



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) 2896

Directive (EU) 2015/1535

Notification: 2024/0578/IT

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 informácie - 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

MSG: 20242896.EN

1. MSG 301 IND 2024 0578 IT EN 17-01-2025 28-10-2024 COM INFOSUP COM 17-01-2025

2. Commission

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

4. 2024/0578/IT - 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 Italian authorities notified to the Commission on 16 October 2024 the draft "Technical and procedural procedures for assessing the age of majority of users within the meaning of Article 13a of Decree-Law No 123 of 5 September 2023, converted, with amendments, into Law No 159 of 13 November 2023" (hereinafter, the "notified draft").

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

1. The Italian authorities are kindly invited to clarify whether the provisions in the notified draft 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 Italy;

b) what would be the obligations applicable to those service providers resulting from the notified draft;

c) whether the Italian authorities have identified those providers or what would be the basis for identifying them;

d) how do the Italian authorities intend to comply with the requirements set out in Article 3(4) of Directive 2000/31/EC, including as referred to in Article 28a, paragraphs 1 and 5, of Directive 2010/13/EU (as amended by Directive(EU) 2018/1808); in particular in view of the CJEU judgement in case C-376/22.

2. The Italian authorities are kindly required to clarify whether the notified draft would apply to providers of online intermediary services as defined in Regulation (EU) 2022/2065. In the affirmative, the Commission would like to receive more information on the various types of services covered by the notified draft and the exact obligations that would apply to them.



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3. The Italian authorities are kindly requested to provide additional explanations on the objectives pursued by the notified draft. In particular, in view of the framework provided in Regulation (EU) 2022/2065.

4. The Commission services would like to better understand the intended interplay between the notified draft, and the underlying law, and the on-going work concerning age assurance in the context of the European Board for Digital Services under the Digital Services Act (DSA), as well as its objective to set up an EU wide solution for age assurance.

5. The Commission services take note of the fact that, according to the definitions section of the notified draft, the obligations set out herein would apply as regards websites and video sharing platforms for the dissemination and/or publication in Italy of pornographic images and videos, including advertising. The Commission services would like to receive more information on whether the notified draft would apply only to those websites and video sharing platforms the main purpose of which is to disseminate pornographic content and how would this be determined. In the negative, the Commission services would like to receive more information on how providers of websites and video-sharing platforms are expected to determine whether their services used to disseminate pornographic content, especially in view of Article 8 of Regulation (EU) 2022/2065.

6. The Commission services would welcome more information on the outcome of the testing of the “double anonymity” mechanisms confirming its technical feasibility and its ability to meet the need for privacy protection and to ensure a high level of privacy, security and safety. It would further welcome clarification whether this “double anonymity” represents anonymity in the meaning of Regulation (EU) 2016/679 (GDPR).

7. The Italian authorities presented a set of minimum requirements applicable to all age verification systems including on their precision and effectiveness. The Commission services would welcome additional clarifications on who and how will measure and confirm that a given solution is precise and effective enough for a given age or age range and content type being accessed.

8. The Commission would also welcome the confirmation if those requirements are applicable only to age verification systems as defined in Article 1? If affirmative, if the Italian authorities plan to have another set of requirements for age estimation systems?

9. The Commission services welcome additional clarifications on the Code of conduct which the Italian authorities mentioned in the background of Annex B: Efforts are also being stepped up at EU level through the adoption of a Code of Conduct, which is being analysed. Which Code of conduct the Italian authorities refer in this paragraph?

10. The Italian authorities are kindly requested to correct the description of the Code of conduct under the Better internet for kids (BIK+) strategy which was planned to cover age-appropriate design not age verification as stated in Annex B background.

The Italian authorities are kindly invited to reply by 11 November 2024.

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