

Message 001

Communication from the Commission - TRIS/(2026) 1559

Directive (EU) 2015/1535

Notification: 2026/0290/ES

Notification of a draft text from a Member State

Notification – Notification – Notifizierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahtuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késésekét - Non fa decorrere la mora - Atidėjimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħ il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20261559.EN

1. MSG 001 IND 2026 0290 ES EN 12-06-2026 ES NOTIF

2. Spain

3A. Subdirección General de Asuntos Industriales, Energéticos, de Transportes, Comunicaciones y de Medio Ambiente.

Dirección General de Coordinación del Mercado Interior y otras Políticas Comunitarias.

Secretaría de Estado para la Unión Europea

Ministerio de Asuntos Exteriores, Unión Europea y Cooperación.

C/ Serrano Galvache, 26, 4ª planta, Torre Sur (28071 Madrid)

Teléfono: 91 379 84 64

Fax: 91 379 84 01

3B. Dirección General de Consumo

Consejería de Ordenación de Territorio, Urbanismo, Vivienda y Derechos Ciudadanos

c/ Ciriaco Miguel Vigil, 9, 1ª planta, Derecha, 33006 Oviedo

4. 2026/0290/ES - X40M - Labelling and advertising

5. Draft Law of the Principality of Asturias on the Protection and Defence of Consumers and Users

6. Consumer protection and defence

7.

Directive (EC) No 2006/123 on services in the internal market

Quantitative or territorial restrictions

The TFEU (Treaty on the Functioning of the European Union) contains several provisions relating to non-discrimination: it prohibits any discrimination on grounds of nationality (Article 18); it prohibits restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State (Article 49); and it prohibits restrictions on the freedom to provide services within the EU (Article 56).

Article 14 of the Services Directive sets out the 'Prohibited Requirements', which include requirements that discriminate on the grounds of nationality or the location of the registered office; while Article 15(3)(a) stipulates that requirements must not discriminate, either directly or indirectly, on the grounds of nationality or the location of the registered office.

The Draft Law to be notified complies with the principle of non-discrimination, in so far as:

It applies equally to all service providers wishing to carry out the activity, regardless of their nationality, the Member State in which they are established or the location of their establishment.

It does not impose any nationality or residency requirements, nor does it give preference to domestic operators.

It does not impose any prior establishment requirements.

The implementation criteria are objective, transparent and accessible.

It does not give rise to indirect discriminatory effects that disproportionately hinder access to the market or the pursuit of an activity.

Furthermore, the Draft Law has an objective and legitimate justification, namely the protection of the rights of consumers and users; it applies equally to all users in the same situation and does not place an unjustified burden on market operators.

The proposed measure updates the regulatory framework of the Principality of Asturias, replacing the current Law 11/2002, which has become obsolete following 24 years of significant regulatory developments at European and national level.

This requirement is based on an overriding reason of general interest: the protection of consumers, as recognised in Article 169 TFEU and Article 38 of the Charter of Fundamental Rights of the European Union, and as further developed in European legislation on digital commerce, platforms, safety and liability, data protection and digital consumption.

The administrative experience accumulated over 40 years by the Principality of Asturias demonstrates the direct link between the measure and the objective pursued, without any equally effective and less restrictive alternatives having been identified. The obsolescence of Law 11/2002 creates a real risk of lack of protection, especially in digital environments.

The draft incorporates the emerging principles of European consumer affairs law:

- enhanced protection for vulnerable consumers (minors, older people, consumers in debt and digital users exposed to aggressive online sales tactics);
- substantive transparency and genuine comprehensibility of information in relation to unfair terms, banking contracts, mortgage loans and digital services;
- fair digital consumption: a ban on algorithmic manipulation, restrictions on 'dark patterns', transparency requirements for marketplaces, authenticity of reviews and information on price personalisation;

– sustainability and responsible consumption: the right to repair, combating premature obsolescence, a ban on greenwashing, and information on durability and repairability.

The law marks a shift from contractual protection towards comprehensive consumer protection, focusing on vulnerability, transparency, sustainability and the regulation of technological and algorithmic power, thereby bringing regional regulations into line with the digital economy.

As regards the proportionality of the measure – in the sense that it is the least restrictive of the options considered for effectively achieving the objective – the following points should be noted:

Several articles of the Draft Law, particularly Title II, which concerns the obligations of business operators – one of the areas requiring the most regulatory updating and which may prove most challenging in terms of compliance with the Services Directive – are based on the need to establish a series of duties or obligations for business operators, economic operators or service providers, which will enable the exercise and safeguarding of the rights granted to consumers and users in the Draft Law.

Of the various options available, the measures set out in the legislation are those that are least restrictive in terms of free movement within the internal market.

