

Meta v. AGCOM: CJEU confirms the Italian model for fair compensation of press publishers

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In its judgment of 12 May 2026, in *Meta Platforms Ireland Ltd v. Autorità per le Garanzie nelle Comunicazioni* (AGCOM), the Court of Justice of the European Union (CJEU) delivered its first interpretation of Article 15 of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (DSM) Copyright Directive. More specifically, the CJEU examined whether the Italian implementation of the press publishers' neighbouring right – introduced through Article 43-bis of the Italian Copyright Act (Law No. 633/1941) – is compatible with EU law.

The proceedings originated from an action brought by Meta before the Regional Administrative Court for Lazio challenging AGCOM Resolution No. 3/23/CONS of 19 January 2023, which adopted the implementing regulation following a public consultation. The regulation was enacted to implement Article 43-bis of the Italian Copyright Act, transposing Article 15 of the DSM Directive into Italian law. According to Meta, the Italian framework exceeded the scope of the directive by imposing obligations that were incompatible with EU law.

Article 15 of the DSM Directive introduced a new neighbouring right for press publishers with the aim of rebalancing their economic relationship with online information society service providers that make use of journalistic content, thereby enabling publishers to obtain fair remuneration for the online exploitation of their publications.

Italy opted for a particularly innovative implementation model. While the DSM Directive merely recognises the publishers' right and leaves member states broad discretion as to its practical implementation, the Italian legislature established a comprehensive procedural framework designed to ensure the effective exercise of that right. In particular, where publishers and online platforms fail to reach an agreement on the amount of fair compensation, either party may refer the dispute to AGCOM, which determines the amount on the basis of the criteria laid down in Resolution No. 3/23/CONS. Although AGCOM's calculation is not legally binding on the parties, it constitutes an important technical benchmark for the negotiations.

In its judgment, the CJEU confirmed the Italian legislature's approach, holding that Article 15 of the DSM Directive grants member states a broad margin of discretion in determining how the press publishers' neighbouring right should be implemented.

According to the CJEU, the right to fair compensation is compatible with EU law provided that such remuneration constitutes the economic consideration for the publisher's authorisation to use its press publications online. Publishers must therefore retain the freedom either to authorise such use free of charge or to refuse authorisation altogether. In this respect, the court reaffirmed that Article 15 confers on press publishers an exclusive right of authorisation rather than establishing an automatic right to remuneration. Consequently, no compensation is payable where an information society service provider neither uses nor intends to use the relevant press publications.

The CJEU's assessment of the obligations introduced by the Italian legislation is particularly noteworthy. The Luxembourg judges held that the transparency obligations imposed on information society service providers – requiring them to disclose the information necessary to determine the amount of fair compensation – are compatible with EU law. Likewise, the CJEU upheld the prohibition on limiting the visibility of press publications in search results during the negotiation process. It also confirmed the compatibility with EU law of the Italian enforcement regime, including administrative fines of up to 1% of the infringing undertaking's annual turnover.

The judgment therefore confirms the compatibility with EU law of a national framework that:

- (i) requires negotiations between online platforms and press publishers;
- (ii) establishes transparency obligations aimed at facilitating the calculation of fair compensation; and
- (iii) entrusts an independent administrative authority with a supervisory role in defining the criteria for calculating such remuneration.

The ruling is of considerable significance not only for Italy but also for all member states implementing Article 15 of the DSM Directive. It constitutes the Court's first interpretation of the press publishers' neighbouring right and confirms that member states may adopt regulatory mechanisms designed to ensure its effectiveness, provided that the exclusive nature of the publishers' right is preserved.

More broadly, the judgment reinforces the role of independent regulatory authorities in the governance of digital markets. According to the CJEU, AGCOM's

involvement in determining fair compensation does not undermine the private-law nature of the negotiations but rather contributes to rebalancing the bargaining power between press publishers and large digital platforms while ensuring a fairer distribution of the economic value generated by the online dissemination of journalistic content.

The judgment therefore represents an important endorsement of the Italian model implementing the DSM Directive and promoting the economic sustainability of professional journalism in the digital environment.

Court of Justice of the European Union (GC), Meta Platforms Ireland Ltd v. AGCOM, No. C-797/23, 12 May 2026

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