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) 2044

Directive (EU) 2015/1535

Notification: 2025/0318/IT

Forwarding of the response of the Member State notifying a draft (Italy) to request for supplementary information (INFOSUP) of European Commission.

MSG: 20252044.EN

1. MSG 201 IND 2025 0318 IT EN 26-09-2025 30-07-2025 IT ANSWER 26-09-2025

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 00187 Roma - Via Molise, 2

3B. Ministero delle Imprese e del Made in Italy Ufficio Legislativo

4. 2025/0318/IT - SERV20 - Electronic commerce

5.

6. In response to the questions formulated in the request for additional information referred to in the subject matter concerning the draft annual law on small and medium-sized enterprises - Chapter IV (Articles 12 to 16) on ‘Combating false reviews’ (hereinafter the ‘notified draft’), in connection with the requests made by the Commission, the following is stated, based on the representations made by the Ministry of Tourism and the Competition and Market Authority (AGCM)

1. Article 13(2) of the notified draft provides for the possibility for the legal representatives of the reviewed establishment or its delegate to report and request the removal, under Article 16(2) of Regulation (EU) 2022/2065, of reviews that do not comply with the lawfulness requirements set out in Article 13(1) of the notified draft. In addition, subsection 2 allows the tourist facilities concerned to request the removal of reviews that are 'no longer current due to the lapse of at least two years from the date of use of the product or use of the service by the author'. The Commission services note that the lawfulness requirements for reviews under Article 13(1) of the notified draft do not include this time limitation. The Commission service would welcome clarifications on what constitutes illegal content under the notified draft and the intended interplay between the abovementioned new addition and Article 16 (2) of Regulation (EU) 2022/2065.

The following is noted regarding Article 13(1) and (2) of the notified draft.
This provision is part of the broader context of measures to ensure the lawfulness, transparency and reliability of online reviews of tourist, accommodation and spa facilities operating in Italy. In particular, it aims to regulate, in line with the principles of EU law and compliance with Regulation (EU) 2022/2065, cases in which published reviews no longer reflect the characteristics of the assessed service or establishment.
Article 13(1) sets out the general criteria for the lawfulness of reviews, which are subject to the following conditions: they must be issued within fifteen days of the author using the product or service; they must be attributable to the type of service used; and they must not be the result of incentives, benefits or other promises or payments made by the provider. In this context, paragraph 2 of the provision introduces the possibility for the legal representative of the reviewed facility (or their delegate) to activate the procedure outlined in Article 16(2) of Regulation (EU) 2022/2065. This procedure allows for the removal of reviews deemed unlawful based on the criteria outlined and reviews that are no longer current due to the lapse of at least two years from the date of service use by the author.

The rationale behind this provision is to prevent outdated content, albeit originally legitimate, from continuing to circulate online without accurately reflecting the current status of the structure. In the specific area of tourism services, it is expected that, over two years, the offer's material, organisational and qualitative conditions may change significantly. Even if authentic, old reviews may mislead consumers and harm economic operators. This means they fail to meet the requirements of truthfulness, relevance and topicality. These are the requirements of the national regulatory system that must be met for reviews to be considered lawful.

From this perspective, reviews that are no longer current at the start of the two years are unlawful because they no longer correspond to the type of product used or to the characteristics of the structure, due to the passage of time. Therefore, given the subsequent illegality of those reviews, activating the mechanism outlined in Article 16(2) of Regulation (EU) 2022/2065 is possible.

It should be noted that this request for removal does not automatically result in the cancellation of the content. The decision to intervene on the platform, per the conditions outlined by EU law, is made on a case-by-case basis by the provider of intermediary services.

In conclusion, we consider that the interaction between Article 13(1) and (2) of the notified draft and Article 16(2) of Regulation (EU) 2022/2065 is entirely consistent with the principles of proportionality, transparency and protection of the consumer’s interest. The provision in question aims to ensure that the digital review market is based on up-to-date, truthful and non-distortive information, thereby promoting free competition and conscious consumer self-determination, while fully respecting the European regulatory framework.

2. The Commission services take note of the explanatory note submitted with the notified draft, where the Italian authorities note that Article 12 of the notified draft, which sets out the scope and definitions, does not introduce any additional or binding obligations for intermediary service providers, but merely defines the requirements for the lawfulness of reviews under national law, by the principle of complete harmonisation enshrined in the Regulation above (EU) 2022/2065. However, Article 15 of the notified draft empowers the Antitrust authority to adopt special guidelines to guide companies in adopting suitable measures to ensure compliance with the lawfulness requirements of online reviews. While the Commission services understand from the notification message that these guidelines would not result in binding obligations for intermediary service providers or general monitoring obligations on such providers, the Italian authorities are kindly invited to clarify the foreseen personal, material, and territorial scope of such guidelines.

In response to the request for clarification regarding Article 15 of the notified project, specifically the subjective, objective and territorial scope of application of the guidelines to be adopted by the Competition and Market Authority about the lawfulness of online reviews, please find below the clarifications requested.

