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Subject: Comments from eu travel tech on the TRIS notification 2025/0318/IT of the Italian Annual Draft Law on Small and Medium-Sized Enterprises – Chapter IV (Sections 12 to 16) "Combating False Reviews"

- (1) eu travel tech (formerly The European Technology and Travel Services Association - ET TSA), launched in 2009 to represent the interests of global distribution systems and travel distributors, hereby submit comments on the TRIS notification 2025/0318/IT made pursuant to Directive (EU) 2015/1535 ("the TRIS Directive") of the Italian Annual Draft Law on Small and Medium-Sized Enterprises – Chapter IV (Sections 12 to 16) "Combating False Reviews" as notified on 25 June 2025 (hereafter the "Italian Draft Law").
- (2) The Italian Draft Law is a revised version compared to the previous draft notified (2025/0022/IT), which eu travel tech also commented on in a contribution dated 19 March 2025. The revised Italian Draft Law is now supposedly complying with the European Commission's concerns on the previous draft notified, as expressed in its detailed opinion and comments of 14 April 2025¹.

¹ European Commission's detailed opinion and comments, 14 April 2025, C(2025) 2452 final.

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- (3) It must be recalled that the TRIS notification procedure laid down in the "TRIS Directive" aims at promoting the smooth functioning of the internal market, whose purpose is to create an environment that is conducive to the competitiveness of undertakings (Recitals 3 and 7 of the TRIS Directive).

Executive summary

Similarly to eu travel tech's contribution dated 19 March 2025 in relation to the previous version of the Italian Draft Law (TRIS notification 2025/0022/IT), the present contribution seeks to demonstrate how the Italian Draft Law – in its revised version – is incompatible with European Union ("EU") law.

From the outset, it should be emphasised that the Italian Draft Law purports to define new categories of "illegal content" within the meaning of the Digital Services Act (DSA). However, such categories may only be defined in Member States' legislation in a manner that is fully consistent with EU law. The present letter establishes that the Italian Draft Law is incompatible both with primary EU law and with secondary EU legislation. Consequently, the provisions of the Italian Draft Law cannot lawfully introduce these new categories of "illegal content" within the meaning of the DSA.

The Italian Draft Law:

- Violates the Unfair Commercial Practices Directive ("UCPD")² and the freedom to provide services enacted in Article 56 TFEU in that (i) it applies much lower protection standards for consumers, contrary to the minimum EU standards set out in the UCPD; and (ii) it applies stricter regulatory provisions for traders (online platforms) than the existing provisions under the UCPD, whose Article 4 prevents Member States from restricting the freedom to provide services and enacting stricter rules.
- Violates the DSA and contradicts its general objectives.
- Depending on its interpretation, could potentially violate Article 6 of the General Data Protection Regulation.
- Presents concerns regarding the potential designation of associations representing the catering and tourism sector in Italy as "trusted flaggers" under Article 22 of the DSA.

² Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive).

- **Violates the principle of control in the home Member State applicable to online platforms as set out in the Directive on electronic commerce³ and the case law.**

Finally, it should be highlighted that a *Code of Conduct for online reviews and ratings for tourism accommodation*, initiated by the European Commission, has recently been created and endorsed by many stakeholders active in the hospitality industry.⁴ It aims at improving practices around online reviews. In addition to the EU law violations identified in the present letter, we note that the Italian Draft Law contradicts the objectives set out in the Code of Conduct, in particular those of greater transparency and reliability of online reviews and ratings for both consumers and businesses.

1. OVERVIEW OF THE ITALIAN DRAFT LAW

- (4) According to the Republic of Italy's communication message accompanying TRIS notification 2025/0318/IT on the European Commission's website, the Italian Draft Law has the aim of "combating the phenomenon of false online reviews and protecting consumers from the risks and influences arising from such practices".
- (5) The Italian Draft Law applies to "unlawful online reviews related to products performance and services offered by catering businesses and tourism sector facilities located in Italy, including accommodation and spa facilities, as well as relating to any form of tourist attraction offered on Italian territory".⁵
- (6) The Italian Draft Law sets out requirements for the regulation of online reviews such as the following (i.e. these are unlawful conducts within the meaning of the Italian Draft Law):
- the online review must be issued no later than fifteen days from the date of use of the product or service in order to be lawful;⁶
 - the legal representative of the reviewed facility, or his delegate, may obtain the removal of reviews that are issued later than fifteen days from the date of use of the product or service;⁷

³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

⁴ See at the following link: https://transport.ec.europa.eu/news-events/news/commission-welcomes-code-conduct-reliable-online-reviews-tourism-accommodation-2025-09-01_en (last viewed on 15 September 2025).

⁵ Section 12, Italian Draft Law.

⁶ Section 13(1), Italian Draft Law.

⁷ Section 13(2), Italian Draft Law.

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- the legal representative of the reviewed facility, or his delegate, may obtain the removal of reviews "that are no longer current due to the lapse of at least two years from the date of use of the product or use of the service by the author";⁸
- "the purchase and transfer of online reviews, appreciations, or interactions, for any reason, including between entrepreneurs and intermediaries, is prohibited, regardless of their subsequent dissemination"⁹.

(7) The Italian Draft Law has a wide geographical scope:

- It is only applicable to reviews submitted in relation to businesses or facilities located in Italy¹⁰;
- However, any person, located anywhere else in the world, whether in or outside of the EU, would be impacted by the Italian Draft Law when submitting a review (e.g. necessity to prove actual and personal use of the service¹¹);
- In addition, some provisions of the Italian Draft Law would necessarily affect online platforms located in other EU Member States in that (i) the draft text prohibits review transfers, and (ii) these platforms would have to review the requests for deletion of "illegal content" within the meaning of the DSA, read in combination with the Italian Draft Law.

