



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) 1675

Directive (EU) 2015/1535

Notification: 2025/0235/IT

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

MSG: 20251675.EN

1. MSG 201 IND 2025 0235 IT EN 12-08-2025 27-06-2025 IT ANSWER 12-08-2025

2. Italy

3A. Ministero delle Imprese e del Made in Italy

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4. 2025/0235/IT - SERV - INFORMATION SOCIETY SERVICES

5.

6. Subject: Notification under Directive 2015/1535 of the text of the draft parliamentary law on the protection of minors in the digital dimension - Response to the second request for additional information (Notification: 2025/0235/IT)

We refer to the notification procedure 2025/0235/IT and, in particular, to the message TRIS/(2025) 1549 by which the European Commission made a request for additional information regarding the above-mentioned draft law No 1136 establishing the minimum age of 15 years for access to social media and video-sharing platforms in Italy, with an obligation to verify the age, also taking into account the EUDI.

It is considered useful to highlight some considerations in order to give full consistency to the provisions of the draft law and the questions posed by the European Commission.

As stated above, Article 2 of the draft law provides that children's access to 'social media services' and 'video-sharing platforms' is possible only on condition that the child is over 15 years of age and that the age is verified.

Article 3(1) then states that accounts already created and held by children under 15 years of age must be adapted to the conditions set out in Article 2 within a maximum of 180 days from the entry into force of the law.

Article 3(2) also reinforces the previous principle with regard to the validity of contracts concluded by minors under the age of 15 with the aforementioned providers by establishing that, where they are not adequate to the requirements contained 'in the standard' within 30 days of its entry into force, 'they are null and void and cannot constitute a suitable



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legal basis for the processing of personal data, within the meaning of Article 6(1)(b) of the Regulation’.

Finally, Article 3(3) provides that: ‘The Data Protection Authority shall impose the penalties provided for in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 in cases of infringement by the suppliers referred to in this article’. Whereas paragraph 4, on the other hand, refers to the supervisory competences of the AgCom pursuant to the DSA.

On the points set out above, the Commission requests additional information on the grounds that:

1. considers that the infringement for which the Authority would be competent to impose penalties is not clear;
2. doubts the competence of the Italian Data Protection Authority with regard to the one-stop-shop mechanism;
3. points out that Article 83 of the GDPR does not require the supervisory authority to necessarily impose an administrative penalty for every infringement. On the contrary, it gives the authority a margin of discretion, taking into account all the elements of the case;
4. notes, finally, that Article 84 of the GDPR provides that Member States shall lay down rules on other applicable penalties, which must be notified to the European Commission.

Taking the Commission’s observation points into account, the following is stated:

1. without prejudice to the general powers provided for by the GDPR, Article 3(3) of the draft law considers that the Guarantor is competent to contest in particular the absence of the legal basis referred to in Article 6(1)(b) of the GDPR in view of the invalidity of the contract. Noting that this principle has not been sufficiently highlighted, there are no elements that would preclude amending Article 3(3) of the notified draft as follows: ‘The Guarantor for the Protection of Personal Data may act, within its competence, pursuant to Article 56(2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016’;
2. Article 3(3) of the draft law establishes in fact, in full consistency with the existing regulatory framework, that the Guarantor can be considered competent with regard to the above-mentioned infringement pursuant to Article 56(2) of the GDPR, which provides that: ‘Each supervisory authority shall be competent to handle complaints lodged with it or any infringements of this Regulation where the subject matter [...] substantially affects data subjects only in its Member State’. It is considered that the fact that it is an Italian law that imposes an age limit on access to social media complements the aforementioned case for the exemption to the one-stop-shop mechanism;
3. Article 3(3) provides that the examination of the specific case and the possible imposition of sanctions or other corrective measures, pursuant to Article 83 of the GDPR, are to be left to the assessment of the Guarantor;
4. since the profiles under analysis do not constitute criminal offences, Article 84 of the GDPR is not considered applicable.

All the above must be traced back to the fundamental role attributed to the Guarantor for the protection of personal data with regard to the protection of minors in relation to the processing of their personal data. As is well known, the Italian Data Protection Authority is responsible for ensuring that the information of minors is handled with respect for their dignity and confidentiality, intervening both on notices and ex officio.

Minors are, of course, also entitled to the protection of their personal data, the processing of which must take place in compliance with their fundamental rights and freedoms, with particular attention to confidentiality and personal identity. This protection must also be ensured when the minor works online.

Precisely for this reason, the Privacy Guarantor and Agcom are actively working together to protect minors online and, recently, have set up a working group to draw up a code of conduct in the context of a memorandum of understanding signed precisely with the aim of strengthening the protection of minors online, including through the adoption of systems by the digital platforms for verifying the age of young users accessing online services, strengthening synergies between the authorities themselves while each maintaining its own sphere of competence.

This is fully consistent with the multi-level control system provided for in the Digital Service Act, which assigns to the European Commission the responsibility for the supervision of very large online platforms (VLOPs) and very large search engines (VLOSEs), for which the Commission has the power to initiate investigations, request documents, conduct



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inspections and impose penalties.

The notified draft law, on the other hand, aims to provide for a minimum age threshold for access to the aforementioned services, and to penalise any infringements with regard to the management of minors' data without in any way compromising the role of the Commission within the competences assigned to it by the DSA.

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European Commission

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