



Notification Number: 2014/318/UK

The Audiovisual Media Services Regulations 2014

Date received : 07/07/2014

End of Standstill : 08/10/2014

Message

Message 001

Communication from the Commission - TRIS/(2014) 01918

Directive 98/34/EC

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pieteikums - Pranešimas - Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2014/0318/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - Не се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201401918.EN)

1. Structured Information Line

MSG 001 IND 2014 0318 UK EN 07-07-2014 UK NOTIF

2. Member State

UK

3. Department Responsible

Department for Business, Innovation and Skills
European Reform Directorate
1 Victoria Street, London, SW1H 0ET.

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3. Originating Department

Department for Culture, Media and Sport
Media Team
4th Floor, 100 Parliament Street
London SW1A 2BQ



4. Notification Number

2014/0318/UK - SERV30

5. Title

The Audiovisual Media Services Regulations 2014

6. Products Concerned

On-demand audiovisual media services as defined at Article 1 of Directive 2010/13/EU.

7. Notification Under Another Act

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8. Main Content

Part 4A of the Communications Act 2003 (inserted by the Audiovisual Media Services Regulations 2009 and 2010) transpose the requirements of Directive 2010/13/EU in relation to on-demand programme services. Section 368E(2) provides that on-demand material that might seriously impair the physical, mental or moral development of persons under the age of eighteen must only be made available in a manner which secures that such persons will not normally see or hear it. This draft instrument amends section 368E in two ways. First, it provides that any material that the British Board of Film Classification (BBFC) has issued a R18 classification certificate in respect of (or any material that would have been issued such a certificate) (hard-core pornography) must not be included in an on-demand service unless it is behind effective access controls which verify that the user is aged eighteen or over. Secondly, it provides that any material that the BBFC has refused to give a classification certificate in respect of (or any material that would have been refused such a certificate) must not be included in an on-demand service at all.

9. Brief Statement of Grounds

In 2010 the Department wrote to Ofcom raising concerns about whether section 368E would in practice provide sufficient safeguards to protect children from sexually explicit material. Ofcom's report in 2011 recommended that the Government introduce new legislation to prohibit R18 material from being included in on-demand services unless mandatory restrictions are in place and prohibit altogether material whose content the BBFC would refuse to classify. The co-regulators, Ofcom and the Authority for Television On Demand (ATVOD), were concerned that the evidence for children being caused harm by exposure to R18 material is inconclusive and the legislative protections currently in place were not sufficiently clear to provide certainty in this area. In the interim period pending legislative changes the co-regulators, adopting a precautionary approach, interpreted section 368E(2) as requiring R18 material to be behind access controls. This instrument has the effect of removing any uncertainty from the regulatory framework providing clarity to consumers and providers of on-demand services. It also provides the same level of protection that exists on the high street in relation to the sale of hard-copy DVDs to the provision of on-demand services. In a converging media world these provisions must be coherent. The BBFC classification regime established under the Video Recordings Act 1984 is a tried and tested system of what content is regarded as harmful for minors. This Act was notified as a technical standard - Notification No. 2009/495/UK.

10. Reference Documents - Basic Texts

References of the Basic Texts: Part 4A of the Communications Act 2003



ATVOD Rules and Guidance and research report
Video Recordings Act 1984
BBFC Guidelines
Ofcom Report: Sexually Explicit Material and Video On Demand Services, 2011
Exploratory Memorandum

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

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13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

Yes

16. TBT and SPS aspects

TBT aspect

No - The draft has no significant impact on international trade

SPS aspect

No - The draft is not a sanitary or phytosanitary measure

European Commission

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