

RESOLUTION NO 47/25/CONS

START OF A PUBLIC CONSULTATION ON THE DRAFT RESOLUTION AMENDING THE REGULATION CONCERNING THE PROTECTION OF COPYRIGHT ON ELECTRONIC COMMUNICATION NETWORKS AND IMPLEMENTING PROCEDURES IN ACCORDANCE WITH LEGISLATIVE DECREE NO 70 OF 9 APRIL 2003, REFERRED TO IN RESOLUTION NO 680/13/CONS

THE AUTHORITY

AT the Council meeting on 18 February 2025;

HAVING REGARD TO Law No 249 of 31 July 1997, *Creation of the Communications Regulatory Authority and rules relating to telecommunications and radio-television systems* and in particular Article 1(6)(b)(3) and (4-bis), and Article 1(6)(c)(2);

HAVING REGARD TO Law No 481 of 14 November 1995, *'Rules relating to competition and the regulation of public utility services. Establishment of regulatory authorities for public utility services'*;

HAVING REGARD TO Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;

HAVING REGARD TO Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;

HAVING REGARD TO Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC;

HAVING REGARD TO Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce');

HAVING REGARD TO Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (hereinafter also the 'Digital Services Act' or 'DSA') and, in particular, Articles 4, 5, 6, 8 and 9 thereof; HAVING REGARD TO Decree-Law

No 123 of 15 September 2023 on *‘Urgent measures to combat youth distress, educational poverty and juvenile crime, as well as for the safety of minors in the digital field’* and, in particular, Article 15 designating the Digital Services Coordinating Authority in implementation of Article 49 of the Digital Services Act;

HAVING REGARD TO Legislative Decree No 259 of 1 August 2003 on the *‘Electronic Communications Code’*, as last amended by Law No 193 of 16 December 2024 on the *‘Annual Market and Competition Law 2023’*;

HAVING REGARD TO Legislative Decree No 208 of 8 November 2021 on the *‘Implementation of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the Consolidated Act for the provision of audiovisual media services in view of changing market realities’* (hereinafter referred to as *‘Consolidated Act’* or *‘Consolidated Act of audiovisual media services’*);

HAVING REGARD TO, in particular: (i) Article 4 of the aforementioned legislative decree, which provides that *‘The system of audiovisual media services and radio broadcasting shall comply with the following principles, in order to guarantee users: (...) e) protection of copyright and intellectual property rights’*; (ii) Article 32(1), which provides that: *‘The provisions of this Consolidated Act shall not prejudice the principles and rights referred to in Law No 633 of 22 April 1941 concerning the protection of copyright and other related rights, and the penalties provided for in Chapter III of Title III of that Law. Audiovisual media service providers shall ensure full compliance with the principles and rights set out in ((...)) Law No 633 of 22 April 1941, irrespective of the platform used for the transmission of audiovisual content’*, and Article 32(2)(b) which provides that: *‘Audiovisual media service providers shall ensure full respect for the principles of copyright and related rights, regardless of the platform used for the transmission. More specifically, by: (...) b) refraining from transmitting or retransmitting, or otherwise making available to users, on any platform and whatever the type of service offered, programmes covered by the intellectual property rights of third parties, or parts of such programmes, without the consent of right holders, and without prejudice to the provisions on short news reports’*; (iii) Article 67(1), which provides that *‘The Authority shall, in accordance with the procedures laid down in its own regulation, apply, on the basis of the principles of proportionality, appropriateness and observance of the adversarial procedure, penalties for infringement of the obligations relating to programming, advertising and broadcasting content, and in particular those provided for: (...) p) concerning infringements of the copyright rules referred to in Article 32(2)’* and paragraph 2, which provides that *‘the Authority, applying the rules set out in Sections I and II of Chapter I of Law No 689 of 24 November 1981, taking into account, in particular, the seriousness of the event and the consequences thereof and the duration and possible repetition of the infringements,*

shall decide to impose an administrative fine of: (a) EUR 10,329 to EUR 258,228, in the event of non-compliance with the provisions of paragraph 1 (...) and p);

HAVING REGARD TO Legislative Decree No 50 of 25 March 2024 on *‘Supplementary and corrective provisions to Legislative Decree No 208 of 8 November 2021, laying down the Consolidated Act of audiovisual media services in view of changing market realities, implementing Directive (EU) 2018/1808 amending Directive 2010/13/EU’*;

HAVING REGARD TO Legislative Decree No 177 of 8 November 2021 on the *‘Implementation of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC’*;

HAVING REGARD TO Law No 633 of 22 April 1941 on the *‘Protection of copyright and other rights related to its exercise’* (hereinafter also the *‘Copyright Law’* or *‘LDA’*);

HAVING REGARD TO Law No 93 of 14 July 2023 laying down *‘Provisions for the prevention and enforcement of the unlawful dissemination of content protected by copyright through electronic communications networks’* (hereinafter also the *‘Anti-piracy law’*) published in the Official Gazette of the Italian Republic, General Series No 171 of 24 July 2023;

HAVING REGARD TO Law No 159 of 13 November 2023, on *‘Conversion into law, with amendments, of Decree-Law No 123 of 15 September 2023 on urgent measures to combat youth distress, educational poverty and juvenile crime, as well as for the safety of minors in the digital sphere’* and, in particular, Article 15-ter which amended and supplemented some specific provisions of the aforementioned Law No 93/2023;

Having REGARD TO Decree-Law No 113 of 9 August 2024 on *‘Urgent fiscal measures, extensions of regulatory deadlines and economic measures’* (hereinafter also referred to as *‘Omnibus Decree’*), converted, with amendments, into Law No 143 of 7 October 2024 (published in Italian Official Gazette No 236 of 8 October 2024), which amended the anti-piracy law;

HAVING REGARD TO Legislative Decree No 70 of 9 April 2003 on the *‘Implementation of Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market’* (hereinafter also the Decree);

HAVING REGARD TO Law 167 of 20 November 2017 on *‘Provisions for the fulfilment of the obligations arising from Italy’s membership of the European*



Union — European Law 2017’ (hereinafter ‘European Law 2017’) and in particular Article 2, titled ‘Provisions on copyright. Full compliance with Directive 2001/29/EC and Directive 2004/48/EC’, which sets out that ‘1. For the implementation of the provisions of Article 8 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001, and Articles 3 and 9 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004, upon application of the right holders the Communications Regulatory Authority may order, as a precautionary measure, information society service providers, to immediately put an end to infringements of copyright and related rights, if these infringements are identified on the basis of a summary assessment of the facts and there is a threat of an imminent and irreparable detriment to the right holders. 2. Using its own rules, the Authority regulates the procedures with which the precautionary measure referred to in paragraph 1 is adopted and communicated to the parties involved, as well as the parties entitled to lodge a complaint against this provision, the terms within which to lodge a complaint, and the procedure whereby the Authority’s final decision is adopted. 3. By the Regulation referred to in paragraph 2, the Authority shall identify appropriate measures to prevent the recurrence of infringements already established by the Authority’;

HAVING REGARD TO Directive 2015/1535/EU of the European Parliament and the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

HAVING REGARD TO the European Parliament resolution with recommendations to the Commission on ‘*Challenges of sports events organisers in the digital environment*’ (2020/2073(INL)) of 19 May 2021 (hereinafter also referred to as the ‘Resolution’);

HAVING REGARD TO the European Commission Recommendation on combating online piracy of sports and other live events (2023/1018) of 4 May 2023 (hereinafter also the ‘Recommendation’);

HAVING REGARD TO the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights and Fundamental Freedoms on the protection of copyright and related rights, as well as on electronic commerce;

HAVING REGARD TO Resolution No 680/13/CONS of 12 December 2013 on the ‘*Regulation on the protection of copyright on electronic communications networks and implementing procedures pursuant to Legislative Decree No 70 of 9 April 2003*’ (hereinafter the ‘*Copyright Regulation or DDA Regulation*’) and subsequent amendments and additions;

HAVING REGARD TO Resolution No 189/23/CONS of 26 July 2023 on ‘*Amendments to the Regulation concerning the protection of copyright on electronic*

communications networks and implementation procedures in accordance with Legislative Decree No 70 of 9 April 2003, as referred to in Resolution No 680/13/CONS’;

Having REGARD TO Resolution No 321/23/CONS of 5 December 2023 laying down *‘the technical and operational requirements for the single technological platform with automated operation for the execution of Decision No 189/23/CONS implementing Law No 93 of 14 July 2023’;*

Having REGARD TO Decision No 410/14/CONS of 29 July 2014 laying down *“Rules of procedure on administrative penalties and commitments and public consultation on the document entitled ‘Guidelines on the quantification of administrative fines imposed by the Communications Regulatory Authority’”* and, in particular, Annex A thereto on *‘Text of the rules of procedure on administrative penalties and commitments’*, as last amended by Decision No 286/23/CONS;

HAVING REGARD TO Resolution No 107/19/CONS of 5 April 2019 on *‘Regulation on consultation procedures in proceedings falling under the Authority’s competence’;*

HAVING REGARD TO Resolution No 223/12/CONS of 27 April 2012, *‘Adoption of the new Regulation on the organisation and functioning of the Communications Regulatory Authority’*, as amended, most recently, by Resolution No 515/24/CONS of 18 December 2024;

WHEREAS the Regulation annexed to Resolution No 680/13/CONS of 12 December 2013, as subsequently amended and supplemented, is considered to be a *best practice* at European level, as a valid instrument for the protection of copyright and related rights, and that the same Regulation has received the implicit endorsement of the Constitutional Court, from which the rulings of the Lazio Regional Administrative Court and the Council of State rejecting the appeals concerning the same Regulation are followed;

WHEREAS, over the last few years, there have been significant changes to the reference regulatory framework, both EU and national;

NOTING in particular the following:

- the approval of Regulation 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC introduces significant changes in combating the online dissemination of illegal content;



- Article 89 of the DSA, amending Directive 2000/31/EC, provides that Articles 12 to 15 of that directive are to be deleted and that references to those articles shall be construed as references to Articles 4, 5, 6 and 8, respectively, of the Digital Services Act. Legislative Decree No 50 of 25 March 2024 therefore repealed Articles 14 to 17 of Legislative Decree No 70 of 9 April 2003;
- the aforementioned articles 4, 5 and 6, on the basis of the definition of ‘intermediary service’ pursuant to Article 3 of the same DSA, define the liability regime, services of ‘mere conduit’, ‘caching’ and ‘hosting’, respectively, without making, as far as is of interest for the purposes of this provision, significant changes to the previous definitions. Moreover, Article 8 confirms the exemption of liability for the same subjects, understood as the absence of general obligations to monitor or establish facts actively;
- those provisions provide that a judicial or administrative authority having oversight functions may require, even as a matter of urgency, the provider, in the exercise of its activities as defined therein, to prevent or put an end to the infringements committed, by acting immediately to remove illegal information or disable access thereto;
- Article 9 of the DSA provides that *‘Upon receipt of the order to counteract one or more specific illegal content, issued by the competent national judicial or administrative authorities, on the basis of applicable Union law or national law in compliance with Union law, the providers of intermediary services shall, without undue delay, inform the authority which issued the order, or any other authority specified in the order, of the follow-up given to the order, specifying whether and when the order was followed-up’*;
- the Digital Services Act is without prejudice to the rules on copyright protection and, in particular, to the derogations from the principle of the country of establishment of the service provider provided for in Article 3 of Directive 2000/31/EC;
- also according to Article 4 of Legislative Decree No 70 of 9 April 2003, ‘copyright’ and ‘assimilated rights’ are excluded from the application of the specific provisions pursuant to Article 3(1) and (2) concerning the prohibition, in the so-called ‘regulatory scope’, to *‘limit the free circulation of information society services originating from a provider based in another Member State’*;
- in addition, in application of the Digital Services Act, the Authority may issue removal orders for illegal content to intermediary services providers established in another Member State, in accordance with the procedures described therein.



