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Introduction

FIPE, together with **Federalberghi**, **FIAVET**, **FTO** – part of *Confcommercio Imprese per l'Italia* – **Confindustria Alberghi** and **Assoturismo-Confesercenti**, the most representative Associations in the Italian Horeca and Tourism sectors **recognize the critical impact of digital reputation on consumer trust, market dynamics and fair competition.**

As already done by some of the above-mentioned Associations in the TRIS procedure No. 2025/0022/IT, they intend to submit their position within the framework of this new TRIS notification No. 2025/0318/IT, concerning the draft legislation aimed at combating fake online reviews in the hospitality and tourism sectors (the “Draft Law”).

By submitting our observations, we aim at outlining **(i)** how a regulatory framework on fake reviews should be effective and balance consumer protection with well-functioning digital markets, also in the light of Regulation (EU) 2022/2065 (“**DSA**”) and Directive 2005/29/EC and ff. mm. (“**UCPD**”); and **(ii)** how the Draft Law should undergo to some amendments to enhance its effectiveness.

1. The increasing attention on online fake reviews

It should be stressed from the outset that we welcome the growing attention devoted to the issue of fake online reviews, which has been rightly placed at the center of both national and European political agendas. This recognition is clearly reflected in recent regulatory and enforcement initiatives, which demonstrate a shared commitment to protecting consumers and ensuring fair competition.

The problem of fake reviews is indeed well known to the Commission.

Under its sweep of 2022 on online consumer reviews¹, the Commission coordinated authorities of 26 Member States, Iceland and Norway in checking 223 major websites for misleading consumer reviews and concluded that:

- **104 out of the 223 of the websites examined do not inform consumers how reviews are collected and processed;**
- **118 websites did not contain information about how fake reviews are prevented.** In these cases consumers have no possibility to verify whether reviews were written by consumers that actually used the product or service, with a great distortion of market behaviours – the same Commission confirmed that *“consumers often rely on reviews when they make purchasing decisions. For example, 71% of consumers consider reviews as important when choosing holiday accommodation”*². In this respect, the underwriting associations already pointed out to the Commission that *“[i]n the context of tourism and hospitality, online reviews play an increasingly*

¹ IP/22/394

² *ibidem*.

decisive role in consumers' choices and in the enterprise's turnover, especially in countries with a strong tourism sector like Italy. Regarding to the former, the MIMIT (Ministry of Enterprises and Made in Italy) Research Centre (October 2024) reports that reviews influence 82% of hotel bookings and 70% of choices in the food & beverage sector. Regarding the latter, reviews can impact the revenues of a restaurant by up to 30%";³

- **176 of the websites do not mention that incentivised reviews** (e.g., resulting from a monetary reward) **are prohibited** by their internal policies **or if not how they ensure they are flagged as incentivised**;
- **at least 55% of the checked websites potentially violate the UCPD** which requires that truthful information is presented to consumers to allow an informed choice.

In the same direction, there have been many interventions at national level tackling fake online reviews – as a matter of fact, many European countries – including **Switzerland** – tackle online fake reviews in the frame of misleading commercial practices.⁴

In the **Netherlands**, the Authority for Consumers and Markets ("**ACM**") has frequently addressed the misleading use of online reviews. For instance, the ACM's extensive Guidelines on the protection of the online consumer contain a specific subchapter on online reviews.⁵

Furthermore, over the past few years, the ACM took various enforcement measures against the use of fake reviews. For example, the ACM fined an online store for using fake reviews to promote its products.⁶ Additionally, ACM imposed an order subject to a penalty on an online store and issued warnings to several influencers, for using fake likes and followers on social media to promote their products or the businesses they were endorsing.⁷

More recently, in August 2024, the ACM published a press release in which it announced that it will now also be taking action against the sale of fake reviews. This signifies a new step in the ACM's efforts to address artificial reviews, dealing with the misleading reviews directly at the source.⁸

