Message 791

Communication from the Commission - TRIS/(2024) 0589

Directive (EU) 2015/1535

Notification: 2023/0554/IT

Reaction of the Commission to the response of a Member State/Country notifying a draft regarding comments (5.2)/request for supplementary information (INFOSUP)

MSG: 20240589.EN

1. MSG 791 IND 2023 0554 IT EN 29-01-2024 04-03-2024 COM REACTION COM 29-01-2024

2. Commission

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

4. 2023/0554/IT - SERV30 - Media

5.

6. Within the framework of the notification procedure laid down in Directive (EU) 2015/1535, the Italian authorities notified to the Commission on 26 September 2023 the following draft: Draft legislative decree laying down supplementary and corrective provisions to Legislative Decree No 208 of 8 November 2021 on the Consolidated Text on Audiovisual Media Services implementing Directive (EU) 2018/1808 (hereinafter “the notified draft”).

Pursuant to Article 5(2) and Article 6(2) of Directive (EU) 2015/1535 (hereinafter SMTD), on 19 December 2023 the Commission issued a detailed opinion and comments on the notified draft. The Italian authorities replied to the Commission’s detailed opinion and comments on 24 January 2024. The Commission services would like to thank the Italian authorities for their response.

Pursuant to Article 6(2) of the SMTD, the Member State concerned should report to the Commission on the action it proposes to take on such detailed opinions. The Commission should comment on this reaction.

After examination of the reply sent by the Italian authorities, the Commission considers the response of the Italian Authorities non-satisfactory insofar as the Italian authorities indicate in their reply that the provision regarding the thresholds for direct investment in production of European works will be modified in order to raise the threshold from 50 to 60%. The Commission considers such a change as a substantial amendment falling within the scope of Article 5(1) third indent of the SMTD: “Member States shall communicate the draft technical regulation again to the Commission under the conditions set out in the first and second subparagraphs of this paragraph if they make changes to the draft that have the effect of significantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive”. Therefore, in order to respect the obligations set in the SMTD, the Italian authorities are required to notify again the modified draft provision.

Moreover, the Commission takes note of the limitation of Article 4(1) of the notified draft to apply only to micro and small enterprises. Please note that pursuant to Article 19 of Regulation (EU) 2022/2065 the exclusion of micro and small enterprises does not apply to those that are designated as very large online platforms or very large online search engines. Therefore, Article 4(1) should not apply to those micro and small enterprises designated pursuant to Article 33 of the Regulation, in order to avoid the overlap described in the detailed opinion.

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

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