The Authority has also been designated as the Digital Services Coordinator in implementation of Article 49 of the DSA;

- the Commission Recommendation on the fight against online piracy of sports and other live events confirms the particular attention paid at the European level to copyright protection through appropriate and effective action to combat all forms of online piracy and, specifically, of that relating to live events with respect to which the resulting damage in employment and economic terms is known. The European Commission pointed out that *‘It is important to ensure that remedies available to holders of rights allow prompt action, which takes into account the specific nature of the live transmission of an event, in particular its time sensitive element’*;
- the Recommendation, recalling the binding provisions deriving from other European regulatory frameworks (Directives 2000/31/EC, 2001/29/EC, 2002/58/EC, Regulation (EU) 2022/2065, Directive (EU) 2019/790 and Directive 2004/48/EC), aims to encourage Member States (and for these, competent national authorities, right holders and providers of intermediary services) to adopt *‘effective, appropriate and proportionate measures to counter unauthorised retransmissions of sports and other live events, in accordance with the principles set out in this Recommendation and in full compliance with Union law, including the Charter of Fundamental Rights of the European Union’*;
- in particular, the Recommendation pursues, inter alia, the objective of minimising the damage caused by the unauthorised retransmission of live events through timely intervention (during retransmission) by the provider of intermediary services. To this end, right holders and providers of intermediary services cooperate on *‘the development and use of technical solutions to facilitate the processing of reports, such as application programming interfaces’*. To ensure maximum effectiveness for the intervention, the Recommendation provides that orders are ‘dynamic’ in nature;

NOTING the following with regard to the national regulatory framework:

- Article 2 of the European Law 2017 extended the tools available to the Authority to combat copyright infringements on electronic communications networks by granting the power to issue, at the request of right holders, administrative injunctions of a precautionary nature against information society service providers aimed at ‘immediately’ ending infringements of copyright and related online rights, as well as specific powers in the event of repeated infringements already established by the Authority;

- that power was based on Article 8(3) of Directive 2001/29/EC (Directive ‘InfoSoc’) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, according to which *‘Member States shall ensure that right holders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right’*. Directive 2004/48/EC (the so-called ‘Enforcement’ directive) has also expressed itself in this sense;
- in implementation of the aforementioned European law, on 16 October 2018, the Authority approved, following a detailed public consultation phase, Resolution No 490/18/CONS by which significant amendments were made to the Copyright Regulation (Articles 8-bis and 9-bis) to introduce provisions concerning precautionary measures and measures against repeated infringements;
- since that date, in exercising this power, the Authority has effectively adopted numerous precautionary orders that have become definitive pursuant to Article 9-bis(5);
- following the amendments made to the DDA Regulation by Resolution No 189/23/CONS, on the basis of the provisions of the Resolution of the European Parliament and the Recommendation of the European Commission, with the introduction of paragraphs 4-bis, 4-ter, 4-quater, 4-quinquies and 4-sexies to Article 9-bis, the precautionary procedure has also been applied to audiovisual works concerning sports events or similar events, i.e. parts of the event, such as summaries or highlights (the so-called ‘highlights’) — works which, pursuant to Article 78-quater of LDA, and in the light of settled case-law (Criminal Court of Cassation, Section III, 4 July 2006, No 33945), are protected by copyright law;
- the Anti-piracy law, which entered into force on 8 August 2023, strengthens the powers already attributed to Agcom in the field of online copyright protection and combating piracy. In particular, Article 2 provides that the Authority shall adopt ‘dynamic orders’ in so far as the measure by which it orders service providers to disable access to illegally disseminated content by blocking the DNS resolution of domain names and blocking the routing of network traffic to IP addresses uniquely intended for illegal activities is also extended *‘to any other future domain name, subdomain name or IP address, where technically possible, to anyone attributable, including changes in name or simple declination or extension (so-called top level domain), which allows access to the same illegally disseminated content and content of the same nature’*;



- where ‘gravity and urgency’ conditions apply to the provision of live broadcast content, the Authority, by means of a precautionary measure, adopted with an abbreviated procedure without adversarial proceedings at the request of the entitled parties, orders service providers to disable access to illegally distributed content by blocking domain names and IP addresses. This is without prejudice to the right to lodge a complaint against this decision;
- the object of the protection is not only sports events broadcast live but, more generally, *‘live broadcast content, first viewings of cinematographic and audiovisual works or entertainment programmes, audiovisual content, including sports content, or other similar intellectual works, sports events as well as events of social interest or of great public interest pursuant to Article 33(3) of Legislative Decree No 208 of 8 November 2021’*;
- the list of domain names and IP addresses through which the illegally disseminated content is made available, which the holder indicates in the application and which are indicated in the precautionary measure, may be updated by the right holder or his/her successors in title and *‘communicated directly and simultaneously by the Authority to the subjects to whom the measure is addressed, who must promptly remove or disable it, in any case within a maximum period of 30 minutes from the communication’*;
- the full unfolding of the effects of the precautionary procedure in question, as provided for by the anti-piracy law, is linked to the implementation of a platform that uses technological measures that allow automated management of alerts following the precautionary order so that the service provider can disable access to the electronic addresses covered by the alert in time to ensure effective protection;
- Pursuant to Article 2(5) of the Anti-piracy law, service providers *‘shall implement the Authority’s decision without delay and, in any event, within no more than thirty minutes of notification, either by disabling the DNS resolution of the domain names and the routing of network traffic to the IP addresses indicated in the list referred to in paragraph 4 or, in any event, by taking the necessary technological and organisational measures to make the content disseminated illegally non-usable by end users’*;
- the Omnibus Decree, converted with amendments by Law No 143 of 7 October 2024, made significant amendments to Law No 93 of 14 July 2023 and Law No 633 of 22 April 1941;
- firstly, the Omnibus Decree amended paragraph 1 of Article 2, replacing the word ‘unequivocally’ with ‘predominantly’. Under this amendment, those



reporting are no longer required to demonstrate that reported domain names and IP addresses are unequivocally intended to infringe copyright or related rights of the audiovisual works owned by them;

- the prevalence requirement shall be interpreted in the light of the criteria of proportionality and reasonableness, assessing it on a case-by-case basis. Those reporting will in any event be required to exclude resources presenting a high risk of overblocking, such as content delivery networks;
- closely linked to the amendment referred to in Article 2(1) of the Anti-piracy law is the new provision referred to in the last sentence of paragraph 3, which provides that *‘any individual who demonstrates a qualified interest may request the lifting of access inhibition measures on the grounds of documented failure to meet the legal requirements, including the occurrence thereof’*. The DDA Regulation already provides the possibility of lodging a complaint against the precautionary measures and blocks carried out with the subsequent alerts by the right holders. Arguably, the rationale of the rule lies in the need to free up resources if they are no longer intended for illegal activities (for example, if a hosting provider transfers a resource to another entity), however, although the complainant has to demonstrate a qualified interest, the possibility of lodging a complaint for failure to meet requirements could lead to an instrumental use of the complaint by piracy actors;
- in addition, Article 2 of the Anti-piracy law has been amended by introducing an explicit reference to VPN and DNS service providers publicly available wherever they are resident and wherever they are located, as recipients of the Authority’s orders;
- It being understood that the standard, in its previous wording, referred to service providers involved in any capacity in the accessibility of the illegal website or services, the explicit mention of VPN and publicly available DNS service providers enabled the Authority to accelerate the engagement activities of these entities, which had already been initiated previously, primarily through the adoption of Resolution No 401/24/CONS, by which the Authority recalled VPN and publicly available DNS service providers, wherever resident or located, search engine service providers and, more generally, information society service providers involved in any capacity in the accessibility of the website or illegal services to implement, in execution of the aforementioned regulatory provisions, all necessary activities to ensure the full functioning of the Piracy Shield platform through its final and full accreditation;



- in addition, Article 2(5) provides that search engine operators and information society service providers, in cases where they are not involved in the accessibility of the illegal website or services, shall ensure, within thirty minutes of the notification of the disabling measure, that all technical measures are taken to hinder the visibility of the infringing content, including in any case the de-indexing from the search engines of domain names that are the subject of the Authority's blocking orders, including domain names that have been reported through the platform;
- the Piracy Shield platform is the technological tool made available by Agcom to enable service providers to follow up on the regulatory provisions within the deadlines laid down therein. That said, if the conditions are met, notifications of alerts made via the Piracy Shield platform are also sent via the Piracy Shield platform to the addresses of the contact points and legal representatives indicated by information society service providers not established in Italy pursuant to Articles 11 and 13 of the DSA;
- The Omnibus Decree then added paragraph 5-bis to Article 2 of the Anti-piracy law, providing that *'Providers of IP address assignment services, the Italian Registry for the country code Top Level Domain (ccTLD) .it, providers of domain name registration services for ccTLDs other than the Italian one and for generic Top Level Domain names (gTLDs), shall periodically rehabilitate the resolution of domain names and the routing of network traffic to IP addresses blocked pursuant to this Article, at least six months after their blocking, and which are not used for illegal purposes'*. Without prejudice to the fact that the provision does not require the involvement of the Authority and that in this case too the rationale for the provision is to be seen as the need to free up resources, notes that the legislator has called on persons who had not hitherto been involved in actions to combat piracy and that, in order to release them, they will have to carry out substantive checks on the content of domain names and IP addresses subject to previous blocking in order to verify that they are no longer used for illegal purposes;
- with reference to the unblocking activity, the legislator introduced paragraph 7-bis in Article 2 by providing that *'The Authority, in order to ensure the most efficient start of the operation of the platform and the effective execution of inhibition orders, sets, limited to the first year of operation of the platform, maximum quantitative limits of IP addresses and of Fully Qualified Domain Name (FQDN) which may be blocked at the same time. After the first year of operation of the platform, no quantitative limit shall be permitted. The Authority, in order to ensure the proper functioning of the process of obscuring FQDNs*



and IP addresses, on the basis of reaching the maximum capacity of the blocking systems implemented by Internet Service Providers (ISPs) according to the technical specifications already defined or also on the basis of reporting the subjects referred to in paragraph 4, orders to rehabilitate the DNS resolution of domain names and to unblock the routing of network traffic to IP addresses blocked for at least six months, by publishing the updated list of IP addresses and DNS domain names on the single technological platform with automated operation, referred to in Article 6(2)';

- the Authority, within the technical panel, has defined the maximum limits relating to the resources to be blocked based on the indications formulated by the ISP on the basis of technical reasons presented by them on several occasions. The release of resources blocked for at least six months will therefore take place in relation to the capacity of the platform and on the basis of exceeding the limits imposed by the ISP, which will have to be extended in accordance with a roadmap defined within the technical panel within the terms indicated by the law;

NOTING the following with regard to the operation of the Piracy Shield platform:

- the use of a platform that uses technological measures that allow automated management of alerts following the precautionary order, so that the service provider can disable access to the electronic addresses covered by the alert in time to ensure effective protection, is provided for by the Anti-piracy law;
- the Authority established, in September 2023, in execution of the provisions of Article 6(2) of the Anti-piracy law, a technical panel in collaboration with the National Cybersecurity Agency and with the participation of ISP and right holders to define the technical and operational requirements of the functioning of the aforementioned measures;
- the technical and operational requirements of the Piracy Shield platform were then defined by Decision No 321/23/CONS of 5 December 2023, following the work of the technical panel set up pursuant to Article 6(2) of the Anti-piracy law and validated by the National Cybersecurity Agency;
- Technical and operational specifications developed within the technical panel have been merged into the User Manual (both the ISP and Reporter sides);
- both manuals are accompanied by an addendum containing functional forecasts for the platform's operation. In particular, in view of the first application phase, interpretative guidelines have been provided that incorporate specific requests

made by the participants in the technical panel, also to facilitate the start of activities, with a view to gradual progress towards the full deployment of platform functionalities. In this sense, the indications about the maximum number of IP and FQDNs to be blocked within thirty minutes and the distinction between theoretical SLAs and effective SLAs aimed at taking into account the limits represented by some ISP in terms of the maximum number of tickets to be managed in the thirty minutes are to be understood. Information has also been provided on the loading of the whitelist and the methods for reporting and gathering evidence in the precautionary phase and in subsequent reports;

- pursuant to the aforementioned paragraphs 4-*quater* and 4-*quinqüies* of Article 9-*bis* of the DDA Regulation, following the adoption of the precautionary order by the Authority, the reporter may request that the addressees of the measure proceed with the blocking of FQDN or IP addresses traceable to the same content and through which infringements occur *‘providing, for each IP address and domain name reported, documentary evidence regarding the relevance of the illegal conduct, that the domain names and IP addresses reported are unequivocally intended for the infringement of copyright or related rights on audiovisual works concerning sports events broadcast live and similar’*;
- The Authority specified, in the Addendum annexed to the Operating Manual of the *Piracy Shield* Platform drawn up as part of the technical panel work, that those reporting are required to provide a technical report containing the description of the methodology of gathering the evidence, as well as the methodology used to gather evidence on the unequivocally unlawful nature of the technical data requested to be blocked (FQDN and IP addresses), which is used in reference to subsequent reports, made via the Piracy Shield platform;
- in light of the amendments made by the Omnibus Decree to the Anti-piracy law, the reporters are therefore required to supplement, where necessary, the technical report containing the description of the methodology for collecting evidence according to the indications, consolidated within the framework of the technical panel, as specified in the addendum to the User Manual;
- the aforementioned technical specifications also provide for mechanisms that minimise the possibility of error in reporting and the consequent blocking of sites that broadcast live events in violation of copyright and related rights, concerning in particular, in addition to the method of collecting the forensic evidence, the possibility for reporters to use unblocking procedures within 24 hours of reporting in the event of an error, as well as the possibility for all those accredited to the platform to place in a whitelist resources that cannot be blocked through Piracy Shield;

- in this regard, it should be noted that all entities accredited to the platform can upload their own whitelist on a voluntary basis, after accreditation and directly by their user account on the platform. The list is registered and maintained by Agcom, which will integrate it into the system and manage any duplication of data. As indicated by ACN, institutional infrastructure data have also been included in the whitelist for security reasons;
- applications for accreditation to the platform shall be submitted by eligible entities through a portal created *ad hoc* and validated by the Authority, following verification of the documentation produced. Credentials to access the Piracy Shield platform are communicated only upon successful verification;
- accreditation to the Piracy Shield platform therefore requires certain specific subjective and objective requirements to be met, and failure to comply with the conditions that regulate its functioning invalidates the same requirements, including security requirements, which entitle service providers referred to in the Anti-piracy act and those reporting to operate on it. In this regard, they note, in particular, for those reporting, the utmost diligence and rigour in the submission of applications for blocking and the collection of related evidence and, for service providers, compliance with the confidentiality of the information and data of which they are aware, operating on the Piracy Shield platform;
- with particular reference to the confidentiality of the blocked IP addresses , the Authority considered that it could not publish the full list of IP addresses, since they fall within the category of ‘personal data’ which may allow indirect identification, as clarified by both the Court of Justice of the European Union and the Privacy Guarantor, as well as to avoid undermining the action to combat piracy. However, compliance with the principle of transparency of administrative action is ensured through the publication of an edit box on the Authority’s website which makes it possible to check whether a given IP address has been blocked through Piracy Shield;
- in the event of non-compliance with the requirements and conditions governing the operation of the Piracy Shield platform, the Authority reserves the right to adopt the consequent determinations, including the measure of suspension of accreditation;

