

[IT] AGCOM sets forth new guidelines defining the restrictions on gambling and betting advertisements

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On 18 April 2019, through Resolution No. 132/19/CONS, the Italian Communications Authority (AGCOM) issued guidelines (Guidelines) to implement the provisions of Article 9 of the so-called Dignity Decree (“Decreto Dignità”, Decree Law No. 87/2018).

The Guidelines aim at achieving a high degree of consumer protection, with particular emphasis on “vulnerable” categories (gambling addicts, minors and seniors) by ensuring the transparency of conditions and services offered in order to promote an educated gaming choice. Consumer protection is also ensured by using the recognisable logos of the Customs and Monopolies Agency (Agenzia delle dogane e dei monopoli), making it easier to distinguish between illegal and authorised games offering cash prizes.

Under Article 9 of the Dignity Decree, any form of advertising, sponsorship or communication presenting promotional content relating to games or betting with cash prizes is prohibited. The said prohibition encompasses any form of advertising, including indirect advertising, relating to games or betting with cash prizes, however carried out and by whichever means, including TV and radio broadcasting, the press, billboards, the Internet, digital and electronic tools, and social media.

Interestingly, the ban, whose objective scope of application is laid down in Article 5 of the Guidelines, has been extended to product placement and prize-winning events as defined by Presidential Decree No. 240 of 26 October 2001. Furthermore, reflecting the approach already adopted by the Italian Competition Authority (AGCM), Article 5.2 specifically mentions influencers in an attempt to safeguard consumers from advertising initiatives undertaken by the former.

The Guidelines clarify that existing advertising agreements as of 14 July 2018 will remain valid for a year or until their expiration date, if earlier. Furthermore, Article 6.2 extends the ban to sponsorship agreements starting from 1 January 2019, with the sole exception of those existing as of 14 July 2018, which will remain valid for a year or until their expiry date, if earlier.

The Guidelines do exclude certain activities from the ban. In particular, Article 7 permits, among others: i) business-to-business commercial communications; ii) the organisation of paid gaming fairs directed exclusively at sector operators; iii)

cause-related marketing communications (aimed at associating a company's brand with social and ethical initiatives); iv) corporate social responsibility communications (such as informational campaigns on banned games or games only prohibited for minors, legal gambling information, the risks of loan-sharking, courses on gambling addiction, or the implementation of precautionary measures in relation to problematic gamblers) without displaying a brand or logo; and v) teleshopping for goods and services related to paid games (only when certain conditions are met). Furthermore, the Guidelines also clarify that services providing information on the different odds offered by competing bookmakers, such as the so-called odds spaces ("spazi quote") or the columns hosted by television or web sports programmes, are also excluded from the ban. Additionally, algorithm-based free indexing services provided directly by search engines or a marketplace (such as Apple Store or Google Play) that enable operators to obtain a higher placement in search results are also excluded.

Overall, the Guidelines have been issued by the Italian Communications Authority in an attempt to coordinate the new rules with the complex regulatory framework on the subject and the principles set forth in the Italian Constitution and by EU Law.

Autorità per le garanzie nelle comunicazioni, All. A, Linee guida sulle modalità attuative dell'art. 9 del decreto-legge 12 luglio 2018, n. 87, recante "disposizioni urgenti per la dignità dei lavoratori e delle imprese", convertito con modificazioni dalla legge 9 agosto 2018, n. 96

<https://www.agcom.it/documents/10179/14467561/Allegato+26-4-2019/7e8dd234-9b83-4e2a-bc5a-f912bc6cdfa2?version=1.0>

AGCOM, Annex A, Guidelines on the Implementation Modalities of Article 9 of the decree-law 12 July 2018, n. 87, containing "urgent provisions for the dignity of workers and businesses", converted with amendments by the law of 9 August 2018, n. 96