In **Germany**, the *Bundeskartellamt* published in October 2020 a report on online users' reviews, underlining that *"platforms have to assume greater responsibility for the authenticity of published reviews. The inquiry has shown that many platforms could do considerably more against the publication of fake reviews. So far, most platforms merely use word filters or rely on the reporting of suspicious reviews after publication whereas only few platforms apply elaborate machine-learning methods, make use of the metadata of the review's author or check the authenticity of reviews in advance in order to effectively combat fake review"*.⁹

In this context, it could also be relevant to note that the **German Federal Court of Justice** (case VI ZR 1244/20) ruled that a review platform must ensure that the person posting a review had actually used the services of the reviewed company; otherwise, the review is deemed illegal. For the sake of

³ Observations submitted in the frame of TRIS procedure no. 2025/0022/IT.

⁴ Information provided by our network Hotrec - The Association of Hotels, Restaurants & Cafés in Europe. D-0725-111.

⁵ <https://www.acm.nl/en/publications/guidelines-protection-online-consumer>

⁶ <https://www.acm.nl/en/publications/acm-fines-online-store-trendx-having-misled-consumers>

⁷ <https://www.acm.nl/en/publications/influencers-stop-using-fake-likes-and-fake-followers-following-warning-issued-acm>

⁸ <https://www.acm.nl/en/publications/acm-taking-action-against-fake-review-sellers-marks-new-phase-fight-against-online-deception>

⁹ https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2020/06_10_2020_SU%20Nutzerbewertungen.html

completeness, in addition to law enforcement by national courts and competition authorities, also other authorities in EU Member States – such as the **Danish Consumer Ombudsman** – have intervened in individual cases where companies used fake reviews in violation of consumer law.¹⁰

In **Spain**, the consumer organisation OCU revealed in 2019 that up to 8.4% of products on Amazon, up to 6.2% of hotels on TripAdvisor, and up to 2.1% of those listed on Booking have fake reviews. Following such findings, in 2021, OCU initiated a formal complaint addressing this issue. The complaint was filed in front of the Spanish Consumer protection Authority, where it appears that the procedure remains pending.¹¹

Also, it is our understanding that the Spanish Government has presented – as part of a broader revision to Spain’s Customer Services Law – a legislative proposal that would ban fake online reviews, aiming to defend the integrity of the country’s hospitality sector. The proposed changes would allow business owners to request the removal of reviews deemed fake, provided they can prove the content is inaccurate. Valid proof may include manipulated invoices or unrealistic pricing details mentioned in the review. The draft would also impose a 30-day deadline for posting reviews following a purchase or service experience. This is intended to ensure that consumer feedback remains timely and relevant.

In **France**, the General Directorate for Competition, Consumer Affairs, and Fraud Control (DGCCRF) established in 2021 that around 45% of online reviews are likely to be fake. It also conducted investigations into platforms such as TripAdvisor, Google, and Booking to check the transparency and accuracy of the reviews published.¹²

Outside the EU, it is also worth noting that the **United Kingdom**, by approving the Digital Markets, Competition and Consumers Act of 2024, introduced a new banned practice relating to fake reviews. The Competition and Market Authority (CMA) published a specific guidance on the new regulatory framework, emphasizing how entities giving access to reviews shall “*take proactive steps to identify banned reviews and avoid the presentation of false or misleading consumer review information (both before or after publication)*”.¹³

Given the above-described framework, which clearly describes the **necessity to tackle the negative impacts of fake reviews** on customer choices and behaviours, we appreciate the efforts of the Italian authorities and supports the **development of robust and balanced measures** to safeguard the integrity of online services providers.

2. On the interplay between DSA and UCPD and their enforcement in the frame of online fake reviews

With regard to online fake reviews, it should be emphasized that there is an effective interplay between the DSA and the UCPD, in tackling fake reviews and guaranteeing a fair market functioning in the interest of consumers and operators.

