



Notification Number: 2003/127/F

Draft Act for Confidence in the Digital Economy.

Date received : 08/04/2003
End of Standstill : 09/07/2003
Issue of comments by : Commission

Message

Message 002

Communication from the Commission - SG(2003) D/50732
Directive 98/34/EC
Translation of the message 001
Notification: 2003/0127/F

Does not open the delays.

(MSG: 200300732.EN)

1. Structured Information Line

MSG 002 SERV 2003 0127 F EN 09-07-2003 08-04-2003 F NOTIF 09-07-2003

2. Member State

France

3. Department Responsible

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3. Originating Department

Ministère de l'Economie, des Finances et de l'Industrie
Direction Générale de l'Industrie, des Technologies d'Information et des Postes
Services des Technologies et Systèmes d'information

4. Notification Number

2003/0127/F - SERV



5. Title

Draft Act for Confidence in the Digital Economy.

6. Products Concerned

Information Society services

7. Notification Under Another Act

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8. Main Content

An initial draft was sent to the Commission in November 2002. This new draft, which aims to take account of the Commission's comments regarding

Articles 2, 6, 7, 8, 9, 10, 11, 14, 18, 19 and 23, was adopted by the National Assembly on 26 February 2003.

This Act is expected to reach the Senate in June 2003.

9. Brief Statement of Grounds

The adaptation of French law to the developmental needs of a solid digital economy is necessary in order to instil confidence in the use of new technologies and to support growth in this sector which, through its cross-sectorial application, will be one of the economic dynamos in the coming years.

This draft Act does not aim to create a specific law for networks and digital content but rather aims to guarantee the amendment of regulations in force regarding the digital economy and to transpose Directive 2000/31/EC of 8 June 2000 on electronic commerce. It also deals with the addressing system that uses Internet domain names, which is undergoing change within the ICANN framework.

The proposed provisions revolve around four themes, set out under titles.

Title I specifies the framework within which the freedom to communicate via digital networks lies.

Title II contains the regulations applicable to electronic commerce, particularly in order to reinforce consumer protection mechanisms.

Title III concerns security in the digital economy.

Title IV of the draft deals with satellite systems.

The main amendments, in relation to the previous notified draft Act, cover the following points:

- Liability of hosting service providers: the definition of hosting is drafted more closely to the definition contained in the Directive; an optional notification procedure for illegal content held by hosting service providers, and a right to respond to public online communications are added; abuse of exposing illegal content is sanctioned; hosting service providers must implement state-of-the-art means to prevent the distribution of information which praises war crimes and crimes against humanity, incites racial hatred or is of a paedophilic nature.
- Electronic commerce: the concept is defined and the liability of online traders is extended.
- Advertising: e-mail is defined the same way as in the Directive; canvassing via e-mail targeted at businesses is covered by the "opt out" system.
- Electronic signature: wording closer to the Directive.
- Addressing via Internet domain names: the system is specified.



- Security of information systems: bodies working in this sector must make prior declaration to the Prime Minister.
- New provisions relating to broadband and mobile telephone coverage.
- New provisions relating to the powers of the audio-visual regulation authority (Higher Audio-visual Council) in the area of television and radio broadcasting.
- New provisions on the financing of the universal service.

Considering the present and future importance of online communication and the diversity of the services it covers, the applicable legal system must be made more specific. Network activity can therefore develop and meet the new needs of our economy.

10. Reference Documents - Basic Texts

- a)
 - Posts and Telecommunications Code
 - Civil Code
 - Consumer Code
 - French General Communities Code
 - Penal Code
 - Code of Criminal Procedure
 - Law No 78-753 of 17 July 1978 applying various measures to improve relations between public administration and the public
 - Law No 86-1067 of 30 September 1986 on freedom of communication
 - Law No 92-546 of 20 June 1992 on legal deposit
 - Law No 980-1170 of 29 December 1990 on the regulation of telecommunications
 - Law No 2001-1062 of 15 November 2001 on everyday security
- b) Notification No 2001/272/F
- c) Notification No 2002/454/F

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

-

13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

-



16. TBT and SPS aspects

TBT aspect - No

The draft is not a technical regulation or a conformity assessment procedure pursuant to Annex 1 to the TBT Agreement.

SPS aspect - No

- The draft is not a sanitary or phytosanitary measure pursuant to Annex A of the SPS Agreement.

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