

Provisional text

JUDGMENT OF THE COURT (Second Chamber)

16 July 2026 (*)

(Reference for a preliminary ruling – Directive 2000/31/EC – Article 1(5) – Scope – Exclusion of gambling activities – Advertising of gambling – Hosting such advertising – Article 14 – Liability regime for hosting service providers – Active role – Commercial contract concluded between a hosting service provider and a recipient of the service)

In Case C-421/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy), made by decision of 11 June 2024, received at the Court on 14 June 2024, in the proceedings

Autorità per le Garanzie nelle Comunicazioni (AGCOM)

v

Google Ireland Ltd,

THE COURT (Second Chamber),

composed of K. Jürimäe (Rapporteur), President of the Chamber, K. Lenaerts, President of the Court, acting as Judge of the Second Chamber, F. Schalin, M. Gavalec and Z. Csehi, Judges,

Advocate General: M. Szpunar,

Registrar: E. Sartori, Administrator,

having regard to the written procedure and further to the hearing on 10 September 2025,

after considering the observations submitted on behalf of:

- Google Ireland Ltd, by F. Angeloni, A. Bellan, M. Berliri and G. Gelera, avvocati,
- the Italian Government, by S. Fiorentino, acting as Agent, and by R. Guizzi and F. Varrone, avvocati dello Stato,
- the Belgian Government, by C. Jacob and L. Van den Broeck, acting as Agents, and by V. Ramognino, avocat, and R. Verbeke and P. Vlaemminck, advocaten,
- the Czech Government, by A. Edelmannová, M. Smolek and J. Vlášil, acting as Agents,
- the Portuguese Government, by P. Barros da Costa, L. Medeiros and A. Silva Coelho, acting as Agents,
- the European Commission, by L. Armati, P. A. Messina and J. Szczodrowski, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 November 2025,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 1(5) and Article 14 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1).
- 2 The request has been made in proceedings between Google Ireland Ltd ('Google'), a company incorporated under Irish law, and the Autorità per le Garanzie nelle Comunicazioni (Communications Regulatory Authority, Italy) ('AGCOM'), concerning a fine imposed by AGCOM on Google for the advertising and promotion of gambling sites.

Legal context

European Union law

- 3 Recitals 12, 16, 21 and 42 of Directive 2000/31 state:

'(12) It is necessary to exclude certain activities from the scope of this Directive, on the grounds that the freedom to provide services in these fields cannot, at this stage, be guaranteed under the [FEU] Treaty or existing secondary legislation; excluding these activities does not preclude any instruments which might prove necessary for the proper functioning of the internal market; ...

...

(16) The exclusion of gambling activities from the scope of application of this Directive covers only games of chance, lotteries and betting transactions, which involve wagering a stake with monetary value; this does not cover promotional competitions or games where the purpose is to encourage the sale of goods or services and where payments, if they arise, serve only to acquire the promoted goods or services.

...

(21) The scope of the coordinated field is without prejudice to future Community harmonisation relating to information society services and to future legislation adopted at national level in accordance with Community law; the coordinated field covers only requirements relating to on-line activities such as on-line information, on-line advertising, on-line shopping, on-line contracting and does not concern Member States' legal requirements relating to goods such as safety standards, labelling obligations, or liability for goods, or Member States' requirements relating to the delivery or the transport of goods, including the distribution of medicinal products; ...

...

(42) The exemptions from liability established in this Directive cover only cases where the activity of the information society service provider is limited to the technical process of operating and giving access to a communication network over which information made available by third parties is transmitted or temporarily stored, for the sole purpose of making the transmission more efficient; this activity is of a mere technical, automatic and passive nature, which implies that the information society service provider has neither knowledge of nor control over the information which is transmitted or stored.'

- 4 Article 1 of that directive, entitled 'Objective and scope', provides:

'1. This Directive seeks to contribute to the proper functioning of the internal market by ensuring the free movement of information society services between the Member States.

2. This Directive approximates, to the extent necessary for the achievement of the objective set out in paragraph 1, certain national provisions on information society services relating to the internal market, the establishment of service providers, commercial communications, electronic contracts, the

liability of intermediaries, codes of conduct, out-of-court dispute settlements, court actions and cooperation between Member States.