As a general rule, the UCPD applies only insofar as there are no specific EU law provisions regulating specific aspects of unfair commercial practices (see Article 3(4) and Recital 10 UCPD). So, the UCPD complements other EU legislation and works as a “safety net” ensuring that a high common level of consumer protection against unfair commercial practices can be maintained in all sectors. Moreover, as clarified by the Commission, the UCPD can usually be applied together with sector-specific EU rules in a

¹⁰ Hotrec, cit.

¹¹ BEUC Position Paper, *Turning Stars into Trust: How to make online reviews more reliable?* (March 2025).

¹² Hotrec, cit.

¹³ <https://www.gov.uk/government/publications/fake-reviews-cma208>

complementary manner because the more specific requirements laid down under other EU rules usually add to the general requirements set out in the UCPD.¹⁴

The DSA itself expressly provides that “*for reasons of clarity, **this Regulation should be without prejudice to Union law on consumer protection, in particular Regulations (EU) 2017/2394 and (EU) 2019/1020 of the European Parliament and of the Council, Directives 2001/95/EC, 2005/29/EC, 2011/83/EU and 2013/11/EU of the European Parliament and of the Council, and Council Directive 93/13/EEC***” (Recital 10 of the DSA) (emphasis added).

Thus, when dealing with online fake reviews, one shall consider first **point 23b of Annex I of the UCPD**, which prohibits traders from stating that reviews of a product are submitted by consumers who have actually used or purchased the product or service **without taking reasonable steps to check that they originate from such consumers**.¹⁵

Secondly, all platforms (and not just “Very Large Online Platforms” – so-called VLOPs as defined therein¹⁶) should treat fake reviews as illegal content **under the DSA** and, as such, they shall:

- act upon receipt of an order by a relevant authority against fake reviews (Article 9);
- put mechanisms in place to allow any individual or entity to notify them of the presence on their service of specific items of information that the individual considers to be illegal content, including fake reviews (Article 16);
- cooperate with trusted flaggers, such as consumer organisations, to moderate content such as fake reviews after receiving notice (Article 22);
- adopt measures against misuse of the platform by users that frequently provide manifestly illegal content, such as fake reviews (Article 23).

The parallel application of the two regulatory frameworks (*i.e.*, UCPD and DSA) has also been confirmed by the Commission¹⁷ and by the BEUC, the latter also confirming that fake reviews should be deemed as “illegal content”¹⁸.

In this regard, it is important to note that, while the UCPD imposes traders/platforms to take reasonable and proportionate steps to ensure that reviews reflect real users’ experiences, such obligation shall not amount to a general obligation to monitor or carry out fact-finding activities prohibited by the DSA (Article 8 of the DSA). Instead, as stressed by the Commission, point 23b of Annex I of the UCPD:

- a) on the one hand “*entails **minimum obligations that all traders giving access to consumer reviews must meet, for example only allowing reviews by users who have bought the product in question or requiring the user to provide proof that they have used the product in other cases***”

¹⁴ 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 (C/2021/9320).

¹⁵ For the sake of completeness, we also recall that point 23c expressly prohibits submitting or commissioning another legal or natural person to submit fake consumer reviews in order to promote products.

¹⁶ VLOPs are required to go beyond standard obligations and adopt a due diligence approach to identify and mitigate systemic risks associated with their services. Under Article 34 DSA, they must assess risks such as the spread of illegal content and threats to fundamental rights, including consumer protection—issues that encompass fake reviews. Article 35 DSA complements this by outlining measures VLOPs should implement to mitigate these risks, such as adapting terms and conditions, improving content moderation and enhancing user awareness.

¹⁷ See the “*Fitness Check of EU consumer law on digital fairness*” (SWD(2024) 230 final).

