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Blog - Global view

Italy regulates digital copyright enforcement

The Italian Communication Authority has recently approved new procedures to regulate electronic communication networks. Antonella Barbieri of Portolano reports.



Italy is taking a tougher line on digital copyright enforcement

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On December 12, 2013 the Italian Communications Authority (AGCOM) approved a new regulation on the enforcement of copyright in the context of online and audiovisual media services. This regulation will enter into force on March 31, 2014 and will require compliance with new policies and procedures. A groundbreaking innovation in the Italian and European media landscape for all companies with a digital presence, its purpose is to foster the development of digital works as well as educating on their correct usage. The legislation establishes a Committee for the development and protection of digital works and regulates the procedures aimed at verifying and stopping infringements of copyright and related rights on electronic communications networks.

It is worth noting that the Regulation does not refer to final users who enjoy digital works by downloading or streaming, nor to applications and software programs by which the direct sharing of digital works among final users through electronic communications networks is carried out.

In pursuing its scope, the Regulation expressly provides that the Authority should operate respecting the rights and freedom of expression, information, comment, criticism and discussions, as well as of the limitations and exceptions provided by the Copyright Law. The freedom of use of electronic communication means is also protected as well as the right to conduct business and its exercise within a competitive system in the electronic communications industry.

Digital work

Indeed, the Regulation introduces a broad definition of "digital work" as "*a work, or parts thereof, with audio, audiovisual, photographic, videoludic, editorial and literary nature, including the applicative programs and the computer operating systems protected by Copyright Law and diffused on electronic communication networks;*" and, in case of online copyright or related rights infringement on digital works, entitles AGCOM to order the access or the relevant hosting providers to remove the infringing contents, or even to shut-down the website in case of massive infringement.

The rights holder is entitled to file a request of removal to AGCOM notwithstanding any possible self-regulatory procedures of *notice and takedown* provided by the involved website operator, while the proceeding before AGCOM cannot be initiated in the event, between the same parties and on the same matter, there is a pending proceeding before a Court.

In the event the website where the digital work are made available in violation of copyright or related rights is hosted in a server located in the Italian territory, AGCOM is entitled to either order the selective removal of the same or, in the presence of massive infringements, order to the service provider to proceed disabling the access to them. In the event the website where the digital works are made available in violation of copyright or related rights is hosted on a server located outside the Italian territory, AGCOM may order to the service providers performing mere conduit activities to proceed disabling the access to the website.

The Regulation also provides for a fast track proceedings for right-holders (35 days the ordinary proceedings and 12 days the abbreviated one).

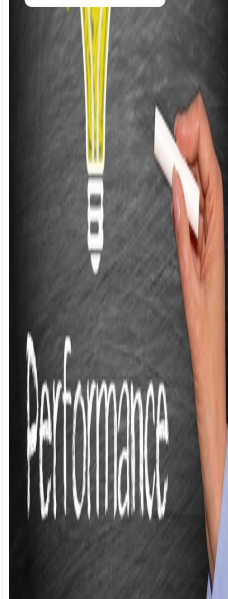
For further information, there is a practical toolkit aimed to non-Italian speakers in connection with the new regulation - <http://www.portolano.it/en/the-new-regulation-by-the-italian-communications-authority-on-copyright-enforcement-legaltoolkit/>. Click [here](#) for a non-official translation in English of the regulation and [here](#) a brief outline on the new rules.

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