

# JACOBACCI

AVVOCATI • AVOCATS A LA COUR • ABOGADOS

## **The Italian Communications Authority on the unlawful reproduction of newspapers on online platforms**

The activity carried out by the Italian Communications Authority (AGCOM) in the field of copyright protection has led to the deactivation of numerous public channels on the online platform Telegram, which broadcasted **free digital copies of major Italian newspapers**.

AGCOM's mandate includes the **fight against online copyright infringement**, pursuant to its Regulation on copyright protection on electronic communications networks and implementation procedures pursuant to Legislative Decree No. 70 of 9 April 2003.

In the case at hand, **Telegram spontaneously cancelled these public channels**, following receipt of the notice of initiation of the procedure. Indeed, the company recognised that those were contrary to Telegram's terms of use.

**News has spread** in the last days **that AGCOM has ordered the cancellation of the channels** considered in breach of publishers' copyright. **In fact**, it should be pointed out that, with resolution no. 164/20/CONS, **AGCOM has closed the proceedings** against Telegram, opened upon request of the Italian Newspapers and Publishers Federation (FIEG), **without ordering that the copyright infringing channels be taken down**.

In its resolution, the Authority explained that, according to current applicable rules, when the violation is committed through a site located outside the national territory, the only measure available to AGCOM is the request to Internet Service Providers to disable access to the entire service.

In the case at hand, this would have led to the shutdown of Telegram in Italy, thus preventing its use by everyone, including those who use the platform as a messaging tool. The Authority held that a complete disabling of Telegram's services in Italy would not respect the principles of gradualness, proportionality and adequacy. Thus, it decided to dismiss the application, while acknowledging the unlawful nature of the dissemination of entire editions of newspapers on the Telegram platform.

In the same resolution, **AGCOM has underlined the necessity to introduce new rules**, as to provide it with effective sanctioning power in similar cases.

As a matter of fact, this is not the first time that newspapers' representatives call for concrete measures for tackling the unlawful reproduction and distribution of digital copies of Italian newspapers.

The Italian Government and Parliament will have the opportunity to include new specific provisions in this regard in future laws on copyright, starting with the implementation of the EU Directive on Copyright in the Digital Single Market (Directive 2019/790/EU), which must be completed by June 2021.