¹⁸ BEUC Position Paper, cit.

where the trader giving access to the reviews does not control the underlying transactions” (emphasis added);¹⁹ and

- b) on the other hand, it requires “traders to take additional measures to prevent and remove fake reviews that are commensurate with their business model and the identified risks (for example, when being the target of fake review ‘broker’ activity – see below). **Such measures can include, for example, deploying digital and artificial intelligence tools to analyse the reviews and stop the fake ones.**” (emphasis added).²⁰

With reference to point b) above, the Commission also recognized that “**A major challenge in the area of reviews concerns the measures that traders that give access to consumer reviews, in particular the online intermediaries (e.g., online marketplaces and dedicated review platforms), have to take to comply with the new point 23b of Annex I that prohibits 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**”²¹ (emphasis added).

Against this background, we deem that, as detailed below, the current version of the Draft Law does not overlap with the DSA and the UCPD, given that it aims at **(i)** identifying the requirements for a review to be lawful under Italian laws – which is a matter outside of the scope of the DSA and the UCPD, as well as **(ii)** ensuring that proper guidance is provided to economic operators to support them in taking appropriate steps to ensure that online reviews are lawful. Nonetheless, we also deem that certain improvements are necessary to ensure the effectiveness of the Draft Law, as suggested below.

3. The approval of the Code of Conduct for Online Reviews and the need for national laws and guidelines

We acknowledge that the Commission endorsed the Code of Conduct for Online Ratings and Reviews for Tourism Accommodation on 1 September 2025 (“**Code of Conduct**”). The endorsement of this code by the Commission also clearly demonstrates that the UCPD and the DSA can be applied in parallel, and that the measures required under the UCPD should not be considered as conflicting with the DSA. Notably, the Code of Conduct rightly provides that platforms should take reasonable and proportionate steps to assess whether a review stems from an actual consumer experience with the accommodation provider in question (see paragraph 4.8), as well as that, when anonymous reviews are published, only verified users should be allowed to leave a review or rating (see paragraph 4.9).

However, it should be noted that the Code of Conduct does not provide detailed guidance on the concrete measures to be implemented by economic operators. In this respect, and considering that this Code applies only to its signatories, we believe it is appropriate that national laws and guidelines be adopted to clarify the requirements for lawful and authentic online reviews. Given the growing pervasiveness of online reviews and their significant economic impact on micro-enterprises and small and medium-sized enterprises operating in the restaurant industry – whose visibility, reputation and turnover increasingly depend on digital word of mouth – it is essential to preserve the option for Member States to adopt ad hoc national guidelines capable of addressing the specific needs and vulnerabilities of this segment of the market. We also note that the Draft Law, within its scope of application, expressly

¹⁹ Report from the Commission to the European Parliament and the Council on the implementation of 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 (COM(2024) 258 final/2).

²⁰ *Ibidem*.

²¹ *Ibidem*.

refers to businesses operating in the restaurant sector, whereas the Code of Conduct addresses tourism and accommodation providers.

As detailed in paragraph 4.3 below, in Italy the above guidelines should rightly be issued by the Italian Competition Authority (“**AGCM**”), as proposed by the Draft Law.

This approach aligns with what has already been implemented in the Netherlands, where the Guidelines on the Protection of the Online Consumer apply without any issues of overlap with EU law having been raised, and have clarified various aspects related to online reviews. For example, these guidelines specify that (1) if a website displays consumer reviews, visitors are led to believe these are genuine; therefore, if the website operator does not take steps to ensure that only authentic reviews are published, this practice is not permitted; and (2) if a company displays customer testimonials on its homepage that do not reflect the experiences of real consumers who have actually purchased or used the product, this constitutes a misleading practice and is therefore not allowed.

4. Main elements of the Draft Law and suggested amendments

4.1. On Article 13 - Requirements for the lawfulness of reviews and rights of the facilities reviewed

According to the Draft Law, an online review is lawful if 4 (four) conditions are met and, in particular, if:

- (i) it is posted by someone who has **actually and personally used** the services or performances.
- (ii) it is posted no later than **fifteen days** from the date the product was used or the service was received;
- (iii) it **corresponds to the type** of product used **or to the characteristics** of the facility providing it; and
- (iv) in any case, **it is not resulting from the granting or promise of discounts, benefits, or any other advantage** by the provider or its intermediaries.