2. THE ITALIAN DRAFT LAW AIMS AT DEFINING NEW FORMS OF "ILLEGAL CONTENT" WITHIN THE MEANING OF THE DSA

(8) According to Section 13 of the Italian Draft Law, the notice and action mechanisms of Article 16 of the DSA shall apply in order (i) for the legal representative of the reviewed facility (or its delegate) to notify "illegal content" within the meaning of the Italian Draft Law to the provider of hosting services concerned, and (ii) for the provider to decide whether or not it agrees with that assessment and wishes to remove or disable access to that content.

(9) By referring explicitly to Article 16 of the DSA, the Italian Draft Law aims at laying down new types of "illegal content" within the meaning of the DSA. As mentioned at point (6) above, online reviews are considered unlawful under Section 13 of the Italian Draft Law if (among others):

- They are issued later than fifteen days from the date of use;
- They are no longer current due to the lapse of two years from the date of use;

⁸ Section 13(2), Italian Draft Law.

⁹ Section 14(1), Italian Draft Law.

¹⁰ Section 12(1), Italian Draft Law.

¹¹ Section 13(1), Italian Draft Law.

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- They are not issued by the person who has actually and personally used the services or performance.

(10) Article 3(h) of the DSA defines "illegal content" in the following way:

*"illegal content" means any information that, in itself or in relation to an activity, including the sale of products or the provision of services, **is not in compliance with** Union law or **the law of any Member State which is in compliance with Union law**, irrespective of the precise subject matter or nature of that law" (emphasis added).*

(11) Article 3(h) of the DSA explicitly sets out that "illegal content" within the meaning of the DSA can refer to content that is not in compliance with the law of any Member State, but underlines that the law of the Member State must itself be in compliance with Union law.

(12) The present letter aims to demonstrate that the Italian Draft Law is not in compliance with Union law, such that its provisions cannot amount to "illegal content" within the meaning of the DSA, and should not be enshrined in Italian law.

3. INCOMPATIBILITY OF THE ITALIAN DRAFT LAW WITH DIRECTIVE 2005/29/EC (UNFAIR COMMERCIAL PRACTICES DIRECTIVE)

(13) The Italian Draft Law is incompatible with EU law for reasons emanating from the interplay of EU primary law with EU secondary legislations, in particular the rules on consumer protection and online platforms/content.

3.1. The UCPD adopts a full harmonisation approach

(14) The UCPD's very aim is to harmonize the legislations of the Member States relating to unfair commercial practices to prevent distortions of competition and obstacles to the functioning of the internal market, i.e. to the free movement of goods and services. The purpose of the UCPD is therefore to replace Member States' existing, divergent legal principles – which create uncertainty – and lay down uniform rules at EU level, within a single regulatory framework, thereby establishing a high level of consumer protection.¹²

¹² See, in that regard, Recitals 3, 4, 5, 12 and 13 of the UCPD.

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- (15) The UCPD is based on a full harmonisation approach under Article 114 of the Treaty on the Functioning of the European Union ("TFEU"), which itself refers to Article 26 of the TFEU setting out the principle according to which the Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market.
- (16) Harmonisation on the basis of Article 114 TFEU can amount to a minimum harmonisation, or a maximum harmonisation, as is the case for the UCPD, i.e. a full harmonisation of national laws, preventing Member States from enacting stricter rules.
- (17) On that basis, Article 4 of the UCPD explicitly provides:
- "Member States shall neither restrict the freedom to provide services nor restrict the free movement of goods for reasons falling within the field approximated by this Directive".
- (18) Article 4 of the UCPD prohibits Member States from restricting "the freedom to provide services", a principle set out in Article 56 of the TFEU.
- (19) This principle is further elaborated by the case-law of the Court of Justice of the European Union, which confirms that the UCPD **"fully harmonises** the rules relating to unfair business-to-consumer- commercial practices" and that **"Member States may not adopt stricter rules** than those provided for in the directive, as expressly provided for in Article 4 thereof, even in order to achieve a higher level of consumer protection" (emphasis added).¹³
- (20) To conclude, the UCPD introduces a full harmonisation approach, i.e. a "floor" and a "ceiling" of rules in the area of unfair commercial practices, preventing Member States from laying down both **lower and stricter** rules than those set out in the UCPD, and preventing them from restricting the freedom to provide services.

3.2. The Italian Draft Law aims at regulating an area already regulated under the UCPD

- (21) The UCPD in its original version of 2005 has been strengthened by Directive (EU) 2019/2161¹⁴, which introduced specific provisions regulating consumer reviews:

¹³ Judgment C-343/12, 7 March 2013, para. 24; see also judgments C-288/10, 30 June 2011, para. 33; C-261/07 and C-299/07, 23 April 2009, para. 52.

¹⁴ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules.

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- Consumer reviews of products ("products" being understood as encompassing services¹⁵) are now explicitly referred to in the UCPD: "Where a trader provides access to consumer reviews of products, information about whether and how the trader **ensures that the published reviews originate from consumers who have actually used or purchased** the product shall be regarded as material" (emphasis added);¹⁶
 - The UCPD has also been updated to list the following practice as a prohibited practice: "stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking **reasonable and proportionate steps** to check that they originate from such consumers" (emphasis added);¹⁷
 - The UCPD expressly prohibits submitting or commissioning another (legal or natural) person to submit false consumer reviews, or **misrepresenting consumer reviews** in order to promote products.¹⁸
- (22) The fact that consumer/user reviews fall within the scope of the UCPD is confirmed by and detailed in the UCPD Guidance issued by the European Commission¹⁹, which contains extensive developments on user reviews. The objective is to ensure that consumer reviews reflect real consumers' opinions, findings or experience.²⁰
- (23) The UCPD Guidance explicitly mentions that the UCPD applies to the commercial practices of online platforms and other traders that make available or provide access to consumer reviews, and to traders that organise the supply of reviews for the benefit of other traders.²¹
- (24) The UCPD prohibits the manipulation of consumer reviews, such as publishing only positive reviews and deleting the negative ones.²²

¹⁵ Article 2(c) of the UCPD.

