



*Rai Com S.p.A.*

*Organisational, management and control model*

*pursuant to Legislative decree 231/01*

## CONTENTS

<b>1. Introduction .....</b>	<b>5</b>
<b>2. Purpose .....</b>	<b>6</b>
<b>3. The control system .....</b>	<b>8</b>
3.1 General control standards .....	8
3.2 Specific control standards.....	8
<b>4. SPECIAL SECTION A - Public Administration and Bribery between private parties .....</b>	<b>10</b>
4.1 The relevant elements (articles 24, 25, 25-ter lett. s-bis) of Legislative decree 231/01).....	10
4.1.1 Corruption-related offences .....	10
4.2 Identification of susceptible areas and activities within the scope of offences in relations with the Public Administration and bribery between private parties .....	14
4.3 Rules of conduct and implementation of decision-making processes .....	16
4.3.1 Rules of conduct.....	16
4.3.2 Rules implementing decision-making processes.....	18
<b>5. SPECIAL SECTION B - Counterfeiting instruments or distinctive marks and Crimes against industry and commerce .....</b>	<b>50</b>
5.1 The relevant elements of counterfeiting instruments or distinctive marks (article 25-bis of Legislative decree 231/01) and crimes against industry and commerce (article 25-bis.1 of Legislative decree 231/01).....	50
5.2 Identification of the areas and the susceptible activities relating to counterfeiting instruments or distinctive marks and crimes against industry and commerce .....	52
5.3 Rules of conduct and implementation of decision-making processes .....	53
5.3.1 Rules of conduct.....	53
5.3.2 Rules implementing decision-making processes.....	54
<b>6. SPECIAL SECTION C – Corporate Offences, Tax offences and Smuggling .....</b>	<b>55</b>
6.1 The relevant elements of the corporate offences (article 25-ter of Legislative decree 231/01), tax offences (article 25-quinquiesdecies of Legislative decree 231/01), smuggling (article 25-sexiesdecies of Legislative decree 231/01) .....	55
6.2 Identification of susceptible areas and activities within the scope of corporate offences .....	60
6.3 Rules of conduct and implementation of decision-making processes .....	62
6.3.1 Rules of conduct.....	62
6.3.2 Principles of implementing the decision-making processes.....	65
<b>7. SPECIAL SECTION D – Organised crime, crimes of terrorism, crimes against individuals, receiving stolen goods, money-laundering and the use of money, goods or benefits with unlawful origin, self-laundering, offences relating to non-cash payment instruments, convincing others not to make statements or to make false statements to the legal authorities, employment of citizens from other countries who are not legally resident in the country, cross-border offences .....</b>	<b>72</b>
Forcing into or keeping in slavery or servitude (article 600 Criminal Code) .....	80
Child prostitution (article 600-bis Criminal Code) .....	80
Child pornography (article 600-ter Criminal Code) .....	80
Possession of pornographic material produced by sexually exploiting minors (article 600-quater of the Criminal Code) .....	81
Virtual pornography (article 600-quater.1 Criminal Code).....	81
Tourist initiatives aimed at the exploitation of child prostitution (article 600-quinquies Criminal Code).....	81
Trafficking in persons (article 601 Criminal Code).....	81
Purchase and sale of slaves (article 602 Criminal Code).....	82
7.2 Identification of the sensitive areas and activities falling under the area of organised crime, crimes of terrorism, crimes against	

*ORGANIZATIONAL, MANAGEMENT AND CONTROL MODEL  
PURSUANT TO LEGISLATIVE DECREE 231/01 - SPECIAL SECTIONS AND APPENDIX A*

individuals, receiving stolengoods, money-laundering and the use of money, goods or benefits with unlawful .....	83
7.3 Rules of conduct and implementation of decision-making processes .....	87
7.3.1 Rules of conduct .....	87
7.3.2 Principles of implementing the decision-making processes .....	90
1. Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private .....	90
2. Recruitment, management and development of Staff .....	90
3. Management of the financial transactions, including intra-group .....	90
4. Sale of goods and services in Italy and abroad .....	90
5. Revenues from the use of Rai Com music in RAI programs .....	90
6. Free gifts, presents and benefits .....	91
7. Organisation and management of events .....	91
8. Travelling expenses and advances .....	91
9. Selection, contractualisation and management of the agents .....	91
10. Activation of commercial partnerships across the world .....	91
11. Management of court, out-of-court or arbitration proceedings .....	92
12. Publishing activities (editions and co-editions) .....	92
13. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general .....	93
14. Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties .....	93
15. Management of relations with public parties and Supervisory authorities .....	93
16. Publication of content on Internet sites/company web channels .....	93
17. Purchasing work, goods and services / security trading .....	94
a) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities) .....	94
b) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals) .....	94
18. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels .....	94
19. Warehouse Management .....	94
20. Management of environmental aspects .....	95
21. Employment of foreign workers (employment/managing tender contracts) .....	95
<b>8. SPECIAL SECTION E - Crimes committed in breach of health and safety regulations at the workplace .....</b>	<b>96</b>
8.1 The relevant elements of crimes committed in breach of health and safety regulations at the workplace .....	96
8.2 Rai Com and management of workplace health and safety .....	96
8.3 The Management System for the Health and Safety of Workers documentation .....	98
8.4 Identification of the sensitive areas and activities in the area of crimes committed in breach of health and safety regulations at the workplace .....	98
8.5 Rules of conduct and implementation of decision-making processes .....	99
8.5.1 Rules of conduct .....	99
8.5.2 Principles of implementing the decision-making processes .....	100
A. Planning .....	100
B. Implementation and Function .....	101
C. Corrective actions and control .....	107
D. Management Review .....	109
<b>9. SPECIAL SECTION F – Computer crimes and unlawful data processing .....</b>	<b>110</b>
9.1 The relevant elements of the computer crimes and unlawful data processing (article 24-bis of Legislative decree 231/01) .....	110
9.2 Identification of susceptible areas and activities within the scope of computer crimes and unlawful data processing .....	114
9.3 Rules of conduct and implementation of decision-making processes .....	115
9.3.1 Rules of conduct .....	115
9.3.2 Implementation principles of the decision-making processes .....	118
<b>10. SPECIAL SECTION G - COPYRIGHT CRIMES .....</b>	<b>122</b>
10.1 The relevant elements of copyright crimes (article 25-novies of Legislative decree 231/01) .....	122
10.2 Identification of susceptible areas and activities within the scope of breaching copyright .....	125

