# [IT] AGCOM sends a warning to the government to amend the *par condicio* law

**IRIS 2023-8:1/10**

*Francesco Di Giorgi*
*Autorità per le garanzie nelle comunicazioni (AGCOM)*

In pursuance of its inherent mandate as codified in Article 1, paragraph 6, letter c), No. 1 of its founding statute, the Italian Communications Authority (AGCOM) has seen fit to formally submit to the government a warning on the Italian statute governing equal access to media platforms during electoral campaigns, referendum initiatives, and broader political discourses, namely, Law No. 28 of 22 February 2000, commonly referred to as the "level playing field" or "*par condicio*".

The warning is motivated by the need to review the legislation governing access to the media environment during electoral campaigns. This is in tandem with the inexorable evolution of technological advancements and the concomitant metamorphosis of communicative paradigms.

Under the current law, AGCOM, which is responsible for the supervision and governance of radio and television services, has the authority, for each electoral or referendum cycle and following consultations with the Parliamentary Commission, to issue an edict tailored to national and local, private and public broadcasting, the written press, institutional messages and the political and electoral forecasting arena. In relation to the concessionaires of the public radio and television service, the procedural provisions of the aforementioned law are exclusively under the purview of the Parliamentary Commission – a modus operandi that remains consistent even outside electoral periods.

The need to rejuvenate the legislative framework for political communication arises, *inter alia*, from the challenges encountered in the practical application of said legislation and rapid technological progress coupled with changes in the way content is consumed.

An in-depth analysis of the disparities and obstacles encountered in the two decades of implementation of Law No. 28/2000, which was initially conceived in an analogue era, propelled AGCOM to submit a report on its deliberations on the subject to the government, whilst duly informing the parliament.

The prerogatives conferred upon the Italian national regulatory authority for communications by the legislative body encompass the duty to inform the government on all matters of interest that fall within the remit of AGCOM’s competencies.

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The essence of this approachis, in the first instance, to analyse the national context, whilst judiciously considering the initiatives of the European Union and juxtaposing the experiences of its member states. In a manifestation of proactive and steadfast institutional synergy, the report dwells upon all facets of communication envisaged by the statute – ranging from political to institutional communication, autonomously crafted political messages, political insights, and extending to institutional information. This is accompanied by a significant reference to political-electoral polls.

Moreover, the warning has duly taken into account the recent decrees of the Administrative Judiciary and acknowledges Resolution No. 165/23/CONS, which effectively aligns online television channels of print media with those disseminated via traditional broadcast media in terms of the application of a level playing field (*par condicio*).

The overarching objective, especially in light of the growing influence of the Internet, is to pave the way for a legislative paradigm, ideally in the forthcoming electoral contests, which stands as a sentinel for all vested interests. This framework should promote full participation in political dialogues and safeguard the sacrosanct rights of individuals, whilst being continually vigilant for any undue influence on the will of the electorate.

Lastly, the objective of the warning is to provide a new law that goes beyond the previous *par condicio* law conceived in the analogue era, and provides anyone interpreting the law in the current digital ecosystem with tools suitable for covering new situations, no longer addressing a few subjects but all the players in the electoral competition.

***Segnalazione al governo ai sensi dell'articolo 1, comma 6, lettera c), n. 1 della legge 31 luglio 1997, n. 249 per la revisione della normativa in materia di comunicazione politica e di accesso ai mezzi di informazione***

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*Notification to the government in accordance with Article 1, paragraph 6, letter c), No.1 of Law No. 249 of 31July 1997 for the revision of the regulations on political communication and access to information media*

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