Message 791

Communication from the Commission - TRIS/(2026) 1084

Directive (EU) 2015/1535

Notification: 2025/0336/FR

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: 20261084.EN

1. MSG 791 IND 2025 0336 FR EN 30-12-2025 15-04-2026 COM REACTION COM 30-12-2025

2. Commission

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

4. 2025/0336/FR - X30M - Textiles and furnishings

5.

6. Within the framework of the notification procedure laid down by Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (hereinafter, “Directive 2015/1535”), the French authorities notified to the Commission on 27 June 2025 the draft “Draft Law aimed at reducing the environmental impact of the textile industry” (hereinafter referred to as “the notified draft”).

Pursuant to Article 5(2) of Directive 2015/1535, on 30 September 2025, the Commission issued a detailed opinion and comments on the notified draft. The French authorities replied to the Commission’s detailed opinion and comments on 10 February 2026.

I. Introduction

The Commission services thank the French authorities for their reply and for the additional explanations provided. However, after careful examination, the Commission services consider that the reply does not satisfactorily address the concerns set out in the detailed opinion, for the reasons explained below.

II. On the detailed opinion

E-Commerce Directive

The French authorities indicate that they intend to amend the notified draft in order to ensure compliance with Article 3 of Directive 2000/31/EC on electronic commerce (the E-Commerce Directive, “ECD”). In particular, they state their intention to limit the scope of the draft law to providers established in France or outside the Union and, with regard to providers established in another Member State, to introduce a mechanism allowing for the application of the derogation procedure laid down in Article 3(4) of that Directive.

The Commission services welcome the intention to amend the notified draft in order to address the concerns identified in the detailed opinion. However, as the amended text has not been transmitted, the Commission is not in a position to

assess whether the envisaged amendments effectively ensure compliance with the country of origin principle enshrined in Article 3(1) and (2) of Directive 2000/31/EC, nor whether the substantive and procedural requirements of Article 3(4) would be fulfilled in practice.

The Commission services therefore invite the French authorities to communicate the amended draft as soon as it becomes available.

Digital Services Act

i. Full harmonisation effect of the DSA

The French authorities submit that the notified draft is compatible with Regulation (EU) 2022/2065 (the Digital Services Act, hereinafter "the DSA"). They argue that the DSA harmonises only the areas it regulates specifically and exhaustively and that Section 4 of Chapter III and Articles 26, 34, 35 and 39 do not preclude Member States from adopting additional national requirements pursuing legitimate objectives of general interest. Relying on Recital 9 of the DSA, the French authorities further contend that Member States may adopt or maintain national measures outside the matters covered by the Regulation and, even within its field of application, introduce measures pursuing objectives other than those specifically addressed by the DSA.

The Commission services cannot concur with this interpretation. As recalled in the detailed opinion, the DSA establishes harmonised rules governing the obligations and responsibilities of intermediary service providers. Pursuant to the second paragraph of Article 288 TFEU, a regulation is binding in its entirety and directly applicable in all Member States. As the Court of Justice has held, this means that, unless expressly provided otherwise, Member States may not adopt measures that alter the scope or effects of a regulation or undermine its uniform application (judgment of 15 November 2012, Al-Aqsa v Council and Netherlands v Al-Aqsa, C-539/10 P and C-550/10 P, EU:C:2012:711, paragraphs 86 and 87).

Recital 9 does not alter that conclusion. It does not authorise Member States to introduce additional requirements in areas harmonised by the DSA unless the Regulation expressly provides for such a possibility. Rather, it clarifies that national legislation pursuing objectives outside the matters governed by the DSA may coexist with the Regulation, provided that it complies with Union law.

In the present case, the notified draft introduces additional obligations on intermediary service providers, in particular online platforms, concerning the display of advertising and awareness-raising messages, as well as the information to be displayed on their online interfaces. As set out in the detailed opinion, those matters fall within the fully harmonised fields governed by the DSA, including the transparency of online advertising and the design and organisation of online platform interfaces enabling traders to comply with their information obligations.
The Commission services therefore consider that those provisions further supplement the obligations laid down in the DSA, leading to fragmentation of the internal market and substantial legal uncertainty.

ii. Absence of general monitoring obligations

The French authorities state that they will ensure, in the drafting of the proposed legislation, that its provisions do not contravene Article 8 DSA. However, no amended text has been communicated. As explained in the detailed opinion, it remains unclear how providers of online platforms would determine whether they fall within the scope of the notified draft, or how they would comply with the obligations to display awareness-raising messages and the restrictions on advertising, without engaging in general monitoring or additional fact-finding exercises.