Paragraph 1 of Article 15 provides guidelines that do not address providers of intermediary services, nor do they intend to introduce additional general or specific obligations on those entities, in complete consistency with the principle of full harmonisation enshrined in Regulation (EU) 2022/2065 (Digital Services Act). The notified project, in its entirety, does not directly or indirectly affect the legal regime of online intermediaries, nor does it introduce generalised monitoring or proactive obligations on them. Furthermore, it does not alter the liability framework laid down in European Union law on information society services.

Furthermore, the guidelines in question are designed to help businesses in the restaurant and tourism sectors comply with the national regulations on the lawfulness of reviews, as outlined in Articles 12 and 13 of the draft legislation that has been notified. Therefore, these measures aim exclusively at economic operators who offer goods and services on the market and may be the subject of reviews. They also apply indirectly to consumers, who produce these reviews. The objective is to establish a set of recommended practices and operational recommendations to encourage transparency, authenticity and fair disclosure in interactions between users and businesses, in line with the European Commission's guidelines on unfair commercial practices.

In terms of practical implementation, the guidelines will emphasise the promotion of appropriate measures to ensure that published reviews are attributable to authentic consumer experiences, are not the result of undue incentive, and reflect the characteristics of the service used in a current manner. These soft law instruments encourage companies to adopt internal protocols or business practices that align with ethical principles. They are not mandatory regulatory acts.

Regarding the territorial scope, the guidelines will be applied only to undertakings established in Italy and operating on the national market, i.e., those whose commercial conduct is likely to affect Italian consumers. In this context, the Autorità Garante della Concorrenza e del Mercato will act as usual within the scope of its institutional powers, ensuring

the measures' consistency with the principles of proportionality, transparency, and equal treatment.
In light of the above, it is confirmed that the guidelines under consideration do not constitute regulatory instruments addressed to digital platforms, nor do they interfere with the liability profiles or procedural mechanisms governed by the Digital Services Act. Instead, they promote, in a collaborative perspective, the dissemination of compliant behaviour by the economic operators concerned.
Given the above, concerning the request for clarification regarding the subjective, objective and territorial scope of the guidelines in question, it is therefore reiterated that the AGCM will proceed to draft them by the suggestions made by the European Commission in the above-mentioned Guidelines on Unfair Commercial Practices and that they will apply exclusively to professionals whose conduct is likely to affect Italian consumers, by the AGCM’s competence.

3. Article 15 of the notified draft also entrusts the antitrust authority (AGCM) with producing annual reports on monitoring the implementation of the notified draft and the spread of unlawful reviews. The Italian authorities are kindly invited to clarify how the Antitrust authority is envisaged to monitor the application of the notified draft law.

Please note the following regarding the request for clarification on the monitoring activity assigned to the Italian Competition Authority under Article 15(2) of the notified draft.
The monitoring activity falls within the Authority's existing institutional competences as defined by current legislation. It does not introduce new obligations to collect or process data or imply any form of generalised surveillance of online activities. Instead, it is a tool for analysing and observing unlawful reviews, which is used to inform the drafting of an annual report to Parliament.
The Authority will monitor based on the information and evidence available in the ordinary exercise of its functions. The following will be analysed and detected:
– Reports received from consumers, businesses, trade associations and other stakeholders regarding the dissemination of misleading or counterfeit reviews.
– The results of the preliminary activities conducted in accordance with the rules on unfair commercial practices.;
– Findings resulting from the exercise of supervisory and investigative powers, as set out in national consumer protection legislation (particularly the Consumer Code).
The data collected will be reviewed in a fact-finding and evaluation format to provide a comprehensive and up-to-date picture of the development of the regulated phenomenon, identifying trends, critical areas and areas of most significant impact.
The results of this activity may be presented and made public in the Annual Report on the activity carried out, which the AGCM transmits to Parliament under Law No. 287/1990. This report may also include the in-depth findings of the monitoring provided by the relevant regulation.
This approach enables the Authority to build on its experience and information assets in consumer protection and countering misleading practices. It avoids introducing new burdens or control mechanisms while maintaining consistency with the European regulatory framework on digital services.

4. The Commission services take note of the explanations provided by the Italian authorities in the context of the previously notified draft as regards the non-applicability of the notified draft to reviews submitted by business users, as per the meaning of Article 2 of Regulation (EU) 2019/1150. The Commission services kindly ask the Italian authorities to clarify if such exclusion applies also to the current notified draft. If such exclusion applies, the Commission services request the Italian authorities to confirm that any misleading practices towards consumers by business users submitting reviews will remain subject to the national legislation transposing the Unfair Commercial Practices Directive 2005/29/EC.
About the request for clarification regarding the subjective scope of application of the notified draft, it is confirmed that the exclusion of reviews published by commercial users, as defined in Article 2(1) of Regulation (EU) 2019/1150, is also fully confirmed in the currently notified text.
The project only applies to consumer reviews of products, services or establishments in the tourism or catering sector located within the national territory. The regulatory framework is therefore intended to regulate the relationship exclusively between the consumer and the reviewed undertaking, and does not interfere with the dynamics between commercial or professional entities.
It has also been confirmed that any unfair, misleading or deceptive practices towards consumers by commercial users

who write reviews will continue to be covered by the Consumer Code rules transposing Directive 2005/29/EC on unfair commercial practices into national law. Therefore, Such conduct remains punishable per the current regulatory framework and with the powers already conferred on the Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato).

