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

Notification Number : 2020/0544/A (Austria)

Draft Federal Act on measures to protect users on communication platforms (Communication Platforms Act)

Date received : 01/09/2020
End of Standstill : 02/12/2020 (closed)

Message

Message 002

Communication from the Commission - TRIS/(2020) 03207
Directive (EU) 2015/1535
Translation of the message 001
Notification: 2020/0544/A

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késéseket - Ma' jiftaħx il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 202003207.EN)
1. MSG 002 IND 2020 0544 A EN 02-09-2020 A NOTIF

2. A

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4. 2020/0544/A - SERV60

5. Draft Federal Act on measures to protect users on communication platforms (Communication Platforms Act)

6. Communication platform providers

Communication platforms within the meaning of this Act are information society services whose main purpose or essential function is to enable the exchange of messages or presentations with intellectual content in words, writing, sound or images between users with a larger group of people by means of mass distribution. Communication platform

providers are not affected by the obligations of this Federal Act if the number of registered users does not exceed 100 000 and if the turnover generated by operating the communication platform does not exceed EUR 500 000. In addition, platform providers for the mediation of goods and services, non-profit online encyclopaedias and media companies that provide communication platforms in direct connection with their offers of journalistic content are explicitly excluded from the obligations of this Act.

7. -

8. The Federal Act on measures to protect users on communication platforms (Communication Platforms Act) provides large communication platforms with organisational obligations for the effective and transparent handling of certain illegal content. Illegal content within the meaning of this Act is content which constitutes one of the criminal offences specified in § 2(6) and which is not justified.

The draft provides the following obligations for providers:

An effective and transparent procedure for reporting illegal content must be maintained on the platforms, including ensuring that users can report content easily at any time, content is quickly checked and, if necessary, blocked or deleted (obviously illegal, i.e. criminal content within 24 hours, other illegal, i.e. criminal content within seven days), affected users are informed of the decision on deletion or blocking of the platform and deleted or blocked content as well as the data required to identify the author are saved for ten weeks for the purpose of evidence, including for purposes of criminal prosecution (see §3(1)-(3)).

In addition, a review procedure must be provided, whereby the user making a report as well as the user whose content has been blocked or deleted can initiate a review of the decision concerning the blocking or deletion (or the absence thereof) by the platform (see § 3(4)).

Communication platform providers must describe their handling of reports concerning illegal content in an annual report, or quarterly report in the case of communication platforms with more than one million registered users (see § 4).

In order to ensure reachability (including a postal address), providers must appoint a responsible representative to ensure accountability (see § 5).

The supervisory authority will impose a fine on a provider, depending on the severity of the violation of the Act, if one of the obligations created by this Act has been violated in a systematic manner (see § 10). However, the draft provides that an improvement order must first be issued before a procedure for imposing a fine is initiated (see § 9). A fine can be imposed on a responsible representative if they do not ensure that they can be reached or do not take the expected care to ensure that the obligation to set up a reporting and review process and the obligation to create reports are fulfilled.

9. The main reason for the development of this draft Act is the worrying development that the Internet and social media, in addition to the advantages that these new technologies and communication channels provide, have also established a new form of violence, and hate on the Internet is increasing in the form of insults, humiliation, false information and even threats of violence and death. The attacks are predominantly based on racist, xenophobic, misogynistic and homophobic motives. A comprehensive strategy and a set of measures are required that range from prevention to sanctions. This strategy is based on the two pillars of platform responsibility and victim protection, with the present draft Act relating to ensuring platform responsibility.

The existing obligation to immediately delete or block access to illegal content is often not satisfactorily met by communication platform providers once they become aware of such content. In addition, content reported by users is generally only checked by the platforms against their own community guidelines and not against national criminal offences. Those affected are therefore often forced to take legal action in order to obtain a deletion. In the light of this, it is therefore important to make communication platforms much more responsible than hitherto. As this is a cross-border challenge, effective regulation at the European level is the best solution. In its Resolution of the Council of Ministers of

9 July 2020, the Federal Government therefore welcomed the submission of a Digital Services Act announced by the European Commission for the end of the year. Since this ongoing consultation process and in particular the corresponding legislative procedure at the European level will take quite some time to complete, it is necessary - on the basis of the experience of the German and French legislative initiatives - to take legal measures as soon as possible to achieve more transparency, responsibility and accountability of the platforms.

The urgency of the issue requires the implementation of immediate national measures. Until the regulatory deficit has been remedied at the European level, an act on measures to protect users on communication platforms is to be created to effectively combat hate on the Internet, in order to remedy the situation by means of a legal obligation for platforms to set up a complaint management system for handling illegal content. In addition, an obligation is provided to appoint a responsible representative, in order to ensure accountability (including a postal address). In order to increase the information base regarding the activities of the platforms in this sensitive area and to be able to evaluate the measures, the draft also contains the obligation to submit a regular report on the handling of illegal content. Less restrictive measures would be less effective with regard to the current risk situation, the desired level of protection against criminal content on communication platforms and the implementation of supervision of compliance with the requirements. The measures are based on the example of other Member States (Germany, France), for which the European Commission did not raise any formal objections that would have led to the extension of the standstill period.

10. No basic text(s) available

11. No

12. -

13. No

14. No

15. Yes

16. TBT aspect

No - the draft is neither a technical regulation nor a conformity assessment.

SPS aspect

No - the draft is neither a sanitary nor phytosanitary measure

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European Commission

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