¹⁶ Article 7(6) of the UCPD.

¹⁷ Annex I point No 23b of the UCPD.

¹⁸ Annex I point 23c of the UCPD.

¹⁹ Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market, see Section 4.2.4 on "User reviews".

²⁰ See under Section 4.2.4 on "User reviews" of the UCPD Guidance.

²¹ See under Section 4.2.4 on "User reviews" of the UCPD Guidance.

²² Recital 49 of Directive (EU) 2019/2161.

- (25) The UCPD Guidance specifies that, while traders must take reasonable and proportionate steps to ensure that the reviews originate from real users, this cannot amount to a general obligation to monitor or carry out fact-finding, in line with Article 15(1) of the e-Commerce Directive.²³
- (26) On that basis, it is clear that the regulation of user reviews on products and services is harmonised by and falls within the scope of the UCPD.
- (27) The Italian Draft Law imposes requirements and prohibitions aimed at regulating the same subject-matter, i.e. user/consumer reviews, as the one already regulated under the UCPD. The UCPD introduces a full harmonisation at EU level which prevents Member States (here the Republic of Italy) from overstepping their competence by adopting either much lower protection standards for consumers than those set out in the UCPD, or stricter regulatory provisions than the existing provisions under the UCPD.

3.3. The Italian Draft Law violates EU law and the UCPD in that it applies much lower protection standards for consumers than those set out in the UCPD

- (28) Directives are binding upon each Member State as to the result to be achieved.²⁴ They set minimum standards, i.e. minimum requirements that are applicable in an harmonised manner across all Member States.²⁵ Member States may not lower the standards set by directives, which lay down a "floor" of common rules.²⁶
- (29) The UCPD, as a directive, sets out minimum EU standards on unfair commercial practices, constituting the basic set of rules that all Member States' legislations must comply with. In this regard, the UCPD provides for a common EU framework applicable to the regulation of online reviews and sets a certain level of consumer protection.
- (30) In particular, the UCPD tackles the misrepresentation and manipulation of consumer reviews,²⁷ with extensive explanations of the prohibited practices in the UCPD Guidance. This provides consumers with a set level of protection against manipulative practices in the context of online reviews, and an environment that prevents arbitrary practices.

²³ See under Section 4.2.4 on "User reviews" of the UCPD Guidance.

²⁴ Article 288 of the TFEU.

²⁵ See <https://eur-lex.europa.eu/EN/legal-content/summary/european-union-directives.html> (last viewed on 15 September 2025).

²⁶ *Room to Move? Minimum harmonization and fundamental rights*, Francesco de Cecco, Common Market Law Review 43: 9–30, 2006.

²⁷ Recital 49 of Directive (EU) 2019/2161 and Annex I point 23c of the UCPD.

- (31) Against that background, the Italian Draft Law considerably lowers the consumer protection standard harmonised under the UCPD, and introduces a level of bias and arbitrary conduct that is contrary to the UCPD.
- (32) The Italian Draft Law foresees, for the reviewed businesses and facilities, a right to request the removal of unlawful reviews, namely:
- Reviews that are "no longer current due to the lapse of two years from the date of use of the product or of the service by the authority" (emphasis added);²⁸
 - Reviews that are issued later than fifteen days from the date of use.²⁹
- (33) These will be addressed in turn.
- (i) [On the right to request the removal of reviews that are "no longer current due to the lapse of two years"](#)
- (34) **First**, the right granted to businesses to delete reviews that are older than two years constitutes a disproportionate measure. A two-year period is a relatively short timeframe, which does not appear justified and proportionate when weighed against the overall objective of the UCPD, which is to safeguard economic interests from unfair commercial practices.
- (35) Reviews play a crucial role in enabling consumers to make informed purchasing decisions – when booking restaurants, hotels, or other services and experiences. Allowing national legislation to foresee, or even tolerate, the deletion of all reviews (whether positive or negative) beyond a two-year timeframe, would therefore be disproportionate.
- (36) Whether carried out automatically or at the request of businesses, the removal of all reviews older than two years would significantly limit consumers' access to transparent, relevant, and reliable information about the quality of a facility or service. On that basis, Section 13(2) of the Italian Draft Law runs counter to the objectives of the UCPD and undermines consumers' rights and protection.
- (37) **Second**, it is expected that businesses would make use of their right to delete reviews after a lapse of two years only to delete *negative* reviews, when the latter generally bring useful information to consumers. Since businesses would make use of their right to request the deletion of reviews on the basis of Article 16 of the DSA, businesses would have the possibility

²⁸ Section 13(2), Italian Draft Law.

²⁹ Section 13(1), Italian Draft Law.

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to apply discretion in the deletion of reviews. Businesses would "pick and choose" for which reviews, older than two years, they want to issue a "notice" under Article 16 of the DSA. Concretely, this means that the Italian Draft Law would give businesses the possibility to only keep online *positive* reviews that are older than two years, thereby resulting in a distorted ratio of positive versus negative reviews for a particular facility, with no negative reviews older than two years available online.