Accordingly, as mentioned above, the Draft Law does not enact new behavioural obligations for platforms; rather, it aims at clarifying the boundaries of lawfulness and reliability of reviews, thus operating on a distinct and preliminary level compared to the scope of the obligations for operators under the DSA and the UCPD, remaining aligned with such regulations. The primary recipients of the Draft Law are anyone who posts reviews online, who will be required to comply with the requirements listed above.

In this respect, it is important to note, on the one hand, that **the regulatory framework established by the DSA implies that such regulation does not identify what illegal and/or harmful content is (see, *inter alia*, recital 12 of the DSA)²², and that this shall be regulated by other applicable EU or national laws in compliance with EU law. This has also been confirmed by the Commission in its detailed opinion rendered in the TRIS procedure concerning the previous version of the Draft Law (*i.e.*, notification no. 2025/0022/IT) (“**Detailed Opinion**”) (see p. 6).**

²² Recital 12 of the DSA clarifies that “*it is immaterial whether the illegality of the information or activity results from Union law or from national law that is in compliance with Union law and what the precise nature or subject matter is of the law in question*”.

Also, as specified by recital 30 of the DSA²³, it should be noted that the liability/ monitoring exception under Articles 4 to 6 and 8 of the DSA does not apply when the economic operator can be considered as an “active hosting provider” consistently with the requirements identified by the CJEU.²⁴

In our view, considering the general features of review platforms (e.g., most notably, the platform’s activities of indexing, organization, aggregation, use of the users’ reviews), it cannot be excluded that they may qualify in practice as “active” providers and that, therefore, they are directly liable for the reviews posted on their websites under the DSA. Defining the characteristics of a lawful online review, as proposed by the Draft Law, would then also protect platforms from potential liabilities in this respect, consistently with the DSA.

On the other hand, the conformity with the UCPD – that fully harmonises rules relating to consumer reviews – is not affected, given that the Draft Law does not impose obligations on relevant traders (review platforms) that contradict or tighten those already provided by the UCPD, which, as mentioned above, requires traders to act with professional diligence and take reasonable and proportionate steps to ensure that reviews reflect real users’ experiences. **Indeed, if the UCPD establishes minimum obligations for economic operators, it is entirely consistent to identify specific criteria (also for legal certainty) to determine when a review can be considered lawful – including if it originates from a natural person who has actually used the product or service. In other words, it should be appropriate for Member States to specify the criteria that help determine when a review can be considered lawful – which, as said, is a matter outside of the scope of the EU law.**

In the following sections, the underwriting associations outline their position regarding conditions (i) and (ii) set out above in this par. 4.1.

4.1.1. The online review must be posted by someone who has actually and personally used the services or performances

We agree that, for an online review to be lawful, this must be posted by someone who has actually and personally used the services or performances.

As already noted, this requirement is consistent with point 23b of Annex I to the UCPD and, as also implied by the Commission²⁵, with the DSA. Accordingly, traders wishing to claim that online reviews have been submitted by consumers who actually purchased or used the product or service must take reasonable steps to verify that the reviews indeed originate from such consumers.

In our view, presenting online reviews together with a reviewer’s name (or nickname) as well as **labelling a review as “verified,”** are both practices which are liable to mislead the average consumer into believing that the reviewer used the product or service. Furthermore, a platform whose business model is founded on consumer reviews naturally fosters the impression that the reviews come from natural persons who have used the product or service. We therefore submit that, in all such cases, the platform is subject to the obligations laid down in point 23b of Annex I to the UCPD.

²³ Recital 30 of the DSA reads as follows: “Providers of intermediary services should not be, neither *de jure*, nor *de facto*, subject to a monitoring obligation with respect to obligations of a general nature. **This does not concern monitoring obligations in a specific case and, in particular, does not affect orders by national authorities in accordance with national legislation, in compliance with Union law, as interpreted by the Court of Justice of the European Union, and in accordance with the conditions established in this Regulation**” (emphasis added).