NOTING therefore the following with regard to the procedure for the adoption of precautionary injunctions to combat the illegal dissemination of audiovisual content broadcast live:

- the purpose of the procedure is to ensure the cessation of illegal conduct, but also to block and prevent its recurrence. The precautionary proceedings shall be initiated at the request of the right holders or their assignees who bear the burden

of providing any evidence as to the ownership of the rights and the electronic addresses that can disseminate the content lawfully, as well as indicating those which disseminate live or assimilated content unlawfully;

- the Authority, having ascertained the *fumus boni iuris* and the *periculum in mora*, issues the precautionary order. As regards *fumus*, as noted on the basis of EU case-law, the infringement must be objectively detectable, by way of example also through: the presence of advertising or promotion activities in violation of the applicant's rights through illegal services; the encouragement, even indirect, to the use of digital works disseminated in violation of the applicant's rights through illegal services; the providing users with information on the technical methods for accessing digital works illegally disseminated through illegal IPTV services; the profit-making aim of the illegal offer of the digital works in question, also inferred by the onerous nature of their use; as regards the *periculum in mora*, always by way of example, also having regard to the prejudice to the work value, due to the times and methods of placing on the market typical of the same, as well as the economic value of the infringed rights and the consequent damage to the owner. The order must be executed within the deadline set by the Authority and in any case within 24 hours of notification;
- whereas information society service providers are required to comply with the '*duty of care which can reasonably be expected from them and is specified by national law, in order to identify and prevent certain types of illegal activities*', they shall ensure the execution of the precautionary administrative injunctions adopted by the Authority;
- the execution of the precautionary injunction does not impose on the service provider an obligation to monitor, in general, or a general obligation to actively seek facts or circumstances indicating the presence of illegal activities, therefore, it takes place in compliance with the guaranteed regime of exemptions therefrom;
- the service providers receiving the order, as well as the uploader and the page and website operators are granted the power to lodge a complaint against the precautionary measure within five days of receipt of the same;
- following the issuance of the precautionary order, right holders may report to the Authority, via the platform Piracy Shield, any additional website or IP address other than those previously indicated in the first instance, through which infringements similar to those already considered to exist by the Authority occur. The reporting can be made on the condition that right holders, also providing documentary evidence regarding the relevance of the illegal conduct, indicate, under their sole responsibility, that the IP addresses identifying the 'Main server' and 'Delivery Server' of the sites in question and the domain names associated therewith, have the character of uniqueness: the technical data communicated to

the recipients by the holder must be unequivocally intended to infringe the intellectual property rights of the applicant holder;

- following subsequent reports communicated via the Piracy Shield platform, the recipients of the measure shall disable access to all the other websites through which infringements occur;
- where the addressees of the precautionary measure are involved in any way in the accessibility of the website or illegal services, they shall execute the Authority's order without delay and, in any event, within no more than 30 minutes of notification, by disabling the DNS resolution of domain names and the routing of network traffic to the IP addresses communicated via the Piracy Shield platform or by taking the necessary technological and organisational measures to make the content disseminated abusively unusable by end-users;
- if not involved in the accessibility of the illegal website or services, recipients of the precautionary measure shall nevertheless, no later than 30 minutes after the notification of the disabling measure, take all technical measures necessary to hinder the visibility of the infringing content, including in any case de-indexing from the search engines of all the blocked domain names through the Piracy Shield platform;
- if the conditions are met, the communication shall also be sent via the Piracy Shield platform to the addresses of the contact points and legal representatives indicated by information society service providers not established in Italy, in accordance with Articles 11 and 13 of the DSA;
- the recipients of the notification of the precautionary order as well as the reports transmitted via the Piracy Shield platform, as well as the subjects who demonstrate a qualified interest, are granted the right to lodge a complaint within five days of the blocking, also due to a documented lack of legal requirements, including the occurrence thereof;
- six months after the blocking of domain names and IP addresses carried out through the Piracy Shield platform, the Authority may proceed with the rehabilitation of the aforementioned resources in order to ensure the proper functioning of the process of obscuring domain names and IP addresses, based on reaching the maximum capacity of the blocking systems implemented by service providers according to the technical specifications defined within the technical panel, or also on the basis of the reporting of the entitled parties;

WHEREAS, therefore, in the light of the above, it is consistent with European and national law to provide for a specific precautionary procedure aimed at the adoption by the Authority of an order to disable access to audiovisual content broadcast live and illegally distributed online, in which the applicants, that is, pursuant to Article 2 of the Anti-piracy law, subjects owning content broadcast live, first views of cinematographic and audiovisual works or entertainment programmes, audiovisual content, including

sports content, or other similar intellectual works, sports events and events of social interest or of high public interest within the meaning of Article 33(3) of Legislative Decree No 208 of 8 November 2021 — having proven ownership of the aforementioned content, having identified the electronic addresses authorised to broadcast and those which appear to have been unlawfully disseminated, as well as having proven the existence of a *prima facie* case and *periculum in mora* — simultaneously request that the same order be carried out by the recipients also in relation to the other electronic addresses that are the subject of subsequent notifications. For subsequent reports, disabling must be carried out immediately and in any case no later than thirty minutes from receipt of the communication. In fact, this procedure, in addition to allowing for the issuance of a measure that immediately inhibits infringements already committed through the sites, allows the prevention of subsequent and further unlawful conduct, since the electronic addresses subsequently identified convey content equivalent to those already subject to an injunction, without the provider being burdened by any surveillance burden;

WHEREAS the full unfolding of the effects of the precautionary procedure in question is mainly linked to the use of the automated single technological platform called Piracy Shield that allows automated management of alerts following the precautionary order so that the service provider can disable access to the electronic addresses covered by the alert in time to ensure effective protection;

WHEREAS the reports following the first request, due to the automated procedure through which they are managed within the stringent time frame for ensuring adequate protection to right holders, are not communicated to the uploader and the page and website operators, or in any case to the subjects to whom the electronic address can be traced back, which can be traced. However, in order to ensure full compliance with the procedural guarantees in this case, too, the redirection page referred to in Article 8(5) of the Regulation in this case contains the notice of the possibility to lodge a complaint, also via a link that refers to the Authority's website where the relevant modalities are detailed;

NOTING that compliance with the principle of transparency of administrative action is ensured through the publication of an edit box on the Authority's website that allows verification of whether a given IP address has been blocked by the Authority pursuant to the Anti-piracy law;

IT IS FURTHER NOTED that, pursuant to Article 2(7) of the Anti-piracy law, at the request of this Authority, the addressees of the measures shall inform the Public Prosecutor's Office without delay of all the activities carried out in fulfilment of the aforementioned measures and communicate any data or information available to them that may allow the identification of providers of the illegally disseminated content. To this end, a memorandum of understanding has already been signed between the

Authority, the Special Unit Command of the Guardia di Finanza and the Public Prosecutor's Office in Rome;

NOTING the following with regard to the provisions relating to the protection of copyright on audiovisual media services referred to in Chapter IV of the Regulation:

- Article 4 of Legislative Decree No 208 of 2021 includes, among the fundamental principles of the system of audiovisual and radio media services to guarantee users, *'the protection of copyright and intellectual property rights'*. This regulation substantially reproduces the provisions of Article 3 of Legislative Decree No 177 of 2005 (previous Consolidated Act on Audiovisual Media Services);
- Article 32, entitled *'Protection of copyright'*, when reporting the content of Article 32-bis of the previous Consolidated Act, provides, in paragraph 1, that: *'The provisions of this Consolidated Act shall not prejudice the principles and rights referred to in Law No 633 of 22 April 1941 concerning the protection of copyright and other related rights, and the penalties provided for in Chapter III of Title III of that Law. Audiovisual media service providers shall ensure full compliance with the principles and rights set out in ((...)) Law No 633 of 22 April 1941, irrespective of the platform used for the transmission of audiovisual content.'* The same provision, in the second paragraph, lays down that audiovisual media service providers, irrespective of the broadcasting platform used, shall ensure compliance with Law No 633 of 22 April 1941, and that they *'shall refrain from transmitting or retransmitting, or otherwise making available to users, on any platform, whatever the type of service offered, programmes covered by intellectual property rights of third parties, or parts of such programmes, without the consent of the right holders, and without prejudice to the provisions on short news reports'*. Furthermore, in order to enforce compliance with these limits and prohibitions, it is provided that *'the Authority shall issue binding, appropriate and necessary regulatory provisions'* (paragraph 3);
- with reference to the *'Sanctions for which the Authority is competent'*, Article 67 of the Consolidated Act (paragraph 1(p)) provides that: [1] *'The Authority shall, in accordance with the procedures laid down in its regulation, apply, on the basis of the principles of proportionality, adequacy and adversarial compliance, penalties for infringement of the obligations relating to programming, advertising and broadcasting content, and in particular those laid down: (...) p) on infringements of the copyright rules referred to in Article 32(2)'*;
- in light of the above, it appears that the Consolidated Act on Audiovisual Media Services (Legislative Decree No 208 of 8 November 2021), implementing European Directive 2018/1808, introduces new provisions in view of the



evolution of market realities and, with particular reference to the protection of copyright, takes over the provision already set out in Article 32-*bis* of the previous Consolidated Act (now Article 32) and is complete by inserting a penalty mechanism that assists compliance with the provisions referred to in the Copyright Law;

- in this sense, the new Article 67(2)(a) provides for the imposition of a financial penalty from EUR 10,329 to EUR 258,228 in the event of non-compliance with the provisions on infringements of the copyright laws referred to in Article 32(2);
- it is clear that the set of primary rules referred to above, the combined provision of which determines the area of competence of the Authority in the field of protection of copyright and related rights on audiovisual media services, must apply instead of part of the provisions contained in the current Chapter IV, since the subsequent primary rule set out in the new Consolidated Act prevails over the previous secondary rank rule over time;
- therefore, by virtue of a joint reading of the new rules of the Consolidated Act as outlined above and the Sanctions Regulation of this Authority, the possibility has been introduced for a party entitled to report to the Authority an alleged breach of sector legislation, where: (i) considers that the dissemination of a programme or parts thereof included in a schedule by a linear media service provider is contrary to the Law on Copyright and Article 32 of the Consolidated Act; (ii) considers that the making available of a programme or parts thereof in a catalogue by a non-linear media service provider is in breach of the Copyright Law and Article 32 (this amends the previous provisions concerning ‘the application to the Authority’). For these reasons, the right holder may no longer submit an application to the Authority requesting that the programme (or parts thereof) not be further disseminated or removed from the catalogue. In any event, should the provider of linear or non-linear audiovisual media services put an end to the infringement, the Authority may nevertheless take this into account when grading the sanction;
- the application shall be submitted by using and filling out in its entirety, under penalty of inadmissibility, the form made available on the Authority’s website and by attaching any useful documentation to prove ownership of the right. In this regard, the Authority shall prepare the new forms containing a detailed description of the content of the report;
- compliance with the double track of legal and administrative protection remains valid with regard to the impossibility of addressing Agcom where the judicial authority has been requested; while, it was decided to eliminate the provision for the termination of Agcom’s administrative activity where the judicial authority is requested in the course of the proceedings. In the latter case, recourse to the judicial authority does not stop the administrative penalty procedure which will



continue because of the new sanctioning powers attributed to Agcom by the legislator;

- it was also deemed compatible with European and national legislation to provide for the management the possibility — if, on the basis of a summary assessment of the facts, there appears to be a threat of imminent, serious and irreparable detriment to the right holder — to order, through the sanction notification, the inhibition of the further dissemination of the programme or its removal from the catalogue. This is because it is clear that the strengthening of the protection of copyright and related rights, intended by the legislator through the introduction of a sanctioning system in the event of infringements, cannot affect the protection already granted through the prohibition order governed by the Regulation;
- with reference to the double track between judicial procedure and administrative procedure, it should be reiterated that the provision for the termination of Agcom's administrative activity in the event that a case is brought before the judicial authority in the course of the proceedings has been eliminated for the part relating to the sanctioning procedure. This is because under the new rules of the Consolidated Act, the media service provider must still be sanctioned for the violation committed. The fact remains that, should the judicial authority hearing the case give reasons to the supplier, the latter may request repayment of the sum paid;

HAVING REGARD TO Article 18 of the DDA, which contains a reviewability clause whereby the Authority may '*review the Regulation on the basis of the experience resulting from its implementation, as well as in the light of technological innovation and market developments, after hearing the interested parties*';