*ORGANIZATIONAL, MANAGEMENT AND CONTROL MODEL  
PURSUANT TO LEGISLATIVE DECREE 231/01 - SPECIAL SECTIONS AND APPENDIX A*

10.3 Rules of conduct and implementation of decision-making processes .....	126
10.3.1 Rules of conduct .....	126
10.3.2 Implementation principles of the decision-making processes .....	128
1. Purchase of marketing-related rights .....	128
2. Sale of goods and services in Italy and abroad: .....	128
b. Sale of rights in Italy; .....	128
d. Other Sales (for example consultation services, television channels, etc.)- .....	129
4. Publishing activities (editions and co-editions) .....	129
<b>11. SPECIAL SECTION H – Environmental offences .....</b>	<b>132</b>
11.1 The relevant elements of environmental offences .....	132
Crimes under Law no. 150 of 7 February 1992 in the international trading of specimens of flora and fauna in danger of extinction and keeping dangerous animals .....	136
11.2 Rai Com and the environment .....	137
11.3 Identification of susceptible areas and activities within the scope of environmental offences .....	137
11.4 Rules of conduct and implementation of decision-making processes .....	138
11.4.1 Rules of conduct .....	138
11.4.2 Implementation principles of the decision-making processes .....	139
1. Planning .....	139
2. Implementation and Function .....	139
<b>Applicable principles for adoption of the Organisational, management and control model pursuant to Legislative decree 231/01 .....</b>	<b>142</b>
Regulatory framework .....	143
A.1. Introduction .....	143
A.2. Nature of the liability .....	144
A.3. Criteria for imputation of liability .....	144
A.4. Exempting value of the organizational, management and control model .....	146
A.5. Criminal offences and unlawful actions .....	149
A.6. Sanction system .....	155
A.7. Attempts .....	157
A.9. Control of suitability .....	162

## **1. Introduction**

The structure of this Organisational Model includes a “General Section” representing the regulatory framework of reference, as a whole, the project and the fundamental elements and purposes to create the Organisational, Management and Control Model, the Supervisory Body, the disciplinary system, the training and communication procedures, and “Special Sections” that deal with the detailed application of the standards referred to in the “General Section”, with reference to the elements of the offence set out under Legislative decree 231/01 that the Company decided to use due to the type of business it is engaged in.

The following are analysed in the “Special Sections” that follow:

- Special Section “A” - Offences in relations with the Public Administration and bribery between private parties
- Special Section “B” - Counterfeiting money, legal tender, revenue stamps or instruments or distinctive marks, crimes against industry and commerce
- Special Section “C” – Corporate Offences, Tax offences and Smuggling.
- Special Section “D” – Crimes of terrorism, crimes against individuals, cross-border offences, receiving stolen goods, money-laundering and the use of money, goods or benefits with unlawful origin, including self-laundering, offences relating to non-cash payment instruments, organised crime, convincing others not to make statements or to make false statements to the legal authorities, employment of citizens from other countries who are not legally resident in the country
- Special Section “E” - Crimes committed in breach of health and safety regulations at the workplace
- Special Section “F” – Computer crimes and unlawful data processing
- Special Section “G” – Copyright crimes
- Special Section “H” – Environmental offences

In accordance with the analysis of the company, the activities carried out by the Company and the areas potentially subject to the risk of offence, only the unlawful actions described in the Special Sections were considered to be significant and therefore specifically examined under the Model, which should be referred to for more detailed identification.

Referred to the other families of offenses in accordance with the Decree (offences against

public trust pursuant to article 25-*bis* of Legislative decree 231/01<sup>1</sup>, crimes against life and individual safety pursuant to article 25-*quater*.1 of Legislative decree 231/01<sup>2</sup> and offences and administrative market abuse offences pursuant to article 25-*sexies* of Legislative decree 231/01<sup>3</sup>, offences of racism and xenophobia pursuant to article 25-*terdecies* of Legislative Decree 231/01, fraud in sporting competitions, unlawful gaming or betting and gambling by means of prohibited devices pursuant to article 25-*quaterdecies*, offences against cultural heritage pursuant to article 25-*septiesdecies*, money laundering of cultural assets and devastation and looting of cultural and landscape assets pursuant to article 25-*duodevices*) were assessed by the Company and found to have abstract risk only and not real, and in any case, on the basis of the analyses carried out, the control instruments set up to prevent the above-mentioned offences could protect against those offences, along with compliance with the Code of Ethics and legislative provisions.

