[IT] AGCOM report on OTT operators and consumer communication services

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Over recent years, the widespread deployment of broadband access services from both fixed line and mobile network brought the development of a new set of services and advanced equipment. This increased users' demand for Internet access and stimulated investments in network capacity, as well as the development of new services and apps.

In this regard, and in line with the current debate at EU level (see IRIS 2015-10/4), on 28 June 2016 the Autorità per le garanzie nelle comunicazioni (Italian Communications Authority - AGCOM) published the findings of the survey concerning the development of digital platforms and electronic communication services. This survey focused on consumer communication services mainly used through mobile devices, i.e. those services generally provided over the Internet and consisting of apps allowing the exchange of voice calls, messages, pictures and video between two or more users, such as WhatsApp, Facebook Messenger, Skype, and iMessage ("consumer communications services").

Through such survey, AGCOM: (a) dealt with the current legal and regulatory framework, focusing on the definition of electronic communications services ("ECS") (according to AGCOM, the consumer communications services seem not to fall within the ECS definition since they do not entail any transmission of signals on the fixed or mobile network); and (b) analysed the technological and market environment where the Consumer Communications Services are spread, highlighting the steady increase in users of the social apps against the reduced use of traditional voice and SMS services.

In light of the analysis carried out, the AGCOM suggests for the provision of a new definition of ECS at EU level, aimed at reaching a "level playing field" between traditional players and over-the-top operators involved. Furthermore, it describes the regulatory issues deriving from the development of consumer communications services, as well as potential remedies at EU and national level, identifying related risks and opportunities.

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Italian Communications Authority, Resolution no. 165/16/CONS, Annex A, May 2016

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