



Notification Number: 2008/322/F

Draft Act promoting the distribution and protection of creative works on the Internet

Date received : 22/07/2008

End of Standstill : 23/10/2008

Issue of comments by : Commission

Message

Message 002

Communication from the Commission - SG(2008) D/51429

Directive 98/34/EC

Translation of the message 001

Notification: 2008/0322/F

No abre el plazo - Ne zahajuje 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: 200801429.EN)

1. Structured Information Line

MSG 002 IND 2008 0322 F EN 23-10-2008 22-07-2008 F NOTIF 23-10-2008

2. Member State

FR

3. Department Responsible

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3. Originating Department

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4. Notification Number

2008/322/F - SERV60

5. Title

Draft Act promoting the distribution and protection of creative works on the Internet

6. Products Concerned

Internet access services

7. Notification Under Another Act

No

8. Main Content

This concerns the setting up of a mechanism to prevent and sanction piracy via the Internet.

Thus, it will be possible for professional defence bodies and organisations which collect and distribute royalties to bring cases before the High Authority for the Distribution of Works and the Protection of Rights on the Internet (HADOPI), an independent administrative authority, on behalf of eligible claimants whose works have been pirated. It will begin by sending the pirates warning messages – referred to as recommendations – by electronic mail and then by letter served against signature in such a way as to ensure that the party concerned has taken full cognisance of the behaviour of which he is accused. This in order to permit a preventive phase to be completed before any sanctions are taken.

Under judicial control, the High Authority may then take a sanction appropriate to the nature of the behaviour which is to be curtailed: the temporary suspension of the Internet subscription of a duration of three months to one year, coupled with the impossibility to re-subscribe during the same period of time. The High Authority may, by means of transaction, suggest to the subscriber that he freely accept a suspension of one month to three months.

In order to guarantee compliance with the suspension measures decided upon, the Internet access providers will have to check, when concluding all new contracts, that their co-contractor does not appear in a directory of persons whose subscription has been suspended, managed by the High Authority. The latter may decide to take pecuniary sanctions against Internet access providers who fail to carry out such checks or who do not implement the suspension measures.

9. Brief Statement of Grounds

The purpose of this draft Act is to put an end to the haemorrhage of cultural works on the Internet and, in so



doing, create the juridical framework essential to the development of the legal provision of music, films, or even literary works on the new communication networks.

The measures envisaged are the consequence of an agreement between those concerned – eligible claimants and Internet access providers – subsequent to a broad consultation process. Their purpose is to make the consumer understand that the Internet is henceforth an effective and modern commercial distribution tool, parallel to its communication and exchange functions. These measures are part of a logic of prevention of infringements of intellectual and artistic property rights.

10. Reference Documents - Basic Texts

a) Intellectual Property Code: Articles L 331-5 to L 331-22, L. 332-1 and L. 335-12.

Act No 2004-575 of 21 June 2004 on confidence in the digital economy: Article 6

Post and Electronic Communications Code: Article L. 34 1.

b)

c) Act No 2004-575 of 21 June 2004 for confidence in the digital economy was the subject of Notification 2003/127/F

11. Invocation of the Emergency Procedure

NO

12. Grounds for the Emergency

-

13. Confidentiality

a) NO

14. Fiscal measures

b) NO

15. Impact assessment

-

16. TBT and SPS aspects

TBT aspects:

a) NO

b) i)

SPS aspects:

a) NO

b) i)



EUROPEAN COMMISSION
GROWTH DIRECTORATE-GENERAL

Single Market for goods
Prevention of Technical Barriers

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EUROPEAN COMMISSION
GROWTH DIRECTORATE-GENERAL

Single Market for goods
Prevention of Technical Barriers

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