Each Special Section is composed by:

- a first paragraph relates to the description of the “Relevant elements”;
- a second paragraph regards “Identification of the susceptible areas and activities”. Considering the “risk analysis” (or risk assessment), carried out pursuant to the provisions of article 6, paragraph 2 letter a) of Legislative decree 231/01, it was possible to highlight the areas and activities potentially exposed to the risk of commission of the offences considered relevant and the Directorates/Structures involved. The Model also indicates the susceptible activities in order to clarify what areas of activity are more likely to be subject to the risk of committing each group of offences.;
- a third paragraph designed to regulate the guidelines on the “Behavioural and decision-making process implementation standards”. The “Rules of conduct” are aimed at providing a reminder to comply with the Code of Ethics and specifies the rules of conduct that must govern the behaviour of the intended audience of the Model to prevent the commission of the single groups of offences. On the other hand, the “Decision-making process implementation standards” is aimed at setting out the “specific protocols to plan the formulation and implementation of the decisions of the organisation in relation to the offences to prevent” in accordance with the provisions set out under article 6, paragraph 2, letter b) of the Decree.

## 2. Purpose

---

<sup>1</sup> More specifically, reference is made to the following offences: offences of counterfeiting, spending and introduction into the country, acting in concert, of counterfeit banknotes and coins (article 453 Criminal Code), alteration of money (article 454 Criminal Code), spending and introduction into the country, without acting in concert, of counterfeit money (article 455 Criminal Code), spending of counterfeit money received in good faith (article 457 Criminal Code), counterfeiting of revenue stamps, introduction into the country, purchase, possession or circulation of counterfeit revenue stamps (article 459 Criminal Code), counterfeiting of watermarked paper used for the manufacture of legal tender or revenue stamps (article 460 Criminal Code), manufacture or possession of watermarks or instruments for counterfeiting money, revenue stamps or watermarked paper (article 461 Criminal Code), use of counterfeit or altered revenue stamps (article 464 Criminal Code).

<sup>2</sup> More specifically, this refers to female genital mutilation (article 583 – *bis* Criminal Code).

<sup>3</sup> Specifically, reference is made to the offences of insider trading (Article 184 of the Consolidated Law on Finance) and market manipulation (Article 185 of the Consolidated Law on Finance) and the administrative offences of insider trading (Article 187-*bis* of the Consolidated Law on Finance) and market manipulation (Article 187-*ter* of the Consolidated Law on Finance).

The “Special Sections” of the Model allows - within the scope of each of the macro-areas drawn up with reference to the groups of unlawful actions provided under Legislative decree 231/01 and deemed relevant to the Company - identification of the susceptible activities which are then associated with the instruments of control adopted for prevention of the risk of commission of crimes and for a timely through any interventions that may be necessary for various reasons (e.g. regulatory changes, organisational changes in the company).

The prescriptions contained in the “Special Sections” are in line with company procedures, and the Code of Ethics that guides the behaviour of the intended audience in the various operating areas in order to prevent unethical behaviour or behaviour that is not in line with the Company guidelines.

The principles of control identified below are binding for the intended audience of the Model and include the obligation to act (compliance with the procedures, reports to the control bodies), and not to act (compliance with prohibitions), brought expressly to the knowledge of the intended audience.

Compliance with said obligations, as already mentioned in the “General Section” and re-confirmed herein, has specific legal force; if these obligations are breached, the Company will react by applying the disciplinary and penalty system described in the “General Section”.

More specifically, the Special Section of the Model:

- indicates the procedures that recipients of the Model must comply with in order to apply the Model itself properly;
- provides the Supervisory Body and heads of other company departments who cooperate with it with the executive tools needed to perform the controls, monitoring and auditing.

In general, all company representatives must behave in accordance with the terms of the following documents with respect to the aspects that regard their areas of competence:

- Organisational, Management and Control Model;
- Code of Ethics;
- Bribery-prevention three-year plan;
- Guidelines/procedures/rules;
- powers of attorney, authorisation and organisational communications;
- any other document that governs activities that fall under the range of application of the Decree.

It is also expressly forbidden to behave in a way that conflicts with the provisions of

prevailing law.

### 3. The control system

The control system, prepared by the Company, also on the basis of instructions from the Confindustria guidelines, and “best practices” of sector, provides for the following with respect to the susceptible activities and areas identified:

- “general” control standards, applicable to all Susceptible Activities;
- “specific” control standards, applicable to certain susceptible activities and explained in the individual Special Sections.

#### 3.1 General control standards

The general control standards to consider and apply with reference to all the Susceptible Activities are the following:

- *separation of functions/activities*: compliance with the principle of separation of functions is required between people who authorise, people who carry out the actions and people who control;
- *regulations/circulars*: the company must contain formalised instructions and procedures that can provide principles of conduct, operational procedures for the execution of all susceptible activities and procedures to file the relevant documentation;
- *authorisation powers and authorised signatures*: authorisation powers and authorised signatures must: (a) be consistent with the organisational and management responsibilities assigned, providing, where requested, an indication on the expenditure approval thresholds; (b) be clearly defined and known about in the company;
- *traceability*: each operation relating to the susceptible activities must, where possible, be adequately recorded and filed. The decision-making, authorisation and susceptible activities performance process must be capable of being checked after the fact, including through appropriate documentary support, and in any case, there must be an express prohibition on cancelling or destroying the records, or, in accordance with the case, the rules regarding the option to cancel or destroy the records must be set out in detail.