- (38) Such subjectivity and the possibility for businesses to apply discretion in the deletion of reviews is the very reason why there are unfair practices in the area of consumer reviews, which the UCPD aims at combating. This provision of the Italian Draft Law gives a large margin of maneuver to businesses, as they appear to be the ones entitled to effectively decide which reviews, after the two years mark, will be deleted or not.
- (39) On that basis, the Italian Draft Law considerably lowers the consumer protection standards set out in the UCPD, in violation of the UCPD and the principle of minimum harmonisation of directives. As mentioned at paragraph (24), the UCPD explicitly prohibits manipulative practices such as publishing only positive reviews and deleting the negative ones. In that regard, the Italian Draft Law violates the UCPD. If it were adopted, the Italian Draft Law would inevitably help and encourage businesses to manipulate the ratio of negative versus positive reviews, hence artificially improving the online ratings of the facility concerned (i.e. the rating of the facility itself, e.g. out of 5 or out of 10) and its ranking (i.e. the ranking of the facility against other facilities active in the same business sector). The overall rating would not be genuinely reflective of the experiences of users in relation to a particular facility anymore. This would also create obstacles to fair competition in the market, since online reviews and the resulting online ratings and rankings constitute nowadays the main source of information for consumers looking to compare businesses/facilities.
- (40) To conclude, by allowing businesses to "notify" reviews that are older than two years as "illegal content" under the DSA, and thereby to make use of their right to have such "illegal content" removed or disabled, the Italian Draft Law is not compliant with the UCPD (i.e. not compliant with Union law) and, as a result, the provision of the Italian Draft Law according to which businesses have the right to request the removal of reviews that are no longer current due to the lapse of two years cannot amount to "illegal content" within the meaning of the DSA and should not be enshrined in Italian law.
- (ii) [On the right to request the removal of reviews that are issued later than fifteen days from the date of use](#)

- (41) The Italian Draft Law grants reviewed facilities the right to obtain the removal of reviews that are issued later than fifteen days from the date of use of the product or the service. Concretely, this means that issuing a review later than fifteen days from the date of use amounts to "illegal content" within the meaning of the DSA.³⁰
- (42) This provision of the Italian Draft Law presents a few issues.
- (43) **First**, the right granted to businesses to delete reviews that have not been published within a fifteen-day timeframe is a disproportionate measure. Fifteen days is a relatively short timeframe, which does not appear justified and proportionate when weighed against the overall objective of the UCPD, which is to safeguard economic interests from unfair commercial practices.
- (44) As mentioned above at paragraph (35), reviews play a crucial role in enabling consumers to make informed purchasing decisions – when booking restaurants, hotels, or other services and experiences. Allowing national legislation to foresee, or even tolerate, the deletion of all reviews (whether positive or negative) that have been issued after the fifteen-day timeframe, would therefore be disproportionate.
- (45) Whether carried out automatically or at the request of businesses, the removal of all reviews issued fifteen days after the date of use would significantly limit consumers' access to transparent, relevant, and reliable information about the quality of a facility or service. On that basis, Section 13(1) of the Italian Draft Law runs counter to the objectives of the UCPD and undermines consumers' rights and protection.
- (46) **Second**, there are many circumstances that would explain the issuance of a review by a consumer later than fifteen days after the use of the product or the service (e.g. the reviewer was taking a long trip and waiting to be back home to post its review).
- (47) In addition, there is an inherent contradiction within Section 13 of the Italian Draft Law. On the one hand the Italian Draft Law recognizes that reviews are "current" for a duration of two years (i.e. they are reflective of the actual experience of a consumer for two years), while on the other hand the Italian Draft Law deems that reviews that are posted later than fifteen days after use are unlawful (i.e. they are not reflective of the actual experience of a consumer anymore). These two timeframes cannot be reconciled, are in contradiction with one another, and demonstrate the arbitrariness of the provisions of the Italian Draft Law.

³⁰ Section 13(1) read in combination with Section 13(2), Italian Draft Law.

- (48) Posting a review on the 16th day after use does not make it obsolete, less genuine or less reflective of the actual experience of the user. This demonstrates how the fifteen days timeframe has been chosen arbitrarily by the Italian legislator.
- (49) **Third**, the same line of argumentation as that developed above in relation to the deletion of reviews that are older than two years (see paragraphs (34) to (40) above) is applicable *mutatis mutandis* regarding the possibility for a facility to request the deletion of a review that has been issued later than fifteen days after use of the product or service.
- (50) The possibility for a facility to request the deletion of a review that has been issued later than fifteen days after use – but still within a reasonable timeframe – is inevitably in violation of the UCPD. It is expected that businesses would make use of their right, under the DSA, to request the deletion of reviews that have been published later than fifteen days after use only to delete *negative* reviews (without ever questioning whether positive reviews are posted later than fifteen days after use or not). Again, this means that businesses would have the possibility to "pick and choose" which reviews they would like to see deleted. Businesses would be in a position to apply discretion in a way that is favorable to them, but manipulative within the meaning of Recital 49 of the UCPD. The ratio between positive versus negative reviews would be distorted and manipulated in favor of the facility concerned, therefore artificially improving the online ratings and ranking of the facility.
- (51) Since the UCPD prohibits manipulative practices such as publishing only positive reviews and deleting the negative ones, this provision of the Italian Draft Law considerably lowers the consumer protection standards set out in the UCPD, in violation of the UCPD and the principle of minimum harmonisation of directives.

3.4. On the prohibition of the transfer of reviews: the Italian Draft Law violates Article 4 of the UCPD by applying stricter regulatory provisions than the existing provisions under the UCPD and restricts the freedom to provide services

- (52) As mentioned at para. (17) and (18) above, Article 26 of the TFEU sets out the principle according to which the Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market. More specifically, Article 4 of the UCPD prevents Member States from restricting the freedom to provide services in the EU internal market, a principle set out in Article 56 of the TFEU. Article 4 of the UCPD, read in conjunction with the case-law of the

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Court of Justice of the European Union, prevents Member States from adopting stricter rules than those already provided for in the UCPD, even to achieve higher consumer protection.

