

Message 001

Communication from the Commission - TRIS/(2026) 1274

Directive (EU) 2015/1535

Notification: 2026/0230/FR

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 - Nezahajuje 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: 20261274.EN

1. MSG 001 IND 2026 0230 FR EN 07-05-2026 FR NOTIF

2. France

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4. 2026/0230/FR - SERV - INFORMATION SOCIETY SERVICES

5. Draft decree on commercial communications promoting cosmetic surgery facilities

6. Cosmetic surgery clinics authorised in France

7.

8. The notified draft decree sets out the conditions under which commercial communications relating to cosmetic surgery clinics may be regarded as unfair or as likely to encourage minors to use the services offered by such establishments.

This decree is adopted pursuant to the Law of 9 March 2023, which amended Article L.6322-1 of the Public Health Code by abolishing the absolute ban on advertising cosmetic surgery facilities. Henceforth, only direct or indirect commercial communications that are unfair, detrimental to public health or, by virtue of their nature, presentation or purpose, likely to encourage minors to use the services offered by such establishments are prohibited.

9. Until 2023, the Public Health Code imposed a general and absolute ban on all advertising by healthcare professionals and cosmetic surgery clinics. The authorisation granted to cosmetic surgery clinics was then to be withdrawn 'if direct or indirect advertising in any form whatsoever was carried out in favour of the establishment holding that authorisation.'

The Commission issued a formal notice to France in respect of these provisions (Case 2018/4148).

The measures introduced are intended to address that formal notice and to ensure compliance with the case law of the Court of Justice of the European Union (CJEU), in particular the Vanderborght case (CJEU, 4 May 2017, C-339/15).

Law No 2023-171 of 9 March 2023 relaxed the absolute ban on advertising. The provisions of the Public Health Code have therefore been replaced by the following provisions: 'The authorisation shall be withdrawn if direct or indirect advertising in any form whatsoever that is unfair, detrimental to public health or, by its nature, presentation or purpose, likely to encourage minors to use the services offered by the establishment is carried out in favour of the establishment holding that authorisation.'

The draft decree of the Council of State specifies the conditions for the application of this paragraph, in particular the terms of the law. It applies only to cosmetic surgery clinics authorised in France and is not intended to apply to online advertising originating from a Member State other than France.

9a. The notified measure is intended to address the risks to public health posed by insufficiently regulated marketing communications relating to cosmetic surgery, in particular the trivialisation of non-therapeutic surgical procedures, the dissemination of misleading or incomplete information about their risks, and the encouragement of vulnerable groups, particularly minors, to undergo such procedures.

Although no systematic review of the literature is available at this stage, several studies highlight the risks associated with misinformation regarding cosmetic surgery. For example, Spyridon A. Vourtsis, Kyriaki

Alevrogianni, Effie Simou, (Aesthetic Plastic Surgery and Dermatology Medical Procedures: The Impact of Internet and Social Media Misinformation and the Effect on Public Health (Aesthetic Surgery Journal, 2026) demonstrates that misinformation regarding cosmetic surgery poses a significant risk to public health. With particular regard to minors, several studies highlight their vulnerability, which may lead them to underestimate the negative impact of cosmetic surgery and aesthetic medicine (for example: Mariam Rastgar. Impact des messages véhiculés par les réseaux sociaux sur le recours à la médecine esthétique chez des jeunes francophones de 15 à 35 ans. Médecine humaine et pathologie. 2024.)

These risks are commonly identified within the existing legal framework applicable to healthcare professions, as well as in legal commentary and case law concerning the regulation of advertising and information in the medical field.

The notified draft contributes to the achievement of the objective pursued by specifying the categories of prohibited commercial communications, thereby making the existing legislative provisions effective and operational. The public interest objective is pursued in a consistent and systematic manner, with the framework forming part of the ongoing development of national rules designed to ensure that the public receives accurate information, to prevent health risks and to provide enhanced protection for vulnerable groups, whilst respecting the principle of proportionality.

9b. The notified measure is strictly limited in scope in that it applies only to cosmetic surgery clinics authorised in France, without directly affecting operators established in other Member States. Its impact on cross-border trade and services is therefore limited, since it governs the conditions for carrying out a regulated activity that falls within national competence in the field of public health.

Moreover, the existing general rules, particularly those relating to consumer protection and unfair commercial practices, have proved insufficient to address the specific issues associated with cosmetic surgery, which involves surgical procedures carrying particular risks and requiring a higher level of regulation of commercial communications. The previous legislation, which was based on a general and absolute ban on all advertising, was in fact more restrictive and led to the European Commission issuing a formal notice to France.

The specific aim of the notified draft is to replace this ban with a more targeted and proportionate measure. The alternatives of either maintaining the absolute ban or in relying solely on the general law were not retained, as they would neither ensure compliance with EU law nor guarantee a sufficient level of protection of public health. The chosen measure therefore appears to be the least restrictive means, in that it reconciles the protection of public health and vulnerable groups with respect for the freedoms of provision of services and establishment guaranteed by European Union law.

9c. The restrictions arising from the notified measure are proportionate to the importance of the public interest objective pursued, having regard to the nature of the acts concerned and the risks which an insufficiently regulated commercial communication may pose to public health, in particular in the case of non-therapeutic surgical procedures.

The protection of the public interest was assessed taking into account the limited degree of interference with the functioning of the internal market, as the measure does not impose a general ban on communication but merely excludes certain targeted practices identified as posing a particular risk to users and minors. It was considered that such protection should take precedence, since the impact on the internal market remains circumscribed and proportionate, whereas the consequences of a lack of effective supervision could be

significant in terms of public health, patient safety and the fairness of the information provided. Conversely, the potential detriment resulting from the restriction, in terms of limiting certain forms of commercial communication, appears limited and reversible, and clearly outweighed by the risks associated with failure to achieve the objective pursued.

10. References to the basic texts:

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

European Commission

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