Message 301

Communication from the Commission - TRIS/(2024) 1099

Directive (EU) 2015/1535

Notification: 2024/0188/DE

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 - 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: 20241099.EN

1. MSG 301 IND 2024 0188 DE EN 04-07-2024 25-04-2024 COM INFOSUP COM 04-07-2024

2. Commission

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

4. 2024/0188/DE - 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 German authorities notified to the Commission on 4 April 2024 the “Staatsvertrag über den Schutz der Menschenwürde und den Jugendmedienschutz in Rundfunk und Telemedien (Jugendmedienschutz-Staatsvertrag – JMStV)” (hereinafter, the ‘’notified draft”).
In order to allow the Commission services to complete their analysis under the relevant provisions of EU law, the German authorities are kindly invited to reply to the following request for supplementary information by 6 May 2024:
- The Commission services kindly ask the German authorities to provide additional explanations regarding the notion of “telemedia” and practical examples of the services included in such definition. In particular, the German authorities are kindly requested to confirm whether the explanations provided in the context of notification 2020/26/DE (TRIS/(2020) 01168 - answer to the request for supplementary information) remain valid for the purposes of this notification.

- The German 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 and the national rules transposing Directive (EU) 2018/1808.

- The Commission services would like to receive further information regarding Section 2(2) of the notified draft and the concrete situations it aims to address. Especially in view of the maximum harmonization effect of Regulation (EU) 2022/2065 and its Recital 9.

- The Commission services draw the attention of the German authorities to the CJEU case law in C-376/22 and would like

to receive further explanations on how the notified draft is envisaged to apply to providers of information society services established in other Member States of the European Union than Germany in view of the conclusions set out in that judgment. Additionally, the Commission services would also like to receive further information on how the JMStV is aligned to that judgement. In this context, the Commission services kindky bring the attention to the German authorities to, among other obligations, Section 21(2) of the notified draft which, to the understanding of the Commission services, would be applicable to providers of information society services established in other Member States of the European Union than Germany.

- The Commission services would need to receive further clarifications regarding the notion of “protection of Young Persons program” set out in Section 3(5) and whether it would qualify as an information society service for the purposes of Directive 2000/31/EC or an online intermediary service for the purposes of Regulation (EU) 2022/2065.

- The Commission services would like to receive further clarifications whether obligations set out in Sections 5, 12 and 12a in the notified draft shall be appliable to providers of information society services for the purposes of Directive 2000/31/EC or to providers of online intermediary services for the purposes of Regulation (EU) 2022/2065 (in particular as regards operating systems and app stores). In such case, the Commission would also like to receive further description how the obligations would be applicable to these addresses.

- The German authorities are kindly requested to clarify the scope of the following provisions:

• Section 5c (3) and Section 6(7) of the notified draft, and in particular whether it would also apply to providers of online intermediary services pursuant to Regulation (EU) 2022/2065. In such case, could the German authorities clarify how this would be applicable in practice in view of Article 8 therein?
• The obligation to appoint a “Protection of Young Persons Officer” under Section 7, which refers to “anyone who organizes television across the Lander”. In particular, the German authorities are requested to clarify whether it would cover service providers beyond television services, such as providers of online interfaces, app stores, video-on-demand services, or other providers of information society services.
• Part IV “Procedures for providers other than public service broadcasting” and Part V “Enforcement for providers with the exception of public service broadcasting” in combination with Section 13. In particular, the Commissions services would need confirmation on whether these provisions apply only to television providers other than public service broadcasters, or are they intended to cover other service providers. In the latter case, the German authorities are kindly requested to list the type of service providers that would fall under the scope of these provisions.

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