Examples include Article 22 on the duty of information and transparency, which ensures that consumers can make free and informed choices; Article 23 on the information needed in the commercial offer, in line with Directive (EU) 2019/2161 on the modernisation of EU consumer protection legislation and e-commerce regulations, which strengthens consumer protection by shifting the burden of proof on information compliance to businesses; Articles 24 and 25 on pre-contractual information and conditions in distance contracts, which protects consumers in complex or digital contracts; and in general the obligations provided for in the legislation (relating to warranties, repairs and after-sales service, complaints, etc.) are aimed exclusively at guaranteeing the exercise of the rights granted to consumers and users, establishing precepts with the minimum possible restrictions on free movement.

With the extensive consumer affairs experience of almost 40 years amassed by the Autonomous Community of the Principality of Asturias (since 1987 when the Regional Consumer Affairs Agency of the Principality of Asturias was created by Decree 59/1987 of 17 September), it can be said that public intervention through appropriate regulation that provides for and avoids potential harm is necessary for the effective protection of consumer rights. Additionally, to ensure that the proposed regulation does not constitute a prerequisite for access or use, it has been based on the very experience that highlights the inability to tackle existing abuses in the field of consumer affairs using current material, human and regulatory resources: infringements are recurring, new infringements are emerging, linked mainly to digital media, and the corrective measures introduced to safeguard rights (inspections, campaigns, warnings or sanctions) are not proving fully effective.

The regulatory framework set out in this Draft Law is therefore based on a pressing need in the general interest – namely, the effective protection of the rights of consumers and users – and introduces measures designed to achieve this. To ensure that these do not become a prerequisite for accessing or carrying out a service activity, the least restrictive options available have been carefully selected, ensuring that they do not go beyond what is strictly necessary to safeguard the general interest, which is the purpose of the intervention.

8. This Draft Law establishes the legal framework for the protection, defence, safeguarding and promotion of the rights and legitimate interests of consumers and service users in the Principality of Asturias. It sets out the guiding principles for consumer relations, provides guidance for public authorities, and promotes a culture of responsible, socially conscious and sustainable consumption.

The main axes of the text include:

The explicit recognition of an updated catalogue of basic rights for consumers and users, strengthening their social, digital, environmental and economic dimension.

The assignment of positive responsibilities to consumers, in the spirit of shared responsibility and responsible consumption.

The precise regulation on the obligations of business operators, in particular with regard to the duty to provide information, contractual transparency, statutory guarantees, the right to redress and digital rights.

9. In the exercise of the powers in the field of consumer affairs vested in the Principality of Asturias, Law 11/2002 of 2 December 2002 on Consumers and Users of the Principality of Asturias was adopted as a means of ensuring the protection of these rights at the regional level. This law, which was a pioneer at the time, has fulfilled its function as a reference regulatory framework for more than two decades. However, the profound social, economic, technological and regulatory changes produced since its entry into force, together with the need to adapt the regional legislation to the recent reforms of European and national law, make it necessary to replace it.

This Law addresses the need to provide the Principality of Asturias with an up-to-date, consistent and systematic regulatory framework for the protection and defence of consumers and users, in line with the new principles and requirements of European Union law, the 2030 Agenda for Sustainable Development, the European Green Deal, the Circular Economy Action Plan and the evolving national framework.

The legislation is based on a cross-cutting and inclusive approach to consumer protection, incorporating principles such as sustainability, the circular economy, intergenerational equity, secure and ethical digital transformation, enhanced protection for vulnerable groups, and respect for the Principality's linguistic and cultural rights.

9a. The empirical evidence that formed the basis for the Draft Law covered by this notification stems from the Government of Asturias' experience in this field, spanning from 1987 – when the Regional Consumer Affairs Agency was established – to the present day, with a Directorate-General for Consumer Affairs within the Regional Ministry of Land Use Planning, Urban Development, Housing and Citizens' Rights.

Based on this experience, the following risks can be identified that could compromise the effectiveness of achieving the objective:

Risk of inadequate compliance by economic operators if the law is applied inconsistently or inadequately by suppliers of goods or services, particularly in sectors characterised by high technical complexity or intensive digitalisation. This can be prevented, or at least mitigated, through information campaigns targeting

economic operators in the market, so that the law is applied consistently and effectively. Collaboration with the public authorities in their inspection work, consumer awareness campaigns and the processing of disciplinary proceedings is essential to achieving the objective, by changing behaviour and ensuring compliance with consumer affairs regulations, regarding which a lack of awareness is still evident.

A risk of insufficient resources for inspection and enforcement – whether material, human or technological – intended for inspection and sanctioning functions may reduce the capacity to effectively monitor compliance with the obligations set out in the law. This is an endemic shortcoming which, in practice, undermines the principles of effectiveness and good regulation set out in Article 129 of Law 39/2015 on the common administrative procedure of public administrations; it is intended to be rectified, at least in part, by the adoption of this law, which devotes Title V to ‘Administrative organisation, inspection, consumer protection and dispute resolution systems’.

