



# CAMMINO DIRITTO

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## **COPYRIGHT AND AUTHORS' RIGHTS: THE NEW REGULATIONS BY AGCOM**

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*New regulations concerning copyright and authors' rights on the Internet were introduced by AGCOM, the Italian Authority for Communications Guarantees.*

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**The regulation concerning the protection of authors' rights on the Internet**, introduced by the Italian Authority for Communications Guarantees (AGCOM), came into force on **31st March 2014**. Its aim is to “promote the development of the legal offer of digital works and teach their proper use”, also considering specific procedures to stop copyright infringement.

But what is “**digital work**”? Following Chapter 1 of AGCOM's text, it is “work or parts of it with sounds, audiovisuals, pictures, videos, publishing and literary elements, including applications and operating systems, which is protected by copyright law and is widespread over the Internet”. Copyright protection on the Internet takes place **upon application of one of the parties**, unless the “**notice and take down**” process is used, i.e. notifying illegal content to hosting service providers: “if they believe that their digital work has been made available on the Internet without respecting copyright law, a legitimated person can make a petition to the Authority and request its removal”.

After receiving the violation notification, which is sent online as a specific form, the guaranteeing Authority “informs the services, the uploader and the site managers that the process has started”. Consequently, the site managers can decide whether to adapt their contents or to respond to the notification (**within five days** after receiving notice). If that does not occur, AGCOM turns to the **hosting service providers** and **Internet service providers** and requests the **selective removal** of the content (if the portal is in Italy) or the **complete access deactivation**, in the case of massive violation (if the portal is abroad). The process needs to end within 35 days after receiving the petition, even if an “abbreviated” procedure (of 12 days) is possible in the case of “a serious violation of economic exploitation rights of digital work, i.e. a massive violation”.

The introduction of this regulation led to different debates. By accepting the complaints made by many associations, the **regional administrative court (TAR) of Lazio** declared that the guaranteeing Authority's resolution in the field of piracy and copyright was **unconstitutional** due to the users' civil rights and press freedom violations (art. 21 of the Italian Constitution). The Constitutional Court of Italy will establish its constitutional legitimacy.