5. The Commission services would like to receive information whether the Italian authorities have assessed the possibility that the right for the reviewed tourism facilities to request and obtain the removal of reviews submitted later than 15 days from the use of the facility or that are older than 2 years could mainly result in removal of negative reviews about the respective facility whilst the positive reviews falling under the same criteria would be unaffected.

Concerning the request for clarification on the possible selective impact of the provision contained in Article 13, paragraph 2 of the notified draft, which allows tourist facilities to request the removal of reviews issued more than fifteen days after use of the service, or reviews that are no longer current due to the lapse of at least two years, the following is noted:
The Italian authorities have thoroughly evaluated the potential for this provision to have discriminatory or asymmetric effects, particularly regarding removing negative reviews while leaving positive ones subject to the same time-based conditions.
In this regard, it should be noted that the provision does not introduce any selective criteria relating to the content of the review, nor does it allow for automatic removal. The ability of the identified structures to report potentially illegal content is based exclusively on objective and neutral parameters, such as the date of publication and the start of the period, rather than on whether the content is favourable or unfavourable.
Without prejudice to the fact that any removal request must be made in the manner provided for in Article 16(2) of Regulation (EU) 2022/2065, it is for the provider of intermediation services to assess, within the framework of the liability and autonomy regime established by the Digital Services Act, whether the reported content should be removed, based on applicable legislation and the principles of proportionality, balance and freedom of expression.
From a practical point of view, it should be noted that nothing prevents a tourist facility from reporting a positive review if it is deemed out of date or published after the deadline. Although less of a reputational incentive exists, this option remains fully available and activatable. Conversely, the likelihood of some facilities receiving negative reviews more frequently depends on physiological factors rather than a discriminatory regulatory framework.
To counteract the distortive effects of selective use of the reporting mechanism, the notified draft provides for an active role for both the Competition and Markets Authority (which has investigative and sanctioning powers under the Consumer Code) and trusted flaggers (Article 15(3) of the draft standard). These flaggers can intervene in unlawful reviews, which the persons reviewed would not spontaneously remove.
Taking these elements into account, it is considered that, while recognising a possibility that the reviewed structures may activate, the provision in question is designed and articulated in such a way as to avoid selective or asymmetrical effects, and is consistent with the principles of neutrality, proportionality, and protecting the integrity of information in the digital market.

6. Finally, about paragraph (1) of Article 13 of the draft law on requirements for the lawfulness of reviews, the Commission services understand that also those incentivised reviews where the incentive is duly disclosed by the reviewer and communicated to the users (readers) of the review would be qualified as unlawful reviews and would be subject to removal under paragraph (2) of article 13 upon request of the reviewed facility. The Commission services would welcome clarification by the Italian authorities on whether this understanding is correct and, if affirmative, what is the rationale for qualifying as unlawful also those incentivised reviews where the incentive is duly disclosed by the reviewer and communicated to their users (readers).

Concerning the interpretation of Articles 13(1) and 13(2) of the notified draft, particularly regarding the classification of encouraged reviews as unlawful even when the incentive is declared and made known to users, we confirm that this interpretation is correct.
When setting out the criteria for lawful online reviews, the national legislature has taken a strict and transparent approach to ensure that reviews are spontaneous, authentic and truthful — that is to say, based on real experiences and

not influenced by promised or received benefits.
From this perspective, excluding incentivised reviews from the scope of legitimate reviews was deemed necessary, regardless of whether the incentive was disclosed.
Simply stating the incentive does not eliminate its influence on the reviewer's judgement or the risk of altering consumer behaviour. Moreover, in digital contexts, especially on platforms that use algorithms to aggregate and synthesise evaluations, incentivised reviews, even if they are declared, can contribute to the calculation of average scores and comparative rankings between establishments. This can potentially distort the visibility, reputation and competitiveness of businesses.
This means that, although formally transparent, reviews that are not entirely impartial end up distorting consumers' decision-making tools and distorting comparisons between economic operators. This is particularly true in sectors such as tourism and catering, where online reputation directly and substantially impacts market choices.
Therefore, it is a measure that aims to suppress deceptive behaviour and, above all, to preserve the neutrality and reliability of digital ranking mechanisms. It protects consumers and legitimate businesses from unfair competition based on manipulated or artificially promoted reviews.
In light of this, the objective of this provision is to bolster consumer confidence in online information consistently and proportionately. This will be achieved by establishing a transparent and reliable digital ecosystem based on genuine experiences. This is already the case when services are used. This approach aligns with the general principles of EU consumer protection law and the fairness of digital markets.
In any case, further clarifications to the provision are being considered, where deemed necessary, to clarify its scope more fully and prevent possible interpretative uncertainty during implementation.

****

European Commission
Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu