THE ITALIAN ANTITRUST AUTHORITY STARTED INVESTIGATIONS AGAINST GOOGLE, APPLE AND DROPBOX FOR CLOUD COMPUTING SERVICES

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Key-words: Antitrust - Cloud computing - Unfair clauses - Privacy - Big Tech

Category: Legal Area

The Italian Antitrust Authority has initiated investigations against some of the main global operators of cloud computing services, that means Google (for the Google Drive service), Apple (for the iCloud service) and Dropbox. The proceedings relate to alleged unfair commercial practices and/or a violation of the Directive 2011/83/EU on consumer rights and the possible presence of unfair clauses in the contractual conditions.

For each proceeding the Antitrust Authority has started a public consultation: within the peremptory term of 30 days starting from September 7th, 2020, it is possible for some categories of interested parties to take part in the consultation by sending their contributions through the e-mail addresses CV194@agcm.it (for the CV/194 Google Drive case), CV195@agcm.it (for the CV/195 Dropbox case) and CV196@agcm.it (for the CV/196 iCloud case). The categories allowed to take part to the consultation are associations representing professionals at the national level, chambers of commerce or their unions that are affected by the clauses involved in the procedure and also consumer associations, nationally representative, recognized and registered in the list pursuant to Legislative Decree 205/2006, Article 137. Participants must indicate their qualification and interest in participating in the consultation.

In particular, the investigations for unfair practices against Google and Apple concern the failure or inadequate indication, when presenting the service, of the collection and use for commercial purposes of the data provided by the user. Furthermore, the Authority doubts of a possible undue influence in towards consumers, who, in order to use the cloud storage service, would not be in a position to give the operator their free consent to the collection and use of information concerning them for commercial purposes.

The same complaints are also raised against Dropbox. In addition, Dropbox is also accused of failing to provide in a clear and immediately accessible manner the information on the conditions, terms and procedures for withdrawing from the contract and for exercising the right to reconsider. Furthermore, Dropbox would seem not to allow the user the easy recourse to out-of-court dispute resolution mechanisms, lacking the necessary information to access them.

Proceedings for unfair clauses, on the other hand, concern some contractual conditions set out in the relative models of the aforementioned companies, such as:

- the operator's ample right to suspend and interrupt the service;
- the exemption from liability even in the event of loss of documents stored in the user's cloud space;
- the possibility of unilateral modification of the contractual conditions;
- the prevalence of the English version of the contract text over the Italian version.

The clauses under investigation are indicated in the respective pages of the consultations on the Authority's website:

- as for Google Drive, all information may be found at the following link;
- as for Dropbox, all information may be found at the following link;
- as for iCloud, all information may be found at the following link.

Source: Italian Antitrust Authority.

Link: https://www.agcm.it/media/comunicati-stampa/2020/9/CV194-CV195-CV196-PS11147-PS11149-PS11150