#### 3.2 Specific control standards



On the basis of the general standards of control reported above, the specific standards of control that refer to the general ones are set out so that:

- a) all operations, and formulation and implementation of Company decisions comply with the standards and instructions contained in the law, the articles of association, the Code of Ethics and the corporate procedures;
- b) company procedures that can provide codes of conduct and operational procedures for the performance of susceptible activities and procedures to file the relevant documentation are established and adequately communicated;
- c) for all operations:
  - the company management, coordination and internal control responsibilities are formalised, along with the hierarchical levels and description of the relative responsibilities;
  - the formation stages of the records and record formation authorisation levels are always recorded and can be recreated in order to ensure transparency in the choices made;
  - the Company adopts authorised signatory communication instruments and an authorisation and power of attorney system;
  - the identification of the person appointed to represent the Company by means of a special proxy and power of attorney;
  - the assignment and exercise of the powers in the decision-making process is consistent with the positions of responsibility and the relevance and/or criticality of the underlying financial transactions;
  - different people implement the decisions, keep the accounts on the operations that have been decided on, and control the transactions as provided by law and the procedures set out under the internal control system;
  - only authorised persons in accordance with Reg. UE/2016/679 as amended, and regulatory provisions are given access to Company data and can work on said data;
  - confidentiality when sending the information is guaranteed;
  - the documents relating to the formulation of the decisions and their implementation are filed and stored by the applicable department using procedures that do not allow them to be subsequently altered unless this is made clear.

With reference to susceptible activities that are highly complex and require specific actions to establish the control measures, the applicable regulations and international standards for implementation of the certified management systems are taken into account.

#### **4. SPECIAL SECTION A - Public Administration and Bribery between private parties**

This Special Section refers to the offences contemplated in legislative decree 231/01 in Articles 24, 25, 25-ter lett. S) bis, which can be hypothesised within the framework of relations between Rai Com and the Public Administration and between Rai Com and private subjects.

##### **4.1 The relevant elements (articles 24, 25, 25-ter lett. s-bis) of Legislative decree 231/01)**

Offences against the Public Administration presuppose the establishment of relations with public entities and/or the performance of activities concretising a public function or a public service.

The criminal offences of bribery among private individuals and incitement to bribery among private individuals, while belonging to the category of corporate offences, have been included in this Special Section in order to ensure greater uniformity in the treatment of corrupt phenomena that could occur in corporate operations. 231/01 Articles 24, 25, 25-ter lett. s) bis.

The regulatory references of the relevant elements with respect to the above categories of crime with a brief description of certain significant aspects for each of the predicate offences of Legislative decree 231/01 are provided below.

##### **4.1.1 Corruption-related offences**

###### ***Extortion (art. 317 c.p.)***

The offence occurs when a public official or a person in charge of a public service, abusing his or her position or powers, compels someone to unduly give or promise, to him or a third party, money or other benefits.

###### ***Bribery for the performance of an official act (articles 318 Criminal Code)***

The offence described under article 318 of the Criminal Code will be committed where a public official, in the performance of his/her official acts or powers, unlawfully receives, for him/herself or for a third party, money or other benefits, or accepts the promise for same

***Bribery for an action that conflicts with official duties (articles 319 Criminal Code)***

The offence described under article 319 of the Criminal Code refers to cases where a public official, due to omission or delay or having omitted to do or delayed an official action, or for carrying out or having an action carried out that conflicts with the official duties<sup>4</sup>, receives, for him/herself or for a third party, money or other benefits, or accepts a commitment

***Aggravating circumstances (article 319-bis of the Criminal Code)***

The punishment is increased if the act referred to in Article 319 of the criminal code relates to the conferment of public office, or salaries or pensions, or to the conclusion of contracts in which the administration to which the public official belongs is involved, or to the payment or reimbursement of taxes.

***Judicial bribery (article 319-ter of the Criminal Code.)***

The offence occurs when the acts indicated in Articles 318 and 319 of the criminal code are committed to favour or damage a party in civil, criminal or administrative proceedings. The offence of bribery in judicial proceedings may be committed against a 'public official', i.e. a magistrate, chancellor or other official of the judicial authority (including court-appointed auxiliaries and experts) and/or representatives of the Public Administration, when the latter is a party to the litigation, in order to unlawfully obtain favourable judicial and/or extrajudicial decisions.

The offence may be committed against the Company regardless of whether it is a party to the proceedings.

***Undue inducement to give or promise benefits (Article 319-quater of the Criminal Code)***

This offence occurs, unless the act constitutes a more serious offence, when a public official or a person in charge of a public service, abusing his position or powers, induces someone to give or promise unduly, to him or a third party, money or other benefits.

***Bribery of a person in charge of a public service (Article 320 of the Criminal Code)***

The provisions of Articles 318 and 319 of the Criminal Code also apply to the person in

---

<sup>4</sup> For the purposes of the configurability of this offence in relation to the performance of an 'act contrary to the duties of office', both unlawful or illegal acts (i.e. prohibited by mandatory rules or conflicting with rules dictated for their validity and effectiveness) and those acts which, although formally regular, have been performed by the public official in breach of his duty of impartiality or by serving his function in private interests or in any case unrelated to those of the Public Administration must be considered.

charge of a public service.

