



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 201

Communication from the Commission - TRIS/(2025) 1499

Directive (EU) 2015/1535

Notification: 2025/0022/IT

Forwarding of the response of the Member State notifying a draft (Italy) to of European Commission.

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2. Italy

3A. Ministero delle imprese e del Made in Italy

Dipartimento Mercato e Tutela Direzione Generale Consumatori e Mercato

Divisione II. Normativa tecnica - Sicurezza e conformità dei prodotti, qualità prodotti e servizi

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Ufficio Legislativo

4. 2025/0022/IT - SERV20 - Electronic commerce

5.

6. In response to the above-mentioned detailed opinion on the draft annual law on small and medium-sized enterprises - Chapter IV (Articles 12 to 17) on 'Combating false reviews' (hereinafter the 'notified draft'), the following is submitted.

The Italian Authority has carefully reviewed the regulatory text relating to the fight against false reviews (Chapter IV of the Draft Annual Law on Small and Medium-sized Enterprises), making significant amendments to ensure complete consistency with the principles and provisions of the European Union, in particular with Regulation (EU) 2022/2065 (Digital Services Act, DSA), Directive 2000/31/EC (Directive on Electronic Commerce), Directive 2005/29/EC (Directive on Unfair Commercial Practices) and Regulation (EU) 2016/679 (GDPR).

The reformulated text of the notified Draft, attached hereto, in the opinion of the undersigned Administration, respects the principles of harmonisation and proportionality, protecting consumers and ensuring the free provision of digital services in the internal market.

Please note that the new text, attached hereto, will be notified in the manner provided for in Article 5(1), sub-para. 3 of Directive (EU) 2015/1535.

It is also worth noting that the attached text is to be submitted for parliamentary scrutiny (as an amendment to the current text) through the constitutional procedure for the approval of laws under Italian law and will therefore remain in draft status until the final approval of the measure in which it is contained.

2. Detailed opinion

2.1. Assessment in light of the Digital Services Act



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2.1.1. Applicability of the Digital Services Act

The new wording of Chapter IV has redefined the subjective and objective scope of the regulation on online reviews, ensuring that the provisions do not impose additional or binding obligations on intermediary service providers beyond what is provided for in the DSA.

Article 12 specifies that the exclusive objective of the legislation is to combat unlawful online reviews, expressly referring to compliance with Regulation (EU) 2022/2065 for the aspects regulated therein, and excluding any additional burden on intermediary service providers in compliance with the principle of complete harmonisation dictated by the Regulation. In the revised wording, Article 13(1) merely defines the lawfulness of reviews in terms of national criteria. This approach, which is fully compliant with the DSA, is intended to protect consumers from reviews that do not meet the required requirements of lawfulness, without affecting the European regulation of digital services, especially since it is expressly provided in paragraph 2 that the handling of takedown requests by the service operator or product provider remains governed by the notice and action procedures set out in Article 16(2) of the DSA.

In this perspective, the notified Project is not addressed to the providers of information society services, but rather to the persons directly involved in the contractual relationship concerning the service or product provided: i.e., on the one hand, the consumers who are users of the service or product, and on the other hand, the establishments that provide the services subject to review, as well as, if applicable, their legal representatives, within the meaning of Article 13(2). Also included among the addressees of the regulations are the representative associations of catering enterprises and facilities in the tourism sector established in Italy, as provided for in Article 15, paragraph 3.

The legislation aims to prevent and combat unlawful conduct related to the dissemination of online reviews, ensuring the protection of the transparency and accuracy of information made available to consumers who intend to use legitimate reviews. The aim is to provide the reviewed enterprise with an accurate definition of a lawful review, enabling it to obtain judicial protection of its rights.