- (53) Section 14(1) of the Italian Draft Law imposes a blanket prohibition: *"the purchase and transfer of online reviews, appreciations, or interactions, for any reason, including between entrepreneurs and intermediaries, is prohibited, regardless of their subsequent dissemination"*. The violation of such provision could lead to criminal liability and to sanctions by the Competition and Market Authority³¹.
- (54) However, the transfer of consumer reviews is allowed under EU law, provided that the reviews comply, in particular, with the UCPD, i.e. consumer protection rules on authenticity and transparency.
- (55) By prohibiting the transfer of online reviews, the Italian Draft Law is *de facto* restricting legitimate commercial arrangements that are currently lawful under EU law, and prohibiting certain business models – based on consumer reviews – from operating entirely. There are platforms that rely on hosting consumer reviews originating from trusted third parties to give vital information about a travel product or service to consumers. The transfer of reviews is of critical business importance to these aggregators of reviews.
- (56) In addition, a prohibition on the transfer of reviews would have disproportionate effects on small and medium-sized enterprises (SMEs). Many SMEs rely on the ability to integrate or display reviews from established third-party platforms, which already provide mechanisms for content verification and moderation. Preventing this practice would oblige SMEs to establish their own systems for collecting and moderating reviews, including the deployment of technological tools and compliance procedures that may entail significant financial and administrative burdens. Unlike larger operators, SMEs often lack the resources to absorb such costs, which would place them at a structural disadvantage and risk undermining their competitiveness in the European market.
- (57) The blanket prohibition in the Italian Draft Law creates market fragmentation in the EU internal market and conflicts with the UCPD. Review transfers are allowed at EU level and no other EU Member State has implemented a comprehensive prohibition on review-related commercial arrangements. The Italian Draft Law thereby creates conflicting obligations across Member States and establishes barriers for companies that operate in the EU. The prohibition set out in the Italian Draft Law is also not serving consumers since the latter benefit from reviews

³¹ Section 14(2), Italian Draft Law.

published on a variety of platforms to make informed decisions. The prohibition of commercial arrangements related to transfer of reviews deprives consumers from highly important information.

- (58) On that basis, by prohibiting the transfer of online reviews, the Italian Draft Law is violating:
- Article 26 of the TFEU in that the Italian Draft Law imposes barriers to the EU internal market;
 - Article 56 of the TFEU and Article 4 of the UCPD in that the Italian Draft Law restricts the fundamental freedom to provide services in the EU internal market and is adopting stricter rules than those provided for in the UCPD and in EU law in general, which allows the transfer of reviews.

3.5. On the vague wording regarding the verification of whether consumers have used the service: the Italian Draft Law might violate Article 4 of the UCPD

- (59) As mentioned at para. (17) and (18) above, Article 4 of the UCPD prevents Member States from restricting the freedom to provide services in the EU internal market. This article, read in conjunction with the case-law of the Court of Justice of the European Union³², prevents Member States from adopting stricter rules than those already provided for in the UCPD, even to achieve higher consumer protection.
- (60) The Italian Draft Law might go beyond what is required under the UCPD in terms of regulation of online review, depending on the future interpretation and enforcement of Section 13(1) of the Italian Draft Law.
- (61) As mentioned at para. (21) above, Recital 47 to Directive (EU) 2019/2161 which clarifies the UCPD, specifies that "reasonable and proportionate steps" could be taken to verify that the consumer has actually used the service. These could include requiring the reviewer to register, using technical means (e.g. IP address check to verify that the reviewer is actually a consumer, deploying tools to automatically detect fraudulent activity...).³³ The UCPD Guidance states that

³² Judgment C-343/12, 7 March 2013, para. 24; see also judgments C-288/10, 30 June 2011, para. 33; C-261/07 and C-299/07, 23 April 2009, para. 52.

³³ See Section 4.2.4 on "User reviews" of the UCPD Guidance.

these rules cannot, in any event, amount to a general obligation to monitor or carry out fact-finding and, in that regard, quotes Article 15(1) of the e-Commerce Directive.³⁴

- (62) Section 13(1) of the Italian Draft Law lays down an obligation for consumers to issue their review "by the person who has **actually** and **personally** used the services or performance" (emphasis added).
- (63) This is a very vague statement which opens the door to platforms having to perform checks and verifications – the nature of which is unclear from the text of the Italian Draft Law – to ensure that the reviews posted come from the person who has used the product or service.
- (64) This also opens the door to facilities performing an extensive and strict screening of negative reviews and asking for their deletions under the guise of the review not being published "by the person who has actually and personally used the services of performance". This would be a manipulative practice contrary to the UCPD, as already extensively developed throughout this letter (see paragraph (24) and Section 3.3).
- (65) Since the nature and extent of the verifications that will result from this provision of the Italian Draft Law are unclear, it must be emphasized that the verifications steps foreseen in the Italian Draft Law should remain "reasonable and proportionate" within the meaning of the UCPD³⁵:
- The Italian Draft Law should not lead to the monitoring of every single consumer review posted on a platform through an invasive check which would amount to a general monitoring obligation explicitly prohibited under the UCPD. By way of example, the UCPD does not provide for an identity check, but for verification through means which are much less invasive, such as requiring registration from the reviewer, checking their IP address, deploying tools to automatically detected fraudulent activity, having adequate measures and resources to respond to complaints about suspicious reviews, etc.³⁶;
 - The Italian Draft Law should not open the door to performing an identity check for every individual who wishes to post a review, as that would make the posting of reviews "excessively difficult thus discouraging consumers who have actually purchased or used the product from submitting reviews".³⁷

³⁴ See Section 4.2.4 on "User reviews" of the UCPD Guidance; Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

³⁵ Point 23b of Annex I of the UCPD.

³⁶ See Section 4.2.4 on "User reviews" of the UCPD Guidance.

³⁷ See Section 4.2.4 on "User reviews" of the UCPD Guidance.

- (66) To conclude, since the wording of the Italian Draft Law is unclear and vague, we wish to underline that the Italian Draft Law should not impose more stringent rules for online platforms than those provided for in the UCPD, as the divergence in regulatory framework between Italy and the rest of the EU would make it harder for online platforms to provide their services in Italy, thereby undermining the EU internal market and the freedom to provide services in the EU. The Italian legislator should not infringe EU law by applying stricter provisions for the regulation of online consumer reviews than those of the UCPD, as this would be in violation of Article 4 of the UCPD, read in conjunction with Article 114 and Article 56 of the TFEU.

