



## **HOTREC<sup>1</sup> position on Italian SME Law – Chapter IV: Combating Fake Reviews**

**24 March 2025**

### **EUROPEAN CONTEXT**

1. Reviews play an increasingly important role in consumer choices, particularly in the hotel and restaurant sector. Critical reviews – if truthful – are instrumental in helping business users to improve their services. Authenticity of reviews is essential to strengthen trust and fairness in the digital ecosystem.
2. This position paper focuses on fake reviews and on the Italian proposal included in Chapter IV of the SME law currently notified under TRIS (notification number 2025/2022/IT).
3. Despite the European Union (EU)'s consumer law, Omnibus directive, Digital Services Act (DSA), Unfair Commercial Practices Directive (UCPD) and subsequent guidance documents, the number of fake reviews keeps growing. In 2022, they accounted for 4.37% of all submissions, compared to 3.6% in 2020 and 2.4% in 2018<sup>2</sup>. In 2024, they represented 8.6% of all submissions<sup>3</sup>. Hospitality establishments experience a growing number of unverified negative reviews, paid reviews, sponsored reviews, vanishing reviews, reviews targeting non-existent businesses<sup>4</sup> and reviews targeting the wrong establishment or providing pictures of the wrong establishment. In these situations, hospitality operators struggle to engage with traders giving access to consumer reviews. In that regard, both the Italian Competition Authority (AGCOM) 2024 report on the application of the Platform to Business (P2B) Regulation<sup>5</sup> and the European Commission's Study on evaluation of the Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services<sup>6</sup>, identified shortcomings in the P2B.
4. **As a result, we believe the Italian draft law fills a legal gap and addresses shortcomings of existing EU law to tackle a significant issue that is growing and is not properly managed by traders giving access to consumer reviews. We believe the Italian draft law is compatible with the EU consumer law, the DSA and GDPR, i.e. Traders giving access to consumer reviews intentionally portray Article 13 (1) of the Italian draft law as requiring proof of**

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<sup>1</sup> HOTREC is the Association of Hotels, Restaurants & Cafes in Europe, which brings together 47 member associations from 36 countries. Our industry is characterised by a high level of entrepreneurship, with 99% of businesses classified as small and medium-sized enterprises (SMEs). We represent over 2 million businesses that support over 10 million jobs.

<sup>2</sup> Tripadvisor transparency report 2023.

<sup>3</sup> Tripadvisor transparency report 2025.

<sup>4</sup> [Il lato oscuro delle recensioni online: il caso del ristorante fantasma - FIPE](#).

<sup>5</sup> [Report P2B 2024 | Agcom](#).

<sup>6</sup> [Study on evaluation of the Regulation \(EU\) 2019/1150 on promoting fairness and transparency for business users of online intermediation services \(the P2B Regulation\) - Publications Office of the EU](#) (p. 86).



identity documents. This is a misconception as Article 13 (1) only requires an identity check possible through IP address check or similar means (paragraphs 11 & 12 below).

5. **Moreover, the Italian law does not constitute a barrier to trade within the internal market and that is what TRIS notification is about. The Omnibus directive establishes targets, and member states have the freedom to determine how to meet them. However, the European Commission's recommendations have not met their objectives, allowing traders giving access to consumer reviews to decide on their actions.**
6. In Italy, 70% of consumers consult online reviews before selecting a new venue. However, fake reviews create distortions and undue influences, with potentially negative repercussions on a sector composed of 99% micro and small enterprises.
7. HOTREC monitors the topic of online reviews through different workstreams. We believe the Italian law tackling fake reviews aligns well with longstanding HOTREC's positions and most recently with HOTREC's contribution to the public consultation on the voluntary code of conduct on online reviews in the tourism accommodation sector, in June 2024. Online reviews were addressed in HOTREC's position paper on the fitness check on EU consumer law, on 17 February 2023 . HOTREC also hosted a panel on reviews in HOTREC GA Budapest in 2024 with the European Commission and Tripadvisor representative (social media [here](#)).
8. HOTREC views the Italian draft law as a key measure to address the increasing issue of fake reviews for hotels and restaurants. It ensures that the security and reliability of the system are not solely dependent on the voluntary actions of certain platforms but are instead governed by legal obligations. This approach guarantees consistent application and enhances protection for both consumers and businesses.

## **BACKGROUND ON ITALIAN LAW TO COMBAT FAKE REVIEWS**

9. On 17 January 2025 the Italian Government notified the EU, through the TRIS procedure, of the draft annual SME law. Chapter IV (Articles 12 to 17) regulates the fight against fake reviews related to products, services, and performances offered by businesses in the restaurant and tourism accommodation sectors. Objectives of the law are:
  - To protect consumers by strengthening the authenticity and reliability of reviews,
  - To protect reviewed businesses by introducing certain rights against misleading advertising,
  - To prohibit paid reviews.
10. HOTREC believes that measures foreseen in the Italian law to tackle fake reviews aligns well with the current European legal framework, especially with:
  - The consumer protection directive: [Directive 2005/29/EC](#) on unfair business-to-consumer commercial practices, and subsequent [Directive 2019/2161](#) modernising consumer protection rules. The directive requires that product reviews must come from consumers



who have used or purchased the product/service and reasonable steps should be taken to verify this. (Art. 3, Para. 1, No. 7).

