



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) 1912

Directive (EU) 2015/1535

Notification: 2024/0344/HU

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 információ kérése - Domanda di informazioni complementari - Prašymas pateikti papildomos informacijos - Papildu informācijas pieprasījums - Talba għal tagħrif addizzjonali - Verzoek om aanvullende inlichtingen - Prošba o uzupeňnienie 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 0344 HU EN 30-09-2024 15-07-2024 COM INFOSUP COM 30-09-2024

2. Commission

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

4. 2024/0344/HU - SERV30 - Media

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 Hungarian authorities notified to the Commission on 28 June 2024 the draft "Draft act restricting access to pornographic content on the internet for the protection of children, and amending certain acts relating to electronic commerce services and advertising" (hereinafter, the "notified draft").

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

1. The Hungarian 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 Hungary;
- b) what would be the obligations applicable to those service providers resulting from the notified draft;
- c) whether the Hungarian authorities have identified those providers or what would be the basis for identifying them;
- d) how do the Hungarian 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.

2. The Commission services would welcome more information on whether the provisions of the notified draft, in particular



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but not exclusively Section 149F and 163Q, are also intended to apply to providers of intermediary services, as defined in Article 3(g) of the Regulation (EU) 2022/2065.

In the event of an affirmative reply, the Commission services would welcome a clarification on:

- a) the intended interplay between the notified draft and the Regulation (EU) 2022/2065, in view of its maximum harmonization effect and in particular as regards its Articles 28, 34 and 35 concerning the aim of protecting minors online;
- b) the legal consequences of the notified draft in relation to the obligations for intermediary services as defined in Regulation (EU) 2022/2065;
- c) the way in which providers of intermediary services are expected to comply with these obligations and the interplay with Article 17 of Regulation (EU) 2022/2065;
- d) the monitoring of compliance and enforcement of the draft law, in particular, in view of Chapter IV of Regulation (EU) 2022/2065.

3. Could the Hungarian authorities clarify which “service providers” are subject to the obligation to implement a user-friendly electronic system for reporting and removing content that violates the personality rights of minors?

4. Could the Hungarian authorities clarify the scope of “internet service providers” required to set up a filtering service capable of blocking pornographic websites? Can the Hungarian authorities indicate whether this term would cover video-sharing platforms within the meaning of Article 1(1)(aa) of the Audiovisual Media Services Directive 2010/13/EU, as amended by Directive (EU) 2018/1808?

5. The Hungarian authorities are kindly requested to clarify how the notified draft will interact with existing national rules transposing Directive (EU) 2010/13/EU, in particular regarding obligations on video-sharing platforms.

6. The Hungarian authorities are kindly requested to provide further information about the addressees of the advertising obligations set out in section 4A, section 8(5) and section 18(2) of the draft amendment of Act XLVIII. In particular, the Commission would like to know whether these provisions would apply to video-sharing platforms and/or on-demand audiovisual media services within the meaning of Article 1(1)(aa) and Article 1(1)(g) of the Audiovisual Media Services Directive 2010/13/EU and if so, whether the obligations apply to video-sharing platforms and/or on-demand audiovisual media services established outside the jurisdiction of Hungary.

7. Can the Hungarian authorities provide further details about the obligation to display a reference to the ‘advertising character’ of commercial communications directed at children or minors proposed under section 4A of the draft amendment of Act XLVIII? In particular, the Commission would like to know whether the ‘advertising character’ would indicate simply the existence of advertising (e.g. through a label indicating so) or it would also include a description of the type of advertising. The Commission would also like to understand how such a reference would be displayed in practice.

8. Section 8(5) of the draft amendment of Act XLVIII prohibits advertising ‘aimed at children or minors presenting a good or its use or use in a manner which harms or endangers life, health or physical integrity’. The Hungarian authorities are kindly requested to provide examples of harms or dangers for the life, health or physical integrity of minors that would be covered by this provision and, in particular, whether this would include the “promotion or portrayal” of the so-called “divergence from self-identity corresponding to sex at birth, sex change or homosexuality”.

The Hungarian authorities are kindly invited to reply by 30 July 2024.

Mary Veronica Tovsak Pleterski
Director
European Commission



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Contact point Directive (EU) 2015/1535

email: grow-dir2015-1535-central@ec.europa.eu