A) Obligations of the notified project applicable to intermediary service providers

Concerning Articles 13 and 14, the amendments removed any possible reference to the direct involvement of platforms. The lawfulness of the review is left solely to the self-responsibility of the person issuing it, who must have actually and personally used the product or service he reviewed. Therefore, according to the provision in question, the subjective correlation between the person who issues the review and the person who has used the service or product, constitutes a requirement for the lawfulness of the evaluation, the burden of which falls on the person who issues it and does not entail any verification or validity burden, in addition to those already provided for by the DSA, on intermediary service providers.

Moreover, the amendments introduced to the rule also specify that the guidelines referred to in Article 15(1) are aimed at guiding companies in adopting suitable measures to ensure only compliance with the requirements of lawfulness of online reviews, without providing for prior verification or generalised monitoring burdens on intermediary service providers, by Article 8 of Regulation (EU) 2022/2065 (DSA).

It should also be noted that the Italian Data Protection Authority participates in the process of adopting the guidelines, as provided for in Article 15(1), to ensure full compliance with the data protection profiles of the persons concerned.

Finally, as already mentioned, the explicit provision that requests for the removal of unlawful reviews may only be submitted by the reviewed subject, through the reporting methods provided for by the DSA, also helps to avoid the imposition of further proactive or systematic monitoring obligations on intermediary service providers.

B) Obligations on the notified draft applicable to national competent authorities

Concerning Article 15, it no longer provides for binding codes of conduct, but only for non-binding guidelines adopted by the Competition and Market Authority (AGCM), after consulting with other competent authorities, aimed solely at guiding companies in adopting suitable measures to ensure compliance with the lawfulness requirements of online reviews. These guidelines are for advisory and guidance purposes only, with the sole aim of encouraging the adoption of good practices by companies and do not interfere with the harmonised provisions of the DSA, nor with the competences attributed to digital service coordinators. This ensured that the national regulation did not overlap with the European regulation, as requested by the Commission.



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2.1.2. Full harmonisation effect of the DSA

The European Commission rightly referred to the fully harmonising effect of Regulation (EU) 2022/2065 (Digital Services Act), emphasising its nature as a horizontal legislative instrument that establishes, in a uniform manner throughout the Union, rights and obligations for intermediary service providers.

The Italian administration has, in this sense, drafted the new text by eliminating any provision that might overlap with the European provisions, leaving the rights and obligations established by the DSA unaffected.

The national framework limits itself to defining the conditions for the lawfulness of online reviews according to Italian law, leaving intermediary service providers free to process reports according to the procedures established by the DSA (Article 16(2)). No provision imposes additional obligations for supervision or preventive action. In this way, any risk of fragmentation of the internal market is avoided, ensuring legal certainty, business and consumer protection and respect for the principle of complete harmonisation.

A) Obligations of the notified project applicable to intermediary service providers

Following the Commission's detailed opinion, it is worth noting that the new text of Chapter IV, drafted in light of the comments made, has excluded any prior or systematic obligations on intermediary service providers regarding online reviews.

This arrangement ensures that intermediary service providers are not required to engage in general fact-finding or proactive content monitoring, thus avoiding obligations prohibited by Article 8 of the DSA.

Intermediary service providers remain free to determine, based on their service operations, the most appropriate technical measures to ensure compliance with the DSA without imposing a disproportionate burden.

Furthermore, it is clarified that the procedure for contesting reviews by reviewers does not imply any obligation on the part of intermediary service providers to remove content automatically: removal remains subject to the notice and action procedures provided for in Article 16(2) of the DSA. In this way, it is reiterated that the national framework only defines illegal content under Italian law, leaving the platforms to apply the European procedures for handling reports.

Regarding the regulation of personal data protection, it is worth noting that the new regulatory text does not impose an obligation on intermediary service providers to identify their users. The responsibility for certifying the truthfulness and lawfulness of the review remains, in fact, exclusively with the person who wrote the review, who must have actually and personally used the product or service reviewed.

There is no processing of personal data by the providers, nor is there any obligation to systematically store or verify the reviews themselves. This approach is consistent with the principles of necessity and proportionality enshrined in the GDPR, as it avoids processing that is not strictly necessary for the pursuit of the legitimate interest of ensuring the fairness of online reviews.

