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Last updated in December 2025.

REGULATION ON THE FORMS OF COLLABORATION AND COOPERATION PURSUANT TO ARTICLE 18 OF LAW 214 OF 30 DECEMBER 2023

Decision 31295

THE ITALIAN COMPETITION AUTHORITY

AT ITS MEETING of 23 July 2024;

HAVING REGARD TO Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector;

HAVING REGARD TO Law 214 of 30 December 2023, the “*2022 Annual Law on Pro-competitive Reforms*” and, in particular, Article 18 “*Measures for the implementation of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022, on contestable and fair markets in the digital sector*”;

HAVING REGARD TO Law 287 of 10 October 1990, the Italian Competition Act;

HAVING REGARD TO Presidential Decree 217 of 30 April 1998 “*Regulation containing provisions on investigation procedures within the remit of the Italian Competition Authority*”, as amended;

CONSIDERING it necessary to adopt the Regulation provided for in Article 18 of Law 214 of 30 December 2023, on the forms of collaboration and cooperation provided for in Regulation (EU) 2022/1925;

HAVING REGARD TO the observations received following the prior public consultation on the draft Regulation held between 3 June 2024 and 3 July 2024, and considering that consultation is also recognised at EU level as an important factor in improving the quality of regulation, since shared regulatory processes help ensure more effective enforcement of the rules;

DECIDED

to adopt the “*Regulation on the forms of collaboration and cooperation pursuant to Article 18 of Law 214 of 30 December 2023, containing the Measures for the implementation of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022*”, whose text attached hereto forms an integral part of this decision.

This decision shall be published in the Bulletin of the Italian Competition Authority as well as in the Official Gazette. It shall come into force on the fifteenth day following the date of publication.

THE SECRETARY GENERAL

Guido Stazi

THE CHAIRMAN

Roberto Rustichelli

REGULATION ON THE FORMS OF COLLABORATION AND COOPERATION PURSUANT TO ARTICLE 18 OF LAW 214 OF 30 DECEMBER 2023, CONTAINING THE MEASURES FOR THE IMPLEMENTATION OF REGULATION (EU) 2022/1925 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 14 SEPTEMBER 2022

Article 1 Definitions

For the purposes hereof, the term:

- a) ‘Regulation’ means Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector;
- b) ‘Implementing Regulation’ means Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council;
- c) ‘2022 Annual Law on Pro-competitive Reforms’ means Law 214 of 30 December 2023;
- d) ‘Competition Act’ means Law 287 of 10 October 1990;
- e) ‘Commission’ means the European Commission;
- f) ‘Authority’ means the Italian Competition Authority, as defined in Article 10 of the Competition Act;

- g) 'Board' means the Chairman and Commissioners of the Authority;
- h) 'Directorates' means the organisational units established pursuant to Article 10(6) of the Competition Act;
- i) 'Bulletin' means the publication under Article 26 of the Competition Act.

Article 2

General principles

1. The Authority and the Commission shall work in close cooperation and coordinate their enforcement actions to ensure coherent, effective and complementary enforcement of this regulation and of available legal instruments applied to undertakings designated pursuant to Article 3 of the Regulation, in relation to one or more core platform services referred to in Article 2 of the Regulation.

Article 3

Scope

1. Pursuant to Article 18 of the 2022 Annual Law on Pro-competitive Reforms, this regulation applies to investigations pursuant to Article 38(7) of the Regulation and, where compatible, to all other forms of cooperation and coordination provided for under the Regulation.

Article 4

Requests for information and production of documents

- 1. For the purposes of enforcing Article 38(7) of the Regulation, in cases of possible non-compliance with Articles 5, 6 and 7 of the Regulation, the Authority may, at any time, exercise the powers set out in Article 12(2-*bis*) of the Competition Act.
- 2. The fines and periodic penalty payments under Article 12(2-*ter*) of the Competition Act are imposed by decision of the Authority.

Article 5

Opening of investigation pursuant to Article 38(7) of the Regulation

1. In cases of possible non-compliance with Articles 5, 6 and 7 of the Regulation, the Board may, upon reviewing the proposals of the Directorates, adopt a decision to open an investigation pursuant to Article 38(7) of the Regulation. Before opening the investigation, the Authority shall inform the Commission in accordance with Article 38(7) of the Regulation.

2. The decision to open the investigation shall indicate: the essential elements relating to the possible non-compliance with the Regulation; the time limit for completing the investigation before the Authority; the case handler and the Directorate responsible for the investigation.
3. The decision to open the investigation shall be notified to the undertakings concerned, as well as to any third party who – having a direct, immediate and present interest in the matter – has filed a complaint or motion instrumental to the opening of the investigation.
4. The opening of the investigation proceedings is made public in the Bulletin through the publication of the relevant decision.

