



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Message 301

Communication from the Commission - TRIS/(2024) 2755

Directive (EU) 2015/1535

Notification: 2024/0531/ES

Request for supplementary information from the Commission.

Request for supplementary information - Demande d'informations complémentaires - Žádost o doplňující informace - Ersuchen um ergänzende Informationen - Искане за допълнителна информация - Žádost o dodatečné informace - Anmodning om supplerende oplysninger - Αίτηση συμπληρωματικών πληροφοριών - Solicitud de información complementaria - Lisateabe edastamise palve - Lisätietopyyntö - Zahtjev za dodatne informacije - Kiegészítő információkérése - Domanda di informazioni complementari - Prašymas pateikti papildomos informacijos - Papildu informācijas pieprasījums - Talba għal tagħrif addizzjonali - Verzoek om aanvullende inlichtingen - Prośba o uzupełnienie informacji - Pedido de informações complementares - Solicitare de informații suplimentare - Žiadosť o ďalšie informácie - Zahteva za dodatne informacije - Begäran om kompletterande upplysningar - Iarraidh ar fhaisnéis fhorlíontach

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1. MSG 301 IND 2024 0531 ES EN 01-01-2025 07-10-2024 COM INFOSUP COM 01-01-2025

2. Commission

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

4. 2024/0531/ES - SERV60 - Internet services

5.

6. Within the framework of the notification procedure under 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, the Spanish authorities notified to the Commission on 20 September 2024 the draft “Anteproyecto de Ley Orgánica para la protección de las personas menores de edad en los entornos digitales” (hereinafter, the “notified draft”).

In order to allow the Commission services to complete their analysis under the relevant provisions of EU law, the Spanish authorities are kindly invited to reply to the following request for supplementary information:

1. The Commission services would welcome additional explanations on the objectives pursued by the notified draft, in particular, in view of the maximum harmonisation effect Regulation (EU) 2022/2065 and its Recital 9.
2. The Spanish authorities are kindly requested to clarify whether the right established under Article 2, and notably under its first and second paragraphs, and Article 3 of the notified draft create any correlative obligation for providers of online intermediary services, as defined in Article 3(g) of the Regulation (EU) 2022/2065, in particular to restrict certain types of content to minors. In the affirmative, the Commission would also like to receive further description what would be the concrete obligations, stemming from those Articles, for providers of online intermediary services.
3. The Spanish authorities are kindly requested to clarify the personal scope of the prohibition of Article 5 and, in particular, whether it applies to online intermediary services, such as online platforms as defined in Article 3(i) of Regulation (EU) 2022/2065.
4. In the context of the second final provision of the notified draft, in particular points one to four, seven, eight, eleven and sixteen, the Spanish authorities are invited to clarify, whether online intermediary services would have any correlative obligation therefrom, such as, but not only, checking the identity of individuals against the data concerning



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their users. In the affirmative, the Spanish authorities are requested to clarify the intended interplay with Article, 4 to 6 and 8 of Regulation (EU) 2022/2065.

5. The Commission services would welcome further clarifications regarding the notion of “empresario” set out in point two, four and five of the fourth final provision of the notified draft. In particular, the Spanish authorities are kindly asked to clarify whether this refers to traders selling their own products or whether this notion may also capture providers of online intermediary services which intermediate third-party products or services. In the affirmative, could the Spanish authorities clarify the intended interplay with Section IV of Chapter III of Regulation (EU) 2022/2065.

6. The Spanish authorities are kindly invited to clarify the intended interplay of the monitoring of compliance and enforcement of the notified draft with Chapter IV of Regulation (EU) 2022/2065.

7. The Spanish authorities are kindly invited to clarify whether the provisions in the notified draft, such as, but not limited to, Article 5 and point one and two of the Sixth final provision, are intended to apply to providers of information society services as per the meaning of Directive 2000/31/EC.

In the affirmative, the Commission services would like to receive further information on:

- a. whether the notified draft would apply to providers of information society services established in the territory of other Member States than Spain;
- b. what would be the obligations applicable to those service providers resulting from the notified draft;
- c. whether the Spanish authorities have identified those providers or what would be the basis for identifying them;
- d. how do the Spanish authorities intend to comply with the requirements set out in Article 3(4) of Directive 2000/31/EC, in particular in view of the CJEU judgement in case C-376/22;
- e. the intended interplay of point two of the Sixth final provision with Article 5 of Directive 2000/31/EC.

The Spanish authorities are kindly invited to reply by 18 October 2024.

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