CONSIDERING, accordingly, that it is necessary to amend the DDA Regulation as follows:

- the title of the Regulation no longer contains the reference to Legislative Decree No 70 of 9 April 2003, due to the novelties introduced by the DSA;
- the definitions set out in Article 1(1) are amended in implementation of recent national and European regulatory interventions, introducing, in particular, the definitions of 'search engine manager' and 'audiovisual content broadcast live';
- in Article 6(1), it is clarified that the application to the Authority may also be submitted for infringements concerning audiovisual content broadcast live;
- In Article 7(5), the words '*without prejudice to the time limits laid down in Article 8(6) and Article 9(1)(d)*' are deleted pursuant to the provision in



Article 8(6-*bis*), according to which the board may provide for an extension of the time limits for proceedings;

- a paragraph 3-*bis* is introduced in Article 8 to provide for the possibility for the Authority to issue selective removal orders also against service providers established in another Member State, as provided for in the DSA;
- in Article 9-*bis* which contains the precautionary procedure, the wording adopted prior to the amendments referred to in Resolution No 189/23/CONS is reinstated as Article 10 is introduced on specific precautionary procedures for infringements concerning audiovisual content broadcast live;
- in Article 9-*bis*, paragraph 8, the last period shall be deleted as it is not proportionate to apply a penalty for non-compliance in the event of rejection of the complaint since the complaint could also be received by persons who have not committed the infringement;
- Article 10 introduces specific provisions concerning the protection of copyright and related rights regarding audiovisual content that is broadcast live. Consequently, all subject owning live broadcast content, first releases of cinematographic and audiovisual works or entertainment programmes, audiovisual content, also relating to sports events, or other similar intellectual works, sports events and events of social interest or of high public interest within the meaning of Article 33(3) of Legislative Decree No 208 of 8 November 2021 are entitled to register on the technological platform referred to in Article 6(2), of the Anti-piracy law;
- Article 10(2) and (3) specify the time limits within which the Authority adopts the supervision order, as well as the procedures governing the manner in which the right holder and their successors in title may notify the service providers referred to in the Anti-piracy law of the electronic addresses through which infringements take place;
- Article 10(4) and (5) provide the right holder and those entitled the possibility of sending additional and specific alerts in order to update the list of electronic addresses through which further infringements occur after the adoption of the measure; they also lay down rules on how the Authority verifies the alert and sends the order to the addressees of the protective measure, who shall immediately execute it;
- in the last sentence of paragraph 5, it is specified that, if the conditions are met, the communication shall also be sent via the Piracy Shield platform to the addresses of the contact points and legal representatives indicated by providers of information society services not established in Italy in accordance with Articles 11 and 13 of the DSA;



- Article 10(6) specifies that if the recipients of the precautionary measure are not involved in the accessibility of the illegal website or services, they shall in any case, no later than 30 minutes after notification of the blocking measure, adopt all technical measures useful to hinder the visibility of the illegal content, including, in any case, the de-indexing from the search engines of all domain names blocked via the Piracy Shield platform;
- the subsequent paragraphs guarantee the possibility to lodge a complaint also for the measures adopted pursuant to Article 10;
- in Article 10(11), the procedure of rehabilitation by the Authority of domain names and IP addresses blocked through the Piracy Shield platform for at least six months is envisaged;
- Articles 8, 8-bis, 9-bis and 10 require the recipients of the Authority's orders to provide information on the follow-up given to orders, in accordance with Article 9 of the Digital Services Act and the associated sanctioning;
- the period referred to in Articles 8-bis(4) and 9-bis(7) within which the board must decide on the complaint shall be extended from 7 to 10 days in the light of the evidence that emerged during the application phase of the institution. The same term is adopted in Article 10(9);
- the provisions containing the information to the board concerning the acts adopted by the Directorate are deleted, as they are all published on the Authority's institutional website;
- in general, the regulatory references throughout Chapter IV are amended and the reference to the Sanctions Regulation has been added;
- the regulatory references regarding compliance with the rules on copyright and related rights, as well as the principles set out in the new Consolidated Act by audiovisual and radio media service providers, in the context of the '*General provisions*' (former Article 10 of the Regulation, now Article 11) referred to in Chapter IV are amended;
- the article relating to the '*Application to the Authority*' is amended by providing, in its place, for the '*Reporting to the Authority*' by which a legitimate entity may report an infringement of the Copyright Law and of Article 32(1) and (2) of the Consolidated Act. In that regard, it is provided that, within 90 days of receipt of the alert, the Directorate shall order the administrative closure of inadmissible or manifestly unfounded alerts, or shall initiate the procedure, by means of a sanction notification, if it finds that it is necessary to do so. Furthermore, the



deadline for the adoption of the final decision by the competent collective body (150 days) has been specified, clarifying that, although not expressly provided for, the provisions of Chapters II and III of the Sanctions Regulation apply;

- consequently, paragraphs 5, 6, 7 and 8 referred to in the previous Article 11 of the DDA Regulation (now Article 12), as well as Article 12 on '*Procedure of inquiry before the Directorate*' and Article 13 '*Measures for the protection of copyright*' are deleted;
- a new paragraph 10 is introduced which provides that the sanction notification may lead to the prohibition of further dissemination of the programme or its removal from the catalogue, where, on the basis of a summary assessment of the facts, the threat of imminent harm appears to exist;
- Article 13 has been amended by inserting the new legal references in the Consolidated Act;
- Article 15 is also amended in relation to the time limits provided for in the DDA Regulation where the Authority will only take working days into account, except as regards the protection of copyright on audiovisual media services;

HAVING CONSIDERED IT APPROPRIATE, given the particular importance and technical complexity of the subject matter covered by regulation and the significant amendments introduced, to submit for public consultation the draft measure amending the Regulation on the protection of copyright on electronic communications networks and implementing procedures pursuant to Legislative Decree No 70 of 9 April 2003, referred to in Authority Resolution No 680/13/CONS of 12 December 2013, and to notify it to the European Commission pursuant to Directive (EU) 2015/1535;

HAVING REGARD TO the proposal made by the Directorate for Digital Services and Protection of Fundamental Rights;

HAVING HEARD the report of Commissioner Massimiliano Capitanio, rapporteur pursuant to Article 31 of the '*Regulation on the organisation and operation of the Authority*';

HEREBY DECIDES

Article 1

1. The '*Draft resolution amending the Regulation on the protection of copyright on electronic communications networks and implementing procedures pursuant to Legislative Decree No 70 of 9 April 2003*', referred to in Annex A to this resolution, is submitted for public consultation.

2. The coordinated text of the *Regulation* is set out in Annex B to this Resolution.



3. The consultation procedures are set out in Annex C to this Resolution.
Annexes A, B and C form an integral and substantial part of this Resolution.

This measure is published on the Authority's website. For the purposes of the deadlines set out in the Annexes, the date of publication shall be considered.

Rome, 18 February 2025

PRESIDENT
Giacomo Lasorella

COMMISSION SPOKESPERSON
Massimiliano Capitanio

Attesting the conformity of the decision
THE SECRETARY-GENERAL
Giovanni Santella

Annex A
to Resolution No 47/25/CONS of 18 February 2025

**AMENDING THE REGULATION CONCERNING THE PROTECTION OF
COPYRIGHT ON
ELECTRONIC COMMUNICATION NETWORKS AND IMPLEMENTATION
PROCEDURES
IN ACCORDANCE WITH LEGISLATIVE DECREE NO 70 OF 9 APRIL 2003,
REFERRED TO IN RESOLUTION NO 680/13/CONS AND AS AMENDED AND
SUPPLEMENTED**

Article 1

**Amendments to the Regulation concerning the protection of copyright on
electronic communication networks and implementation procedures in accordance
with**



Legislative Decree No 70 of 9 April 2003

1. The following amendments are made to the Regulation concerning the protection of copyright on electronic communication networks and implementing procedures in accordance with Legislative Decree No 70 of 9 April 2003, as referred to in Resolution No 680/13/CONS of 12 December 2013, as last amended and supplemented by Resolution 189/23/CONS of 26 July 2023, hereinafter also referred to as the Regulation:

- a) the words “pursuant to Legislative Decree No 70 of 9 April 2003” are deleted in the title of the Regulation;
- b) in Article 1 after point b), the following point is inserted: b-bis) ‘Anti-piracy law’: Law No 93 of 14 July 2023 laying down: *‘Provisions for the prevention and enforcement of the unlawful dissemination of content protected by copyright through electronic communications networks’*;
- c) in Article 1, point c) the definition of ‘Consolidated Act’ is amended as follows: *‘Consolidated Act of audiovisual media services’* referred to in Legislative Decree No 208 of 8 November 2021 on *‘Implementing Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the Consolidated Act on the provision of audiovisual media services in view of changing market realities’*;
- d) in Article 1(d), the definition of ‘Code’ is amended as follows: the *‘Electronic Communications Code’*, referred to in Legislative Decree No 207 of 8 November 2021, on *‘Implementation of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code’*;
- e) in Article 1, point e-bis) is replaced by the following point: e-bis) ‘Digital Services Act’: Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for digital services and amending Directive 2000/31/EC;
- f) in Article 1(f) after the words ‘service provider’, the following word ‘intermediaries’ is added, the words ‘in Article 2(1)(a) of the Decree’ are replaced by the following words ‘in Article 3(g) of the Digital Services Act’, and the words ‘as defined respectively by Articles 14 and 16 of the this Decree’ are replaced by the following ‘subject to the liability regime, respectively, referred to in Articles 4 and 6 of the Digital Services Act’. After the words ‘Digital Services Act’, the following shall be inserted ‘the service providers referred to in Article 2 of the Anti-piracy law,’;



- g) in Article 1, the following point is inserted after point f): f-bis) ‘operator of the search engine’: an information society service provider that provides an intermediary service which allows the user to ask questions in order to carry out searches, in principle, on all websites, or on all websites in a particular language, on the basis of a query on any subject in the form of a keyword, voice query, phrase or other input, and which returns the results in any format in which information on the requested content can be found;
- h) in Article 1(g), the words ‘in Articles 14, 15 and 16 of the Decree’ are replaced by the following ‘in Article 3(g) of the Digital Services Act and subject to the liability regime referred to in Articles 4, 5 and 6 of the Digital Services Act’;
- i) in Article 1(h), the words ‘in Articles 14, 15 and 16 of the Decree’ are replaced by the following ‘in Article 3(g) of the Digital Services Act and subject to the liability regime referred to in Articles 4, 5 and 6 of the Digital Services Act’;
- j) in Article 1, in point (l), the words ‘Article 1(1)(dd)’ are replaced by the words ‘Article 2(1)(vv)’;
- k) in Article 1(m), the words ‘Article 2’ are replaced by the words ‘Article 3’;
- l) in Article 1(n), the words ‘Article 2’ are replaced by the words ‘Article 3’;
- m) in Article 1, point (o), the words ‘by Article 2(1)(b)’ are replaced by the following ‘by Article 3(1)(d)’;
- n) in Article 1, after point (p), the following is inserted: p-bis) ‘audiovisual content broadcast live’: first releases of cinematographic and audiovisual works or entertainment programmes, audiovisual works relating to live broadcast sports events, or other similar intellectual works, sports events and events of social interest or of great public interest pursuant to Article 33(3) of the Consolidated Act;
- o) in Article 1, in point (q), the words ‘by Article 2(1)(e)’ are replaced by the following ‘by Article 3(1)(g)’;
- p) in Article 1, in point (r), the word “series” shall be replaced by the word “plurality” and the words “Article 2(1)(g)” shall be replaced by the following “Article 3(1)(n)”;
- q) in Article 1, point (ii) is replaced by the following point (ii) ‘technical panel’: the technical panel set up pursuant to Article 6(2) of the Anti-piracy law;
- r) in Article 1, point (ii) is amended to (ll);



- s) in Article 1, point (ll) is amended to mm);
- t) in Article 1, in point (mm), the words ‘and those referred to in the Decree’ are deleted;
- u) in Article 1, after point (mm), the following point is added: (nn) ‘Sanctions Regulation’: the Regulation on administrative penalties and commitments referred to in Annex A to Decision No 410/14/CONS of 29 July 2014, as last amended by Decision 286/23/CONS;
- v) in Article 3(3), the words ‘in Article 2(1)(a) of the Decree’ are replaced by the following ‘in Article 3(g) of the Digital Services Act’;
- w) in Article 4(1)(a) the words ‘Article 2(1)(a) of the Decree’ are replaced by the words ‘Article 3(g) of the Digital Services Act’;
- x) in Article 4(1)(b) the words ‘, as amended by Law No 27 of 24 March 2012’ are deleted;
- y) under the heading of Chapter III, the words ‘pursuant to Legislative Decree No 70 of 9 April 2003’ are deleted;
- z) in Article 6(1), after the words ‘a digital work’ the following shall be added ‘or an audiovisual content broadcast live’ and the words ‘has been made available on the Internet’ shall be replaced by the following “have been made available on electronic communications networks”;
- aa) in Article 6(5), the words ‘The management shall periodically inform the board of any such archiving.’ shall be deleted;
- bb) in Article 7(5), the words ‘, without prejudice to the time limits referred to in Article 8(6) and Article 9(1)(d)’ are deleted;
- cc) in Article 7(6), the words ‘in Articles 14(3) and 16(3) of the Decree’ are replaced by the following ‘in Article 8’;
- dd) in Article 7, paragraph 8 is deleted;
- ee) in Article 8(2), the words ‘Articles 14(3) and 16 (3) of the Decree’ are replaced by the words ‘Articles 4(3) and 6(4) of the Digital Services Act’ and the following words ‘of Article 2 of the Anti-piracy law’ are inserted after the words ‘Digital Services Act’. In the same paragraph, the following words ‘3-bis,’ are inserted after ‘referred to in paragraph 3,’. In the last sentence, the words ‘shall comply’ are replaced by the words ‘comply’;

