[IT] First fine from AGCOM against a social media platform (Facebook - Meta)

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The board of the Italian Communications Authority (AGCOM) has agreed, unanimously, to fine Meta Platforms (Meta, which owns Facebook, Instagram, and WhatsApp) EUR 750,000 for the infringement of the gambling advertising prohibition introduced by the "Dignity decree".

This is the first fine given by AGCOM to a social media platform (last August, AGCOM adopted its first sanction against the video sharing platform "YouTube", see Iris 2022-8/4).

The Authority considered that Meta had conducted a clear infringement of the Italian Law prohibiting the diffusion of advertising content relating to gambling.

As duly explained in the decision, Meta was considered to be responsible for the lack of provisions prohibiting advertisement of games with cash prizes in the Facebook service General Terms and Conditions.

Indeed, the investigation found that the Company had been allowing its business customers to promote, including through targeted advertising, such content to Italian customers.

The Authority considered that Meta could not be granted a general liability exemption under Article 14 of the E-commerce Directive (now merged into Article 6 of the Digital Services Act "DSA") which excludes liability when a provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent.

AGCOM noted in its decision: "*Meta cannot in any way invoke the liability exemption clause being, on the other hand, widely "informed" of the sponsored content conveyed on the Facebook digital platform to the point of allowing its dissemination*".

In addition to the fine, the Authority ordered Meta to prevent each author of the sponsorships covered by the provision from disseminating and uploading similar infringing content (so-called notice & stay down), in full alignment with the most recent decisions of the Court of Justice of the European Union.

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https://www.agcom.it/documentazione/documento?p_p_auth=fLw7zRht&p_p_id=101_INSTANCE_FnOw5lVOIXoE&p_p_lifecycle=0&p_p_col_id=column-1&p_p_col_count=1&_101_INSTANCE_FnOw5lVOIXoE_struts_action=%2Fasset_publisher%2Fview_content&_101_INSTANCE_FnOw5lVOIXoE_assetEntryId=29274820&_101_INSTANCE_FnOw5lVOIXoE_type=document

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