

[IT] AGCOM orders six-month suspension for two broadcasters delivering programmes dangerous to customers' health

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By way of two separate but related resolutions issued on 7 April 2020 (namely Resolutions Nos. 152/20/CONS and 153/20/CONS) in the so-called 'Panzironi saga', the Italian Communications Authority (AGCOM) ascertained the violation of Articles 3 and 36-bis, paragraph 1, lit. c), No. 3 of the AVMS Code (Legislative Decree No. 177/2005) by two small-sized television broadcasters (namely Italian Broadcasting Srl and Mediacom Srl, respectively the Life TV Network and Life 120 Channel services) and, accordingly, ordered their suspension. Such provisions respectively prohibit the delivery of audiovisual commercial communications which encourage behaviours prejudicial to health and safety (Article 36-bis) and require the completeness, fairness and impartiality of information, in addition to the respect of human dignity and the promotion and protection of health.

More specifically, the programmes aired by the two broadcasters were found to potentially endanger consumers' health by urging them to underestimate the risks inherent to COVID-19 on the unsubstantiated assumption that the disease could be prevented and treated by resorting to non-therapeutic measures such as nutritional supplements (namely vitamins C and D).

AGCOM dismissed the broadcasters' argument that the programmes at issue had merely provided a scientific comparison between different scientific opinions and, as such, were covered by the Constitution. In AGCOM's view, the relevant content lacked any kind of scientific substance. Furthermore, the Authority observed that the broadcasters had delivered the programmes on the basis of a commercial intent; accordingly, they could not be deemed to fall within the protection that the Constitution grants to certain expressions of communication.

In light of the foregoing, AGCOM adopted a six-month suspension having regard to the practices at hand as particularly serious. However, both orders were appealed. On 20 April 2020, the Regional Administrative Tribunal of Lazio issued an interim decision to suspend one of the two resolutions on an urgency basis.

Delibera N. 152/20/CONS

<https://www.agcom.it/documents/10179/18199222/Delibera+152-20-CONS/915a2a64-695e-4391-9a47-70d389b09293?version=1.1>

Resolution N. 152/20/CONS

Delibera N. 153/20 /CONS

<https://www.agcom.it/documents/10179/18199222/Delibera+153-20-CONS/ab7087e7-41c6-4db9-b395-497ec9a518ea?version=1.1>

Resolution N. 153/20 /CONS

Tribunale Amministrativo Regionale del Lazio, sez. III-ter, decreto 20 aprile 2020, n. 2916

https://www.giustizia-amministrativa.it/portale/pages/istituzionale/visualizza/?nodeRef=&schema=tar_rm&nrg=202002791&nomeFile=202002916_06.html&subDir=Provvedimenti

Regional Administrative Court of Lazio, section III-ter, decree 20 April 2020, n. 2916