- ff) in Article 8, subparagraph 2-*bis*, after the words ‘subparagraph 3,’ the following ‘3-*bis*,’ are inserted;
- gg) in Article 8, (3), the words ‘referred to in Article 16 of the Decree’ are deleted;
- hh) in Article 8, after paragraph 3, the following is inserted: ‘3-*bis*. Where the site on which digital works are made available in breach of copyright or related rights is hosted on a server located outside national territory, the board may order service providers carrying out hosting activities established in another Member State, subject to the liability regime set out in Article 6 of the Digital Services Act, to ensure the selective removal of those digital works and to take the necessary measures to prevent their uploading in accordance with the procedures laid down in the Digital Services Act.’;
- ii) in Article 8(4), the words ‘referred to in Article 14 of the Decree,’ are deleted and the following is inserted after the words ‘mere conduit’: ‘as well as to the service providers referred to in the Anti-piracy law,’. In the last sentence, the words ‘which perform mere conduit activities’ are deleted;
- jj) in Article 8(5), the words ‘pursuant to Article 71(2-*quater*)(a) of the Code’ are deleted;
- kk) in Article 8(6), after the words ‘in subparagraphs 1, 2, 2-*bis*, 3,’ the words ‘3-*bis*,’ are inserted;
- ll) in Article 8(7), after the words ‘referred to in paragraphs 2, 3,’ the following ‘3-*bis*,’ are inserted;
- mm) in Article 8, after subparagraph 7, the following subparagraph is added: ‘8. Service providers receiving the Authority’s orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-*bis*) of Law No 249 of 31 July 1997;
- nn) in Article 8-*bis*, subparagraph 1, the words ‘of Article’ are replaced by the words ‘of Articles’, after the words ‘subparagraph 2’, the words ‘and of Article’ are deleted and after the words ‘subparagraph 7’ the following are inserted: ‘and 10, paragraph 9,’;
- oo) in Article 8-*bis*, subparagraph 4, last sentence, the word ‘seven’ is replaced by the word ‘ten’;
- pp) in Article 8-*bis*, subparagraph 7 is deleted;



- qq) in Article 8-*bis*, after subparagraph 6, the following subparagraph is inserted ‘7. Service providers receiving the Authority’s orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-*bis*) of Law No 249 of 31 July 1997;
- rr) in Article 9-*bis* paragraphs 4-*bis*, 4-*ter*, 4-*quater*, 4-*quinquies* and 4-*sexies* are deleted;
- ss) in Article 9-*bis*, paragraph 5, the words ‘as well as the communications referred to in paragraph 4-*sexies*’ are deleted;
- tt) in Article 9-*bis*, paragraph 6, the words ‘and referred to in paragraph 4-*bis*, as well as the alerts referred to in paragraph 4-*sexies*’ shall be deleted and the words ‘they assume’ shall be replaced by the following ‘the order assumes’. The words ‘and management shall inform the board at the first appropriate meeting’ shall be deleted;
- uu) in Article 9-*bis*, paragraph 7, the words ‘and referred to in paragraph 4-*bis*, as well as the reports referred to in paragraph 4-*quinquies*’ shall be deleted. In the same paragraph, in the last sentence, the word ‘seven’ is replaced by the word ‘ten’;
- vv) in Article 9-*bis*, paragraph 8, the words ‘to the orders’ shall be replaced by the words ‘to the order’, the words ‘and referred to in paragraph 4-*bis*, as well as the alerts referred to in paragraph 4-*quinquies*’ shall be deleted. In the last sentence in the same paragraph the following is deleted ‘The aforementioned penalties shall be applied and communicated to the judicial police bodies even in the case of rejection of the complaint referred to in paragraph 5.’;
- ww) in Article 9-*bis*, after paragraph 8, the following paragraph is inserted ‘9. Service providers receiving the Authority’s orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-*bis*) of Law No 249 of 31 July 1997.’;
- xx) after Article 9-*bis* the following is inserted: Article 10 ‘*Precautionary proceedings for infringements relating to audiovisual content broadcast live 1.* With the application referred to in Article 6(1), a reasoned request may be made to the Authority to order, on a precautionary basis, service providers who carry out *mere conduit* activities, as well as information society service providers referred to in Article 2 of the Anti-piracy law, to put an end to the infringement of copyright or related rights concerning a live broadcast audiovisual content,



within the meaning of Article 8(4). The Directorate shall issue the precautionary order if the infringement is identified on the basis of a summary assessment of the facts and there is a threat of imminent, serious and irreparable detriment to the right holders. 2. The precautionary order referred to in paragraph 1 shall be adopted within three days of receipt of the application or of the supplementary documents requested by the Directorate for the purposes of admissibility of the application and executed by the addressees of the measure within the deadline set by the Authority and in any case within 24 hours of the notification thereof. 3. By the request referred to in paragraph 1, a mandated party may also request that, once the precautionary order referred to in paragraph 1 has been adopted, the addressees of the measure proceed, with successive reports, with the blocking of any other future domain and sub-domain names, or IP addresses, including variations of the name or simple declination or extension, that can be traced back to the same content and through which the infringements occur. To that end, the application shall indicate the websites and platforms operated or authorised by the right holder to transmit live audiovisual content. 4. The entitled person shall communicate to the Authority with the subsequent reports referred to in paragraph 3 the domain names and IP addresses on which, after the adoption of the precautionary order referred to in paragraph 1, the audiovisual content broadcast live in violation of copyright or related rights is available. The mandated party also declares, under their own responsibility, providing, for each reported IP address and domain name, documentary evidence regarding the current nature of the illegal conduct, that the domain names and IP addresses reported are unequivocally intended to infringe copyright or related rights on audiovisual content broadcast live. 5. The Authority shall, through the single technological platform called Piracy Shield, whose technical and operational requirements are identified within the technical panel set up together with the National Cybersecurity Agency, verify, including through the collaboration of members of the Guardia di Finanza and the Postal and Communications Police, pursuant to Article 1(13) and (15) of Law No 249 of 31 July 1997, the compliance and completeness of the reports received pursuant to paragraph 4 and communicate the same to the recipients of the precautionary measure that immediately, and in any case no later than 30 minutes from receipt, disable access to the reported domain names and IP addresses, with simultaneous automatic redirection to an Internet page drawn up in the manner indicated by the Authority. The internet page contains a notice of the right of the interested parties to lodge a complaint in accordance with paragraph 7, as well as the procedures for lodging a complaint. Upon fulfilment of the conditions, the communication referred to in this paragraph shall be sent through the Piracy Shield platform also to the address indicated by each of the information society



service providers not established in Italy referred to in paragraph 1 of this Article, pursuant to Articles 11 and 13 of the Digital Services Act. 6. If the addressees of the precautionary measure are not involved in the accessibility of the website or illegal services, they shall, no later than 30 minutes after notification of the disabling order, take all the technical measures necessary to hinder the visibility of the illegal content, including, in any event, the de-indexing from search engines of all the domain names covered by the communications referred to in paragraph 5. 7. The recipients of the precautionary order and of the communications referred to in paragraph 5 may lodge a complaint within five days of the disabling of access. Persons demonstrating a qualified interest may lodge a complaint within five days of actual knowledge of the documented lack of compliance with legal requirements, including that which has occurred. The lodging of the complaint shall not suspend the execution of the precautionary order. 8. If no appeal has been lodged against the precautionary order referred to in paragraph 1 and the communications referred to in paragraph 5 within the period referred to in paragraph 7, they shall become final. 9. If an appeal has been submitted, pursuant to paragraph 7, against the precautionary measure referred to in paragraph 1 or the communications referred to in paragraph 5, the Directorate shall initiate proceedings, notifying the eligible party that submitted the appeal and the party that submitted the application referred to in Article 6(1). Rebuttal arguments must be submitted by the deadline referred to in Article 9(1)(b). The board shall adopt the final decision on the procedure pursuant to Article 8 within 10 days of the complaint being lodged. The provisions set out in Article 8(7) shall apply. 10. In the event of non-compliance with the orders referred to in paragraph 1 or the communications referred to in paragraph 5 and failure to lodge the appeal, the Directorate shall inform the board of this so that it may apply the penalties referred to in Article 1(31) of Law No 249 of 31 July 1997, and shall also notify the judicial police bodies pursuant to Article 182-ter of the Copyright Law. 11. In order to ensure the proper functioning of the process of obscuring domain names and IP addresses, based on achieving the maximum capacity of the blocking systems implemented by service providers according to the technical specifications defined within the technical panel, the Authority shall order to rehabilitate the resolution of domain names and to unblock the routing of network traffic to IP addresses blocked for at least six months, by publishing the updated list of IP addresses and domain names on the automated single technological platform called Piracy Shield. Likewise, qualified parties are entitled to request the Authority to rehabilitate disabled resources on the basis of their reports. 12. Service providers receiving the Authority's orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital

Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-bis) of Law No 249 of 31 July 1997;

yy) in Chapter IV, 'Article 10' is amended to 'Article 11';

zz) in Article 10 (new Article 11), in paragraph 1, the words 'Articles 3 and 3-bis' are replaced by the words 'Articles 4 and 32';

aaa) in Article 10 (new Article 11), in paragraph 2, the words 'Article 3' shall be replaced by the words 'Article 4';

bbb) 'Article 11' is amended to 'Article 12';

ccc) under the heading of Article 11 (new Article 12), the word 'Application' shall be replaced by the word 'Reporting';

ddd) in Article 11 (new Article 12), in paragraph 1, after the words 'and Article 32', the word '- bis' is deleted, the words 'an application' are replaced by the words 'an alert' and the words 'requesting that the programme is not further disseminated' are deleted;

eee) in Article 11 (new Article 12), in paragraph 2, after the words 'and Article 32', the word '- bis' is deleted, the words 'a application' are replaced by the words 'an alert' and the words 'requesting the removal of the programme from the catalogue' are deleted;

fff) in Article 11 (new Article 12), paragraph 3, the words 'Applications' are replaced by the words 'The alert' and the words 'they shall be transmitted' are replaced by the words 'it shall be transmitted'; the word 'their' shall be replaced by the word 'its' and the words 'the models made available' shall be replaced by the words 'the model made available';

ggg) in Article 11 (new Article 12), subparagraphs 5, 6, 7 and 8 are deleted;

hhh) in Article 11 (new Article 12), after paragraph 4, the following subparagraphs are inserted: '5. Within 90 days of receipt of the report, the Directorate shall either order its administrative filing or, where this is justified, initiate proceedings in accordance with paragraph 9. 6. The Directorate shall order the notification to be administratively archived if it is: (a) inadmissible for failure to comply with the requirements of paragraph 3; (b) inadmissible pursuant to paragraph 4; (c) inadmissible due to the lack of essential information provided for in the form; (d) manifestly unfounded because it clearly lacks the factual and legal grounds for establishing an infringement. 7. The Directorate shall notify the reporting party of the archiving initiated pursuant to paragraph 5.'



8. The Directorate shall acquire all the elements necessary for the initiation of the procedure, including through inspections, requests for information and documents, hearings, and fact-finding investigations. 9. Once the obligations referred to in paragraph 8 have been completed, where the conditions for initiating the procedure have been met, the Directorate shall notify the reporting party and the contacts indicated in the form, by means of a sanction notification, indicating: a) the identification number of the procedure; b) the date of registration of the report; c) the office and person responsible for the procedure; d) the deadline for concluding the procedure; e) the deadlines for producing pleadings and documentation; f) the possibility of being heard on request; g) information on the right of access to the documents; h) the rule that is alleged to have been infringed. 10. Where, based on a preliminary assessment of the facts, there appears to be a threat of imminent, serious, and irreparable harm to the right holder, the sanction notification may include the prohibition of further dissemination of the program or its removal from the catalogue. 11. The deadline for the adoption of the final decision by the competent board shall be 150 days from the start of the procedure. 12. For anything not expressly provided for in paragraphs 1 to 11, the provisions of Chapters II and III of the Sanctions Regulation shall apply. 13. Where the contested violation is confirmed at the end of the proceedings, the administrative fine that may be imposed shall be that provided for in Article 67(1)(p) and (2)(a) of the Consolidated Act;
- iii) in Article 11 (new Article 12), paragraph 9 is amended to paragraph 13, and the words ‘paragraph 5(c) and (d) of this Article’ are replaced by the words ‘Sanctions Regulation’;
- jjj) Article 12 ‘*Procedure of inquiry before the Directorate*’ is deleted;
- kkk) Article 13 ‘*Copyright enforcement measures*’ is deleted;
- lll) under the heading of Article 14 (now Article 13), the words ‘1-ter(8)’ are replaced by the words ‘7(13)’; the words ‘1-ter(8)’ are replaced by the words ‘7(13)’;
- mmm) in Article 14 (now Article 13), paragraph 3, the words ‘of the bodies referred to in Article 11(1) and (2)’ are replaced by the words ‘of the alert’; the words ‘1-ter(8)’ are replaced by the words ‘7(13)’;
- nnn) in Article 16 (now Article 15), paragraph 1, after the words ‘working days’, the words ‘, without prejudice to the provisions of Chapter IV’ shall be added.