- The [European Commission's guidance on directive 2005/29/EC of 29 December 2021](#) clarifying that reasonable and proportionate means to verify the origin of reviews and that the consumer/reviewer has actually used/purchased the service/product may include: IP address check; verification by email; requiring reviewers to register.
- Former Commissioner for justice and consumers, Didier Reynders' [response](#) to parliamentary question E-001221/2024, stating that reviews that violate EU consumer law are considered illegal content under this Regulation, thereby making platforms hosting reviews fully responsible for taking action as soon as they become aware of such reviews on their websites.
- The Digital Services Act (DSA) ([EU 2022/2065](#)) ensuring a safer and more transparent online environment. One of the misconceptions associated with the Italian draft law is that it forces online platforms to monitor content consequently leading to a general monitoring obligation. This is misleading as a requirement to upload a proof of purchase does not itself amount to general monitoring obligation. Platforms could simply allow users to only post a review if they upload a proof of purchase. According to the DSA, platforms would only be liable in case they are made aware of the presence of the illegal content on their website.
- With ISO standard 20488.

## ITALIAN LAW ARTICLES AND HOTREC ANALYSIS

### 11. Requirements for reviews (Art. 13, Para. 1)

Consumers may submit reviews within 15 days of using the product or service, and only if the platform can verify their identity and actual use of the service or performance. Reviews must be sufficiently detailed and relevant to the type of product used or the characteristics of the establishment providing it.

### 12. **HOTREC position:**

- **15-day time limit:** Restricting reviews to within 15 days of the experience enables restaurant and hotel owners to clearly understand the customer's experience and views. Allowing reviews with a broader time frame, such as up to a year after the event, significantly complicates the ability of business owners to respond effectively. The passage of time diminishes the accuracy of recalling service details. Furthermore, the value for consumers in sharing opinions about distant experiences is questionable, as memories may no longer be reliable and on-site-circumstances might have changed in the meantime anyhow. Consumer law generally provides for short deadlines for expressing objections or exercising the right of withdrawal on the part of the consumer. Therefore, the 15-day limitation aligns with this rationale for reasons of transactional security.
- **Verification of the reviewer's identity:** It is important to clarify that verifying the reviewer's identity does not result in disclosing it to the public. The reviewer's anonymity is preserved, and they may continue using a nickname when posting a review. Moreover, verifying the

identity of the reviewer could be done by using proportionate means of verification including an IP address or an email registration. However, to publish their opinion, they must allow the platform to verify their identity so they can be contacted in the event of a dispute. This process serves as a valuable tool in ensuring the authenticity and accuracy of reviews, ultimately enhancing their reliability for consumers when choosing a venue.

- **Actual use of services:** Similarly, proof of actual use of services or products is essential to verify the authenticity of the review's source. For example, most OTAs automatically send an email to guests after check-out, inviting them to review the accommodation they stayed at. This process enhances confidence for both businesses and consumers and help differentiate reservations leading to no-shows or reservations leading to real booking experiences. One reviewer per booking should be allowed, even if a single person books multiple rooms.

13. Right to reply and removal of false or outdated reviews (Art. 13, Para. 2)

The reviewed establishment has the right to respond and request the deletion of reviews: If the author did not use the reviewed good or service, or if the reviews are misleading, untruthful, or excessive. After two years, if appropriate measures have been taken to modify or overcome the reasons that led to the negative review, the establishment can request the deletion of that particular review. Art. 13, Para. 2 does not mandate the removal of all reviews after 2 years. It only allows for the deletion of reviews in cases where the reviewed establishment has made changes that render those specific reviews outdated.

14. **HOTREC position:** Digital reputation takes time to build, especially for micro and small enterprises. But reviews shouldn't be online for more than 24 months anyhow. In fact, critical reviews — if truthful — are instrumental in helping business users to improve their services. The content scope of reviews should furthermore be restricted to the extent that the reviewer has actually made use of the service; for instance: a reviewer should refrain from reviewing the on-site hotel services, if he cancelled the booking and didn't even show up. The statute of limitations is a fundamental legal principle serving an essential purpose in a legal system, so the 2 year period balances the interests of justice, helping businesses to show better conduct, otherwise they will always be accountable for a past bad performance.

15. Prohibition of paid reviews (Art. 14)

The purchase and transfer, in any form, of reviews, ratings, or interactions — including between businesses and intermediaries — is prohibited, regardless of their subsequent distribution.

16. **HOTREC position:** The economic impact of reviews is increasingly significant. It is now essential to explicitly prohibit the sale of reviews, as instances of agencies or individuals offering paid review-writing services—or demanding free services in exchange—are becoming more common. Reviews can influence up to 30% of a restaurant's revenue [FIPE Research Office (2024)], creating a profitable market. There are frequent reports of restaurateurs being approached by "agencies" offering to sell "positive reviews," and when



they refuse, they are threatened with a surge of negative reviews intended to damage their digital reputation. A clear and strict ban on such practices is vital to maintaining a transparent and fair review system.

17. Codes of conduct and sanctions (Art. 15)

The Italian national regulatory authority (AGCOM) will regulate the adoption of codes of conduct by online platforms that facilitate the dissemination of reviews, establishing measures to ensure compliance with these regulations. The authority may order intermediary platforms to comply with the provisions and impose financial penalties ranging from €516 to €103,291.

18. **HOTREC position:** The adoption of guidelines by national regulatory authorities — AGCOM in Italy — to ensure the authenticity of reviews and the development of codes of conduct can be useful tools. However, as previously noted, such measures must not be reduced to mere formalities; rather, they must effectively protect businesses from illegal practices. In this regard, the establishment of a sanctioning regime for non-compliant online platforms is a positive step to ensure compliance and transparency in the review system.