Article 6

Participation in the investigation pursuant to Article 38(7) of the Regulation

1. The following may participate in the proceedings:
 - a) parties notified of the decision to open the investigation, pursuant to Article 5(3) herein;
 - b) parties with public or private interests, as well as associations or committees representing collective interests, who may suffer direct, immediate and present harm from the infringements of the Regulation under investigation. These parties must submit a reasoned request to intervene within thirty days of publication in the Bulletin of the decision to open proceedings.
2. The parties referred to in paragraph 1 have the right to:
 - a) submit written briefs, documents, arguments and opinions;
 - b) access the case file, pursuant to Article 12 herein.
3. The parties referred to in paragraph 1 may participate in the proceedings either through their legal representative or through a duly authorised special attorney. They may also be assisted by consultants of their choice.

Article 7

Powers of investigation

1. The powers of investigation referred to in Article 14(2) to (2-*quinquies*) of the Competition Act take effect once the decision to open proceedings is notified to the undertakings and associations of undertakings and, where applicable, they may be exercised in conjunction with such notification. If the opening of the proceedings is notified to more than one party, these powers may be exercised vis-à-vis each party from the date that party receives its notification.
2. The Board is always informed of the findings of investigation proceedings.
3. Pursuant to Article 18(5) of the 2022 Annual Law on Pro-competitive Reforms and Article 14(2-*septies*) of the Competition Act, the Authority may request the assistance of the *Guardia di Finanza* (the Italian Financial Police), as well as other State bodies.

4. The fines and periodic penalty payments under Article 14 of the Competition Act are imposed by decision of the Authority.

Article 8

Requests for information and documents, convening of hearings

1. The Directorates may issue written requests for information and documents to any party holding information relevant to the investigation. These requests are notified in accordance with the procedures set out in Article 16.

2. The requests under paragraph 1 must be proportionate and briefly indicate:

a) the facts and circumstances requiring clarification;

b) the purpose of the request, with reference to the subject matter of the investigation;

c) the time limit for responding or submitting the documents – which must be reasonable in view of the urgency of the case, as well as the nature, quantity and quality of the information requested. It should also allow sufficient time for preparation;

d) how the information must be provided and the person(s) to whom the requested documents or information should be addressed;

e) the fines or periodic penalty payments applicable pursuant to Article 14(5) to (8) of the Competition Act in cases of unjustified refusal, omission or delay in providing the requested information or documents available to the recipients of the request, or where the information and documents provided are false, incomplete or misleading.

3. Requests under paragraph 1 may also be made orally by the Directorates during hearings or inspections. In this case, the requests shall be made known to the recipient and entered into the official record with the same requirements laid down in paragraph 2. If the information or documents are not immediately available, a time limit shall be set for their submission.

4. Before the expiry of the time limit referred to in paragraph 2, letter (c), and in paragraph 3, a reasoned request for an extension may be submitted in writing. If granted, the Directorates shall set a new time limit for submission.

5. At any point during the investigation, the Directorates may interview any party holding information relevant to the investigation. The notice convening the hearing, communicated in accordance with Article 16 herein, shall indicate the fines and periodic penalty payments provided for in Article 14(5) to (8) of the Competition Act.

6. The Directorates shall draw up an official record documenting the hearing, as well as the submission of documents and information, in accordance with the procedures set out in Article 14 herein. If the individuals summoned under paragraph 5 fail to appear, this shall be recorded in a statement of non-appearance.

7. The fines and periodic penalty payments under Article 14(5) to (8) of the Competition Act are imposed by decision of the Authority.

Article 9

Inspections

1. Following a proposal by the Directorates, the Board shall authorise inspections pursuant to Article 14(2-*quater*) and (2-*quinquies*) of the Competition Act. In the case of public administrations, the submission of documents is requested in advance.
2. The Authority's officials shall exercise their powers following the notification of the inspection order. This order shall indicate the scope of the investigation, the applicable fines set out in Article 14(5)(a), (b) and (c), and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments under Article 14(6)(c) and Article 14(8)(c) of the Competition Act. These apply in cases of refusal or delay in undergoing the inspection, as well as unjustified refusal, omission or delay in providing the information and documents requested during the inspection. They also apply in cases where false information or documents are submitted.
3. For inspections conducted under Article 14(2-*quinquies*) of the Competition Act, the designated officials shall also notify the reasoned decree issued by the Public Prosecutor of the jurisdiction where the inspection takes place.
4. For the purposes of the fines set out in Article 14(5)(a), (b) and (c) and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments provided for in Article 14(6)(c) and Article 14(8)(c) of the Competition Act, the following may not be invoked as grounds for refusal:

 - a) confidentiality or competence constraints imposed by corporate regulations or internal instructions, including oral ones;
 - b) the need for self-protection against the risk of fiscal or administrative fines;
 - c) the need to protect business or industrial secrets.
5. The fines set out in Article 14(5)(a), (b) and (c) and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments provided for in Article 14(6)(c) and Article 14(8)(c) of the Competition Act are imposed by decision of the Authority.
6. The term 'document' means any written, photographic, cinematographic, electromagnetic, or other form of representation of any content – including internal and informal content – prepared and used in the undertaking's activities. This definition applies irrespective of the author's level of responsibility or representativeness and covers any media or storage device.
7. During inspections, the persons concerned may be assisted by consultants of their choice, without this resulting in the suspension of the inspection.
8. An official record shall be drawn up of all activities carried out during the inspection, with particular reference to the statements taken and documents collected, in accordance with the procedures set out in Article 15 herein.