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Annex B to Resolution 47/25/CONS

**REGULATION ON THE PROTECTION OF COPYRIGHT ON ELECTRONIC
COMMUNICATION NETWORKS AND IMPLEMENTATION PROCEDURES**

**Chapter I
General Principles**

**Article 1
Definitions**

1. The following definitions are set out for the purposes of this regulation:

- a) ‘Authority’: Communications Regulatory Authority, established by Article 1(1) of Law No 249 of 31 July 1997;
- b) ‘Copyright Law’: Law No 633 of 22 April 1941, on the *‘Protection of copyright and other rights relating to its exercise’*;
- b-bis) ‘Anti-piracy law’: Law No 93 of 14 July 2023 laying down: *‘Provisions for the prevention and enforcement of the unlawful dissemination of content protected by copyright through electronic communications networks’*;
- c) ‘Consolidated Act’: ‘Consolidated Act of audiovisual media services’ as referred to in Legislative Decree No 208 of 8 November 2021 on the *‘Implementation of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the Consolidated Act for the provision of audiovisual media services in view of changing market realities’*;
- d) ‘Code’: ‘Electronic Communications Code’ referred to in Legislative Decree No 207 of 8 November 2021 on the *‘Implementation of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code’*;
- e) ‘Decree’: Legislative Decree No 70 of 9 April 2003, on the *‘Implementation of Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market’*;
- e-bis) “Digital Services Act”: Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for digital services and amending Directive 2000/31/EC;
- f) ‘service provider’: the provider of intermediary information society services, as referred to in Article 3 (g) of the Digital Services Act, engaged in *mere conduit* or *hosting* activities, subject to the liability regime laid down in Articles 4 and 6 of the Digital Services Act respectively, service providers referred to in Article 2 of the Anti-piracy law, and providers of information society services referred to in Article 195-bis(1) of Decree-Law No 34 of 19 May 2020, converted with amendments by Law No 77 of 17 July 2020, which use, even indirectly, national numbering resources;



f-bis) ‘search engine operator’ means the information society service provider providing an intermediary service that allows the user to formulate questions for the purpose of performing searches, in principle, on all websites, or on all websites in a particular language, based on a query on any subject in the form of a keyword, voice request, phrase or other input, and returns the results in any format in which information related to the requested content can be found;

g) ‘website operator’: a provider of information society services, other than those referred to in Article 3(g) of the Digital Services Act and subject to the liability regime laid down in Articles 4, 5 and 6 of the Digital Services Act, which, on the *Internet*, manages a space on which digital works or parts thereof or hyperlinks (*links* or *torrents*) are present, even if uploaded by third parties;

h) ‘Internet page manager’: the information society service provider, other than those referred to in Article 3(g) of the Digital Services Act and subject to the liability regime set out in Articles 4, 5 and 6 of the Digital Services Act, that manages a space on which digital works or parts thereof are located or hyperlinks (*links* or *torrents*) to them, including those uploaded by third parties within a website;

i) ‘payment service providers’: the parties that perform the services referred to in Article 1(1)(b) of Legislative Decree No 11 of 27 January 2010;

l) ‘electronic communications networks’: the networks as defined by Article 2(1) (vv) of the Code;

m) ‘audiovisual media service’: the service as defined by Article 3(1)(a) of the Consolidated Act;

n) ‘radio media service’: the service as defined by Article 3(1)(a) of the Consolidated Act applied by analogy to radio services pursuant to Article 3(2) of this Consolidated Act;

o) ‘media service provider’: the service provider as defined by Article 3(1)(d) of the Consolidated Act;

p) ‘digital work’: a sound, audiovisual, photographic, video game, editorial or literary work or part thereof, including computer applications and operating systems, protected by the Copyright Law and disseminated on electronic communications networks;

p-bis) ‘live broadcast audiovisual content’: first releases of cinematographic and audiovisual works or entertainment programmes, audiovisual works relating to live broadcast sports events, or other similar intellectual works, sports events and events

of social interest or of great public interest pursuant to Article 33(3) of the Consolidated Act;

q) ‘programme’: a series of moving images, with or without sound, as defined by Article 3(1)(g) of the Consolidated Act;

r) ‘programme schedule’: a range of programmes as defined by Article 3(1)(n) of the Consolidated Act;

s) ‘catalogue’: a set of programmes, prepared according to criteria predefined by a non-linear audiovisual media service provider, that can be accessed at the moment chosen by the user;

t) ‘right holder or licensee’: any holder party or licensee of copyright or related rights with reference to the digital work referred to in paragraph (p);

u) ‘entitled person’: right holder or licensee as referred to in paragraph (t) and, if they have received a mandate from the right holder or the licensee, trade associations, collective management organisations or independent management entities, as defined in Article 2(1) and (2) respectively of Legislative Decree No 35 of 15 March 2017;

v) ‘link’: a hyperlink to the digital work referred to in paragraph (p);

z) ‘torrent’: alphanumeric code of connection through which users are placed in a position to interact for the purpose of using the digital works referred to in paragraph (p);

aa) ‘uploader’: any natural or legal person that uploads digital works on electronic communications networks, making them available to the public, including through specific links or torrents or other forms of connection;

bb) ‘downloading’: transfer of digital works on one’s own terminal or on a shared space through electronic communications networks;

cc) ‘streaming’: a flow of audio/video data transmitted by a source to one or more destinations through electronic communications networks and reproduced in real time on the user’s terminal;

dd) ‘notice and take-down procedures’: procedures aimed at removing illegal content from electronic communications networks;

ee) ‘server’: processing system connected to the network hosting resources that can be used directly by other computers that request them;

ff) ‘selective removal’: deletion from the web page of digital works that were disseminated infringing copyright or related rights or of the connection to them through links or torrents or in other forms;



gg) ‘disabling access’: disabling access to digital works or to the web site that is uniquely identified by one or more domain names (DNS) or IP addresses associated therewith;

hh) ‘Committee’: Committee for the development and protection of the legal offer of digital works, as referred to in Chapter II;

ii) ‘technical panel’: the technical panel established pursuant to Article 6(2) of the Anti-piracy law;

ll) ‘Directorate’ and ‘Director’: the competent directorate of the Authority and the director of the aforementioned Directorate;

mm) ‘board’: the Commission for services and products of the Authority which, pursuant to Article 1(6)(b)(4-bis) of Law No 249 of 31 July 1997, as amended by Article 11(2), of Law No 248 of 18 August 2000, exercises supervisory and investigative functions pursuant to Article 182-bis of the Copyright Law;

nn) ‘Sanctions Regulation’: the Regulation on administrative penalties and commitments referred to in Annex A to Resolution No 410/14/CONS of 29 July 2014, as last amended by Resolution No 286/23/CONS.

Article 2

Purpose and scope of application

1. This regulation shall govern the Authority’s activities concerning the protection of copyright on electronic communications networks. In particular, the Regulation aims to promote the development of the legal offer of digital works and the education for their proper use, and contains the procedures for identifying and eliminating infringements of copyright and related rights, howsoever committed, implemented on electronic communications networks.

2. In carrying out the activities referred to in paragraph 1, the Authority shall operate in compliance with the rights and freedoms of communication, expression of thought, press, comment, criticism and discussion, as well as the exceptions and limitations set out in the Copyright Law. In particular, the Authority shall protect the rights of freedom in the use of electronic means of communication, as well as the right of economic initiative and its exercise in a system of competition in the electronic communications sector, in compliance with the regulations referred to in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the EU Charter of Fundamental Rights, and Articles 101 and 102 of the Treaty on the Functioning of the European Union. The Authority shall also assess the necessary balance between the protection of copyright and related rights and the promotion of

technical and economic progress, as well as the development of new products and services to the benefit of the consumers.

3. This Regulation does not refer to end users who use digital works in downloading or streaming mode, or to computer applications and programs through which end users directly share digital works on electronic communications networks, without prejudice to the services offered by providers that use national numbering resources either directly or indirectly, as referred to in Article 195-bis of Decree-Law No 34 of 19 May 2020, converted with amendments by Law No 77 of 17 July 2020, if they allow an act of communication to the public.

4. The Authority shall monitor compliance with the provisions of this Regulation and verify the implementation of the measures referred to in Chapters III and IV.

Chapter II

Measures favouring the development and protection of digital works

Article 3

General principles

1. The Authority shall promote the education of users in relation to the legal use of digital works, with particular reference to younger ones.
2. The Authority shall promote the widespread dissemination of the legal offer of digital works, encouraging the development of innovative and competitive commercial offers and promoting awareness of services that allow the legal use of digital works protected by copyright, as well as access to these services.
3. The Authority shall promote the development of codes of conduct by information society service providers pursuant to Article 3(g) of the Regulation on digital services, in order to facilitate cooperation for the purpose of protecting copyright.

Article 4

Committee for the development and protection of the legal offer of digital works

1. The Committee for the development and protection of the legal offer of digital works is hereby established. The Committee shall be chaired by the General Secretary of the Authority or by a delegate of the Authority and shall be composed of the following members, who shall participate in the meetings without charging costs to the Authority:

- a) a representative for each of the main industry associations of the following categories: consumers, authors, artists and performers, publishers, producers, distributors, media service providers, and information society service providers as referred to in Article 3(g) of the Digital Services Act;
 - b) a representative for each of the following bodies: Italian Society of Authors and Publishers (Società italiana degli autori ed editori (SIAE)); Permanent Advisory Committee for Copyright of the Ministry of Cultural Heritage and Activities (Comitato consultivo permanente per il diritto d'autore presso il Ministero per i beni e le attività culturali); Technical Committee against Digital and Multimedia Piracy (Comitato tecnico contro la pirateria digitale e multimediale) set up at the Department for Information and Publishing of the Presidency of the Council of Ministers; Committee for the application of the Media and Minors Self-Regulatory Code (Comitato per l'applicazione del Codice di autoregolamentazione media e minori) established at the Communications Department of the Ministry of Economic Development; Postal and Communications Police (Polizia postale e delle comunicazioni); Broadcasting and Publishing Special Unit of the Financial Guard (Nucleo speciale per la radiodiffusione e l'editoria della Guardia di finanza); Specialist Tribunals on industrial and intellectual property pursuant to Legislative Decree No 168 of 27 June 2003;
 - c) representatives of the Authority.
2. The Committee shall encourage agreements to be reached between the categories referred to in paragraph 1(a), taking advantage of the unpaid collaboration of research centres, with reference, among others, to the following themes:
- a) the simplification of the distribution chain of digital works in order to facilitate access to them, including through tools such as distribution frames and license agreements developed *ad hoc* for the dissemination of digital works, without prejudice to free negotiation between parties;
 - b) the adoption of codes of conduct by the information society service providers referred to in Article 2(1)(a) of the Decree, including with reference to instruments for law enforcement, developed in collaboration with payment service providers based on the analysis of economic transactions and business models related to the offer of content in violation of copyright (*follow the money*).
3. The Committee, in collaboration with other public or private entities, shall be responsible for:



- a) promoting educational measures with regard to the legal use of digital works, including through the adoption of automatic redirection procedures to specific web pages for this purpose;
 - b) drawing up measures to support the development of digital works, to remove existing barriers and to promote commercial initiatives for wider availability;
 - c) monitoring the development of the legal offer of digital works;
 - d) monitoring the application of this Regulation, including with reference to the methods for implementing the Authority's provisions;
 - e) formulating hypotheses for adapting this Regulation in relation to the technological innovation and the evolution of the markets.
4. The Committee shall avail itself of a technical secretariat set up within the Directorate.

Chapter III

Protection measures for copyright online

Article 5

Methods of intervention

1. Without prejudice to any self-regulated notice and take-down procedures, for the purposes of copyright protection on electronic communications networks, the Authority shall intervene upon application of one of the parties, pursuant to this Chapter and the subsequent Chapter.

Article 6

Application to the Authority

1. If a digital work or an audiovisual content broadcast live is believed to have been made available on the Internet in violation of the Copyright Law, including through the offer of products, components or services in violation of copyright and related rights, or through the advertising, promotion or description of activities in violation of copyright and related rights, an entitled person may submit an application to the Authority, requesting its removal.
2. The application to the Authority referred to in paragraph 1 shall be submitted by using and filling out in its entirety the form made available on the Authority's *website* and by attaching any useful documentation to prove ownership of the right.



