

[IT] Agcom resolution on collective management of copyright and related rights

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*Ernesto Apa & Marco Bassini
Portolano Cavallo & Bocconi University*

On 19 October 2017, the Italian Communication Authority (AGCOM) issued, by resolution No. 396/17/CONS, a new regulation on the collective management of copyright and related rights and the multi-territorial licensing of authors' rights in musical works for online use ("Regulation"). The new regulation has been adopted in accordance with the Legislative Decree No. 35 of 15 March 2017 ("Decree") that implemented EU Directive 2014/26 on the collective management of copyright (see IRIS 2014-4/4) in Italy.

This act aims at regulating the exercise of specific activities by AGCOM, including: the assessment on the fulfilment of the requirements set forth by Article 8 of the Decree by collecting societies and independent management entities; the assessment of the adequacy of the organisational and management arrangements taken by collecting societies and independent management entities; the monitoring of the compliance with the Decree through the power to conduct inspections, request access to and acquire the necessary documentation; and the application of the administrative sanctions provided for by Article 41 of the Decree.

Pursuant to Article 3 of the Regulation, collecting societies and independent management entities are required to submit to AGCOM a certified notice of commencement of activity (the so-called "SCIA") in order to start operating the management and intermediation of copyright-related rights. Additionally, Article 4 of the Regulation requires collecting societies and independent management entities to make the necessary management and organisational arrangements and to notify AGCOM of them.

AGCOM will publish a list of the collecting societies and independent management entities which meet the requirements set forth by Article 8 of the Decree, including the relevant details, on its website. Every change or amendment to the relevant information must be communicated by written notice to AGCOM within thirty days. Likewise, written notice is due within thirty days in case they no longer meet the requirements set forth by Article 8 or cease their activities.

With respect to the monitoring and sanctioning powers, AGCOM is competent to monitor compliance with the Decree, including through its exercise of the

necessary powers to conduct inspections or require information and documents. AGCOM may impose the administrative sanctions provided for by Article 41 of the Decree. Depending on the type of obligations which are infringed, sanctions may range either from EUR 10 000 to EUR 50 000 or from EUR 20 000 to EUR 100 000.

In addition to the above, collective management organisations are required to issue an annual transparency report within eight months, as of the end of each fiscal year. This report shall be published on the website of each organisation and remain available for five years. Proper notice of the publication has to be given to AGCOM within thirty days.

Regolamento sull'esercizio delle competenze di cui al decreto legislativo 15 marzo 2017, n. 35 in materia di gestione collettiva dei diritti d'autore e dei diritti connessi e sulla concessione di licenze multiterritoriali per i diritti su opere musicali per l'uso online nel mercato interno (Allegato A alla delibera n. 396/17/CONS del 19 ottobre 2017)

<https://www.agcom.it/documents/10179/8606749/Allegato+2-11-2017/f81f0e7f-4a0e-4d66-a158-0975c95f326b?version=1.0>

Regulation on the exercise of powers under Legislative Decree No. 35 of 15 March 2017 on collective management of copyright and related rights and the multi-territorial licensing of authors' rights in musical works for online use in the internal market (Resolution No. 396/17/CONS of 19 October 2017)

