

Brussels, 23rd August 2021

DOT Europe is the European trade association representing leading internet companies. We would hereby like to provide you some feedback re: the 'Law reinforcing compliance with the principles of the Republic' (the "Law"), notified by the French government under TRIS notifications [2021/152/F](#) and [2021/304/F](#).

Our aim is to foster an innovative, open and safe internet across the EU for citizens and businesses alike. In this respect we followed developments on the proposed Law and especially the debate on article 19a which was introduced via an amendment by the French government, and its potential impact EU level.

The law attempts to supersede the proposed European Regulation which will create a harmonised approach across the EU

DOT Europe fully shares the goal to fight against the spread of illegal content and activities online, and we consider that the DSA has the potential to create a harmonised framework to deal more efficiently with the challenges citizens, businesses and public authorities are all facing.

The Law presents several contradictions and incompatibilities with EU legislation, in particular with Directive 2000/31/EC (the "e-Commerce Directive", "eCD"). As the Law concerns a matter where harmonisation work is currently underway by means of the proposed Digital Services Act (the "DSA") Regulation.

The French government made its intentions clear when it introduced its amendment to the Law: it wanted to pre-transpose the DSA into French law in order to weigh in on the debates at EU level. However, the work on the draft DSA Regulation is underway but will still take a while to get through the process. The value of allowing for an open debate amongst Member States to ensure a workable solution across the EU should be upheld.

We urge the Commission to prevent the emergence of a patchwork of national rules and to advocate for the DSA to take precedent and exercise its prerogative (under Article 6(4) Directive (UE) 2015/1535) to postpone the Law for twelve months.

The measures introduced by France go against basic principles of the eCD and favour fragmentation at EU level.

While discussions on the DSA continue the eCD will remain the cornerstone of internet regulation in the EU and its basic principles need to be upheld.

Article 19a as it stands is at odds with the country-of-origin principle, enshrined in article 3(1) of the eCD. According to the Law, the French audiovisual regulatory body (the “CSA”) will supervise online platform operators. However, this oversight will not only apply to operators established in France, it will also apply for operators established outside of the territory.

The incompatibility with EU law becomes more concerning when taking into account that the CSA will be in a position to issue sanctions to these operators established outside of France, which is fully at odds with article 3(2) of the eCD. The arguments put forward by the French government in order to justify the derogation to the COO principle are in that regard insufficient. The derogated measures are not specific enough to be consistent with article 3(4) a) (ii) of the eCD and with European court case law.

The measures in article 19a are neither targeted nor proportionate, and we believe that the remarks the Commission issued on notification [2019/412/F](#) related to the former ‘Avia law’ remain valid and pertinent. We are not aware at this stage of any assessment made by the French authorities on the proportionality of the measures envisioned, and believe that they could significantly restrict the freedom to provide services across the Single Market.

We remain at your disposal should you have any questions or queries.

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