3. The proceedings before the Authority must not be conducted if proceedings before the Judicial Authority are pending for the same rights relating to the same works.
4. The Directorate shall administratively archive applications that are:
 - a) inadmissible due to a failure to comply with the provisions referred to in paragraph 2 or due to lack of essential information;
 - b) inadmissible pursuant to paragraph 3 or due to elimination of the alleged infringement;
 - c) inadmissible as they do not fall under the scope of application of this regulation;
 - d) manifestly unfounded;
 - e) withdrawn after notice is sent of the initiation of the proceedings referred to in paragraph 7 and before the decisions of the board referred to in Article 8.
5. The directorate notifies the applicant about the archiving pursuant to paragraph 4(a), (b), (c) and (d), and the addressees of the communication on the initiation of proceedings referred to in Article 7(1), about the archiving pursuant to paragraph 4(e).
6. With reference to the applications that have not been administratively archived, the Directorate shall initiate the proceedings pursuant to Article 7.
7. The Directorate shall initiate the administrative archiving or the proceedings within seven days of receipt of the applications or of the additional documents requested by the Directorate for the purpose of admitting these applications.
8. If the reported conduct amounts to cases that fall within the competence of other administrations, the Directorate shall transmit the documents of the applications archived pursuant to paragraph 4(c) and (d) of this Article.

Article 7

Procedure of inquiry before the Directorate

1. The Directorate shall report the initiation of proceedings to the party that submitted the application pursuant to Article 6(1), the service providers identified for this purpose, as well as, if traceable, the uploader and the web page and website managers. The notice of the initiation of proceedings shall contain the exact identification of the digital works that are alleged to have been disseminated in violation of the Copyright Law, a list of the provisions that are alleged to have been violated, a summary of the facts and of the results of the investigations carried out, the name of the competent office and of the person in charge of the proceedings to whom any rebuttal arguments are to be submitted, and the deadline for the conclusion of the proceedings.

2. With the same notice referred to in paragraph 1, the Directorate shall inform the service providers, as well as the uploader and the web page and website managers, if they are traceable, that they may spontaneously comply with the request of the applicant, as referred to in Article 6(1).

3. If the service providers, the uploader or the web page or website managers spontaneously comply as referred to in paragraph 2, they shall simultaneously notify the Directorate.

3-bis. If the spontaneous compliance referred to in paragraph 2 has taken place, the Directorate shall initiate the administrative archiving, notifying the addressees of the notice of the initiation of proceedings.

4. If they intend to contest the alleged infringement, the service providers, as well as the uploader and the web page and website managers, shall send the Directorate all information relevant to the investigation within five days of receipt of the notice referred to in paragraph 1.

5. If the investigation is necessary or in the light of the complexity of the case, the Directorate may order an extension of the time limits referred to in Article 6(7) and paragraph 4 of this Article. If further background information is required for the investigation, the Directorate may also request it from the relevant parties, pursuant to Article 1(30) of Law No 249 of 31 July 1997.

6. Except for the case of spontaneous compliance referred to in paragraph 3, the Directorate shall forward the documents to the board, and shall propose to either archive the case or adopt the measures referred to in Article 8. The documents shall not be forwarded to the board prior to the deadline referred to in paragraph 4.

7. If, in the course of the proceedings, the applicant brings the matter before the Judicial Authority for the same rights relating to the same works, he/she shall promptly notify the Directorate, which shall archive the documents and forward them to the Judicial Authority, even if they have already been sent to the board pursuant to paragraph 6, and shall also notify the addressees of the notice of the initiation of proceedings.

Art. 8

Copyright protection measures

1. The board, having examined the documents, shall initiate the archiving if it does not consider there to be an infringement of copyright or related rights.

2. If the board considers there to be an infringement of copyright or related rights, it shall require, in compliance with the criteria of graduality, proportionality and appropriateness, that the service providers to whom the notice referred to in Article 7(1)



is addressed prevent or put an end to this infringement, pursuant to Article 4(3) and Article 6(4) of the Digital Services Act, to Article 2 of the Anti-piracy law and to Article 195-*bis* of Decree-Law No 34 of 19 May 2020, converted with amendments by Law No 77 of 17 July 2020. For this purpose, the board shall adopt the measures referred to in paragraphs 3, 3-*bis*, 4, 4-*bis* and 5 against the service providers, and shall indicate the appropriate measures to prevent the repetition of the infringements. The service providers must comply with the orders within three days of being notified.

2-*bis*. If the board considers there to be an infringement of copyright or related rights, but does not consider it possible to adopt the orders referred to in paragraphs 3, 3-*bis*, 4, 4-*bis* and 5 against the service providers, in light of the criteria of graduality, proportionality and appropriateness, it shall archive the documents and report the identified infringement to the judicial police bodies, pursuant to Article 182-ter of the Copyright Law.

3. If the website on which digital works are made available in violation of the copyright or related rights is hosted on a server located on national territory, as a general rule the board shall order service providers that perform hosting activities to selectively remove the digital works in question and to take the necessary measures to prevent the upload of these works. In the case of mass infringements, the board may order service providers, instead of selectively removing the works, to disable access to said digital works.

3-*bis*. Where the website on which digital works are made available in breach of copyright or related rights is hosted on a server located outside national territory, the board may order service providers carrying out hosting activities established in another Member State, subject to the liability regime laid down in Article 6 of the Digital Services Act, to ensure the selective removal of those digital works and to take the necessary measures to prevent their uploading in accordance with the procedures laid down in the Digital Services Act.

4. If the website on which digital works are made available in violation of the copyright or related rights is hosted on a server located outside national territory, the board may order service providers that perform *mere conduit activities*, as well as service providers referred to in the Anti-piracy law, to disable access to the website. In order to prevent the repetition of infringements that are already the subject of disabling orders issued by the Authority, the service providers shall be required to disable access to the websites indicated in the list in .txt format, which is made available by the Authority.

4-*bis*. If the digital works made available, as provided for in Article 6(1), in violation of copyright or related rights are disseminated to the public through service providers that use national numbering resources either directly or indirectly, the board shall normally order these providers to selectively remove the digital works in question, namely to



adopt any measures available to prevent the upload of these works. In the case of serious or mass infringements, the board may order service providers, instead of selectively removing the works, to disable access to said digital works, through the adoption of measures sufficiently effective to ensure the effective protection of the aforesaid rights.

5. If the board adopts the measures provided for in paragraph 3, second sentence, and paragraph 4, it shall order service providers to automatically redirect the requests for access to the web page on which the presence of digital works disseminated in violation of copyright or related rights was identified to a web page drawn up according to the procedures indicated by the Authority.

6. The measures referred to in paragraphs 1, 2, 2-bis, 3, 3-bis, 4, 4-bis and 5 shall be adopted by the board within 35 days of receipt of the application referred to in Article 6, or of the additional documents requested by the Directorate for the purpose of admitting this application. The addressees of the communication on the initiation of proceedings are notified about the measures.

6-bis. If further background information is required for the investigation, the board may arrange for an extension of the deadline referred to in paragraph 6, for a duration not exceeding 15 days.

7. In the case of non-compliance with the orders referred to in paragraphs 2, 3, 3-bis, 4, 4-bis and 5, the Authority shall apply the penalties referred to in Article 1(31) of Law No 249 of 31 July 1997, and shall notify the judicial police bodies pursuant to Article 182-ter of the Copyright Law.

8. Service providers receiving the Authority's orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-bis) of Law No 249 of 31 July 1997.

Art. 8-bis

Repetition of infringements which have already been identified by the Authority

1. If the entitled person believes that there has been a repetition of an infringement of copyright or related rights that has already been established by the Authority pursuant to Article 8(2), Article 9-bis(7) and Article 10(9), he/she shall notify the Authority, attaching any useful documentation. The provisions of Article 6 shall apply.

2. If it verifies the existence of the repetition of an infringement of copyright or related rights that has already been the subject of a selective removal order or an order to disable access to digital works pursuant to Article 8(3) and (4-bis), the Authority shall take action pursuant to Article 8(7).



3. If the existence of the repetition of an infringement of copyright or related rights already subject to an order to disable access to the website pursuant to Article 8(4) is established, the Directorate shall take a measure to update the list referred to in the aforementioned paragraph.

4. The measure shall be taken within three days of receipt of the application or the additional documents requested by the Directorate for the purpose of admitting the application. Notice of the measure shall be sent to the service providers identified for this purpose, as well as, where traceable, to the uploader and to the web page and website managers, who may appeal within five days of being notified. The appeal shall not suspend the effectiveness of the measure. The entitled person who submitted the application referred to in Article 6(1) shall also be notified of the measure. If an appeal is submitted, the Directorate shall initiate proceedings, notifying the persons entitled to submit an appeal and the person who submitted the application referred to in Article 6(1). Rebuttal arguments must be submitted by the deadline referred to in Article 9(1) (b). The board shall decide on the appeal within ten days from the date of its submission.

5. If the board concludes that there is no infringement of copyright or related rights as reported in the application referred to in paragraph 1, it shall archive the application in accordance with Article 8(1).

6. If the Directorate concludes that there has been no repetition of infringements as reported in the application referred to in paragraph 1, as the particular case could include the details of a separate infringement of copyright or related rights, it shall proceed pursuant to Article 7.

7. Service providers receiving the Authority's orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-bis) of Law No 249 of 31 July 1997.

Art. 9

Abbreviated procedure

1. If, on the basis of a first and summary examination of the facts that are the subject of the application referred to in Article 6, the Directorate considers that these facts constitute a case of severe infringement of the economic exploitation rights of a digital work or a case of mass infringement, the deadlines referred to in Articles 6, 7 and 8 shall be amended as follows:

- a) the administrative archiving and the initiation of proceedings, referred to in Article 6(7), shall take place within three days of receipt of the application or



of the additional documents requested by the Directorate for the purpose of admitting the application;

- b) the submission of any rebuttal arguments, referred to in Article 7(4), must take place within three days of notice of the initiation of proceedings;
- c) the documents shall not be submitted to the board prior to the deadline referred to in subparagraph (b);
- d) the measures referred to in Article 8(1), (2), (2-bis), (3), (4), (4-bis) and (5) shall be adopted by the board within 12 days of receipt of the application or of the additional documents requested by the Directorate for the purpose of admitting the application;
- e) the extension of the deadline for the adoption of measures by the board, referred to in Article 8(6-bis), shall not exceed five days;
- f) the orders referred to Article 8(2), (3), (4), (4-bis) and (5) must be fulfilled within two days of being notified of the order.

2. For the purposes of recourse to an abbreviated procedure referred to in this Article, the Directorate shall assess, among others, the following elements:

- a) the significant amount of digital works that are alleged to have been disseminated in violation of copyright or related rights;
- b) the time of placement of the digital work on the market;
- c) the economic value of the infringed rights and the extent of the damage caused by the alleged infringement of copyright or related rights;
- d) the encouragement, even indirectly, to use digital works disseminated in violation of the Copyright Law;
- e) the misleading nature of the message, such as to lead the user to incorrectly believe that it is a lawful activity;
- f) the provision of information on the technical methods for accessing illegally disseminated digital works;
- g) the profit-making aim of the illegal offer of digital works, which may also be deduced from whether or not users are charged for access or from the dissemination of advertisements;
- h) the origin of the application referred to in Article 6 by one of the associations referred to in Article 1(1)(u).

Art. 9-bis

Precautionary Procedure



1. With the application referred to in Article 6(1), a justified request may be made to the Authority to order the service providers referred to in Article 1(1)(f), as a precautionary measure, to put an end to the infringement of copyright or related rights pursuant to Article 8(3), (4), (4-bis) and (5) within two days of being notified of the order. The Directorate shall issue the precautionary order if the infringement is identified on the basis of a summary assessment of the facts and there is a threat of imminent, serious and irreparable detriment to the right holders.
2. The precautionary order referred to in paragraph 1 shall be adopted within three days of receipt of the application or the additional documents requested by the Directorate for the purpose of admitting the application.
3. Notice of the precautionary order referred to in paragraph 1 shall be sent to the service providers identified for this purpose and to the person who submitted the application pursuant to Article 6(1).
4. Notice of the precautionary order shall also be sent, where traceable, to the uploader and to the web page and website managers, who may put an end to the infringement. If this occurs, the Directorate shall revoke the precautionary order and archive the application pursuant to Article 6(4)(b).
5. The addressees of the notification of the precautionary order may appeal within five days of being notified. The lodging of the complaint shall not suspend the execution of the precautionary order.
6. If no complaint has been lodged against the precautionary order referred to in paragraph 1 within the period referred to in paragraph 5, the order shall become final.
7. If a complaint has been submitted, pursuant to paragraph 5, against the precautionary order referred to in paragraph 1, the Directorate shall initiate proceedings, notifying the eligible party that submitted the appeal and the party that submitted the application referred to in Article 6(1). Rebuttal arguments must be submitted by the deadline referred to in Article 9(1)(b). The board shall adopt the final decision on the procedure pursuant to Article 8 within 10 days of the complaint being lodged. The provisions set out in Article 8(7) shall apply.
8. In the event of non-compliance with the orders referred to in paragraph 1 and failure to lodge the appeal referred to in paragraph 5, the Directorate shall inform the board of this so that it may apply the penalties referred to in Article 1(31) of Law No 249 of 31 July 1997, and shall also notify the judicial police bodies pursuant to Article 182-ter of the Copyright Law.
9. Service providers receiving the Authority's orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the

event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-bis) of Law No 249 of 31 July 1997.

