

[IT] AGCOM fines a video sharing platform (Youtube) for the first time

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With decisions nn. 275/22/CONS and 288/22/CONS published on 4 August 2022, AGCOM issued severe penalties against a website (Top Ads Ltd) and, for the first time, the video-sharing platform YouTube with a "notice and take down" order for 625 instances of illegal content and a "notice and stay down" order for prohibited gambling advertising of similar unlawful content.

The investigation conducted by the Italian Authority found a violation of Article 9 of the Italian decree-law n°. 87/218 prohibiting direct and indirect gambling advertising (advertising for games with cash prizes) and imposing several levels of liability, depending on the actor involved (the client, the owner of the medium where the ad is disseminated, the organiser of the event).

Therefore, Top Ads Ltd was fined EUR 700,000 for having disseminated prohibited gambling advertising on its website www.spikeslot.com and its related five YouTube channels

Furthermore, and for the first time, AGCOM issued a separate sanction against the hosting service provider involved in this case: the video-sharing platform YouTube.

Following the investigation, AGCOM fined the video sharing platform EUR 750,000 for not having adopted any measures to remove illegal content disseminated on a large scale on its platform by one of its "verified partners" (a client linked with a specific contract of partnership).

This is the second case where AGCOM has held the Google group responsible for allowing the dissemination of advertising of online games with cash prizes. In October 2020 (with resolution no. 541/20/CONS), AGCOM issued a fine of EUR 100,000 (EUR 50,000 for each day of violation found) for violating the ban on advertising the game by the Google search engine. This latest case has two new, and crucial features: i) the first fine issued against a video sharing platform (YouTube) due to a partnership agreement with the content creator; ii) AGCOM added "notice and take down" orders for 625 instances of illegal content and a "notice and stay down" order for future content uploaded by the same creator, analogous or similar to those sanctioned.

Delibera n. 288/22/CONS

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Decision no. 288/22/CONS

Delibera n. 275/22/CONS

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Decision no. 275/22/CONS

