



4.17. IT – Italy¹¹⁰

4.17.1. Key findings

In Italy, Article 28b (1) of the Audiovisual Media Services Directive has been transposed in the consolidated text on audiovisual media services which translates verbatim the related provisions set out under the AVMSD.

The national legislator, in implementing Article 28a of the AVMS Directive, introduced new powers to the national media regulatory authority (*Autorità per le garanzie nelle comunicazioni* – AGCOM), in Article 41 of the consolidated text on audiovisual media services, including the authority to issue regulations on VSPs with the aim of protecting the rights of users.

In April 2023, AGCOM published Resolution No. 76/23/CONS,¹¹¹ launching a public consultation on the draft regulation on programmes, user-generated videos, or audiovisual commercial communications conveyed by VSPs established in another member state, but targeting the Italian public.

The regulation provides for the removal of audiovisual content broadcast on a VSP for the following purposes: the protection of minors; the fight against incitement to racial, sexual, religious or ethnic hatred, as well as against the violation of human dignity; consumer protection, including the protection of investors. In cases of significant and imminent harm, AGCOM can require the platform provider to promptly remove the harmful content. In other cases, AGCOM may ask the national media regulatory authority in a provider's country of origin to take measures. The regulation also provides for anyone with an interest to report violations directly to AGCOM and for AGCOM to act *ex officio*, also with the support of the core of the Finance Police and the Postal Police.

In addition to these legislative and regulatory steps directly involved in the transposition, the Italian legislator has also adopted Legislative Decree No. 28 of 30 April 2020, entitled "Systems for the protection of minors from the risks of cyberspace". This introduced important provisions relating to parental control and age verification on electronic communications services, requiring such controls and filters to be pre-activated and well-advertised. AGCOM has followed this up with guidelines for service operators.

¹¹⁰ The summary on Italy incorporates the feedback received from Francesco di Giorgi, Digital Services Directorate, Agcom (*Autorità per le garanzie nelle comunicazioni*) during the checking round with the national regulatory authorities.

¹¹¹ <https://www.agcom.it/documents/10179/29792795/Delibera+76-23-CONS/06b585f0-b187-460f-a009-0930a541d9eb?version=1.0>



4.17.2. National transposition of Article 28b (1) AVMSD

Title and type of legislation	Key excerpts of legal measures	Link
<p>Consolidated text on audiovisual media services</p> <p>(Article 42(1) (a) - (c))</p> <p>Article 42(6) - (7) (a)-(l))</p>	<p>Article 42(1) (a) - (c)</p> <p>Without prejudice to Articles 14 to 17 of Legislative Decree No. 70 of 9 April 2003, video-sharing platform providers under Italian jurisdiction must take appropriate measures to protect:</p> <p>(a) minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development in accordance with Article 38(3) [AVMS Code];</p> <p>Article 42(6) - (7) (a)-(l)</p> <p>Paragraph 6: For the purposes of the protection of minors, provided for in point (a) of paragraph 1, the most harmful content shall be subject to the strictest access control measures.</p> <p>Paragraph 7: Video-sharing platform providers shall in any case be obliged to:</p> <p>(f) provide for age verification systems, ensuring compliance with personal data protection law, for users of video-sharing platforms with respect to content which may impair the physical, mental or moral development of minors;</p> <p>(g) provide for easy-to-use systems allowing users of video-sharing platforms to rate the content referred to in paragraph 1;</p> <p>(h) provide for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental or moral development of minors;</p>	<p>Legislation</p>

4.17.3. Types of measures put in place by VSPs

All of the larger VSPs featured in this report, and this includes many which are not under the jurisdiction of Italy but which can be accessed within the territory, have imposed a



minimum age requirement of 13, with the exception of Vimeo (16 or above the minimum age required by law), BitChute (18) and Onlyfans (18). Age verification systems mostly require users to indicate their date of birth, without additional verifications, but other solutions include age verification by credit card, by the uploading of photo ID, or the use of age estimation technology. Various types of parental control measures responding to the specificities of each VSP can be found (blocking and filtering, recording of activities, limiting time of use, viewing history). X (formerly Twitter) and Vimeo have no such measures, despite being accessible to minors. Neither do BitChute or OnlyFans, as they require users to be over 18. All of the larger VSPs featured in this report make use of flagging and reporting mechanisms as well as other content moderation tools. These are detailed in the tables in sections 3.2 and 3.3.

4.17.4. VSPs under the jurisdiction of the national regulatory media authority

N/A

4.17.5. Measures specific to adult VSPs in general

The most common age verification measures applied by adult VSPs accessible in Italy is self-declaration of age. Other means were not identified.

4.17.6. Additional rules referring especially to influencers

On 21 July 2023, AGCOM launched with Resolution No. 178/23/CNOS a public consultation on the measures to be adopted to ensure compliance by influencers with the provisions of the consolidated text on audiovisual media services. AGCOM intends to provide for differentiated measures against influencers based on their success. In a first category, AGCOM intends to include influencers who offer audiovisual content on a continuous basis, with a method of offering and organising them such as to make them superimposable on the catalogue of an on-demand media service (for example, YouTube channels). Those in this category would be regulated as on-demand audiovisual media services with obligations including compliance with European works quotas, registration in the register of operators (ROC), and obtaining a general authorisation to carry out the activity (SCIA).

The second category would include influencers that operate in a less continuous and structured manner, to whom, on the other hand, the application of the overall legal regime envisaged for on-demand audiovisual media services does not appear justified.