...

5. This Directive shall not apply to:

- (a) the field of taxation;
- (b) questions relating to information society services covered by Directives 95/46/EC [of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31)] and 97/66/EC [of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector (OJ 1998 L 24, p.1)];
- (c) questions relating to agreements or practices governed by cartel law;
- (d) the following activities of information society services:
 - the activities of notaries or equivalent professions to the extent that they involve a direct and specific connection with the exercise of public authority,
 - the representation of a client and defence of his interests before the courts,
 - gambling activities which involve wagering a stake with monetary value in games of chance, including lotteries and betting transactions.’

5 Article 3 of that directive, entitled ‘Internal market’, provides in paragraphs 1 and 2:

‘1. Each Member State shall ensure that the information society services provided by a service provider established on its territory comply with the national provisions applicable in the Member State in question which fall within the coordinated field.

2. Member States may not, for reasons falling within the coordinated field, restrict the freedom to provide information society services from another Member State.’

6 Section 4 of Chapter II of Directive 2000/31, concerning the liability of intermediary service providers, includes Articles 12 to 15 of that directive. Article 14, entitled ‘Hosting’, provides:

‘1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:

- (a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent;

or

- (b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information.

2. Paragraph 1 shall not apply when the recipient of the service is acting under the authority or the control of the provider.

3. This Article shall not affect the possibility for a court or administrative authority, in accordance with Member States’ legal systems, of requiring the service provider to terminate or prevent an infringement, nor does it affect the possibility for Member States of establishing procedures governing the removal or disabling of access to information.’

Italian law

- 7 Article 9 of decreto-legge n.°87 – Disposizioni urgenti per la dignità dei lavoratori e delle imprese (Decree-Law No 87 – Urgent provisions for the dignity of workers and undertakings) of 12 July 2018 (GURI No 161 of 13 July 2018; ‘Decree-Law No 87/2018’) prohibits any form of advertising, including indirect advertising, in relation to games or betting with monetary stakes and gambling, however carried out and by any means, including sports, cultural or artistic events, television or radio broadcasts, daily and periodic press, publications in general, posters and online, digital and electronic channels, including social media. In case of infringement of that prohibition, the principal, the owner of the means or of the site of dissemination or destination, and the organiser of the activity or event, is liable to an administrative fine equal to 20% of the value of the sponsorship or advertising and, in any case, of not less than EUR 50 000 for each infringement.

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 8 By decision of 19 July 2022, AGCOM, the Italian Communications Regulator, imposed an administrative fine of EUR 750 000 on Google for infringement of Article 9 of Decree-Law No 87/2018, which prohibits all forms of advertising, including indirect advertising, of gambling, however carried out and by any means.
- 9 AGCOM found that Google had allowed the promotion of gambling websites through videos published by content creators on five channels on the online video platform YouTube (‘the YouTube platform’). Further, each of those channels showed videos inviting the user, whatever his or her age, to send videos demonstrating his or her own winnings, so as to enable that content creator to broadcast videos demonstrating the highest winnings obtained, in return for a payment made to the user concerned. In addition to imposing a fine, AGCOM ordered Google to remove 630 videos of that content creator from the YouTube platform and the videos of that content creator with a similar content which also infringe the prohibition laid down in Article 9 of Decree-Law No 87/2018.
- 10 Google brought an action against that decision before the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy). That court held that Google had not infringed the provisions of Article 9 of Decree-Law No 87/2018. That court classified the services offered by the YouTube platform as hosting services and concluded from that that Google should benefit from the exemption from liability laid down in the provisions of Italian law transposing Article 14 of Directive 2000/31.
- 11 AGCOM brought an appeal against that court’s decision before the Consiglio di Stato (Council of State, Italy), which is the referring court. In support of that appeal, AGCOM submits that Directive 2000/31 does not apply to the advertising at issue in the main proceedings, given that Article 1(5) of that directive excludes gambling activities from its scope.
- 12 Google contends, on the contrary, that that directive does apply. The exclusion provided for in Article 1(5) of that directive does not concern hosting service providers, but only gambling service providers. Furthermore, Google is of the view that it is not required, in its capacity as a service provider, to verify the content of videos which are published on its YouTube platform. In those circumstances, AGCOM’s decision amounts to censorship and restricts both the freedom of expression of users of that platform and Google’s freedom to provide services.
- 13 The referring court has doubts concerning the applicability of Directive 2000/31 to the facts at issue in the main proceedings. It is apparent from the second phrase of recital 21 of that directive that online advertising must be regarded as being an online activity, for the purposes of that directive. Thus, it could be inferred from the third indent of Article 1(5)(d) of that directive that the EU legislature intended to exclude all gambling activities from the scope of that directive, including online advertising of those activities.
- 14 Should the Court find that Directive 2000/31 applies to the activity at issue in the main proceedings, the referring court submits a second question to the Court concerning the scope of the liability exemption regime, laid down in Article 14 of that directive.