4. VIOLATION OF THE DIGITAL SERVICES ACT AND INCOMPATIBILITY WITH ITS OBJECTIVES

- (67) While the above analysis on the violation of the UCPD by the Italian Draft Law should be sufficient to prevent the Republic of Italy from adopting the latter, passing references can be made to other shortcomings identified in the Italian Draft Law, especially in relation to the DSA.

4.1. The Italian Draft Law's blanket prohibition of review transfers violates the DSA's full harmonisation approach

- (68) The Digital Services Act³⁸ ("DSA") regulates the obligations of digital services that act as intermediaries in their role of connecting consumers with goods, services, and content. In particular, the DSA's framework aims at establishing transparency and accountability for online platforms and at countering illegal content online. The Regulation enshrines rules applicable to intermediary services in the internal market with the objective of "addressing the dissemination of illegal content online and the societal risks that the dissemination of disinformation or other content may generate".³⁹ Article 1 of the DSA also specifies that it aims at protecting fundamental rights, including the principle of consumer protection.
- (69) As a Regulation, the DSA applies directly and supersedes overlapping national laws that follow the same objective.⁴⁰

³⁸ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC.

³⁹ Recital 9 of the DSA.

⁴⁰ See Questions and answers on the Digital Services Act, at the following link: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2348 (last viewed on 15 September 2025).

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- (70) Similarly to what has been described above at para. (15) in the context of the UCPD, the DSA also introduces a full harmonisation under Article 114 TFEU, read in conjunction with Article 26 TFEU. The DSA therefore provides for an harmonised rulebook applicable throughout the Digital Single Market.
- (71) The DSA itself specifies that it "fully harmonises the rules applicable to intermediary services in the internal market" and that "accordingly, Member States should not adopt or maintain additional national requirements relating to the matters falling within the scope of this Regulation, unless explicitly provided for in this Regulation, since this would affect the direct and uniform application of the fully harmonised rules applicable to providers of intermediary services in accordance with the objectives of this Regulations".⁴¹
- (72) Section 14 of the Italian Draft Law imposes a blanket prohibition on the transfer of reviews (see paragraph (53) above) while commercial arrangements around review transfers are allowed in the EU and at Member States' level.
- (73) Such prohibition violates the DSA, in particular the DSA's approach to illegal content, as the Italian Draft Law imposes such blanket prohibition with no evaluation of whether transfer of reviews constitute illegal content or not. This also conflicts with the DSA's full harmonisation approach under Article 114 of the TFEU, read in conjunction with Article 26 of the TFEU.

4.2. The Italian Draft Law contradicts the DSA's general objectives

- (74) The DSA emphasizes the importance of transparency⁴², the freedom of opinion without manipulation⁴³, as well as the importance for providers of intermediary services to act in a non-arbitrary and non-discriminatory manner⁴⁴. In other words, the rationale behind the DSA, although not explicit, is notably to foster platform neutrality by preventing arbitrary and unequal treatment of content.
- (75) In that regard, the possibility, foreseen in the Italian Draft Law, for businesses to request and obtain the deletion of reviews that have been issued later than fifteen days after use of the product or service, and that are "no longer current due to the lapse of two years" poses a serious threat to transparency, to the freedom of opinion without manipulation, and to platform neutrality.

⁴¹ Recital 9 of the DSA.

⁴² Recital 45 of the DSA.

⁴³ Recital 75 of the DSA and see at the following link under "How will the Digital Services Act protect my fundamental rights?": <https://digital-strategy.ec.europa.eu/en/faqs/digital-services-act-questions-and-answers>

⁴⁴ Recital 47 of the DSA.

- (76) For the reasons developed under Section 3.3, the possibility to obtain the deletion of negative reviews in such circumstances introduces highly subjective criteria, which would artificially increase the ratio of positive versus negative reviews, and thus manipulate the online rating of the facility concerned.
- (77) Overall, the Italian Draft Law will impact online ratings and rankings of facilities by creating a significant risk of manipulation of consumer feedback, thereby undermining transparency and trust in online reviews and online platforms more broadly.
- (78) The provisions of the Italian Draft Law are therefore incompatible with the overall objectives of the DSA.

4.3. The Italian Draft might violate Article 8 of the DSA

- (79) Article 8 of the DSA reads as follows: *"No general obligation to monitor the information which providers of intermediary services transmit or store, nor actively to seek facts or circumstances indicating illegal activity shall be imposed on those providers"*.
- (80) Article 8 of the DSA prohibits imposing on service providers a general obligation to monitor the information they transmit or store and to actively seek facts or circumstances indicating illegal activity, e.g. the posting of unlawful reviews within the meaning of Italian legislation.
- (81) The letter accompanying the Italian Draft Law, as notified to the European Commission, provides that the new rules are designed so as not to impose "a general monitoring burden on intermediary service providers".⁴⁵ In practice, however, platforms will nevertheless face a significant monitoring burden. They will likely be required to develop technical mechanisms to ensure that reviews are posted no later than the fifteen-day timeframe. This burden could amount to a general monitoring obligation, in violation of Article 8 of the DSA.

5. POTENTIAL VIOLATION OF ARTICLE 6 OF THE GENERAL DATA PROTECTION REGULATION

⁴⁵ See at this link: <https://technical-regulation-information-system.ec.europa.eu/en/notification/27014> (last viewed on 15 September 2025).

