Tomorrow's Affairs
Analysis of today
Assessment of tomorrow

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Apple between consumer protection and market control

The Italian competition authority AGCM (Autorità Garante della Concorrenza e del Mercato) has fined the Apple group €98.6 million for abusing its dominant position in relation to the implementation of App Tracking Transparency (ATT) on iOS.

The decision explicitly names Apple Distribution International and Apple Italia as responsible parties.

On paper, ATT is a straightforward concept: apps must clearly ask users for permission to track them for advertising and measurement purposes.

In practice, this has become one of the most significant points of conflict in the digital economy, as it concerns not only privacy but also who sets the rules for data access and under what conditions third parties can operate on a platform that is effectively a mandatory gateway for iPhone users.

The Italian AGCM essentially stated: the aim of privacy protection may be legitimate, but the design and implementation must not become a tool for the platform to disadvantage others in a market where it alone holds an advantage.

What is ATT, and why has it become a privacy-competition dispute?

ATT (App Tracking Transparency) is an Apple mechanism introduced in 2021 that requires apps to obtain user consent before accessing an advertising identifier and tracking a user across other apps and websites.

In its statement, AGCM notes that ATT was formally presented as a privacy measure, but its implementation has had consequences relevant to competition.

Simply put, the iPhone is a device over which Apple maintains complete control. To reach iPhone users, in almost all cases, apps must be distributed through the Apple Store.

> Article 102 prohibits conduct by companies in a dominant position that excludes or seriously impedes competition

As a result, the iOS app distribution market is highly sensitive to any rule changes Apple introduces. When a company changes how data is collected or advertising is monetised, these decisions are not merely technical.

They directly affect who receives revenue, who loses access to users, and how power is distributed among the platform, advertisers, and app developers.

AGCM has raised the case as an abuse of a dominant position under Article 102 of the Treaty on the Functioning of the European Union (TFEU). Article 102 prohibits conduct by companies in a dominant position that excludes or seriously impedes competition.

What exactly did AGCM criticise Apple for?

The Italian regulator emphasised that the issue is not the concept of "consent", but rather a design that has made the use of third-party applications more complicated, with window interaction rules and permissions that, according to the regulator, violate system neutrality.

This is an important distinction. The objection is not "Apple defends privacy, so it inconveniences advertisers." Instead, it says, "The platform has introduced a mechanism that formally appears to protect privacy but, in practice, redistributes market power."

> This signals that a standard is taking shape in the EU: privacy is acceptable, but not as a competitive lever

Why is there a redistribution of power? For the

past ten years, mobile app advertising has relied on precise measurement and attribution, which involves determining which campaigns and channels led to an install or purchase.

When that system is disrupted, some actors lose efficiency while others gain.

A pattern is already emerging in European practice. Regulators do not dispute that users gain control but question whether that control is designed so that "some" parties face more difficulty than "others".

The French regulator previously fined Apple over ATT, arguing that the implementation was disproportionate and particularly affected smaller ad-funded publishers.

While not identical to the Italian procedure, it signals that a standard is taking shape in the EU: privacy is acceptable, but not as a competitive lever.

Why this is more than an Italian case

This decision is, in fact, a collision between two European legal frameworks that have run in parallel for years.

The first is privacy regulation, where the fundamental principle is that users must have meaningful choice and control.

The second is competition law, where the core idea is that a dominant platform cannot use its control over market access to tilt the playing field in its favour.

Apple introduced ATT as a privacy measure. AGCM treats it as a market mechanism with consequences that fall within the domain of the abuse of a dominant position.

> The essential question is who has the right to both set the rules and directly profit from them

It is legal precedent in practice, even when the "topic" appears to be the same as in privacy regulations.

An important aspect often overlooked in daily reporting is that this is not a "for or against privacy" debate. The essential question is who has the right to both set the rules and directly profit from them.

When a company defines the conditions under which data is collected, controls access to users through app distribution, and simultaneously manages its own advertising and analytics channels, the issue is no longer ethical. It becomes a matter of institutional balance and control of power.

What can Apple realistically do, and what are the most likely next moves?

Such decisions, as a rule, do not conclude on the day the ruling is announced. Apple almost certainly has the room to challenge the decision before the Italian administrative courts.

At the same time, the company must manage the risk that similar reasoning will "spill over" to other national authorities and align with the DMA (Digital Markets Act) regime, the European regulation for large digital platforms.

An important consequence is also a market one, not just a legal one. If the regulator insists on the "neutrality" and proportionality of the mechanism, Apple will need to consider changes to user experience and permission display rules, as this is precisely where the regulator identified the issue.

> This is not an isolated "Italy punishes Apple" episode

For Apple, the greatest risk is not a single fine but the overlap of multiple regulatory fronts. Competition issues related to the design of ATT are increasingly linked to obligations

arising from the Digital Markets Act (DMA), where Apple is already under constant pressure due to App Store rules, the level of fees, and the actual degree of openness of the platform.

If these discussions are brought together into a single regulatory framework, Apple will no longer face isolated disputes but a systemic review of how it manages market access.

In other words, this is not an isolated "Italy punishes Apple" episode. It is a test of whether the EU is moving towards a model where platforms can introduce new checkpoints only if they can prove these are designed to avoid shifting the market towards their own platforms.

Forecast: Why is the key word in 2026 "design," not "punishment?"

In the coming months, the focus of the debate will shift from whether individual punishment is justified to a much more important question: what should a consent mechanism that is truly neutral and does not favour the rule-maker look like in a system controlled by one company?

For European institutions, this is a test of their ability to apply privacy and competition rules simultaneously so that platforms do not remain the sole judges of their own behaviour

If Apple retains the ATT in a form that still gives the impression that third parties face stricter and more complicated rules, national authorities will have an incentive to continue proceedings, and the company will enter a tedious regime of ongoing conflicts with states.

If Apple makes changes that reduce the imbalance between itself and other market participants, it will have to accept dissatisfaction from advertisers and less control over measuring the performance of ads. However, this would reduce regulatory pressure and ensure the long-term stability of the system it manages.

For European institutions, this is a test of their ability to apply privacy and competition rules simultaneously so that platforms do not remain the sole judges of their own behaviour.

For the market, the message is clear: the distribution of power in the digital economy is increasingly decided through concrete technical solutions – how consent is sought, how buttons are placed, and who has access to data – rather than through spectacular acquisitions.

In that respect, the €98.6 million fine is less important than the standard it seeks to establish. AGCM has stated, at least at this stage, that privacy cannot be an excuse for a dominant platform to reshape the market on its own terms.