

[REDACTED] (GROW)

From: info edima <info@europeandigitalmedia.org>
Sent: 17 October 2014 12:32
To: ENTR /C/3 PREVENTION TECHNICAL BARRIERS
Subject: EDiMA / Spain / IP notification letter
Attachments: EDIMA_ES_IP_notificationletter.pdf

Dear Sir or Madam,

EDiMA would like to bring to your attention the proposed legislation in Spain with regard to intellectual property law. This proposal creates new intellectual property in short extracts of text when used, in various circumstances, by online services (Internet or app enabled).

The legislation in question is a draft technical regulation in the meaning of Directive 98/34/EC (as amended by Directive 98/48/EC). It has neither been notified, nor covered by previous notifications. It accordingly fails to comply with EU law.

We understand that the Spanish authorities are aware of the issue but have indicated to the Commission that they nevertheless wish to press ahead.

Accordingly, we are hereby requesting that the Commission further takes up the matter with the Spanish authorities. The adoption of national legislation that infringes EU law and that would be unenforceable before courts of law is in nobody's interest.

We further believe that the proposal in question raises significant questions regarding its compatibility with EU and international law. In particular, the proposal is difficult to reconcile with the free movement of goods (Art. 56 TFUE), the E-commerce Directive (Directive 2000/21), the acquis on IPR harmonisation (Directive 2001/29) and the judgement of the Court in Case C-466/12 Svensson. It also appears to be at odds with international conventions including the Berne Convention for Protection of Literary and Artistic Works and the TRIPs agreement.

Please find attached, for your reference, an overview of the bill in question and reasons for the notification requirement.

Thank you and best regards,

[REDACTED]

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Shaping Internet Policy in the EU