- (82) In light of its vague wording, Section 13(1) of the Italian Draft Law could be interpreted in such a way that it requires that consumers prove their identity along with the actual use of the service when issuing a review. This could imply the processing of personal data by the companies/platforms concerned.
- (83) Article 6(1) of the GDPR sets out the circumstances in which the processing of personal data can be considered lawful. Where the processing is necessary for compliance with a legal obligation, such processing is lawful within the meaning of Article 6(1)(c) of the GDPR. However, Article 6(3), 2nd indent, of the GDPR specifies that: "The Union or the Member State law shall meet an objective of public interest and **be proportionate to the legitimate aim pursued**" (emphasis added).
- (84) If the Italian Draft Law were to be interpreted as setting out a legal obligation – within the meaning of Article 6(1)(c) of the GDPR – to process personal data in order to verify these reviews, it would be contrary to Article 6 of the GDPR. Indeed, if it were to require the processing of personal data to verify the identity and actual use of the service every time a consumer wishes to post a review, Section 13(1) of the Italian Draft Law would be disproportionate to the "legitimate aim pursued" within the meaning of Article 6(3), 2nd indent, of the GDPR. The same objective of protecting businesses could be attained with means that are much less intrusive and more proportionate, see e.g. paragraph (61): requiring the reviewer to register, using technical means such as IP address check to verify that the reviewer is actually a consumer, deploying tools to automatically detect fraudulent activity, etc.
- (85) On that basis, if Section 13(1) of the Italian Draft Law were to be interpreted as imposing a legal requirement to process personal data to verify the reviewer's identity and actual use of the service, this provision would be disproportionate to attain the objective of protecting small and medium-sized enterprises. The Italian Draft Law therefore would violate Article 6 of the GDPR.

6. ON THE POTENTIAL DESIGNATION OF ASSOCIATIONS REPRESENTING THE CATERING AND TOURISM SECTOR IN ITALY AS "TRUSTED FLAGGERS" UNDER ARTICLE 22 OF THE DSA

- (86) Section 15(3) of the Italian Draft Law specifies that *"the associations representing the catering and tourism sector businesses established in Italy, in possession of the requirements outlined in Article 22 of Regulation (EU) 2022/2065 and the implementing regulations adopted by the*

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Communications Guarantee Authority, may request recognition of the status of trustworthy reporter under the aforementioned Article 22 of Regulation (EU) 2022/2065".

- (87) With this provision, the Italian Draft Law emphasizes that associations representing the catering and tourism sector in Italy may request the status of "trusted flaggers" under Article 22 of the DSA.
- (88) **First**, from a formal standpoint, it must be underlined that Section 15(3) of the Italian Draft Law is redundant and merely restates a possibility already foreseen in the DSA. It simply states that the associations must be "in possession of the requirements outlined in Article 22 [of the DSA]" in order to request the status of trusted flaggers.
- (89) **Second**, it must be highlighted that associations representing the catering and tourism sector businesses established in Italy would not be in a position to meet the conditions of Article 22(2) of the DSA – at least not in light of the types of "illegal content" identified in the Italian Draft Law – and hence could not be awarded the status of trusted flaggers.
- (90) In particular, the condition of Article 22(2)(a) of the DSA refers to the "particular expertise and competence for the purposes of detecting, identifying and notifying illegal content" of the entity requesting this status. However, associations representing the catering and tourism sector businesses established in Italy do **not** have a "particular expertise and competence for the purposes of detecting, identifying and notifying illegal content". Indeed, in light of the Italian Draft Law, illegal content would be, for example, (i) a review issued later than fifteen days after the date of use of the product or service, (ii) a review issued by someone who has not actually and personally used the service; (iii) a review that is no longer current due to the lapse of two years from the date of use.
- (91) These types of "illegal content" would only be detectable by the businesses and facilities themselves. Associations representing the catering and tourism sector businesses established in Italy are third parties to the relationship between the businesses/facilities and consumers issuing the reviews and do not have access to the information necessary to detect which reviews are illegal or not within the meaning of the Italian Draft Law. Only the business or facility concerned is in a position to determine and verify (i) whether a specific review is issued later than fifteen days after the date of use, (ii) whether a review is issued by someone who has not actually and personally used the service, or (iii) whether a review is no longer current because two years have past since the date of use.

- (92) On that basis, associations representing the catering and tourism sector businesses established in Italy would likely not be in a position to meet the condition of Article 22(2)(a) of the DSA as they do not have a "particular expertise and competence for the purposes of detecting, identifying and notifying illegal content", and hence they would not be in a position to be awarded the status of trusted flaggers within the meaning of the DSA.
- (93) Associations representing the catering and tourism sector businesses established in Italy would also not be in a position to meet the condition of Article 22(2)(c) of the DSA, which requires that the applicant for the status of trusted flagger "carries out its activities for the purposes of submitting notices diligently, accurately and **objectively**" (emphasis added).
- (94) Associations representing the catering and tourism sector businesses cannot be regarded as neutral entities. By definition, they lack objectivity, as they represent – and are financed by – businesses active in the hospitality industry. Consequently, such associations would be inclined to flag content as illegal under the DSA in ways that serve the interests of their members. Granting them the status of trusted flaggers would undermine fair competition, and violate the DSA's objectives of improving the functioning of the internal market and ensuring a transparent online environment⁴⁶.
- (95) Accordingly, associations representing the catering and tourism sector businesses, being inherently biased, cannot operate in a credible and effective manner in tackling unlawful reviews, and cannot be considered to meet the condition laid down in Article 22(2)(c) of the DSA.

7. ON THE VIOLATION OF THE PRINCIPLE OF CONTROL IN THE HOME MEMBER STATE AS SET OUT IN THE DIRECTIVE ON ELECTRONIC COMMERCE AND THE CASE LAW

- (96) Section 12 of the Italian Draft Law applies to reviews submitted in relation to businesses and facilities located in Italy. This means that, a person located anywhere else in the world – whether in or outside of the EU – would be impacted by the Italian Draft Law when issuing a review of an Italian business or facility (see, paragraph (7) above).
- (97) With Section 14 in particular, the Italian Draft Law aims at regulating online platforms and intermediaries, and at restricting the very possibility of certain online platforms to exist and

⁴⁶ Recital 40 of the DSA.

operate (see paragraph (55) above). This also applies to platforms that are not established in Italy.

