



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/(2024) 2182

Directive (EU) 2015/1535

Notification: 2024/0387/FI

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

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4. 2024/0387/FI - C50A - Foodstuffs

5.

6. The Commission has requested further clarification on the draft Act amending the Alcohol Act. The draft would allow alcoholic beverages purchased from domestic retail trade and the state-owned alcohol company to be delivered to the recipient of the beverage at a location of their choice under a separate licence for the delivery of alcoholic beverages, i.e. the draft would enable the transport and delivery of alcoholic beverages to purchasers. Under the Act in force, it has only been possible to supply alcohol to purchasers at a licensed retail outlet or on licensed premises.

The Commission has requested further clarification by 13 August 2024. An extension of the time limit for providing further clarification was requested, and the Commission granted an extension until 16 August 2024.

1. The Commission has requested clarification as to whether the provisions of the notified draft are intended to apply to information society service providers within the meaning of Directive 2000/31/EC and, if so, the Commission has also requested further information on the following matters:

- (a) What would be the relationship between the notified draft and Article 4 of Directive 2000/31/EC;
- (b) Whether the notified draft applies to information society service providers established in Member States other than Finland;
- (c) What obligations would arise from the notified draft for those service providers;
- (d) Have those service providers been identified by the public authorities, or on what grounds should they be identified;



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(e) How the final authorities intend to comply with the requirements set out in Article 3(4) of Directive 2000/31/EC, in particular taking into account the judgment of the Court of Justice of the EU in Case C-376/22.

The draft allows the delivery of alcoholic beverages from domestic retail trade or from the state-owned alcohol company to customers at the address of their choice by means of a specific licence for the delivery of alcoholic beverages. As such, the delivery of alcoholic beverages may be provided through information society services, in which case the regulation would apply to information society service providers to the extent that the service includes both the online sale of alcoholic beverages or the sale of the transport of alcoholic beverages and the delivery of the alcoholic beverages.

However, the proposal would not create obligations for the online sales transaction itself, but would apply only to the delivery of the alcoholic beverage that takes place as a result of a sales transaction. According to Article 2(h)(ii) of Directive 2000/31/EC, the coordinated field does not cover the requirements applicable to the delivery of goods, which is what the draft proposal is expressly related to. Upon entry into force, the legislation would require a licence for the delivery of alcoholic beverages for operators who collect an alcoholic beverage purchased from domestic retail trade or the state-owned alcohol company and deliver it to consumers in Finland. The provision would therefore apply only to the transport of the alcoholic beverage from the domestic seller to the domestic purchaser, with particular reference to the actual delivery of the alcoholic beverage.

The notified draft would not apply to information society service providers established in other Member States, as it concerns only the delivery of alcoholic beverages from domestic retail trade or from the state-owned alcohol company to Finnish consumers. Consequently, no separate or new obligations would be imposed on those service providers on the basis of the draft Act.

According to the draft proposal, the regulation would apply to all operators who collect alcoholic beverages purchased from domestic retailers of alcohol or from the state-owned alcohol company and deliver these to customers. It is not possible to identify all operators, as the draft proposal allows existing transport service providers, retailers of alcoholic beverages, the state-owned alcohol company as well as new entrants to operate under the same and uniform conditions (licence for the delivery of alcoholic beverages).

The regulation would not change the legal situation as regards the sale and delivery of alcoholic beverages from other Member States. The proposed regulation does not impose any obligations on foreign operators, nor does it change the regulation in respect of the import or distance buying of alcoholic beverages. The regulations on distance selling of alcoholic beverages will be clarified at a later date through a separate draft Act.

2. The Commission has requested additional information on whether the provisions of the notified draft would also apply to providers of intermediary services as defined in Article 3, point (g), of Regulation (EU) 2022/2065. If so, the Commission services would like clarification of the following points:

- (a) The intended interaction between the notified draft and Regulation (EU) 2022/2065, taking into account its maximum harmonisation effect;
- (b) Concrete obligations for intermediary services as defined in Regulation (EU) 2022/2065 resulting from the notified draft.

The draft is not intended to apply to providers of intermediary services as defined in Article 3, point (g), of Regulation (EU) 2022/2065, unless the providers of intermediary services themselves effectively deliver alcoholic beverages from domestic retail trade or from the state-owned alcohol company to the customer. If the intermediary service provider offers, in addition to intermediary services, delivery of alcoholic beverages (in this context, delivery refers to the collection of the alcoholic beverages from a domestic retailer or the state-owned alcohol company and the delivery of the alcoholic beverages to the customer), the intermediary service provider would be required to have a licence for the delivery of alcoholic beverages. In accordance with the answer given in point 1, a licence for the delivery of alcoholic beverages must therefore be held by the operator who collects the alcoholic beverage from a domestic retail outlet or



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the state-owned alcohol company and delivers it to the customer - regardless of whether the beverage was ordered through an intermediary service or directly from the retailer. The key factor in respect of the proposed regulation is therefore who or which operator actually delivers the alcoholic beverage to the recipient.

European Commission

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