B) Obligations on the notified draft applicable to national competent authorities

Concerning the comments on the obligations of the competent national authorities, it should be noted that Article 15, as reworded, attributes exclusively to the Competition and Market Authority (AGCM) the task of adopting non-binding guidelines to guide companies in the adoption of appropriate measures to ensure compliance with the requirements of lawfulness of online reviews, after involving the other competent authorities. These guidelines are provided for guidance purposes only and do not bind intermediary service providers in any way, as they fully comply with Article 45 of the DSA regarding voluntary codes of conduct. There are also no mandatory codes of conduct or binding forms of regulation for intermediaries.

Regarding the monitoring activities entrusted to the AGCM, it is worth noting that they are limited to collecting statistical data and drafting an annual report to Parliament on the application of national regulations, without interfering with the system of supervision and cooperation established by the DSA.

There are no enforcement or supervisory powers over intermediary service providers other than those conferred by EU law, thus avoiding any procedural duplication or conflict of competences.

2.1.3. Monitoring and enforcement system



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The Commission draws attention to the importance of ensuring the effectiveness of the supervision and enforcement system outlined in Regulation (EU) 2022/2065 (DSA), based on cooperation between the Member States and the Commission and structured around the designation by each Member State of competent authorities, including a Digital Services Coordinator.

In this context, it is made clear that the notified draft standard is not intended to interfere with the distribution of competences provided for by the DSA nor with the multilevel monitoring and control architecture established by the Regulation.

In line with the Commission's observations, the AGCM's role only concerns the adoption of non-binding guidelines to guide companies in the adoption of suitable measures to ensure compliance with the requirements of lawfulness of reviews, as defined in Article 13 paragraph 1, avoiding overlapping with the functions attributed by the DSA to the digital service coordinators.

On the other hand, the AGCM will only carry out tasks of monitoring unlawful reviews at the national level, without interfering with the system of cooperation between national authorities and the Commission envisaged by the DSA. Concerning Article 15(3), it should be noted that, in the light of the Commission's remarks, the provision has been reformulated as a purely programmatic rule. It merely clarifies the option, already provided for by the DSA and by the AGCOM regulation set out in Resolution No. 283/24/CONS, for associations representing catering and tourism businesses established in Italy to apply for the status of 'reliable reporter', provided that they meet the requirements of competence, independence and objectivity.

This provision does not introduce any additional obligations or alter the existing recognition system; instead, it establishes a coordination rule to facilitate cooperation between national authorities and operators in the reporting of unlawful reviews. It should be noted that false online reviews already fall under Annexe j) of the aforementioned AGCOM regulation, among the areas of competence for which it is possible to apply for the status of trustworthy reporter. Therefore, Article 15(3) is entirely consistent with the regulations in force and with the harmonised framework of the DSA, without providing for any automatic recognition obligation or any exclusion for other subjects.

3. Comments

3.1 Assessment in light of the Directive on electronic commerce

The Commission emphasised the need to clarify the compatibility of the notified draft rule with Article 3 of the E-Commerce Directive, focusing in particular on the potential impact of the Italian provisions on the country-of-origin principle and the possibility of derogating from the control exercised by the Member State of establishment.

The new text fully respects the country of origin principle enshrined in Article 3 of Directive 2000/31/EC. There is no extraterritorial application of the Italian provisions: the scope is limited to reviews referring to services offered on Italian territory by operators established in Italy. This, however, does not exclude the possibility that one of the parties involved, either the consumer or the reviewed establishment, may be located in another Member State. It is quite possible, in fact, for a foreign consumer to review an Italian establishment, just as an Italian consumer reviews an establishment located abroad. However, the framework does not introduce any technical obligations, standards or controls that could burden information society service providers established in Italy or other Member States, nor does it entail the need to derogate from the country of origin principle. This approach is entirely consistent with the case law of the European Court of Justice.