- (98) However, the Directive on electronic commerce states that information society services should be supervised at the source of the activity, and in particular that *"in order to effectively guarantee freedom to provide services and legal certainty for suppliers and recipients of services, such information society services should in principle **be subject to the law of the Member State in which the service provider is established**"* (emphasis added)⁴⁷.
- (99) This has been explicitly confirmed by the case-law of the CJEU: *"Directive 2000/31 is thus based on the application of the **principles of control in the home Member State and mutual recognition, so that [...] information society services are regulated solely in the Member State on whose territory the providers of those services are established**"* (emphasis added)⁴⁸.
- (100) Concretely, this means that online platforms and intermediaries are regulated solely by the laws of the Member State in which they are established.
- (101) The Italian Draft Law, by regulating online platforms that are not established in Italy, is violating the principle of control in the home Member State as set out in the Directive on electronic commerce and interpreted by the CJEU.

8. THE ITALIAN DRAFT LAW CONTRADICTS THE OBJECTIVES OF AND PRINCIPLES SET OUT IN THE *CODE OF CONDUCT FOR ONLINE REVIEWS AND RATINGS FOR TOURISM ACCOMMODATION*

- (102) The European Commission initiated a *Code of Conduct for online reviews and ratings for tourism accommodation*, which has been published on 1 September 2025 (the "Code of Conduct").⁴⁹
- (103) The Code of Conduct has been co-created by stakeholders active in the tourism industry, in particular accommodation providers and online platforms. It aims at achieving greater transparency and reliability of online reviews, for both consumers and businesses in the

⁴⁷ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, Recital 22.

⁴⁸ Joined Cases C-662/22 and C-667/22, *Airbnb and Amazon v. Autorità per le Garanzie nelle Comunicazioni*, 30 May 2024, ECLI:EU:C:2024:432, paragraph 55.

⁴⁹ See at the following link: https://transport.ec.europa.eu/news-events/news/commission-welcomes-code-conduct-reliable-online-reviews-tourism-accommodation-2025-09-01_en (last viewed on 15 September 2025).

industry. In the Commissioner for Sustainable Transport and Tourism's own words: "This means clearer, fairer, more trustworthy, more transparent, and more reliable information for everyone"⁵⁰.

- (104) In addition to the EU law violations identified in the present letter, the Code of Conduct is also a reminder that the regulation of online reviews is dealt with at EU level – both through binding EU law instruments, and through initiatives such as this Code of Conduct. The Code of Conduct explicitly acknowledges its alignment with the EU legislative framework, and serves as guidance on best practices, as well as on the relevant obligations under the DSA and the UCPD.⁵¹
- (105) The Code of Conduct aims at ensuring that reviews and ratings are accurate and trustworthy, to help tourists make better-informed choices. This translates in specific principles, such as:
- Ensuring transparency in ratings system⁵² and about measures for outdated reviews;⁵³
 - Establishing response channels for negative reviews;⁵⁴
 - Communicating about processes in place to tackle fake reviews;⁵⁵
 - Verifying the origin of the reviews;⁵⁶
 - Flagging fake and illegal reviews.⁵⁷
- (106) To conclude, we are concerned that the Italian Bill undermines the collective consensual effort at EU level of the broader tourism industry (particularly accommodation providers and platforms) to develop a shared approach to persistent issues in the review space. In particular, the Italian Draft Law introduces new categories of "illegal content" within the meaning of the DSA – such as granting facilities the right to request the removal of reviews that are more than two years old, or that are issued later than fifteen days from the date of use – that might lead to inaccuracies, manipulations, and ultimately untrustworthy information for consumers. With respect to old reviews, the Code of Conduct requires stakeholders to provide information on the processes and policies in place to prevent outdated reviews⁵⁸. By contrast, granting businesses a disproportionate right to request the deletion of reviews directly, without understanding the processes and policies in place undermines this principle, as well as review systems more broadly. Furthermore, the provisions of the Italian Draft Law contribute to creating

⁵⁰ See at the following link: https://transport.ec.europa.eu/news-events/news/commission-welcomes-code-conduct-reliable-online-reviews-tourism-accommodation-2025-09-01_en (last viewed on 15 September 2025).

⁵¹ Principle 2.1. of the Code of Conduct.

⁵² Principle 4.1 of the Code of Conduct.

⁵³ Principle 4.14 of the Code of Conduct.

⁵⁴ Principle 4.6 of the Code of Conduct.

⁵⁵ Principle 4.7 of the Code of Conduct.

⁵⁶ Principle 4.8 of the Code of Conduct.

⁵⁷ Principle 4.10 of the Code of Conduct.

⁵⁸ Principle 4.14 of the Code of Conduct.

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greater opacity in online ratings, whereas both the EU-level legislation and the Code of Conduct seek to achieve greater transparency.

9. CONCLUSION

- (107) If the Italian Draft Law were to be adopted, the Republic of Italy would exceed its competence within the meaning of the EU Treaties, specifically Article 114 TFEU read in conjunction with Article 26 TFEU, on the basis of which the UCPD and the DSA have been adopted.
 - (108) The Italian Draft Law seeks to regulate an area of EU law that is already fully harmonised under the UCPD at EU level. Its adoption would create barriers to the internal market, particularly the Digital Single Market, lead to a violation of the freedom to provide services, and lead to regulatory inconsistencies among the Member States.
 - (109) Moreover, the Italian Draft Law is expected to create barriers to entry for certain service providers and *de facto* prohibit certain business models that are based on consumer reviews.
 - (110) If the Italian Draft Law were to be adopted, it would result in tremendous economic consequences, a fragmentation of the internal market and a restriction to the free movement of services.
 - (111) The European Commission shall therefore take action in the context of the TRIS notification of the Italian Draw Law, especially considering the importance of its role under the TRIS Directive and as guardian of the treaties.
-