

NEWS FROM THE FIRM

Enrica Di Cagno and Olympia Foa join the Firm

The recent arrival of Enrica Di Cagno and Olympia Foa has strengthened the firm's M&A capability. Enrica and Olympia have worked in leading Italian law firms and have developed significant experience in the sector of acquisitions, joint ventures and other extraordinary corporate transactions.

Digital Single Market and the Cloud at the Italian Parliament

On 4 July 2017, our partner Fabrizio Sanna spoke at a [panel session](#) organised by the Italian Parliament on The Digital Single Market and the Cloud. The paper presented by Fabrizio focused on the liability of cloud providers for content and data processed on behalf of their clients.

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CAPITAL MARKETS

European Commission guidelines on non-financial reporting

On 26 June 2017, the European Commission adopted non-binding guidelines (published in the OJEU of 5 July 2017) on the disclosure of non-financial information by companies (the "Guidelines"). The objective of the Guidelines is to help companies fulfil the disclosure requirement on environmental and social issues in a consistent way. Such disclosure obligations are set out in [Directive \(EU\) No. 2014/95](#) of 22 October 2014 (amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, the "Directive") which was implemented in Italy by [Legislative Decree no. 254/2016](#) of 30 December 2016, and is applicable as from the financial year commencing on 1 January 2017. The guidelines are not mandatory.

LABOUR

Platform for occasional performance available

On 10 July 2017, an online platform for the management of freelance work, powered by INPS (the Italian Social Security Agency), was launched. This platform allows the registration of employers and freelancers. It can be used to submit notifications on freelance work required by law and to manage the payments due to freelancers.

Consultation process on the amendments to the regulation on intermediaries

On 6 July 2017, the National Commission for Companies and the Stock Exchange ("Consob") launched a public consultation process with financial market operators on the proposed amendments to (i) Consob Regulation No. 16190/2007 containing the implementation rules of Italian [Legislative Decree No. 58/1998](#) of 24 February 1998, on intermediaries (the "Regulation on Intermediaries") and (ii) Consob Regulation No. 18592/2013 on the collection of risk capital via online portals (the "Regulation on Equity Crowdfunding"). The proposed amendments to the Regulation on Intermediaries are aimed, inter alia, at incorporating the provisions of [Directive \(EU\) No. 2014/65](#) of 15 May 2014 (on markets in financial instruments, known as MiFID II) and the provisions of [Directive \(EU\) No. 2014/59](#) of 15 May 2014 (establishing a framework for the recovery and resolution of credit institutions and investment firms). The objective of the proposed amendments to the Regulation on Equity Crowdfunding is to incorporate, inter alia, the provisions of [Law No. 232/2016](#) of 11 December 2016, which extended the legal framework concerning equity-crowdfunding to all small and medium-sized enterprises. Responses to the consultation may be submitted to Consob on or before 21 August 2017. The text of the consultation documents is available [here](#).

TRADEMARKS

ISP's liability for counterfeiting of trademarks on the Internet

On 13 June 2017, the Court of Milan issued an interlocutory injunction against Aruba S.p.A., ordering the ISP to shut down certain websites that promoted counterfeit products (specifically, wall clocks marked with Rolex trademarks) and to assign certain domain names ("relexdaparete.com" and "tecmer.it") to Rolex. The Court based this decision on the fact that the e-commerce safe harbours provided to hosting providers by Article 14 of Directive (EC) No. 2000/31 of 8 June 2000 (on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market) prevent providers from being held liable for damages, but do not restrict the rights of courts to issue restrictive orders on ISPs (as clarified, among others, by the EU Court of Justice in its judgment of 12 July 2011, in [case C-324/09, E-bay](#)).

PATENTS

Plants and animals obtained by biological process excluded from patentability

At the 152nd meeting of the Administrative Council of the European Patent Office (the "EPO"), the EPO decided to exclude from patentability plants and animals exclusively obtained by an essentially biological breeding process, [amending](#) the relevant regulations. This decision, against the trend of EPO's prior case law in cases Broccoli-II ([G 2/12](#)) and Tomato-II ([G 2/13](#)), follows the EU Commission's [notice](#) issued on 8 November 2016 concerning the legal protection of biotechnological inventions, which clarified that the exclusion of essentially biological processes from patentability set forth by Article 4 of [Directive \(EC\) No. 1998/44](#) of 6 July 1988 (on the legal protection of biotechnological inventions) shall also apply to plants and animals obtained from such processes.

INDUSTRIES

MEDIA

Portability of digital services across the EU: Council adopts new rules

On 14 June 2017, the new [EU regulation](#) on the portability of online content was signed by the President of the European Parliament and the President of the Council. The regulation, (which has not yet been published in the Journal of the European Union) will enter into force in the first quarter of 2018. The regulation will apply to the subscription of audio-visual content and other copyright-protected materials or transmissions, such as music, videos, e-books or broadcasts, provided for the payment of a fee. Free to air services, such as those provided by certain public broadcasters, will have the option of benefiting from the regulation if they verify the country of residence of their subscribers. The Regulation aims to ensure that subscribers of online content services have access to such content under the same conditions as in their country of residence when visiting another Member State for a "limited" period of time. During this period abroad, the service is deemed to occur as if it were in the Member State of permanent residence. As a consequence, following the entry into force of the Regulation, providers will be allowed to grant access to their service without obtaining a licence for such other territories where subscribers are temporarily staying. Contractual provisions that are not compliant with the new rules will be unenforceable.

Italian consumer protection authority on influencers

Recently the Italian Consumer Protection Authority (the "ICA") started a series of "moral suasion" proceedings against certain Italian influencers in connection with their endorsement of certain products which may amount to an unfair commercial practice if any sponsor agreement with the producers of said goods and services is not properly disclosed. ICA uses this process in circumstances in which it is not in a position to open a formal investigation immediately. Those proceedings rarely end with a dismissal of the case unless the addressees satisfy the ICA with remedial action (otherwise an investigation will be started).

TECHNOLOGY

EU parliament on longer lifetime for software products

On 4 July 2017, the EU Parliament adopted a [resolution](#) urging the introduction of a "reasonable period of use" for software products. During this period, software manufacturers and suppliers would be obliged to guarantee the functioning of the software by making security updates available to consumers. This resolution aims at protecting consumers from software manufacturers and suppliers who try to shorten the lifetime of their products by not providing their consumers with security updates.

HAPPY SUMMER HOLIDAYS

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