[IT] First green light for the transposition of the AVMSD in Italy

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On 29 October 2020, the Senate of the Italian Republic approved the text of the 2019 European Delegation Law, a legislative instrument by which the parliament delegates powers to the government to transpose EU directives into the Italian legal system.

Following its approval by the other parliamentary chamber (the Camera), which is expected by the end of 2020, the text will become binding, leading the way for the long-awaited process of transposing the previous year's EU legislation. The 2019 European Delegation Law refers to 38 European directives, including Directive 2018/1808 (AVMSD). Article 3 of the law thus sets down principles and guiding criteria for the implementation of the AVMSD which will need to be taken into account in the forthcoming process of revising the relevant audiovisual legislation.

The principles and criteria were initially proposed by the Council of Ministers on 23 January 2020. Following the process of public consultations and internal discussions by the relevant parliamentary committees, the guiding criteria adopted by the Senate to transpose the AVMSD refer to the following lines of action (those added during the parliamentary process are indicated in italics):

- Undertaking the revision of the Consolidated Law on Radio and Audiovisual Media Services (Legislative Decree No. 177), *that is*, the adoption of a new text on digital media services which would include new provisions and definitions relating to audiovisual, radio and video-sharing platform services.

- Ensuring the adequate protection of human dignity and minors in audiovisual content, including user-generated videos and commercial communications on video-sharing platforms.

- *Simplifying and rationalising the current measures for the promotion of European works*. In relation to this point, it should be recalled that the Italian legislation has already transposed the AVMSD's provisions on European works and European works by independent producers. The legislation regarding the promotion of European and Italian works (the so-called Franceschini Decree) has been amended several times since it was first adopted in 2017 (see IRIS 2019-10/20 and IRIS 2019-3/21). It has also received much criticism for being overly

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restrictive and contrary to European law.

- Adapting the rules on commercial communications to video-sharing platform services.

- Revising advertising limits according to the principles of flexibility, proportionality and competition.

- Limiting the sound levels of commercial communications and messages.

- Ensuring that media service providers (including social platforms) provide users with sufficient information regarding the content that may harm the physical, mental or moral development of minors, including advertising and the prohibition of advertising related to gambling.

- Obliging audiovisual media service providers to provide adequate information on content that may harm the physical, mental or moral development of minors; they should provide an acoustic warning if the content is used on mobile devices.

- Protecting minors from inappropriate content, including advertising, that accompanies or is included in programmes for children and that relates to food or beverages, including alcoholic ones, which contain nutrients and substances with a nutritional or physiological effect, the excessive intake of which is not recommended in a general diet, as well as provide for suitable measures, including the promotion of self-regulatory and co-regulatory procedures, aimed at effectively reducing children's exposure to audiovisual commercial communications for such drinks and food products.

- Promoting digital literacy.

- Regulating as well as promoting self- and co-regulatory procedures, a task which is entrusted to AGCOM as the national regulatory authority for the sector. This also refers to the regulation of consumer protection measures, including out-of-court dispute resolution procedures and compensation mechanisms. AGCOM’s duties shall therefore be expanded and its prerogatives of independence further strengthened.

- Amending the administrative sanctioning system already provided for in the Consolidated Law on Audiovisual and Radio Media Services with respect to the new obligations established by the AVMSD.

- Establishing that the implementation of new measures shall not result in new or increased costs for public finances.

Legge di delegazione europea 2019

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http://www.politicheeuropee.gov.it/it/normativa/legge-di-delegazione-europea/legge-delegazione-ue-2019/

European Delegation Law 2019

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