- 15 In that regard, the referring court asks whether Google may benefit from that regime, given that it concluded a commercial partnership agreement with the content creator in question ('YouTube Partner Programme'; 'the commercial partnership') under which Google does not merely have a purely technical and neutral role in respect of the content posted online. That commercial partnership provides, first, for a sharing of the revenue generated by the advertising broadcast before each of that content creator's videos and collected by Google. Second, Google receives directly the payments from subscribers to that content creator's channels and makes a payment to the latter. In order to enter into that commercial partnership, that content creator must fulfil certain conditions established by Google. In particular, the content creator must meet thresholds in terms of the number of subscribers and viewing hours of his or her videos. In addition, before concluding such a commercial partnership agreement with a content creator on the YouTube platform, Google also reviews the content of the videos by examining the channel's theme, the most viewed or newest videos and the metadata (titles, descriptions, etc.) of those videos. That review does not, however, consist of a complete review of all the channel's videos.
- 16 The referring court notes that Article 14 of Directive 2000/31 applies only to a hosting service provider who plays a 'neutral' role, merely having a purely technical role. However, in the opinion of that court, in the light of the review of creators' content carried out by Google and the 'optimisation' of the commercial activity of those creators by sharing revenue with them, Google's position cannot be regarded as 'neutral'.
- 17 In those circumstances, the Consiglio di Stato (Council of State) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- '(1) Under Article 1(5) of Directive [2000/31], is the liability regime for hosting providers laid down in Article 14 of that directive applicable to activities relating to the online advertising of games or betting with monetary winnings and to the advertising of gambling?
- (2) Is the liability regime laid down in Article 14 of Directive [2000/31] applicable to a hosting provider such as Google in relation to content published by the owners of YouTube channels with whom Google has concluded the commercial partnership agreement described above?'

Consideration of the questions referred

The first question

- 18 By its first question, the referring court asks, in essence, whether the third indent of Article 1(5)(d) of Directive 2000/31 must be interpreted as meaning that an information society service which consists of hosting videos online falls within the scope of that directive where those videos contain advertising of gambling which involves wagering a stake with monetary value in games of chance, within the meaning of that provision.
- 19 It must be borne in mind that it is apparent from Article 1(1) and (2) of Directive 2000/31 that that directive is intended to contribute to the proper functioning of the internal market. On the one hand, it creates a legal framework which ensures the free movement of information society services between Member States and which consists, inter alia, in the application of the mechanism referred to in Article 3(1) and (2) of that directive, under which, within the coordinated field, information society services are to be regulated solely in the Member State in which the providers of those services are established. On the other, that directive lays down, in particular in Chapters II and III thereof, provisions approximating, to the extent necessary to achieve that objective, certain national provisions applicable to those services (judgment of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraph 54).
- 20 Article 1(5)(d) of Directive 2000/31 provides that that directive is not to apply to the 'activities' of information society services listed in that provision, which include, in the third indent thereof, 'gambling activities which involve wagering a stake with monetary value in games of chance, including lotteries and betting transactions'. In addition, recital 16 of that directive states that the exception referred to in that third indent does not cover promotional competitions or games where the purpose is

to encourage the sale of goods or services and where payments, if they arise, serve only to acquire the promoted goods or services.