²⁴ See, *inter alia*, CJEU’s decision in the cases C-682/18 and C-683/18 (*YouTube v Cyando*) of 22 June 2021.

²⁵ See p. 27 of the report from the Commission to the European Parliament and the Council on the implementation of Directive (EU) 2019/2161, cit.

In any case, putting in place systematic measures to distinguish real reviews from fake ones would also align with the **duty of professional diligence** imposed on all businesses under Article 5(2)(a) of the UCPD, which has been transposed into Italian law by Article 20 of Legislative Decree No. 206 of 6 September 2005 (“**Italian Consumer Code**”).

This was also confirmed by the Italian court of last resort in administrative matters, *i.e.*, the Italian Council of State, in its judgment No. 4976 of 2019 (concerning the sanctions for unfair commercial practices to Tripadvisor Llc and Tripadvisor Italy s.r.l.). Such Court indeed clarified that **(i) platforms handling users’ reviews should avoid claims that, when read as a whole, are likely to mislead an average user into falsely believing in the reliability of the reviews; and (ii) lack of controls on the authenticity of the reviews should be considered as a violation of the professional diligence required to an economic operator.**

Thus, a restatement of the duty of professional diligence – which is the purpose of the provision at stake – would increase the attention of economic operators and service providers, concretely helping them in clarifying and substantiating which reviews are verified (*i.e.*, originate from a real buyer or user), in compliance with the UCPD. On this last matter, **we deem that it would be appropriate to amend Article 13 of the Draft Law to emphasize that the use of terms such as “verified”, “certified”, “confirmed”, “checked”, “authentic” or any similar expression for online reviews should not mislead consumers about the reliability of the reviewed businesses and the actual level of satisfaction with the services they offer, in coherence with the UCPD.**

4.1.2. The review must be posted no later than fifteen days from the date the product was used or the service was received

Also, the underwriting associations support the establishment of a **clear time frame** within which reviews may be submitted (*e.g.*, the 15-day deadline proposed in the current version of the Draft Law). **This approach ensures that online reviews remain relevant and accurate, while also allowing the merchant being reviewed to reply effectively and, if necessary, to identify appropriate measures in the event of a negative review. The absence of a submission period would, in fact, make it more difficult for the facility manager to recall the specific experience referenced by the user and to take appropriate action.**

In this regard, in its Detailed Opinion, the Commission stated that *“the conformity with the UCPD – that fully harmonises rules relating to consumer reviews – would become relevant if the draft law also entailed obligations on the relevant traders (review platforms), for example, by imposing obligations on these traders to reject or remove the reviews because the reviewer submits them outside the prescribed time-frame of 15 days or solely because the trader does not hold the personal information identifying the reviewer, beyond the information necessary for the trader to ascertain that the reviewer has actually used or purchased the hospitality service in question”*.²⁶

Now, we deem that, similarly to the other lawfulness requirements, the time frame requirement does not impose an obligation on platforms which is relevant under the UCPD. Platforms will be required to take action according to the provisions of the DSA and, in particular, only if they are notified of the unlawful content by any interested party. The underwriting associations support the restatement of this mechanism, for the avoidance of doubt, in Article 13.2 of the Draft Law.

In addition, we note that the 15-day time frame will be effective only if the relevant starting point (*dies a quo*) can be clearly identified, *i.e.*, the day on which the user received the service. In this respect, it could be foreseen to request a proof of purchase (*e.g.*, the fiscal receipt) in order to assess whether a review stems from an actual consumer experience.

²⁶ See p. 9 of the Detailed Opinion.

Accordingly, we deem it essential that the AGCM issue guidance to economic operators, identifying the measures necessary to ensure that online reviews are posted solely by individuals who have actually and personally used the relevant services or performances. Such guidance can be provided by AGCM in the context of its guidelines under Article 15 of the Draft Law. Our view on this point is described in greater detail in par. 4.3 below.