Article 10

Precautionary proceedings for infringements relating to audiovisual content broadcast live

1. With the application referred to in Article 6(1), a reasoned request may be made to the Authority to order, on a precautionary basis, service providers who carry out *mere conduit* activities, as well as information society service providers referred to in Article 2 of the Anti-piracy law, to put an end to the infringement of copyright or related rights concerning a live broadcast audiovisual content, within the meaning of Article 8(4). The Directorate shall issue the precautionary order if the infringement is identified on the basis of a summary assessment of the facts and there is a threat of imminent, serious and irreparable detriment to the right holders.
2. The precautionary order referred to in paragraph 1 shall be adopted within three days of receipt of the application or of the supplementary documents requested by the Directorate for the purposes of admissibility of the application and executed by the addressees of the measure within the deadline set by the Authority and in any case within 24 hours of the notification thereof.
3. By the request referred to in paragraph 1, a mandated party may also request that, once the precautionary order referred to in paragraph 1 has been adopted, the addressees of the measure proceed, with successive reports, with the blocking of any other future domain and sub-domain names, or IP addresses, including variations of the name or simple declination or extension, that can be traced back to the same content and through which the infringements occur. To that end, the application shall indicate the websites and platforms operated or authorised by the right holder to transmit live audiovisual content.
4. The entitled person shall communicate to the Authority with the subsequent reports referred to in paragraph 3 the domain names and IP addresses on which, after the adoption of the precautionary order referred to in paragraph 1, the audiovisual content broadcast live in violation of copyright or related rights is available. The mandated party also declares, under their own responsibility, providing, for each reported IP address and domain name, documentary evidence regarding the current nature of the illegal conduct, that the domain names and IP addresses reported are unequivocally intended to infringe copyright or related rights on audiovisual content broadcast live.



5. The Authority shall, through the single technological platform called Piracy Shield, whose technical and operational requirements are identified within the technical panel set up together with the National Cybersecurity Agency, verify, including through the collaboration of members of the Guardia di Finanza and the Postal and Communications Police, pursuant to Article 1(13) and (15) of Law No 249 of 31 July 1997, the compliance and completeness of the reports received pursuant to paragraph 4 and communicate the same to the recipients of the precautionary measure that immediately, and in any case no later than 30 minutes from receipt, disable access to the reported domain names and IP addresses, with simultaneous automatic redirection to an Internet page drawn up in the manner indicated by the Authority. The Internet page contains a notice of the right of the interested parties to lodge a complaint in accordance with paragraph 7, as well as the procedures for lodging a complaint. Upon fulfilment of the conditions, the communication referred to in this paragraph shall be sent through the Piracy Shield platform also to the address indicated by each of the information society service providers not established in Italy referred to in paragraph 1 of this Article, pursuant to Articles 11 and 13 of the Digital Services Act.

6. If the addressees of the precautionary measure are not involved in the accessibility of the website or illegal services, they shall, no later than 30 minutes after notification of the disabling order, take all the technical measures necessary to hinder the visibility of the illegal content, including, in any event, the de-indexing from search engines of all the domain names covered by the communications referred to in paragraph 5.

7. The recipients of the precautionary order and of the communications referred to in paragraph 5 may lodge a complaint within five days of the disabling of access. Persons demonstrating a qualified interest may lodge a complaint within five days of actual knowledge of the documented lack of compliance with legal requirements, including that which has occurred. The lodging of the complaint shall not suspend the execution of the precautionary order.

8. If no appeal has been lodged against the precautionary order referred to in paragraph 1 and the communications referred to in paragraph 5 within the period referred to in paragraph 7, they shall become final.

9. If an appeal has been submitted, pursuant to paragraph 7, against the precautionary measure referred to in paragraph 1 or the communications referred to in paragraph 5, the Directorate shall initiate proceedings, notifying the eligible party that submitted the appeal and the party that submitted the application referred to in Article 6(1). Rebuttal arguments must be submitted by the deadline referred to in Article 9(1)(b). The board shall adopt the final decision on the procedure pursuant to Article 8 within 10 days of the complaint being lodged. The provisions set out in Article 8(7) shall apply.



10. In the event of non-compliance with the orders referred to in paragraph 1 or the communications referred to in paragraph 5 and failure to lodge the appeal, the Directorate shall inform the board of this so that it may apply the penalties referred to in Article 1(31) of Law No 249 of 31 July 1997, and shall also notify the judicial police bodies pursuant to Article 182-ter of the Copyright Law.

11. In order to ensure the proper functioning of the process of obscuring domain names and IP addresses, based on achieving the maximum capacity of the blocking systems implemented by service providers according to the technical specifications defined within the technical panel, the Authority shall order to rehabilitate the resolution of domain names and to unblock the routing of network traffic to IP addresses blocked for at least six months, by publishing the updated list of IP addresses and domain names on the automated single technological platform called Piracy Shield. Likewise, qualified parties are entitled to request the Authority to rehabilitate disabled resources on the basis of their reports.

12. Service providers receiving the Authority's orders must submit information on the follow-up given to orders pursuant to Article 9 of the Digital Services Act. In the event of infringements, the Authority shall apply the sanctions referred to in Article 1(32-bis) of Law No 249 of 31 July 1997.

Chapter IV

Provisions concerning the protection of copyright on media services

Art. 11

General provisions

1. Audiovisual media service providers shall operate in compliance with copyright and related rights, as well as with the principles referred to in Articles 4 and 32 of the Consolidated Act and as provided for in this Chapter.
2. Radio media service providers shall operate in compliance with copyright and related rights, as well as with the principles referred to in Article 4 of the Consolidated Act and as provided for in this Chapter.

Article 12

Reporting to the Authority

1. If a programme or parts of it included in a programme schedule by a linear media service provider is/are believed to be broadcast in violation of the Copyright Law and of Article 32(1) and (2) of the Consolidated Act, an entitled person may submit an application to the Authority.

2. If the provision of a programme or parts of it in a catalogue by a non-linear media service provider is believed to take place in violation of the Copyright Law and Article 32(1) and (2) of the Consolidated Act, an entitled person may submit an application to the Authority.
3. The applications referred to in paragraphs 1 and 2 shall be submitted by using and filling out in their entirety, under penalty of inadmissibility, the form made available on the Authority's website and by attaching any useful documentation to prove ownership of the right.
4. The proceedings before the Authority must not be conducted if proceedings before the Judicial Authority are pending for the same rights relating to the same works.
5. Within 90 days of receipt of the report, the Directorate shall either order its administrative filing or, where this is justified, initiate proceedings in accordance with paragraph 9.
6. The Directorate shall arrange for the application to be archived administratively if it is:
 - a) inadmissible for failure to comply with the requirements of paragraph 3;
 - b) inadmissible pursuant to paragraph 4;
 - c) inadmissible due to lack of essential information required by the form;
 - d) manifestly unfounded as it clearly lacks the factual and legal prerequisites suitable for establishing the hypothesis of a violation.
7. The Directorate shall notify the reporting party of the archiving initiated pursuant to paragraph 5.
8. The Directorate shall acquire all the elements necessary for the initiation of the procedure, including through inspections, requests for information and documents, hearings, and fact-finding investigations.
9. Once the obligations referred to in paragraph 8 have been fulfilled, if the conditions for initiating the procedure have been met, the Directorate shall notify the reporting person and the contacts indicated in the form, by means of a sanction notification, indicating:
 - a) the procedure identification number;
 - b) the date of registration of the report;
 - c) the office and the person responsible for the procedure;
 - d) the deadline for the conclusion of the procedure;
 - e) the deadlines for producing pleadings and documentation;
 - f) the right to be heard upon request;
 - g) information on the right of access to documents;
 - h) the rule that is assumed to have been breached.

10. Where, based on a preliminary assessment of the facts, there appears to be a threat of imminent, serious, and irreparable harm to the right holder, the sanction notification may include the prohibition of further dissemination of the program or its removal from the catalogue.
11. The deadline for the adoption of the final decision by the competent board shall be 150 days from the start of the procedure.
12. For anything not expressly provided for in paragraphs 1 to 11, the provisions of Chapters II and III of the Sanctions Regulation shall apply.
13. Where the alleged infringement is confirmed at the end of the proceedings, the administrative fine that may be imposed shall be that provided for in Article 67(1)(p) and (2)(a) of the Consolidated Act.
14. If the reported conduct amounts to cases that fall within the competence of other administrations, the Directorate shall transmit the documents of the applications archived pursuant to Sanctions Regulation.

Article 13

Provisions pursuant to Article 7(13) of the Consolidated Act

1. If it is believed that there has been a significant infringement pursuant to Article 32 of the Consolidated Act by media service providers subject to Italian jurisdiction pursuant to Article 2(3) of the Consolidated Act, or not subject to the jurisdiction of any Member State of the European Union, but whose programme schedules or catalogues are received directly or indirectly by the Italian public, the Directorate shall issue a formal warning to the parties referred to in the second sentence of Article 7(13) of the Consolidated Act, specifying the deadlines within which the warning must be complied with.
2. In case of failure to comply with the warning within the established deadlines, the Directorate shall forward the documents to the board, proposing to order the recipients of the warning to adopt any necessary measure in order to prevent the dissemination of the programme schedules or catalogues to the Italian public, referred to in paragraph 1.
3. The board, having examined the documents, shall archive them or adopt the order referred to in paragraph 2 within 70 days of receipt of the applications. Failure to comply with the order shall result in an administrative fine pursuant to the third sentence of Article 7(13) of the Consolidated Act.



4. In the event of preliminary enquiries or in the light of the complexity of the case, the board may arrange for an extension of the deadlines referred to in paragraph 3, for a duration not exceeding 15 days.

Chapter V

Final Provisions

Article 14

Notices

1. The notices referred to in this Regulation shall be sent exclusively by email, and where possible by certified email.

Art. 15

Deadlines

1. When calculating the deadlines referred to in this Regulation, only working days shall be taken into account, without prejudice to the provisions of Chapter IV.

Article 16

Legal protection

1. An appeal may be brought before the administrative court against the provisions of the Authority provided for by this regulation, pursuant to Article 1(26) of Law No 249 of 31 July 1997 and Articles 133(1), (l), and 135(1) (c), of Legislative Decree No 104 of 2 July 2010.

Art. 17

Review clause

1. The Authority reserves the right to review this Regulation on the basis of the experience resulting from its implementation, as well as in the light of technological innovation and market developments, after hearing the interested parties, and within the Committee referred to in Article 4.

Art. 18

Entry into force

1. This Regulation shall enter into force on 31 March 2014.

Annex C
to Resolution No 47/25/CONS of 18 February 2025

CONSULTATION PROCEDURES

The Authority invites interested parties to submit their comments on the draft amendments to the Regulation set out in Annex A to this Decision. The eligible parties for the intervention are the sector operators also in associative form, right holders, the institutional and the representative associations representing users and consumers.

The communications must be drafted in the form of an amendment to the articles with a brief explanation of the respondent's aspects of interest, together with any other element that may be useful for the consultation in question.

The communication bearing the wording *'Public consultation on the draft proposals to amend the regulation concerning the protection of copyright on electronic communication networks and implementation procedures in accordance with Legislative Decree No 70 of 9 April 2003, as referred to in Resolution No 680/13/CONS'*, as well as the indication of the respondent name, may be sent within the strict deadline of 30 days of Resolution No 47/25/CONS publication on the Authority website, at the following certified e-mail address: agcom@cert.agcom.it, referring to the name of the respondent, followed by the aforementioned wording, or, at the discretion of respondents, by registered letter with acknowledgement of receipt, courier or hand-delivered, to the following address: Communications Regulatory Authority, Digital Services and Fundamental Rights Protection Directorate, Copyright and Related Rights Protection Office, via Isonzo 21/b, 00198 Rome. Note that the submission of documentation electronically using the email address indicated above replaces the delivery of hard copies using the above methods. Whatever the method of transmission chosen, communications must also be copied, within the same period, in electronic format, to the address segreteria.dsdi@agcom.it. Communications provided by entities that participate in the consultation shall not pre-establish any title, condition or obligation in relation to any subsequent decisions of the Authority.

The interested parties may request, with a specific application, to disclose their comments during a hearing, on the basis of the written document previously sent. The aforementioned application must reach the Authority by certified e-mail address or by



registered letter with acknowledgement of receipt, courier or hand-delivered, to the aforementioned address of the Authority, as well as to the e-mail address segreteria.dsdi@agcom.it, within 30 days of the publication of Resolution No 47/25/CONS on the Authority website. In this application, a contact person and a telephone or e-mail contact must be indicated for the forwarding of any subsequent communications. The arrangements for conducting the hearing, which may be held collectively at the discretion of the Authority, will be communicated in the notice of invitation.

In compliance with the provisions of the Regulation on access to documents, as referred to in Resolution No 383/17/CONS and subsequent amendments, the respondents must attach to the documentation provided a declaration indicating the documents or parts of the document to be withheld from access and the specific reasons for confidentiality or secrecy justifying the request. Any application to disable publication and/or access to the documentation must be accompanied by detailed reasons for the specific requirements of confidentiality or secrecy and for the tangible and genuine detriment that the applicant may suffer from the provision to third parties of information and data communicated to the Authority. In the absence of such reasons, the communicated information will be considered publishable and accessible. Particular attention is drawn to the need envisaged by the regulations to justify in detail and not generically the parties to be excluded from access.

The observations and documents received may be published in a non-anonymous form on the Authority's website, at www.agcom.it, taking into account the degree of accessibility indicated.