- 21 According to settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (see judgments of 6 October 1982, *Cilfit*, 283/81, EU:C:1982:335, paragraph 20, and of 19 December 2024, *Ford Italia*, C-157/23, EU:C:2024:1045, paragraph 42).
- 22 In that regard, it must be noted that it is apparent from the wording of the third indent of Article 1(5)(d) of Directive 2000/31, from the context in which that provision occurs, and, in particular, from the objective pursued by that provision that the exclusion provided for therein covers not only gambling itself, but also activities intrinsically linked to that gambling, including the activity consisting in the online advertising of gambling, within the meaning of that provision.
- 23 First, both that exclusion and the other exclusions set out in Article 5(1) of that directive are formulated in broad terms, which implies that the ‘fields’, ‘questions’ and ‘activities’ referred to therein must be construed broadly (see, to that effect, judgment of 27 April 2022, *Airbnb Ireland*, C-674/20, EU:C:2022:303, paragraph 29).
- 24 Second and more importantly, it is apparent from recital 12 of that directive that Article 1(5) seeks to exclude certain activities from the scope of that directive, on the grounds that the freedom to provide services in those fields cannot, at this stage, be guaranteed under the FEU Treaty or existing secondary legislation. As regards, in particular, gambling activities which involve wagering a stake with monetary value in games of chance, the Court has previously held that the regulation of games of chance is one of the areas in which there are considerable moral, religious and cultural differences between the Member States. In the absence of EU harmonisation in the field, it is for each Member State to determine in those areas, in accordance with its own scale of values, what is required in order to ensure that the interests in question are protected (see, to that effect, judgment of 2 March 2023, *Recreatieprojecten Zeeland and Others*, C-695/21, EU:C:2023:144, paragraph 14 and the case-law cited).
- 25 In order to ensure the margin of discretion which Member States must enjoy in order to be able to regulate gambling effectively according to their own scales of values, Member States must be able to regulate all activities intrinsically linked to that area, including advertising relating to gambling, in compliance with EU law.
- 26 It follows that the third indent of Article 1(5)(d) of Directive 2000/31 must be interpreted as meaning that that directive does not apply to the activity consisting in the online advertising of gambling, within the meaning of that provision.
- 27 However, it does not follow that the activity of online hosting of such advertising is also covered by the exclusion set out in the third indent of Article 1(5)(d) of Directive 2000/31.
- 28 Contrary to the activity consisting of the online advertising of gambling, the activity of online hosting is not intrinsically linked to that gambling. The latter activity, which consists simply in storing content provided by the recipient of the service is, in principle, neutral in relation to the content stored and does not differ according to the nature of the content. Thus, the activity of hosting online advertising of gambling, within the meaning of that provision, is no different from the activity of hosting other types of advertising or, more broadly, other content. In particular, that activity has no direct connection with that gambling and is not intended to promote it.
- 29 In those circumstances, as the Advocate General states, in essence, in point 34 of his Opinion, it is not necessary to exclude from the scope of that directive the activity of hosting online advertising of gambling to allow Member States to pursue, if they wish and according to their own scales of values, a policy of controlled expansion of gambling.
- 30 In the light of all the foregoing considerations, the answer to the first question is that the third indent of Article 1(5)(d) of Directive 2000/31 must be interpreted as meaning that an information society service which consists of hosting videos online falls within the scope of that directive even where those videos

contain advertising of gambling which involves wagering a stake with monetary value in games of chance, within the meaning of that provision.