4.1.3. Amendment proposal

To conclude, **the identification of criteria at the regulatory level to qualify a fake review, as proposed in the Draft Law, does not have a real impact on the scope of unfair commercial practices as defined by the UCPD, nor does it impose additional burdens** on the platforms under the DSA. On the other hand, it would support economic operators in distinguishing real reviews from fake ones, ultimately granting legal certainty and a more efficient enforcement of such EU laws.

Nonetheless, to ensure full alignment with the UCPD, we suggest to **amend Article 13 of the Draft Law by integrating an explicit reference to the behavioral obligations and the duty of professional diligence of economic operators, as set out in the Italian Consumer Code**. This addition would clarify that the requirements for online reviews are to be interpreted in light of the broader framework of consumer protection and professional conduct.

Furthermore, we suggest to **amend Article 13 of the Draft Law to set out clear conditions for labeling reviews as “verified,” “confirmed,” “checked,” “authentic,” or similar**. This addition should specify that **such terms may only be used if reasonable and proportionate measures have been taken to ensure that the reviews genuinely originate from consumers who have actually used or purchased the product or service**. This amendment would be aligned, as explained above, with the requirements of the UCPD, as well as the relevant provisions of the Italian Consumer Code.

4.2. On Article 14 - Prohibitions

Article 14 of the Draft Law prohibits the purchase and sale of reviews, ratings or interactions (*i.e.*, likes), including between entrepreneurs and intermediaries, even if not subsequently disseminated.

This provision basically reflects the provision submitted in the frame of TRIS procedure no. 2025/0022/IT, without reference to two conducts which were previously in the scope of said article, *i.e.* (see also the table below):

- the attribution to a product or service of reviews written by customers in relation to a different product or service; and the
- the promotion and conditioning of the content of reviews through incentives.

<p>Article 14 – First draft</p> <p>1. Without prejudice to the rules laid down in Legislative Decree No 206 of 6 September 2005, the purchase and sale of reviews, appreciations, or interactions for any reason whatsoever, including between entrepreneurs and intermediaries, is prohibited, regardless of their subsequent dissemination. The attribution of consumer reviews to a product or service in relation to a different product or service and the promotion and conditioning of the content of reviews by means of incentives are also prohibited.</p>	<p>Article 14 of the Draft Law</p> <p>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.</p>
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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.	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.
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The underwriting associations deem that such conduct should be read in parallel with point 23c of Annex I of the UCPD, which – as clarified by the same Commission – covers two types of unfair commercial practices:

- first, it *“aims at traders who submit or commission, including buying from other (e.g. from ‘likes factories’ or natural persons) false reviews or endorsement. It covers, in particular, the practice of engaging actual consumers who purchase the product and get remuneration for posting positive reviews. This part of point 23c applies both to the professionals and the consumers involved in these misleading activities insofar as they qualify as “acting in the name of or on behalf of the trader”. It does not, however, apply to those traders, in particular online platforms, that host and give access to consumer reviews without being involved in their submission (posting)”*; ²⁷
- second, it *“aims at traders, including online platforms, that give access to consumer reviews or social endorsements and misrepresent them, such as by only soliciting and making available positive reviews and obtaining the withdrawal of negative reviews”*.²⁸

That being specified, we deem that the Draft Law does not impact on the full harmonisation stemming from the UCPD, as it should be considered – like Article 13 – as a specification of the duties and obligations under consumer law, thus preventing the submission of fake reviews. And, as a matter of fact, it seems that such interpretation has also been shared by the Commission in its Detailed Opinion, where it did not contest the old Article 14, underlining on the other hand the conducts originally under the scope of the same provision had the purpose of prohibiting incentives that pre-determine the content of reviews, without any mention of a possible violation of the UCPD.²⁹

To conclude, the underwriting associations endorse the current Article 14 of the Draft Law, as it reinforces the prohibition of the purchase or transfer of online reviews under any circumstances, recognizing such practices as deceptive and harmful to fair competition.

