

**INTERNATIONAL CONFERENCE  
OF MEDIA REGULATORS FROM THE BALKAN REGION**

**CHALLENGES TO REGULATION, DISINFORMATION, MEDIA  
LITERACY AND SUSTAINABLE DIGITAL ENVIRONMENT**

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**REGIONAL CHARACTERISTICS OF REGULATION AND CONTEMPORARY  
CHALLENGES**

**Presentation of the Italian experience in regulating commercial terms related to gambling**

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# Prohibition of advertising of gambling with cash prizes

Article 9, paragraph 1, Legislative Decree 87/18, converted into Law 96/18:

General prohibition of advertising, directly or indirectly, games or bets with cash prizes well as gambling, regardless of how they are carried out and by whatever means.

On the other hand, advertisements relating to national lotteries with deferred draws and local events remain lawful. Logos of the Customs and Monopolies Agency on Safe and Responsible Gaming are also excluded from the prohibition.



# The *ratio legis* of the prohibition

- Contrast to gambling addiction: (qualified as "*gambling disorder*" pursuant to art. 9, paragraph 1-bis of the Decree)
- Strengthening of consumer/gambler protection, with particular reference to vulnerable categories (pathological gamblers, minors, elders, etc.).



# Sanctions provided

In the event of non-compliance, the law provides an objective and multiple liability on each of the following subjects:

➤ **Customer**



➤ **Owner** of

a. the **medium** of diffusion or of destination.

b. the dissemination/destination **site**

➤ **Organizer** of the event or activity





# Amount of the fine

- ▶ Administrative fine equal to 20% of the value of the sponsorship or advertising and in any case not less than 50,000 euros for each violation.
- ▶ Jurisdiction that can be activated both through a private warning or *ex officio*.



# Giunco case

- An online newspaper published on its website, Il Giunco.net, a supposedly informative text, written in a manner similar to a normal journalistic article, but aimed at promoting a cash prize game through a special hyperlink to the website WISECASINO.NET.
- Resolution 22/21/CONS Injunction order Giunco s.r.l. Administrative fine equal to 50,000 euros.



**IL GIUNCO**.NET  
il quotidiano della Maremma



# Giunco: the sentence of the Regional Administrative Court

## **Judgment no. 10814/2021**

*"in light of the discretion granted to the national legislator and the specific purpose pursued by the latter to make the fight against gambling addiction increasingly effective and to strengthen consumer protection, the prohibition in Article 9 does not unlawfully clash with the freedoms invoked, evidently arising from the need to guarantee imperative norms of general interest such as consumer protection and public health."*

The Regional Administrative Court of Lazio confirms the Agcom provision

# Nove and AVIP Case

Another proceeding involved the companies NOVE S.R.L. and AVIP ITALIA S.R.L. Specifically, Nove srl is a company that owns a gambling hall with slots and hired Avip Italia to do advertising to promote its business. Agcom initiated the sanction for both companies.

They have paid 1/3 of the fine (16.666,70 euro)

RESOLUTION No. 274/22/CONS





# The 1° Google case (2020)

Following a monitoring activity, it emerged that on the search page at the [www.google.com](http://www.google.com) site, by typing the keyword "online casino", the site <http://sublime-casino> appeared at the top of the list sent back by the engine. The brief description of the site was: *"Join Now The Brand New Italian Online Casino. Play Over 400 Games Now – Join Now And Register In Less Than 30 Seconds! No downloads. Secure and protected."*

- *The site is classified as an "advertisement".*
- *Therefore, with Resolution no. 541/20/CONS of 22 October 2020 Agcom imposed an administrative fine of 100,000 euros (50,000 for each of the 2 days)*



# The Regional Administrative Court voided the sanction adopted

Judgment 11036/2021 of 10.28.2021

The Regional Administrative Court affirmed that AGCOM did not prove that the search engine service provider's intervention was "intentional" or that it was fully aware of the consequences of its behavior.

It emerges that Google has set up a suitable system to immediately "block" unlawful advertisements. Accordingly, it has arranged the precautions and activities that the operator of ordinary diligence must put in place in order to benefit from the exemption from liability clause in the preceding art. 14 of the E-Commerce Directive.

➔ Agcom appealed against this ruling.

# The 11° Google case (2022)

- *In this case the Authority's intervention focused on the VSP YouTube*
- *The proceeding concerned both the content creator "Spike (as a customer) and the video sharing platform "YouTube (as the owner of the platform)*



# The facts & Agcom's decision

- ▶ **Top Ads Ltd** (Spike) has been found to be liable by the Italian Authority for disseminating prohibited gambling advertisements on its website [spikeslot.com](http://spikeslot.com) and five related YouTube channels and has been ordered to pay an administrative fine of 700,000 euros.
- ▶ Agcom, for the first time, also issued a separate injunction to sanction the hosting service provider involved in this case: video-sharing platform YouTube.
- ▶ **YouTube - Google Ireland Limited** - has been held responsible for not having taken any initiative to remove illegal content massively disseminated on its platform by one of its "verified partners" (a client linked with a specific contract of partnership). In consequence, a 750.000€ administrative fine was ordered by the Italian Authority.

# The notice and the take down order

In addition to administrative fines, Agcom issued:

A notice and a takedown order (for 625 illegal contents)

and, for the first time,

A notice and a take down order for advertisements for gambling or similar illegal content







Thank you!

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