***Punishments for the briber (Article 321 of the Criminal Code)***

The penalties laid down in Article 318(1), Article 319, Article 319-bis, Article 319-ter and Article 320 of the Criminal Code.

***Incitement to bribery (Article 322 of the Criminal Code)***

This offence occurs when money or other benefits not due is offered or promised to a public official or a person in charge of a public service, for the exercise of his functions or powers or to induce him to perform, omit or delay an act of his office, or to perform an act contrary to his duties, and such offer or promise is not accepted.

The third paragraph of Article 322 of the criminal code incriminates a public official or a person in charge of a public service who solicits a promise or giving of a sum of money or other benefit for the exercise of his functions or powers or from a private individual for the purposes indicated in Article 319 (act contrary to official duties).

***Embezzlement, extortion, unlawful incitement to give or promise benefits, bribery and incitement to bribery, abuse of office of members of International Courts or bodies of the European Communities or of international parliamentary assemblies or international organisations and of officials of the European Communities and of foreign States (article 322 bis of the criminal code)***

The provisions of Articles 314, 316, 317 to 320 and 322, third and fourth paragraphs, shall also apply to members of the International Criminal Court or organs of the European Communities and to officials of the European Communities and of foreign States).

***Bribery between private parties (article 2635 Civil Code)***

This offence occurs in cases where anyone, including through an intermediary, offers promises or gives undue money or other benefits to certain senior figures of a company or, more generally, of a private body (directors, general managers, managers responsible for preparing company accounting documents, statutory auditors and liquidators as well as any person exercising management functions) and to persons subject to their direction or supervision, where this is done in the interest or to the advantage of the body to which the corruptor belongs.

The offence is prosecutable on complaint by the offended company or private body. It is prosecuted ex officio if the act results in a distortion of competition in the acquisition of goods or services.

***Incitement to bribery between private parties (article 2635 bis, paragraph 1 of the Civil Code)***

The offence incriminates the offer or promise of undue money or other benefits to senior figures within a company or private body as identified above, as well as to persons exercising management functions, with a view to the performance or omission by the aforementioned persons of an act in breach of the obligations inherent in their office or obligations of loyalty, if the offer or promise is not accepted.

***Embezzlement of public funds (Article 316-bis of the Criminal Code)***

This offence occurs when any person outside the public administration, having obtained from the State, from another public body or from the European Union contributions, subsidies or financing intended to favour initiatives aimed at carrying out works or activities in the public interest, does not use them for such activities.

***Unlawful receipt of public funds (Article 316-ter of the criminal code)***

This offence occurs in cases where - through the use or presentation of false declarations or documents or those certifying untrue things or through the omission of due information - an individual unduly obtains, for himself or for others, contributions, financing, subsidised loans or other disbursements of the same type, however denominated, granted or disbursed by the State, by other public bodies or by the European Union.

***Fraud against the State or other public body (article 640, paragraph 2, no. 1 of the Criminal Code)***

These offences refers to cases where contrived or fraudulent acts are used to obtain unfair advantage (including also any omission of information that, if it had been known, would have certainly negatively influenced the wish of a country, other public organisation or the European Union) to the extent of misleading and causing loss (of a pecuniary nature) to said entities.

***Aggravated fraud to obtain public funds (article 640-bis Criminal Code)***

This offence is committed if the situation described under article 640 of the Criminal Code above relate to obtaining aid, loans or other amounts from the State, other public organisations or the European Union.

***Computer fraud (article 640-ter Criminal Code.)***

The offence of computer fraud is committed when the operation of a computer or telecommunications system is altered in any way, or when data, information or programs contained in a computer or telecommunications system or pertaining to it are interfered with in any manner whatsoever, in order to procure for oneself or others an unfair profit to the detriment of others.

### ***Trafficking in unlawful influence (article 346-bis of the Criminal Code)***

The offence occurs when, anyone who, apart from cases of complicity in the offences referred to in Articles 318, 319, 319-ter and in the bribery offences referred to in Article 322-bis, exploiting or boasting of existing or alleged relations with a public official or a person in charge of a public service or one of the other persons referred to in Article 322-bis, unduly causes to be given or promised to himself or to others, money or other benefits as the price of his unlawful mediation with a public official or a person in charge of a public service or one of the other persons referred to in Article 322-bis, or to remunerate him in connection with the performance of his functions or powers, shall be punished by imprisonment of from one year to four years and six months. The same penalty shall apply to any person who unduly gives a promise of money or other benefits.

The punishment is, however, increased if the person who unduly gives or promises, to himself/herself or to others, money or other benefits has the capacity of public official or person in charge of a public service and if the acts are committed in relation to the exercise of judicial activities or in order to remunerate the public official or the person in charge of a public service or one of the other persons referred to in Article 322-bis in connection with the performance of an act contrary to his/her official duties or the omission or delay of an act of his/her office.

If the facts are particularly minor, the penalty is reduced.