Article 10

Expert reports, statistical and economic analyses, and consultation of experts

1. Whenever relevant to the investigation, the Board shall authorise expert reports, statistical and economic analyses, as well as the consultation of experts, based on proposals from the Directorates.
2. The decision ordering such expert reports and analyses, along with the final results thereof, shall be shared with the parties under Article 6(1) herein so that they may exercise their rights under Article 6(2)(a).

Article 11

Confidentiality obligation

1. All documents and information collected during investigations conducted pursuant to Article 38(7) of the Regulation may be used by the Authority, in compliance with EU law, for the exercise of its powers in the digital markets covered by the Regulation, as well as in relation to restrictive agreements, abuses of a dominant position, abuse of economic dependence and concentrations.
2. The information under paragraph 1 is protected by professional secrecy, including vis-à-vis public administrations, without prejudice to the reporting obligations under Article 331 of the Code of Criminal Procedure and the duty to cooperate with European Union institutions under Article 1(2) and Article 10(4) of the Competition Act.

Article 12

Access to the file and confidentiality of gathered information

1. Subject to a written and reasoned request, the parties referred to in Article 6(1) herein have the right to access the file prepared or permanently held by the Authority in the course of investigations conducted pursuant to this regulation.
2. Documents containing business secrets or other confidential information concerning natural or legal persons shall be withheld from access. Parties may file a specific confidentiality request either upon submitting the document or within the time limit set by the competent Directorate. They must state the reasons for the request and provide a non-confidential version of documents for which confidentiality is sought. If the parties concerned do not follow these procedures, the Directorates shall presume that the documents contain no confidential information. If the Directorate finds that the confidentiality claims in support of a request are

unfounded, it shall inform the parties concerned by reasoned decision within the end of the evidence-gathering stage of the investigation.

3. Documents whose disclosure could undermine, pursuant to the Regulation, the exercise of the Commission's investigative powers and the adoption of implementing acts provided therein shall be withheld from access.

4. Internal documents, proposals and any other documents prepared by the Directorates for study and drafting purposes shall be withheld from access.

5. Documents related to exchanges between the Authority and European Union institutions, as well as between the Authority and competition authorities of other EU member states, shall be withheld from access if their disclosure has not been authorised.

6. The minutes of Board meetings, as well as documents related to exchanges between the Authority and other public administrations or State bodies, may be withheld from access, in whole or in part, if their disclosure has not been authorised.

Article 13

Notification of conclusion of the evidence-gathering stage of the investigation

1. Where the Directorate considers the investigation to be adequately substantiated, it shall notify the parties referred to in Article 6(1) of the date marking the end of the evidence-gathering phase.

Article 14

Findings of the investigation pursuant to Article 38(7) of the Regulation

1. The Board shall decide on the transmission to the Commission of the findings of the investigation conducted under this regulation and notify the parties referred to in Article 6(1) herein.

2. The conclusion of the investigation and the transmission of the findings to the Commission are made public in the Bulletin by means of an announcement.

3. The Authority retains the right to open investigation proceedings under Article 14 of the Competition Act where the investigation provides reasonable grounds to suspect an infringement of competition law or Article 9(3-*bis*) of Law 192 of 18 June 1998.

Article 15

Official records

1. For the purposes of this regulation, the official record containing the main statements made by the undertakings that participated in the activities reflected therein shall be signed at

the end of the hearing – also in digital form – by the recording official and by the owner or legal representative of those undertakings, or by an individual holding a special power of attorney.

2. If any party refuses or is unable to sign the official record, this shall be noted therein along with the reason.
3. Upon request, a copy of the official record or, where appropriate, an excerpt thereof, shall be provided to the parties that participated in the activities reflected therein.
4. For the sole purpose of preparing the official record, hearings may be recorded using any suitable medium.

Article 16

Notifications and communications

1. Requests, documents and summons shall be delivered to recipients using one of the following methods:
 - a) certified email or other certified electronic delivery service;
 - b) registered letter with return receipt or other postal service with proof of receipt;
 - c) hand delivery with proof of receipt;
 - d) where delivery by methods (a), (b) and (c) is not possible, email or fax with a request for written confirmation of receipt;
 - e) any other method provided under the law of the recipient's place of establishment.
2. The same provisions apply when the parties concerned or third parties send documents and requests related to the proceedings to the Authority, unless the Authority's Directorates indicate a different method.
3. When sent by email or fax, documents shall be deemed to have been received on the same day on which they are sent, unless proven otherwise.
4. Where communications are signed by representatives of individuals, undertakings or entities, those representatives must provide proof of their power of representation.
5. Notifications under this regulation and pursuant to Article 15-*nonies*(2) of the Competition Act, may be served by an official or other staff member specifically appointed by the Authority, by hand delivery to the recipient, certified email, registered letter with return receipt, other postal service with proof of receipt, or any other method provided under the law of the recipient's place of establishment.