advertising and contract requirements, or the liability of the provider. "(emphasis added).

The notified provisions, which do not contain any binding obligations, do not impose any requirements on providers of information society services. They therefore do not fall within the coordinated field of Directive 2000/31/EC. There is therefore no reason to provide for a derogation from the country of origin principle pursuant to Article 3 of that Directive.



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c) None. There is no obligation for actors to respond to the information notification sent by PEReN prior to data collection. The purpose of this notification is only to enable the operator concerned to make known to the PEReN, prior to the collection operation, its observations relating to the preservation of the security of its services and, where appropriate, to the modalities of use of the API allowing the collection of data, and finally, to possible quality and bias problems relating to the collected data of which it would be aware. The only consequence of non-compliance with the six-week time limit laid down in the text is that there is no guarantee that its observations will be taken into account.

d) In the absence of an obligation, there are no monitoring systems or sanctions.

Question 2:

To the extent that certain actors covered by Regulation (EU) 2022/2065 fall within the scope of the PEReN study mentioned in 1.a), they may be affected by the notified provisions.

a) There is no obligation for actors to respond to the information notification sent by PEReN prior to data collection. As mentioned above, the purpose of this notification is only to enable the operator concerned to make known to the PEReN, prior to the collection operation, its observations relating to the preservation of the security of its services and, where appropriate, to the modalities of use of the API allowing the collection of data, and finally, to possible quality and bias problems relating to the collected data of which it would be aware. The only consequence of non-compliance with the six-week time limit laid down in the text is that there is no guarantee that its observations will be taken into account.

b) Answer identical to 2.a: actors have no obligation to respond to the information notification sent by PEReN prior to data collection.

c) On the one hand, the data collected outside the scope of Regulation (EU) 2022/2065 are collected within the framework of the research activities of the PEReN, provided for in subparagraph 6 of Article 36 of Act 2021-1382 of 25 October 2021 already cited. The research activities of the PEReN may cover any subject of support for public policies in the field of regulation of digital platforms (including the design of future regulations). On the other hand, as a research organisation, when acting with a view to contributing to the detection, identification and understanding of systemic risks within the meaning of the DSA, it shall do so under the conditions laid down in Regulation (EU) 2022/2065.

d) There is none. In response to the Commission's observations within the context of notification 2023/632/FR of the draft act that became Act no. 2024-449 of 21 May 2024 on securing and regulating the digital space (the SREN Act), the legislator amended the text to clarify that no obligations are imposed on platforms falling within the scope of Regulation (EU) 2022/2065, which ensures compliance with the principle of maximum harmonisation of that Regulation.

e) In the absence of an obligation, there are no monitoring systems and no sanctions.

Question 3:

a) The notified provisions concern a wider range of actors than those falling within the scope of Regulation (EU) 2022/2065 – those falling within the scope of the PEReN study already mentioned – and the purposes of the collection for research activities are not limited solely to the analysis of systemic risks within the meaning of Article 34 of Regulation (EU) 2022/2065.

When mentioning all the tasks of the PEReN falling within its public research activity, the legislator wished to expressly recall this area of research, which is intended to represent a significant part of its research projects.

However, the framework applicable to data collection operations on the basis of Article 40(12) of Regulation (EU) 2022/2065 is specific in that providers of very large online platforms or very large online search engines are required – under penalty of sanctions – to provide access without undue delay to the data requested, provided that the conditions set out in that Article are met.

With regard to Article 40(12), PEReN has had to implement it with providers of very large online platforms or very large



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online search engines, but not always successfully.

b) The research activities of the PEReN may concern any subject of support for public policies involved in the regulation of digital platforms, as provided for in subparagraph 6 of Article 36 of Act 2021-1382 of 25 October 2021 already cited.

c) If the PEReN were to access the data of providers of very large online platforms or very large online search engines pursuant to the provisions of Article 40(12) of Regulation (EU) 2022/2065, it could only use them with a view to contributing to the detection, identification and understanding of systemic risks, as provided for in the provisions of the Regulation. Therefore, the national framework would not apply in such a case.

European Commission

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