[IT] A public consultation on influencers and compliance with the consolidated law of media services launched by Agcom

IRIS 2023-8:1/12

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On 21 July, AGCOM launched with resolution no. 178/23/CNS a public consultation on the measures to be adopted to ensure influencers' compliance with the Consolidated Law on audiovisual media services.

AGCOM's goal of extending the scope of the legal and regulatory framework to these subjects stems from the observation that the activities carried out by influencers are comparable to the provision of audiovisual media services.

The activities involved are those carried out by subjects denominated in current language with the term of "*influencer*", but also "*vlogger*", "*streamer*", or "*creator* " who create, produce and disseminate audiovisual and online content to the public pursuant to Directive 2018/1808, for which they exercise editorial responsibility through platforms for sharing videos and, in general, via social media.

Due to the spread and growth of these activities and their impact on users, consumers and society, AGCOM decided to intervene to enhance transparency and awareness towards stakeholders and the public.

Through the text placed for consultation, AGCOM asks all interested parties to express their comments regarding the measures proposed to ensure compliance by influencers to the provisions of the Consolidated Law.

Not having a corresponding primary regulatory provision (both in Directive 2018/1808 and in the Consolidated Law on Media Services), AGCOM proposed to adopt a soft law instrument, i.e. legally non-binding guidelines.

AGCOM's reasoning is based on the provisions of the Audiovisual Media Services Directive and from the fact that influencers carry out an activity similar, or in any case comparable, to that of audiovisual media service providers under national jurisdiction and are, therefore, called to comply with the measures envisaged by the Consolidated Law on Media Services.

Finally, AGCOM intends to provide differentiated measures against influencers based on their success.

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In the first category, AGCOM intends to include subjects who offer audiovisual content on a continuous basis, with a method of offering and organizing such as to make them superimposable on a catalogue of an on-demand media service (for example, YouTube channels).

For these subjects, AGCOM suggests extending all the obligations of the Consolidated Media Act, such as, for example, compliance with European quotas, registration in the register of operators (ROC), and obtaining general authorization to carry out the activity (SCIA).

The second category, on the other hand, would include subjects who operate in a less continuous and structured manner, to whom the application of the overall legal regime envisaged for on-demand audiovisual media services does not appear justified.

The Authority therefore intends, with the launch of the aforementioned public consultation, to identify a clear and transparent framework of the provisions applicable to influencers, ensuring, however, not to foresee unnecessary bureaucratic burdens.

The regulatory provisions set out in articles 41 and 42 of the TUSMA (corresponding to articles 28.a and 28.b of the AVMSD Directive in relation to video sharing platform services) remain unchanged.

Delibera n. 178/23/CONS "Avvio della consultazione pubblica relativa alle misure volte a garantire il rispetto, da parte degli influencer, delle disposizioni del Testo unico sui servizi di media audiovisivi"

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=31152060&_101_INSTANCE_FnOw5lVOIXoE_type=document

Resolution No. 178/23/CONS 'Launch of public consultation on measures to ensure compliance by influencers with the provisions of the Consolidated Law on Audiovisual Media Services

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