3.2 Assessment in the light of Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market and Regulation (EU) 2016/679 (GDPR)

About the concerns raised by the Commission regarding the compatibility of the notified draft rule with Directive 2005/29/EC ('Unfair Commercial Practices Directive') and Regulation (EU) 2016/679 (GDPR), Article 14 of the new text exclusively prohibits the purchase and transfer, on any basis whatsoever, of online reviews, in complete coherence with Annex I, points 23b and 23c, of Directive 2005/29/EC. No additional obligations are introduced for professionals or online platforms. Furthermore, Article 13 regulates the traceability, understood as the link between the user of a product or service and the reviewer, solely as a requirement of lawfulness, without imposing prior checks or generalised data collection. This is based on the principle of proportionality and Regulation (EU) 2016/679, which guarantees the



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protection of privacy and personal data, as per Article 6(1)(f) of the GDPR, aiming to ensure fair information. In conclusion, in light of the above, it is worth noting that, in the opinion of the undersigned Administration, the amendments made to the regulatory text incorporate the observations made by the European Commission, thereby addressing the critical issues identified and ensuring full compliance with European Union law. Renewing the Italian State's commitment to constructive cooperation with the competent Commission Offices, we remain at your disposal for any further information you may deem helpful.

I am attaching the text of the rule as reformulated following the detailed opinion referred to above and the technical-institutional meeting held with the Commission's representatives on 26 May 2025.

The text will be the subject of a new communication under Article 5(1), subparagraph 3, of Directive (EU) 2015/1535.

CHAPTER IV Combating false reviews

Section 12.

(Scope and definitions)

1. This Chapter, in compliance with Article 117(2)(e) of the Constitution and with the principles of the European Union on competition and the EU Regulation 2022/2065 of the European Parliament and of the Council, aims at combating 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, and to ensure reliable online reviews from those who have used or purchased the product, performance or service.

Section 13.

(Requirements for the Lawfulness of Reviews and Rights of Reviewed Facilities)

1. The online review is lawful if it is issued no later than fifteen days from the date of use of the product or use of the service by the person who has actually and personally used the services or performance, if it corresponds to the type of product used or the characteristics of the structure that offers it, and in any case is not the result of the giving or promising of discounts, benefits or other utilities by the supplier or its intermediaries.
2. To obtain their removal, the legal representative of the reviewed facility or his delegate may report, in the manner prescribed by Article 16(2) of Regulation (EU) 2022/2065, reviews that do not comply with the requirements of lawfulness referred to in paragraph 1 and those 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.

Section 14.

(Prohibitions)

1. Without prejudice to the regulations set out in Legislative Decree No. 206 of 6 September 2005, 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.
2. Without prejudice to criminal liability, in the event of infringement of the prohibition referred to in paragraph 1, the Competition and Market Authority shall exercise the investigative and sanctioning powers governed by Article 27 of Legislative Decree No 206 of 6 September 2005.

Art. 15

(Guidelines and monitoring)

1. The Antitrust Authority, having consulted the Authority for Communications Guarantees and the Authority for the Protection of Personal Data, the Ministry for Business and the Made in Italy and the Ministry for Tourism, with its measure adopts special guidelines to guide companies in adopting suitable measures to ensure compliance with the requirements of lawfulness of online reviews.



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2. The Competition and Markets Authority shall carry out annual monitoring of the application of this law and the phenomenon of the spread of unlawful reviews, reporting to Parliament.

3. To strengthen the activity of combating unlawful reviews, 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 Communications Guarantee Authority, may request recognition of the status of trustworthy reporter under the aforementioned Article 22 of Regulation (EU) 2022/2065.

Section 16.

(Financial invariance clause)

1. The implementation of this Chapter must not result in new or increased burdens on public finances.

2. The Competition and Market Authority and the Communications Regulatory Authority shall carry out the activities provided for in this Law with the human, financial and instrumental resources available under the legislation in force.

European Commission

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