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

Notification Number : 2024/0374/IE (Ireland)

Part 5 of the Electoral Reform Act 2022

Date received : 03/07/2024
End of Standstill : 04/10/2024 (04/11/2024)

Message

Message 001

Communication from the Commission - TRIS/(2024) 1782

Directive (EU) 2015/1535

Notification: 2024/0374/IE

Notification of a draft text from a Member State

Notification – Notification – Notifzierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késéseket - Non fa decorrere la mora - Atidėjimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħx il-perijodi ta’ dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20241782.EN

1. MSG 001 IND 2024 0374 IE EN 03-07-2024 IE NOTIF

2. Ireland

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4. 2024/0374/IE - SERV60 - Internet services

5. Part 5 of the Electoral Reform Act 2022

6. Providers of intermediary services will be required to comply with compliance notices that may issue from the Electoral Commission in connection with electoral process disinformation and/or manipulative / inauthentic behaviour during electoral periods.

7.

8. Part 5 of the Electoral Reform Act 2022 is being notified prior to its commencement, along with the General Scheme of the Electoral Reform (Amendment) Bill 2024 which makes amendments into the original Part 5.

Part 5 of the Electoral Reform Act 2022 is intended to protect the integrity of Ireland's elections against online misinformation, online disinformation and online inauthentic / manipulative behaviour.

When it is in force, it is intended that Part 5 will provide that Ireland’s Electoral Commission (An Coimisiún Toghcháin) will be assigned monitoring and investigatory functions with regard to the dissemination of disinformation online relating to electoral processes, misinformation online relating to electoral processes as well as functions to prevent manipulative or inauthentic behaviours online in the context of electoral processes. In light of the legislative developments within the European Union since the enactment of the Electoral Reform Act 2022, it is proposed to bring forward amendments to Part 5 to align and harmonise its provisions with those of the EU Digital Services Act and the relevant provisions of the eCommerce Directive.

A consolidated version of Part 5 (i.e. Part 5 with the proposed relevant amendments included) is notified.

The provisions of Part 5 were originally notified to the European Commission under notification number 2022/0376/IRL (which has now been withdrawn by the Irish authorities) during the passage of the then Electoral Reform Bill through the Houses of the Oireachtas (i.e. Houses of Parliament). Part 5 was never commenced and is currently not in force. All of the provisions in both Part 5 of the Electoral Reform Act 2022 and in the amendments in the General Scheme can be amended if necessary following the conclusion of the TRIS process to take account of the Commission’s responses and before the provisions enter into force.

9. Part 5 of the Electoral Reform Act 2022 (as amended by the Electoral Reform (Amendment) Bill 2024), when commenced, will provide for a regulatory framework to protect the integrity of elections and referendums in Ireland against the dissemination or publication of online disinformation, online misinformation and manipulative or inauthentic behaviour online within the context of electoral process information.

Since the Irish authorities notification of Part 5 in 2022 (now withdrawn), we have noted that the EU regulatory landscape on online content has changed significantly with a number of important measures now in place or pending, including -

• the strengthened Code of Practice on Disinformation which was agreed on 16 June 2022,

• Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (known as the Digital Services Act or DSA) which entered into full force across the European Union on 17 February 2024,

• Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising which will apply throughout the European Union on and from 10 October 2025, and

• the recently adopted Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence

Act).

In light of these developments and following consultations with the technology sector and a range of other stakeholders, the Irish authorities have been examining Part 5 of the Electoral Reform Act 2022 with a view to bringing forward amendments aimed at aligning and harmonising its provisions with those of the EU's Digital Services Act so that the Part can be commenced, subject to the views of the Commission. The General Scheme of the Electoral Reform (Amendment) Bill 2024 sets out the amendments now proposed to Part 5.

10. References of the Basic Texts: 2022/0376/IRL

The basic texts were forwarded with an earlier notification:
2022/0376/IRL

11. No

12.

13. No

14. No

15. No

16.
TBT aspects: No

SPS aspects: No

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