4.3. On Article 15 – Guidelines and monitoring

We fully support the provision in Article 15 of the Draft Law requiring AGCM to issue guidelines that assist businesses in adopting appropriate measures to ensure the lawfulness of online reviews (**“AGCM Guidelines”**). Clear and practical guidance from AGCM is essential to orient market operators and promote consistent, effective compliance with legal requirements.

In our view, a key area that AGCM Guidelines should address is the implementation of the measures that guarantee that reviews originate from genuine consumers. As said, the implementation of such measures is not only consistent with point 23b of Annex I of the UCPD, but also does not amount to a monitoring obligation conflicting with the DSA.

On this point, the underwriting associations believe that the measures to be identified in the AGCM Guidelines should strike a fair balance between achieving the intended objective and minimizing the

²⁷ See p. 95 of the Commission Notice, cit.

²⁸ *Ibidem*, p. 96.

²⁹ See p. 9 of the Detailed Opinion.

impact on individuals' rights, including from a data protection standpoint. In this latter respect, AGCM Guidelines should take into account the principle of accountability under Articles 5(2) and 24 GDPR, ensuring that the choice and effectiveness of the tools used remain the responsibility of the data controller, as well as other fundamental data processing principles, including accuracy, storage limitation, and, in particular, data minimization and data protection by design and by default. Accordingly, the measures should not entail the processing of personal data beyond the information necessary for the trader to ascertain that the reviewer has actually used or purchased the service, as also suggested by the Commission.³⁰

However, such measures should in any case ensure that there is a link between the online review and the person who has posted it. AGCM's guidelines could, for example, **suggest that facilities issue unique codes to consumers (possibly integrated into receipts) to enable the posting of online reviews, with platforms requiring the code to verify the review's provenance and authenticity. Alternatively, a QR code could be provided to consumers at the point of sale, redirecting them to a landing page for temporal validation, human verification (e.g., captcha), and registration of an online identifier (such as an email address or OAuth-linked account). An OTP code could then be issued, allowing the consumer to post a verified review on the review platforms. These mechanisms, which are already in use in some contexts, comply with applicable data protection laws, provided they are implemented in accordance with the principles outlined above.**

In any case, it should be noted that, as a form of technical regulation, AGCM Guidelines would be subject to review by the Commission under a separate TRIS procedure. Also, to ensure full coherence with, and adherence to, EU law, we suggest that the AGCM Guidelines explicitly state that the measures contemplated therein are merely provisional and will be subject to revision and amendment if the EU adopts any measures that conflict, in whole or in part, with the AGCM Guidelines. The Commission has already endorsed this approach in a separate TRIS procedure concerning age-verification mechanisms identified by the Italian Communications Regulatory Authority (AGCom)³¹, and we believe that there is no reason that would justify departing from the same rationale here.

Finally, we also support the explicit restatement that representative associations of businesses in the restaurant industry and facilities in the tourism sector established in Italy, which meet the requirements set out in Article 22 of the DSA, may apply for the status of "trusted flaggers" thereby strengthening the fight against illegal or harmful reviews.

Conclusions

The underwriting associations welcome the commitment shown by the Italian Government in tackling the growing problem of fake online reviews and recognise the valuable work already carried out to place consumer trust and fair competition at the centre of the digital agenda. We are convinced that, once the suggestions set out in this position paper are incorporated – particularly those defining the criteria for lawful reviews, and detailing the operative role of the AGCM – the Draft Law will become a proportionate, workable and forward-looking instrument. Crucially, the Draft Law if amended as suggested does not jeopardise the integrity of the Internal Market. In our assessment, the proposed changes will therefore not only strengthen the effectiveness of the national framework but will also dispel the concerns of overlap with EU legislation raised by the Commission in its Detailed Opinion, ensuring full consistency with the DSA, the UCPD, while preserving the well-functioning of the Internal Market.

³⁰ *Ibidem*.

³¹ See notification no. 2024/0578/IT and p. 8 of the relevant detailed opinion of the Commission of 10 January 2025.