## **4.2 Identification of susceptible areas and activities within the scope of offences in relations with the Public Administration and bribery between private parties**

In relation to the offences that are conditioned on instituting direct or indirect relations with the Public Administration, all the corporate areas that provide for instituting relations with the Public Administration, are listed below:

- 1. Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private**
- 2. Management of relations with public parties and Supervisory authorities:**
  - a) to obtain authorisations or licences;**
  - b) to request occasional/specific administrative measures;**

- c) to manage obligations, assessments or inspections;**
  - d) to the management of recruitment-related obligations of personnel;**
  - e) to manage social security treatment;**
  - f) other.**
- 3. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general**
  - 4. Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties**
  - 5. Management of court, out-of-court or arbitration proceedings**

In relation to offences of bribery between private individuals, the following risk areas have been identified. These areas are also to be considered as 'instrumental' to the areas mentioned above in that, although they are not characterised by the existence of direct relations with the Public Administration, they may constitute support and prerequisites (financial and operational) for the commission of offences in relations with the P.A. Below are the details:

- 1. Purchase of work, goods and services**
  - a) purchase of goods and services with service contract**
  - b) Purchase of operating goods and services**
  - c) Purchase / hire of audiovisual / musical / photographic / product / work material (including the rights by legal entities)**
  - d) Purchase / hire of audiovisual / musical / photographic / product / work material (including the rights by individuals)**
  - e) Purchase of consultancy services**
  - f) Purchase of marketing-related rights**
- 2. Recruitment, management and development of staff**
- 3. Management of financial transactions, including intra-group**
- 4. Sale of goods and services in Italy and abroad**
  - a) Sale of rights to public parties**
  - b) Sale of rights in Italy**

**c) Sale of rights abroad**

**d) Other Sales (for example consultation services, television channels, etc.)**

**e) Sale of rights on web platforms**

- 5. Revenues from the use of Rai Com music in RAI programs**
- 6. Free gifts, presents and benefits**
- 7. Organisation and management of events**
- 8. Travelling expenses and advance**
- 9. Selection, contractualisation and management of the agents**
- 10. Activation of commercial partnerships across the world**
- 11. Issuing of press releases and corporate advertising**
- 12. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels**
- 13. Warehouse Management**
- 14. Distribution of RAI channels abroad**

#### **4.3 Rules of conduct and implementation of decision-making processes**

##### **4.3.1 Rules of conduct**

This Special Section provides for the express prohibition of Corporate Bodies, Employees - on a direct basis - and external staff - limited to the obligations provided under specific procedures and codes of conduct and the specific clauses in the implementation contracts respectively - from:

- carrying out, helping to carry out, or causing the carrying out of behaviour that - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (articles 24, 25, 25-ter letter s-bis) of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

This Special Section therefore provides for the obligation by the parties indicated above to diligently comply with all prevailing laws. In particular, the following prohibitions apply:

1. not to accept or request presents or favours such as free gifts or forms of



- hospitality, or other benefits unless the value is low and could be considered as normal in accordance with the occasion, and could not be interpreted, by an impartial observer, as intended to acquire improper benefits. It is not permitted to offer, promise, give gifts or favours such as free gifts or forms of hospitality, or other benefits unless the value is low as indicated in the Code of Ethics. In any case, this expenditure must always be authorised, documented, and comply with budget limits.
2. within the scope of business negotiations, requests or commercial relations with the Public Administration or with a private party, the following actions are not permitted (on a direct or indirect basis):
    - i. examining or proposing opportunities for employment and/or commercial opportunities that could benefit Public Administration employees on a personal basis or private parties;
    - ii. request or obtain confidential information that could compromise the integrity or reputation of both parties;
  3. within the scope of relations, that do not have to be commercial, between Rai Com and the Public Administration, public officials, parties engaged to carry out public services or private parties must not:
    - iii. offer, promise, give, including through third parties, money or other benefits, that could also entail work or commercial opportunities, to the public official involved or the private party, <sup>5</sup>their respective family members, or parties connected to them in any way;
    - iv. from accepting the requests or solicitations, including through third parties, of money or other benefits, that could also entail work or commercial opportunities, from the public official involved, the family members of the parties indicated above or parties connected to them in any way;
    - v. from looking for or unlawfully initiating personal relations of favouritism, influence or interference, that could affect, directly or indirectly, the outcome of the relationship;
  4. misuse their positions or powers to force or persuade anyone to give or promise, unlawfully, to them or third parties, also on behalf of Rai Com, money, presents or other benefits from parties who have received, or could receive benefits from activities or decisions relating to the position held;
  5. make unofficial payments with the aim of speeding up, favouring or ensuring the execution of a routine activity or in any case provided within the scope of the duties of public or private parties that Rai Com has relations with;

---

<sup>5</sup> Family members include the following: the spouse of a Public Party; grandparents, parents, brothers or sisters, children, grandchildren, uncles or aunts or first cousins of the Public Party or their spouse; the spouses of any of these persons; or any other party that shares the home of these persons; the spouse of the private party; grandparents, parents, brothers or sisters, children, grandchildren, uncles or aunts or first cousins of the private party or their spouse; the spouses of any of these persons; or any other party that shares the home of these persons.

