



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/(2024) 1941

Directive (EU) 2015/1535

Notification: 2023/0683/FR

Forwarding of the response of the Member State notifying a draft (France) to of European Commission.

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5.

6. In response to the notification of 6 December 2023 (2023/683/FR), the French authorities have taken note of the Commission's comments and detailed opinion in a letter dated 3 March on the draft delegated decree on local staff of the Transport Regulatory Authority (ART)'s access to accessible public data of multimodal travel information services in order (ART) to carry out its tasks. In accordance with Article 6 of Directive 2015/1535, they hereby address the following brief reply.

1. Brief reply to the detailed opinion

1.1. The need to implement automated data collections in order to ensure the application of Delegated Regulation 2017/1926

The Commission points out that Delegated Regulation 2017/1926 'MMTIS' does not explicitly provide for the possibility for a national transport authority to carry out automated data collections. However, this should not prevent the implementation of such practices, provided that they fall within the scope of the supervisory powers of the "competent authorities" as defined by the MMTIS Regulation.

MMTIS Regulation 2017/1926 establishes specific standards and requirements for multimodal travel information services



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in the European Union. Under Article 9 “Assessment of compliance” of the Regulation, Member States have the possibility to assess whether the requirements of Articles 3 to 8 are met by actors. Member States shall also carry out random checks on the correctness of the declarations referred to in paragraph 2(b).

The correctness check is a prerogative of the Member States, although the specific modalities are not defined in the Regulation. It is only mentioned that producers and users must provide a declaration of compliance on which the check can be based, without this being the only compliance assessment method. In France, this responsibility has been entrusted to the Transport Regulatory Authority (ART), which has the power to request all the necessary information from the actors concerned to carry out its checks. However, this provision has certain limitations in the case of digital services.

Indeed, it is necessary to ensure that the information provided by operators accurately reflects reality. In this context, it is difficult to ensure that the information presented to the ART, such as service rankings, is truly transparent and free from bias solely on the basis of declarations or screenshots. These are not technical or accounting documents, which can be certified. It is therefore essential to adapt this provision to the specificities of digital services, specifying this power to transmit general information in the case of digital services by means of a complementary power to collect digital information through direct and framed access to the ART for automated collections on the sites and applications of the actors subject to checks.

We consider that this action is proportionate to the challenge of ensuring a rigorous check of the correctness of re-users’ declarations of compliance, in particular as regards their transparent and unbiased filing obligations, which can only be verified through the statistical processing of the results of many queries.

1.1. On aspects relating to the e-commerce Directive

The Commission points out that several notified provisions apply to providers of information society services offering their services on French territory, irrespective of the Member State in which the service provider is established. It recalls the possibilities offered by Article 3(4) of the e-commerce Directive, which allow a Member State, under certain conditions, to derogate from the country of origin principle and draws attention to the recent case-law of the CJEU recalling the limits of the scope of that article. In the aforementioned opinion, the Commission also calls on the French authorities to take account of this case-law and the conditions it lays down in order to ensure the compatibility of certain provisions of the draft law with Article 3 of the e-commerce Directive.

As already indicated in their letter of 25 January 2024, in response to the Commission’s request for additional information of 16 January 2024, the French authorities take these recommendations into account.

The Commission will therefore take note of the fact that, in the case of a regulatory scheme falling within the scope of Directive 2000/31, the draft delegated decree is amended as follows:

The new wording will focus exclusively on the automated collection of publicly available data on operators’ websites and applications, without imposing new technical or infrastructure obligations such as the provision of APIs. This amendment aims to align our decree with the principles of the e-commerce directive.

That wording cannot undermine the freedom to provide information society services.

European Commission
Contact point Directive (EU) 2015/1535



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