[IT] Italy transposes Directive (EU) 2019/790 (DSM Copyright), Directive (EU) 2019/789 (Sat Cab) and Directive (EU) 2018/1808 (Audio Visual Media Services)

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On 4 November 2021, the Italian Government approved the legislative decrees implementing, in Italy, EU Directive No. 2019/790 (“Copyright Directive”) and EU Directive No. 2019/789 (“Sat Cab Directive”), which will substantially amend the Italian Copyright Act (Law No. 633/1941). On the same day, the Italian Government also approved the new Italian Audiovisual Media Services (“AVMS”) Code, transposing into Italian law EU Directive No. 2018/1808 (which amended the AVMS Directive).

A few months ago, following the guiding principles set forth by the European Mandate law - which mandated the Italian Government to implement several EU Directives, including the Copyright Directive, the Sat Cab Directive and the AVMS Directive - the Council of Ministers preliminarily approved three draft bills implementing the above-mentioned directives.

Specifically, the draft bill implementing the Copyright Directive was approved on 5 August 2021. Thereafter, it was sent to the Italian Parliament for the required (non-binding) opinions. In October, the relevant Parliamentary Committees expressed a favorable opinion, while also making a few suggestions to the Government. Detailed comments were also delivered by the Italian Competition Authority and by the Italian Communications Authority. Of note, the most debated topics included the transposition of the provisions regarding the online use of press publications and the use of protected content by online content-sharing service providers.

Conversely, the draft bill implementing the Sat Cab Directive was preliminarily approved on 29 July 2021. It was then sent to the relevant Parliamentary Committees, which expressed a favorable (non-binding) opinion, while addressing a few remarks to the Government. The most debated topics included the application of the country-of-origin principle to ancillary online services and the transmission of programs through direct injection.

In addition, on 5 August 2021, the Council of Ministers preliminarily approved a draft AVMS Code, which was then sent to the Italian Parliament for the required (non-binding) opinions. The draft AVMS Code was also forwarded to the Unified

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Conference for the State and Regions, the Italian Communications Authority and the Italian Council of State, which delivered detailed comments. The most debated topics included the advertising limits for the Italian Public Service Broadcaster (RAI) and the investment quota obligations for on-demand audiovisual media service providers.

Pursuant to the TRIS notification procedure set forth by the EU Directive 2015/1535, on 22 October 2021, the Italian Government notified the European Commission of the draft AVMS Code, specifying that the relevant provisions for the purposes of the notification were those regulating video-sharing platforms (Articles 41 and 42) and the promotion of European works (Articles from 52 to 57). Notably, under the TRIS notification procedure, the notification of the draft starts a three-month standstill period, to allow both the European Commission and the other Member States to analyse the notified text and respond appropriately. During the standstill period, the notifying Member State cannot adopt the notified draft.

The new AVMS Code and the legislative decrees implementing the Copyright Directive and the Sat Cab Directive will enter into force 15 days after their publication in the Italian Official Journal, except for Articles 41 and 42 and for Articles from 52 to 57 of the new AVMS Code, which will enter into force on 1 March 2022, as a result of the TRIS notification procedure.

Attuazione della direttiva (UE) 2019/790 del Parlamento europeo e del Consiglio, del 17 aprile 2019, sul diritto d'autore e sui diritti connessi nel mercato unico digitale e che modifica le direttive 96/9/CE e 2001/29/CE

https://www.gazzettaufficiale.it/eli/id/2021/11/27/21G00192/sg

Transposition of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

Attuazione della direttiva (UE) 2019/789 del Parlamento europeo e del Consiglio, del 17 aprile 2019, che stabilisce norme relative all'esercizio del diritto d'autore e dei diritti connessi applicabili a talune trasmissioni online degli organismi di diffusione radiotelevisiva e ritrasmissioni di programmi televisivi e radiofonici e che modifica la direttiva 93/83/CEE del Consiglio

https://www.gazzettaufficiale.it/eli/id/2021/11/29/21G00191/sg

Transposition of Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting

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organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

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