6. request services from consultants that are not adequately justified within the scope of the relationship established with them;
7. provide, in any form, untrue or incomplete information to national or foreign Public Administrations;
8. use amounts received from national or EU public bodies as grants, benefits or loans for different purposes than those originally intended;
9. condition, in any way or with any means, the freedom to choose of parties who, in any role, are required to make statements before the Legal Authorities;
10. promise or follow up on employment requests in favour of representatives of the Public Administration or parties indicated by them in order to influence the independence of judgement or lead to the assurance of any advantages to Rai Com;
11. put in place or instigate others to carry out any corrupt practices of any nature.

#### 4.3.2 Rules implementing decision-making processes

The *standards* of control identified for the risk areas and activities are listed herebelow.

***Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private***

The execution of the activities provides for the following:

- expression of interest in a proposed convention;
- definition of the prices to be applied for the agreements to be concluded in line with the standards used for similar activities in the past;
- definition of roles and tasks of the Departments in charge of managing the initial relations with the Public Party<sup>6</sup>/private party, providing for specific control

---

<sup>6</sup>Public Party:

- anyone who exercises a legislative, judicial or administrative public function;
- anyone who acts as an official in the interest of or on behalf of (i) a national, regional or local public administration, (ii) an agency, office or body of the European Union or an Italian or foreign, national, regional or local public administration, (iii) an owned company, subsidiary or associate company of an Italian or foreign public administration, (iv) an international public organisation such as the European Bank for Reconstruction and Development, the International Bank for Reconstruction and Development, the International Monetary Fund, the World Bank, the United Nations or the World Trade Organisation, or (v) a political party, a member of a political party or a candidate for a political office, Italian or foreign;
- anyone engaged to carry out a public service, or those who, in any manner, perform a public service, where public service is understood to be an activity that is governed the same way as a public function but without the typical powers

instruments in the case of meetings with strategic aims and/or high-profile interlocutors (for example calling meetings, reporting on the main terms, participation in meetings with at least two representatives of Rai Com) in order to ensure compliance with the rules of integrity, transparency and legitimacy of the process;

- the separation of those who prepare and submit the offer and those who verify its appropriateness in relation to the type and size of the contractual activity;
- acquisition of the documentation and the approvals by publishers needed to prepare the quotation/bid to the counterparty;
- communication by e-mail of any customers to be excluded from the procedure of reminder for payment of overdue receivables to the Administration, Finance and Control Department;
- drawing up the draft contract, with potential assistance from the applicable company department; including contractual provisions aimed at compliance with the control standards/rules of conduct in the management of activities by the third party, and the activities to be carried out in the event of any deviations;
- the procedures to prepare, check and approve the documentation to be sent to the counterparty in relation to execution of the convention/contract/ framework agreement;
- the procedures and criteria at the basis of any changes and/or updates of the convention/contract/framework agreement;
- segregations between the Owner of the convention/ contract/framework agreement, and who verifies the consistency of the document itself compared to the performance;

of activities (the executor) and who issues the authorisation for the payment/liquidation of invoices;

- the procedures and terms of how to manage any counterparty objections, identifying the Departments/Facilities in charge of receiving the objections, checking the validity of the issue in dispute, the provision for any cancellation and checking on them;
- parties who have relations with or enter into negotiations with the Public Administration cannot alone and freely:
  - i. agree the contracts that they have negotiated;
  - ii. access the financial resources and/or authorise payments;
  - iii. make consultation/professional service appointments;

---

of a public function. The performance of simple duties or the provision of purely physical work are not included.

- iv. give any benefits in compliance with the procedures in force (e.g. gadgets, entertainment expenses).;

**2. Management of relations with public parties and Supervisory authorities:**

- a) to obtain authorisations or licences**
- b) to request occasional/specific administrative measures**
- c) to manage obligations, assessments or inspections**
- d) to the management of recruitment-related obligations of personnel**
- e) to manage social security treatment**
- f) other**

The execution of the activities provides for the following:

- separation of the Departments involved in these activities, providing for specific control systems (for example calling meetings, reporting the main terms) in order to ensure compliance with the rules of integrity, transparency and legitimacy of the process;
- definition of the roles and tasks of the Committee/Department in charge of controlling the stages for obtaining and managing the permits and/or authorisations, with specific regard to the factual and legal assumptions for submitting the relative request;
- the methods and departments in charge of managing inspections and assessments for the issues in question;
- granting special power of attorney or authorisation to the parties who may be involved in the inspections and/or assessments in order to give them the power to represent the Company before the public authorities in the event of inspections and/or assessments and identification of the person who will represent the Company before the grantor Public Administration, who will be given the applicable power of attorney and authorisation; drafting and filing of an information report on the activities carried out during the inspection by the attorneys/authorised parties indicated above, containing, inter alia, the names of the officials met, the documents requested and/or delivered, the parties involved and a summary of the verbal information requested and/or provided;
- when and how to approach any other Departments or if necessary and urgent, inform top management;
- identification of specific control systems (for example calling meetings, reporting the main terms) in order to ensure compliance with the rules of integrity,

transparency and legitimacy of the process;

- identification of specific control and assessment protocols on the truth and accuracy of the documents for the Public Administration (for example joint checking by the person in charge of submitting the application and the person in charge of managing the relations with the Public Administration);
- signing of a periodic self-certification, requested by the Parent Company, by personnel in charge of relations with the PA/public institutions, in which they declare the non-existence of situations, even potential, of conflict of interest or relations with representatives of public institutions and the Public Administration;
- identification of specific information flows between the Directorates/Structures involved in the process, with the aim of mutual control and coordination;
- monitoring of business contacts and initiatives undertaken with the Public Administration or Institutions, both Italian and foreign.