In the absence of communication of a revised draft, the Commission services maintain their concerns regarding a potential infringement of Article 8 of the DSA.

iii. Monitoring and enforcement system

In their reply, the French authorities argue that Article 49 of the DSA does not exclude the designation of several competent authorities and that the Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF) may therefore be entrusted with supervisory and sanctioning powers alongside the empowered French Digital Services Coordinator (the French Media Regulatory Authority, ARCOM). They conclude that Article 5 of the notified draft does not conflict with the DSA.
The Commission services do not dispute that, pursuant to Article 49 DSA, Member States may designate one or more competent authorities. However, where national provisions regulate matters falling within the scope of the DSA, their supervision and enforcement must be exercised within the system established by Chapter IV of that Regulation and in accordance with the allocation of powers, cooperation and consistency mechanisms provided therein.
As set out in the detailed opinion, to the extent that Article 5 of the notified draft entrusts supervisory and sanctioning powers in respect of obligations falling within the scope of the DSA outside the framework laid down in Chapter IV, it is liable to affect the effectiveness and coherence of the enforcement system established by the Regulation.
The possibility of designating several competent authorities does not allow Member States to establish parallel or autonomous enforcement regimes for obligations governed by the DSA.
The Commission services therefore maintain the concerns expressed in the detailed opinion.

Waste Framework Directive

i. Concerning the criteria for the ecomodulation of the EPR fees (point 2.1 of the French reply)
The Commission takes good note of the clarifications provided by the French authorities on the national processes to establish the criteria for the ecomodulation of the EPR fees and of their quantity. From the information received, it appears that, in the French legislation on extended producer responsibility, all concerned stakeholders are required to be involved in the processes, in compliance with the Waste Framework Directive.
The Commission takes note of the information concerning the letter of 15 January 2026, co-signed by the Ministers for Ecological Transition, Biodiversity and International Negotiations on Climate and Nature, and the Minister Delegate for Ecological Transition, requesting the Producer Responsible Organisation in charge of the EPR for textiles (REP TLC) to draw up an action plan for the implementation of the Malus, underlining all the more the full involvement of stakeholders in the sector. The Commission, however, would like to underline that the text of the letter was not included in the present reply from the French authorities.
Based on the above, the Commission would like to ask to the French Authorities to clarify if:
- the penalties applicable to products subject to EPR set out in the draft article 541-10- 27.III have been determined after consultation with the EPR Commission (Commission inter-filières de responsabilité élargie des producteurs): this is not evident from the information received.
- the draft Article L541-10-27.III is going to be modified following the results of the definition of the action plan the REP TLC has been asked to draft: considering that the draft Article L541-10-27.III article is already setting out the amount of penalties applicable to products subject to the EPR (malus), it is not clear how the action plan of the PRO would influence the establish of the malus.

ii. Concerning the amount of penalties (point 2.2 of the French reply)
The Commission takes good note of the clarifications provided by the French authorities on the level of fees that the draft law intends to apply.
Also in this case, as for the above point 2.1, the Commission would like to ask the French Authorities to clarify if:
- the penalties applicable to products subject to EPR set out in the draft article 541-10- 27.III have been determined after consultation with the EPR Commission (Commission inter-filières de responsabilité élargie des producteurs): this is not evident from the information received.
- the draft Article L541-10-27.III is going to be modified following the results of the definition of the action plan the REP TLC has been asked to draft: considering that the draft Article L541-10-27.III article is already setting out the amount of penalties applicable to products subject to the EPR (malus), it is not clear how the action plan of the PRO would influence the establish of the malus.

iii. Concerning the use of penalties to reimburse ‘good’ producers (point 2.3 of the French reply)
The Commission takes good note of the reply of the French Authorities and of the fact that they accept the comments of

the Commission and will take them into account.

III. Conclusion

For the reasons set out above, the Commission services consider that the reply provided by the French authorities does not satisfactorily address the concerns expressed in the detailed opinion of 30 September 2025. They therefore maintain their assessment that the notified draft, in its current form, is incompatible with Union law.

The Commission services remain open to close cooperation and discussions on possible solutions to the identified issues, in full respect of Union law.

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