

# INFLUENCER MARKETING: AGCOM OPENS A PUBLIC CONSULTATION AND ANNOUNCES ITS GUIDELINES



**SEPTEMBER 2023**

On July 13, the Italian Authority for Guarantees in Communications (AGCOM) passed Resolution No. 178/23/CONS. The resolution approves a public consultation that aims to ensure that influencers follow the specific measures related to media services. This is being done to extend transparency and compliance regulations to influencers.

AGCOM has emphasized in a resolution that influencers should be regarded as providers of audiovisual media services and thus come under national jurisdiction, just like media service providers. This is in accordance with the "Consolidated Text of audiovisual media services" and entails certain requirements specified in the Text.- such as effective control over the creation, selection and organisation of content by the influencer, the nature of the service's economic activity and the provision of information programmes, entertain or instruct as its main purpose.



Through specific guidelines, AGCOM aims to ensure the respect by all influencers of measures relating to consumer protection in the field of advertising, users in the field of fundamental rights of the person, children and the values of sport in audiovisual and radio services, as regulated by the Single Act in force. Influencers who operate a channel on a video-sharing platform offering a service, in fact, which can be superimposed and comparable to audiovisual media services will also be subject to the general provisions of the same Consolidated Law (including registration with the ROC). Influencers who publish content on social media but operate in a "less continuous and structured" manner, in addition to being subject to the above obligations, must in any case send a communication to AGCOM with their contact data.

The intervention of AGCOM, which follows the initiatives of some European states, such as France, is an important innovation compared to the current Italian legal and regulatory framework, in particular with regard to the recognition of editorial responsibility for influencers. Still to be determined what will be the criteria to distinguish influencers belonging to each of the two categories identified by Agcom. Moreover, it will be clear how the rules of the Single Text and the AGCOM guidelines will be accompanied by rules and codes already in place, such as the Consumer Code administered by the Competition and Market Authority and the Commercial Communication Code and the Digital Chart Regulation issued by the Institute of Advertising Self-discipline (IAP).