The second question

- 31 By its second question, the referring court asks, in essence, whether Article 14 of Directive 2000/31 must be interpreted as meaning that it applies to an operator of an online video platform which concluded, with a person using that platform to broadcast videos on a dedicated channel, a commercial partnership agreement providing for a sharing of advertising revenue and which, in connection with the conclusion or performance of that agreement, carried out an examination of the content of that channel and, inter alia, its main theme, the most viewed videos or the newest videos, or the metadata of those videos.
- 32 Article 14(1) of Directive 2000/31 lists the conditions subject to which the Member States are to ensure that, where an information society service is provided that consists of the storage of information provided by a recipient of the service, the service provider is not liable for the information stored at the request of a recipient of the service. In that respect, the provider must not have actual knowledge of illegal activity or information and, as regards claims for damages, must not be aware of facts or circumstances from which the illegal activity or information is apparent, or, where the provider does have such knowledge or awareness, it must act expeditiously, upon obtaining such knowledge or awareness, to remove or to disable access to the information.
- 33 The definition of the concept of ‘hosting’ in Article 14(1) does not preclude a service which also has as its purpose the broadcasting or sharing of information stored from falling within, under certain conditions, that concept. That being said, the fact that the service provided by an operator includes the storage of information which is transmitted to it is not in itself a sufficient ground for concluding that that service, in all situations, falls within the scope of Article 14(1) of Directive 2000/31 (judgment of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraphs 106 and 107 and the case-law cited).
- 34 For that to be the case, it is essential that the service provider concerned is an ‘intermediary service provider’ within the meaning of Articles 12 to 14 of Directive 2000/31. It follows, in that regard, from recital 42 of that directive, that the exemptions from liability established by that directive in those articles cover only cases where the activity of the information society service provider is limited to the technical process of operating and giving access to a communication network. Recital 42 also states that that activity is of a mere technical, automatic and passive nature, which means that that service provider has neither knowledge of nor control over the information which is transmitted or stored (see, to that effect, judgments of 22 June 2021, *YouTube and Cyando*, C-682/18 and C-683/18, EU:C:2021:503, paragraph 105, and of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraph 108).
- 35 Thus, in order to ascertain whether the operator of an online video platform may be exempted, under Article 14(1) of Directive 2000/31, from liability under the law of a Member State, for videos containing advertising of gambling prohibited by that law, it is necessary to examine, at the outset, whether the role played by that operator is neutral, that is to say, whether its conduct is merely technical, automatic and passive, which means that it has no knowledge of or control over the content that it stores, or whether, on the contrary, that operator plays an active role that gives it knowledge of or control over that content (judgments of 22 June 2021, *YouTube and Cyando*, C-682/18 and C-683/18, EU:C:2021:503, paragraph 106, and of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraph 109).
- 36 In the light of recital 42 of Directive 2000/31, those two conditions requiring knowledge and control should be understood as being alternative to and independent of each other (judgment of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraph 110).
- 37 Thus, first, the operator of an information society service which controls the stored information is excluded from the benefit of Article 14(1) of that directive, even if it does not become aware of that information due to the automation of the information processing. It is, inter alia, by means of the algorithm used that such an operator exercises control over the information stored. So long as it has

predetermined, by means of that algorithm, the conditions under which such information may or may not be broadcast, it is irrelevant that that operator does not itself carry out additional interventions which have the effect of promoting, modifying or deleting information stored with a view to it being broadcast (judgment of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraphs 110 and 111).

38 In that regard, it must be made clear that if, beyond the mere categorisation and indexation of information for the purpose of improving its accessibility, the algorithm used determines, in the interest of the operator or its service, under what conditions, how and in which order of priority that information is or is not to be broadcast, that operator exercises control over that information, with the result that the service it offers cannot be classified as an ‘information society service ... that consists of the storage of information provided by a recipient of the service’, within the meaning of Article 14(1) of Directive 2000/31 (judgment of 16 June 2026, *WebGroup Czech Republic and Others*, C-188/24 and C-190/24, EU:C:2026:492, paragraph 112 and the case-law cited).

39 Second, where the activity of the operator of an information society service implies that it has knowledge of the content which it hosts, that operator is excluded from the scope of Article 14, without it being necessary to demonstrate that it also exercises control over that content.

40 In that regard, the fact that the operator of an online platform becomes aware, incidentally or by chance, of the existence of specific illegal content among a collection of videos published on its platform, is not sufficient to exclude it from the scope of Article 14. The same is true where such an operator is informed by a third party that such content has been published on its platform. In those two situations, if that operator were excluded from that scope, Article 14(1) of Directive 2000/31 would be rendered redundant because that provision specifically allows a provider of an information society service to benefit from the exemption from liability laid down in that provision where, having become aware of the illegal content, it acts expeditiously to remove or to disable access to that content.