Risk of legal uncertainty due to difficulties in interpretation: the recognition of a set of fundamental rights, the precise regulation of business obligations and the strengthening of the public consumer protection system are factors that mitigate this risk.

Risk due to the rapid technological and market developments, which implies the constant transformation of business models. This risk will persist, as the trend appears unstoppable; however, the current law, which clearly sets out the rights and obligations of businesses and consumers, together with the introduction of an improved system of penalties, will help to counteract or at least manage the effects of this change.

Risk of regulatory disproportion, through the imposition of excessive administrative or technical burdens, which may have adverse effects on small and medium-sized enterprises.

The identified risks can be mitigated through monitoring mechanisms, periodic assessments of the law’s effectiveness, inspection activities and administrative cooperation measures which, in the case of Asturias, take the form of ongoing collaboration with the Ministry of Social Rights, Consumer Affairs and the 2030 Agenda, the national consumer authority, and with other autonomous communities with which cooperation takes place on various initiatives, particularly in the regulation and development of consumer affairs campaigns for food, industrial and service products.

The measure contributes by limiting the risks identified. With adequate means of inspection and control, the drafting of clear legislation that minimises issues of interpretation, and the implementation of monitoring and control mechanisms – alongside inter-agency cooperation – in a regulatory framework that imposes only the administrative burdens that are strictly necessary, the measures contained therein will contribute to the achievement of the objective of serving the public interest.

9b. The protection of consumers and users is a fundamental principle of the social and democratic State governed by the rule of law, as enshrined in Article 51 of the Spanish Constitution. This

provision imposes on public authorities the obligation to ensure the protection of consumers by safeguarding their health, safety, and economic and social interests, and by promoting their information, education and participation.

Changes in social, economic, technical and regulatory circumstances have highlighted the inadequacy of the current consumer affairs law in the Principality of Asturias. The current law is insufficient to ensure an adequate level of protection for the objective and does not provide an effective response to the current protection needs. Experience in implementing the current legislation has highlighted regulatory shortcomings that justify the adoption of further measures. This is the case, for example, in the area of warranties.

Various regulatory options have been considered; some of these have not only been considered but have already been put into practice:

The maintenance of the current regulatory framework was assessed, however it is firmly regarded as a poor alternative because it is insufficient to address the market failures identified in consumer affairs and to ensure an adequate level of protection, particularly against new commercial practices in digital environments.

The adoption of self-regulatory or sectoral co-regulatory measures was considered, such as promoting codes of conduct, voluntary adherence schemes (operating through arbitration) or other co-regulatory mechanisms involving operators; however, this option does not guarantee a uniform and enforceable level of compliance, nor does it provide sufficient mechanisms for supervision, control and response to breaches, and may result in uneven levels of protection.

Information and awareness-raising measures, which are already being implemented and will continue to be necessary, such as information services (by telephone, online and in person), administrative guidance and awareness campaigns. These are complementary and appropriate measures, but they are considered insufficient on their own to ensure that the objective is achieved.

The imposition of less onerous obligations, obligations of a more limited scope, or those applicable only to certain operators or sectors, was also considered; however, these options were ruled out because they significantly reduced the effectiveness

9c. The measures introduced are considered proportionate to achieve the objective of general interest, the protection of consumers and users, an objective enshrined in EU primary law, in the Charter of Fundamental Rights of the EU and in the case-law of the CJEU establishing this protection as 'an overriding reason relating to the general interest'.

Any restrictions that may arise from its implementation are considered justified in order to achieve the ambitious objective in question, and are regarded as the minimum necessary to achieve that objective.

The measure's aim of safeguarding the public interest has been assessed, and it has been concluded that the potential restrictions it entails are proportionate and do not impose significant constraints on the functioning of the internal market, given the benefits of achieving the objective of general interest.

The authorities believe that drafting regional consumer affairs legislation to replace the current legislation – which has become outdated in light of regulatory developments in EU consumer affairs law – is clearly necessary to achieve the objective of general interest; they also believe that any restrictions that might result from such legislation are limited in scope and proportionate to the objective of general interest.

It does not appear that the restriction causes harm that is disproportionate to the benefit it brings in terms of protecting the public interest. The measure is justified because there is a fair balance between the burden imposed and the public interest objective pursued. Failure to adopt the measure could significantly jeopardise the public interest, while the restriction produces limited and reasonable conditions.

10. References to the basic texts: There are no basic texts

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

European Commission

Contact point Directive (EU) 2015/1535

email: grow-dir2015-1535-central@ec.europa.eu