

NEWS FROM THE FIRM

Federica Cinquetti joins the firm as counsel

The recent arrival of [Federica Cinquetti](#) has strengthened the firm's litigation capability. Federica has worked in leading Italian law firms and has developed significant experience in disputes related to civil law, commercial and corporate matters. She also has extensive experience of handling product liability proceedings, as well as product safety and compliance issues.

The firm assists Endurance Worldwide Holdings in the purchase of A&A

A team led by [Nicola Barra Caracciolo](#) (with [Enrica Di Cagno](#) and [Cesare De Falco](#)) assisted Endurance Worldwide Holdings on the purchase of the insurance broker A&A.

The firm advises on the renegotiation of indebtedness of "Geo Ponente"

A team led by [Manfredi Leanza](#) (with [Federica Paniz](#) and [Francesco Senesi](#)) advised Prelios SGR, Banca IMI and CaRi Veneto on the renegotiation of the financial indebtedness of the real estate fund "Geo Ponente".

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FINANCE

Bitcoin and cryptocurrencies

On 12 February 2018, Mario Draghi (President of the European Central Bank) expressed the view that Bitcoin cannot represent a valid alternative to legal tenders. Mr. Draghi pointed out that Bitcoin would be better defined as a "speculative asset, which allows people to gamble for a gain, but with the risk of losing their entire investment". In parallel, on the same day the main European financial regulators [warned consumers](#) that virtual currencies are not regulated by EU law. As a result, consumers buying virtual currencies will not benefit from any of the consumer protections applicable to regulated financial services. It is worth noting that the Italian National Commission for Companies and the Stock Exchange ("Consob") has consistently considered investments in cryptocurrency as investments in a financial product and subject to the provisions of the Italian Consolidated Financial Act (see [Consob Resolution no. 20207 of 6 December 2017](#)). Specifically, Consob has considered certain investments in cryptocurrency as financial products, based on their specific features such as investment of capital, an expectation of a return on that investment and the assumption of risk.

Virtual currency and anti-money laundering

On 2 February 2018, the Italian Ministry of Economic Affairs and Finance published a [preliminary draft of a decree](#) (the "Draft Decree") to implement specific provisions of [Legislative Decree no. 231 of 21 November 2017](#) (as recently amended by [Legislative Decree no. 90 of 25 May 2017](#)) on anti-money laundering duties. The aim of the Draft Decree is to gather information on the scale of activity in the Italian market of services related to the use of virtual currencies, with a view to setting up a specific section of the trade register for virtual currency service providers to be maintained by the Italian 'Agents and Credit Brokers Body' (Organismo degli Agenti e dei Mediatori Creditizi). The Draft Decree provides for certain specific duties for virtual currency service providers, defined as "natural and legal persons providing to third parties, on a professional basis, services connected to the use, exchange and storage of virtual currencies, as well the conversion of those virtual currencies into or from currencies having the status of legal tender". The relevant duties would include registration in the specific trade register section referred to above and reporting of activity to the Ministry of Economic Affairs and Finance.

CORPORATE

Execution of corporate documents: from the digital signature to the public informatics deed

Article 11-bis of [Law Decree no. 172 of 4 December 2017](#) allows for the use of a digital signature for certain corporate documents. Those documents include the transfer of quotas in limited liability companies, as well as other matters related to family businesses, extraordinary transactions and business transfers. [Law no. 205 of 27 December 2017](#) (i.e. the budget law for 2018) also extended the scope of Law Decree no. 172/2017 to notarial deeds. As from 1 January 2018, notarial deeds relating to extraordinary transactions (such as mergers, de-mergers and conversions), family businesses and business transfers may be executed by digital signature.

DATA PROTECTION

Amendments to the regulation of unsolicited phone calls

Following the entry into force of (on 4 February 2018) of [Law no. 5 of 11 January 2018](#) (the "Law"), a number of new provisions apply to the regulation of unsolicited phone calls (i.e. telemarketing). In particular, the Law provides that each data subject has the right to oppose the processing of his phone numbers (both mobile and fixed-line) for marketing, statistical and market survey purposes, by way of a single opt-out procedure at the "Public Objections Register" ("Registro Pubblico delle Opposizioni"). Inclusion in that Register now implies the revocation of any and all consents previously granted for said purposes by the relevant data subject, without prejudice to consents granted in connection with certain supply contracts (i.e. those still in force at the time of opt-out or terminated less than 30 days previously). The Law also imposes joint liability for breach on controllers and processors for any breach committed by the processor. As a result, all telemarketing operators will be subject to additional compliance burdens, as they will now be required to regularly monitor the Register in order to update their marketing contact lists.

KNOW-HOW AND TRADE SECRETS

ECJ judgment on the 'repair' clause in community designs

On 8 February 2018, the Italian government passed Legislative Decrees implementing [Directive \(EU\) no. 2016/943 of 8 June 2016](#) (on protection of undisclosed know-how and business information against their unlawful acquisition, use and disclosure). The decrees inter alia provide that the disclosure and use of undisclosed know-how or business information amounts to a criminal offence.

INDUSTRIES

MEDIA

AGCOM to revise online anti-piracy regulation

On 18 January 2018, the Italian Authority for Communications ("AGCOM") enacted [Resolution no. 8/18/CONS](#), providing for public consultation on the proposed amendments to [Regulation no. 680/13/CONS](#) on the protection of authors' rights in electronic communication networks (the "Regulation"). The main changes to the Regulation include (a) an additional right for AGCOM to order precautionary measures; and (b) the extension of AGCOM's powers to order injunctive measures in the case of repeated infringement. More specifically, for infringements on servers located in Italy, hosting service providers that memorise, transmit and organise content will be ordered to remove the specific infringing content and adopt all necessary measures to avoid it being uploaded again, while hosting service providers that do not organise content will be required to disable access to infringing content. For infringements occurring on servers located abroad, the mere conduit service provider will be obliged to disable access to the relevant website. In the event of repeated infringements, AGCOM will provide the mere conduit service provider with a list of websites and order it to disable access to them.

ISPs

The Italian DPA on the "global de-indexation" duty of ISPs

Following a complaint for the enforcement of the right to be forgotten, the Italian Data Protection Authority (the "DPA") has issued [Resolution no. 577 of 21 December 2017](#). The dispute was triggered by Google's refusal to enforce a de-indexation request, covering both EU and non-EU versions of the search engine, which targeted 26 URLs carrying false information with regard to the claimant's health and several legal actions allegedly filed against him. The DPA ascertained that the requirements for exercising the right to be forgotten were fulfilled in this case and thus upheld the complaint. As the claimant was a non-EU resident, Google was obliged by the DPA's decision to carry out the de-indexation of the URLs for all EU and non-EU versions of its search engine.

Authored by Ludovico Anselmi, Domenico Colella, Davide Graziano, Manfredi Leanza, Giulia Loi, Alessandro Negri, Federica Paniz, Fabrizio Sanna, Gaia Sansone, Arturo Santoro, Olga Sihtar.

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