41 Similarly, it cannot be inferred from the implementation, by the operator of an online video platform, of technological measures aimed at detecting, among the videos communicated to the public via its platform, content which may infringe provisions of EU law or national law, that that operator plays an active role which would exclude it from the benefit of the exemption regime laid down in Article 14(1) of that directive (see, to that effect, judgment of 22 June 2021, *YouTube and Cyando*, C-682/18 and C-683/18, EU:C:2021:503, paragraph 109).

42 On the other hand, it cannot be found that only an activity of the operator of an online platform which results in it having comprehensive knowledge of all the content uploaded to its platform is capable of depriving it of the benefit of the exemption from liability laid down in Article 14 of Directive 2000/31.

43 On the contrary, where the activity of the operator of an online platform results in it knowing the essential content uploaded by a user to that platform, it cannot rely on the exemption from liability laid down in Article 14 of Directive 2000/31.

44 As the Court has previously found, such is the case where the operator of an online platform has provided assistance, which entailed, in particular, optimising the presentation of the advertisements published on that platform or promoting them. In that case, the operator has not taken a neutral position but played an active role of such a kind as to give it knowledge of, or control over, the content of those advertisements. It cannot then rely, in the case of those advertisements, on the exemption from liability referred to in Article 14 of Directive 2000/31 (judgment of 12 July 2011, *L'Oréal and Others*, C-324/09, EU:C:2011:474, paragraph 116).

45 That is also the case where the operator of an online video platform examines, with a view to concluding a revenue-sharing agreement, a video channel's main theme, that channel's most viewed videos or newest videos, or the metadata of those videos. Even if that examination of the content, whether automated or carried out by natural persons, is intended to verify that the content creator seeking that commercial partnership agreement complies with the rules laid down by the platform for accessing such a partnership, it gives the operator of that platform specific knowledge of the essential content of a set of videos, with the result that it cannot claim to exercise a purely technical, automatic and passive activity and thus to have a neutral intermediary role.

46 In the present case, it is apparent from the order for reference that, under the commercial partnership agreement concluded between the operator of the YouTube platform and certain content creators publishing videos on a channel created on that platform, Google carries out, in connection with the conclusion or the implementation of that agreement, an examination of the essential content of that channel and, inter alia, its main theme, the most viewed videos or the newest videos, or the metadata of those videos. That examination of the content, whether it is automated or carried out by natural persons, is, inter alia, intended to verify that the content creator seeking that commercial partnership agreement complies with the rules laid down by the platform for access to such a partnership and is therefore in addition to the standard checks which are applied without distinction to all videos uploaded to the YouTube platform. That examination also relates to the originality and quality of the content. It is only if those specific conditions relating to content are complied with that the content creator concerned may benefit from the advertising revenue-sharing scheme offered by Google.

47 In those circumstances and subject to verification by the referring court, it must be held that, by examining the YouTube channels at issue in the main proceedings, Google could not reasonably have been unaware that their main theme was gambling and games of chance and that they contained a number of videos advertising such games, in breach of Article 9 of Decree-Law No 87/2018.

48 It follows from all the foregoing considerations that Article 14 of Directive 2000/31 must be interpreted as meaning that it does not apply to an operator of an online video platform which concluded, with a person using that platform to broadcast videos on a dedicated channel, a commercial partnership agreement providing for a sharing of advertising revenue and which, in connection with the conclusion or performance of that agreement, carried out an examination of the content of that channel and, inter alia, its main theme, the most viewed videos or the newest videos, or the metadata of those videos.

Costs

49 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

1. **The third indent of Article 1(5)(d) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')**

must be interpreted as meaning that an information society service which consists of hosting videos online falls within the scope of that directive even where those videos contain advertising of gambling which involves wagering a stake with monetary value in games of chance, within the meaning of that provision.

2. **Article 14 of Directive 2000/31**

must be interpreted as meaning that it does not apply to an operator of an online video platform which concluded, with a person using that platform to broadcast videos on a dedicated channel, a commercial partnership agreement providing for a sharing of advertising revenue and which, in connection with the conclusion or performance of that agreement, carried out an examination of the content of that channel and, inter alia, its main theme, the most viewed videos or the newest videos, or the metadata of those videos.

[Signatures]

* Language of the case: Italian.