



Notification Number: 2016/640/UK

Digital Economy Bill 2016 - Online Pornography

Date received : 06/12/2016
End of Standstill : 07/03/2017
Issue of comments by : Commission

Message

Message 001

Communication from the Commission - TRIS/(2016) 03709
Directive (EU) 2015/1535

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notificatio - Notifica - Pieteikums - Pranešima
Bejelentés - Notifika - Kennisgeving - Zawiadomienie - Notificação - Hlásenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2016/0640/UK -
Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Doe
open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késéset
Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não 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 perio
de stagnare.

(MSG: 201603709.EN)

1. Structured Information Line

MSG 001 IND 2016 0640 UK EN 06-12-2016 UK NOTIF

2. Member State

UK

3. Department Responsible

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

Email: technicalregulations@bis.gsi.gov.uk

3. Originating Department

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

4. Notification Number

2016/0640/UK - SERV60

5. Title

Digital Economy Bill 2016 - Online Pornography

6. Products Concerned

Persons making pornographic material available on the internet on a commercial basis to persons in the UK (including on-demand audiovisual me
services).



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Internet service providers (defined in clause 26 as meaning a provider of an internet access service within the meaning given in Article 2 of Regulation (EU) 2015/2120).

The UK believes the measures provided for are consistent with the Audiovisual Media Services Directive (AVMSD) and e-Commerce Directive (eC

7. Notification Under Another Act

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8. Main Content

1. Part 3 of the Digital Economy Bill introduces a new requirement that commercial providers of online pornography must have in place age verification checks to ensure that those accessing pornographic material are 18 years old or over. Where these providers are based in the EU, the procedures set out in the AVMSD and eCD will apply.

"Pornographic material" is defined in clause 16 and covers:

- (a) 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) and
- (b) material whose nature is such that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal and that the BBFC has issued an 18 classification certificate in respect of (or is material that would have been issued such a certificate) ("18 sex works").

2. Part 3 of the Bill also includes a requirement that internet service providers (defined in clause 26) must comply with a notice from the age-verification regulator directing internet service providers to block access to material.

3. Clause 80 of the Bill (On-demand programme services: specially restricted material) amends Part 4A of the Communications Act 2003. Part 4A (inserted by the Audiovisual Media Services Regulations 2009 and 2010 and amended by the Audiovisual Media Services Regulations 2014) transpose the requirements of Directive 2010/13/EU in relation to on-demand programme services. The Audiovisual Media Services Regulations were notified as a technical standard – Notification No. 2014/318/UK.

Section 368E makes provision about harmful material. In particular, section 368E(4) provides that an on-demand programme service must not carry any specially restricted material unless the material is made available in a manner which secures that person under the age of 18 will not normally see or hear it. "Specially restricted material" is defined in section 368E(5). Clause 80 amends this definition so that it also includes material whose nature is such that it is reasonable to assume that its principal purpose is to cause sexual arousal and that the BBFC has issued an 18 classification certificate in respect of (or is material that would have been issued such a certificate) ("18 sex works").

9. Brief Statement of Grounds

Currently, children and adolescents in the UK can access and consume pornography online very easily. One in ten UK visitors to adult sites in March 2015 were children. Pornography has never been more easily accessible online, and material that would previously have been considered extreme has become part of mainstream online pornography. A survey by NSPCC's ChildLine amongst young people service found that around 1 in 5 of those surveyed said they'd seen pornographic images that had shocked or upset them. A recent report from the NSPCC also states that exposure to pornography can have a de-sensitising effect on children and young people. There is evidence that suggests that accessing porn can be detrimental to children's development and children are likely to be not sufficiently informed to make optimal consumption decisions.

The measures in this Bill will limit the potential harms to children from accessing pornographic content online by ensuring that commercial providers of pornographic material have age verification controls in place where the material is accessed online in the UK,

This also has the effect of providing the same level of protection that exists on the high street in relation to the sale of hard-copy DVDs to the commercial provision of pornography on the internet. 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: Digital Economy Bill -
<http://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0080/17080.pdf>

Explanatory Notes -
<http://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0080/17080en07.htm>

Part 4A of the Communications Act 2003 -
<http://www.legislation.gov.uk/ukpga/2003/21/part/4>

Video Recordings Act 1984:
<http://www.legislation.gov.uk/ukpga/1984/39/contents>

BBFC Guidelines -
http://www.bbfc.co.uk/sites/default/files/attachments/BBFC%20Classification%20Guidelines%202014_0.pdf

Child safety online: age verification for online pornography consultation response -



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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534965/20160705_AVConsultationResponseFINAL__2_.pdf

Children's Commissioner research (with NSPCC) -

<https://www.childrenscommissioner.gov.uk/sites/default/files/publications/MDX%20NSPCC%20OCC%20pornography%20report%20June%202021>

Expert Panel Report for DCMS -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500701/Report_of_DCMS_Expert_Panel__Autumn_2015__FINAL_

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

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16. TBT and SPS aspects

TBT aspect

No - The draft is in conformity with an international standard

SPS aspect

No - The draft is not a sanitary or phytosanitary measure

European Commission

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