[IT] AGCOM adopts new sanctioning measures against Google and Twitch

IRIS 2024-1:1/12

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On 5 December 2023, the Italian Communications Authority (AGCOM), adopted three significant measures against major video-sharing platforms for violating the Italian prohibition on advertising games with cash prizes. Italian regulations prohibit any such form of direct or indirect advertising conducted on any transmission platform, including social media.

In particular, with Resolution No. 317/23/CONS, Google Ireland Ltd. was fined EUR 2 250 000 (for the third time), and with Resolution No. 318/23/CONS, Twitch Interactive Germany GmbH was fined EUR 900 000 for violating the prohibition on gambling advertising under Article 9 of Legislative Decree No. 87 of 12 July 2018, converted into Law No. 96 of 9 August 2018, known as the "Dignity Decree".

These measures were taken in response to numerous reports received by AGCOM in recent months, denouncing alleged violations of the aforementioned regulations through the YouTube and Twitch video-sharing platforms.

Google had previously been fined by AGCOM for similar conduct in 2020 under Resolution 541/20/CONS (EUR 100 000) for a violation via the Google Ads service and in 2022 under Resolution 275/22/CONS (EUR 750 000) for violations through YouTube (see IRIS 2022-8:1/4). For Twitch, this was the first sanctioning measure adopted by AGCOM.

The aforementioned measures led to the blocking of over 20 000 videos in Italy on more than 80 channels of the video-sharing platforms in question that advertised slot machines, gambling, sports betting, and scratch cards.

In both proceedings, the companies were held responsible as owners of the means of video dissemination published by third parties with whom they had specific commercial partnership contracts. Regarding the reported and contested channels in the respective proceedings, AGCOM found the companies liable only for the channels (15 on YouTube and 6 on Twitch) targeting Italian audiences.

Furthermore, the platforms were ordered to prevent (notice and staydown) and remove (notice and takedown) the uploading of similar violative videos by those entities, in accordance with Article 6, paragraph 1, letter b) of the DSA.

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Finally, with Resolution No. 316/23/CONS, AGCOM closed the proceedings against TikTok Technology Ltd., noting the absence of a contractual relationship with the 30 content creators who uploaded the contested content.

Delibera n. 317/23/CONS "ordinanza-ingiunzione nei confronti della società google ireland limited per la violazione della disposizione normativa contenuta nell'art. 9, comma 1, del decreto legge 12 luglio 2018, n. 87 convertito con legge 9 agosto 2018, n. 96 (cd. decreto dignità) contestazione n. 5/23/DSDI – proc. 21/FDG

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=32623456&_101_INSTANCE_FnOw5lVOIXoE_type=document

Resolution No. 317/23/CONS "Order-injunction against the company Google Ireland Limited for breach of the regulatory provision contained in Article 9, paragraph 1, of Decree-Law No. 87 of 12 July 2018, converted by Law No. 96 of 9 August 2018 (the so-called Dignity Decree) Dispute No. 5/23/DSDI - proc. 21/FDG

Delibera n. 316/23/CONS "Archiviazione del procedimento avviato nei confronti della società tiktok technology limited per la violazione della disposizione normativa contenuta nell'art. 9, comma 1, del decreto-legge 12 luglio 2018, n. 87 convertito con legge 9 agosto 2018, n. 96 (cd. Decreto dignità) Contestazione n. 9/23/DSDI - proc 25/FDG"

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=32623373&_101_INSTANCE_FnOw5lVOIXoE_type=document

Resolution No. 316/23/CONS "Archiving of the proceedings initiated against the company TikTok Technologies Limited for the violation of the regulatory provision contained in Article 9, paragraph 1, of Decree-Law No. 87 of 12 July 2018, converted by Law No. 96 of 9 August 2018 (the so-called Dignity Decree) Complaint No. 9/23/DSDI - proc 25/FDG"

Delibera n. 318/23/CONS "Ordinanza-ingiunzione nei confronti della società twitch interactive germany gmbh per la violazione della disposizione normativa contenuta nell'art. 9, comma 1, del decreto-legge 12 luglio 2018, n. 87 convertito con legge 9 agosto 2018, n. 96 (cd.

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Decreto dignità) Contestazione n. 6/23/DSDI - proc. 22/FDG"

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Resolution No. 318/23/CONS "Order-injunction against the company Twitch Interactive Germany GmbH for the violation of the regulatory provision contained in Article 9, paragraph 1, of Decree-Law No. 87 of 12 July 2018, converted by Law No. 96 of 9 August 2018 (the so-called Dignity Decree) Complaint No. 6/23/DSDI - proc. 22/FDG"

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