### ***3. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general***

The regulation of the activity provides for:

- that the activities relating to the tax process, including the operating procedures for the use of services provided by external professionals, are carried out with diligence, professionalism, transparency, fairness and in compliance with all applicable laws and regulations, the Code of Ethics and Model 231;
- specific controls on activities preparatory to the preparation of tax returns, including the performance of additional checks by internal and external independent parties;
- the traceability of the activities and documents inherent in the process, ensuring the identification and reconstruction of the sources, information elements and controls carried out that support the activities and the preservation of the inherent documentation, in compliance with the law, using, where available, dedicated information systems
- the keeping of accounting records with the same criteria of order, systematicity and timeliness as administrative records;
- formalised rules guaranteeing accounting transparency in order to ensure that the facts relating to the tax process are correctly and promptly represented in the accounting records and that they reflect what is shown in the supporting documentation.

### ***4. Management of the request / acquisition and/or management of aid, funding,***

***loans, or guarantees granted by public/private parties***

The control of the activity provides for the following:

- separation of the Departments in charge of monitoring the opportunities to access grants and/or funding, making contact with the private/public party for the request for information, drafting the application, submitting the application and managing the grant/funding, drawing up specific control instruments (for example calling meetings, reporting on the main terms) in order to ensure compliance with the rules of integrity, transparency and legitimacy of the process;
- specific checks on the truthfulness and legitimacy of the documents that need to be submitted to access the grant and/or funding (for example joint checking by the person in charge of submitting the application and the person in charge of checking management of the grant and/or funding);
- identification of specific information flows between the Departments involved in the process, with the aim of mutual control and coordination;
- identification of the person appointed to represent the Company who will be granted the applicable power of attorney and delegation of authority;
- definition of the roles and tasks of the Committee/Department in charge of ensuring the exact correspondence between the actual purpose for which the grant and/or funding is used and the purpose for which it was obtained.
- formalisation of the modalities and Committees involved in the reporting phase to the financing body.

***5. Management of court, out-of-court and arbitration proceedings***

The control of the activity provides for the following:

- clear and formal identification of the persons authorised to represent the Company in court;
- the identification and separation of the Directorates/ Structures responsible for the receipt and promotion of disputes, the verification of the effectiveness of the object of the dispute, the management of disputes in the extrajudicial phase and the management of disputes in the judicial phase;
- the procedures and terms for the rapid transmission of the objection to the “Legal and Corporate Affairs” Unit along with an explanatory report, of the facts on which the claim is based;
- identification of specific information flows between the Departments involved in the process, with the aim of mutual control and coordination;

- identification of specific periodic reporting lines between the “Legal and Corporate Affairs” Unit and top management on the status of the disputes and the possibility and terms of out-of-court settlements or court mediations;
- that the dispute is based on objective parameters and any settlement and/or mediation will be carried out by the person who has the necessary power of attorney and authorisation to act in the dispute, including the power to mediate or settle the dispute;
- formal definition of the general obligations to be fulfilled by the professional when carrying out assignments;
- the obligation to select professionals from among those on predefined lists, in the event of a derogation, to provide adequate justification, pointing out the advisability of initiating the process aimed at including the professional in the aforementioned list and/or register;
- indication of the selection criteria for external professionals (for example: experience, subjective professional competence and integrity requirements, references, etc.) and how to manage and control the work of said professionals (to that end, referring to the standards of control relating to the susceptible activity of managing consultation and professional services);
- provision of a rotation principle for the selection of the professional;
- formal definition, within the mandate/contract signed with the external lawyer/professional, of the parameters relating to the fees to be paid for the service, consistent with the nature and complexity of the assignment and the subject matter of the service;
- signing of the contract in accordance with the predefined contractual standards and approval thereof by appropriate levels of authority;
- assessment, preparatory to the commencement of litigation or the continuation or otherwise in any subsequent levels of judgment, in terms of the advisability, relevance and riskiness of the litigation, with the consequent definition and approval of the litigation strategy or settlement agreement;
- formal transmission to the competent corporate structures, the final deed (judgment or settlement) imparting the necessary provisions to comply with the rulings of the judicial authority or with the settlement and/or conciliation agreements entered into;
- definition of the procedures and deadlines for the prompt transmission of the dispute to the "Legal Affairs" Unit, together with an illustrative report of the factual circumstances on which the dispute is based;
- identification of specific information flows, between the Departments/Structures involved in the process, for the purpose of mutual verification and coordination;
- contestation based on objective parameters and that any settlement and/or



conciliation is conducted by the person holding an appropriate power of attorney and/or proxy ad litem, which includes the power to conciliate or settle the dispute

- supervision of the dispute and approval of the invoices issued by the consultant, also with reference to the adequacy of the fees in relation to the tariff level applied;
- verification of the correct application of the value-added tax percentage on the invoice with respect to the subject matter of the service and verification of its correct application to the taxable amount;
- that relations with the Legal Authorities and the Public Administration within the scope of court and out-of-court disputes must be guided by the principles of honesty, transparency and traceability, even when managed through an external lawyer;
- periodic monitoring of the progress of disputes and subsequent traceability and archiving of the internal process by the “Legal and Corporate Affairs” Unit;
- management of the relations in a way that ensures that parties are not persuaded not to make statements or make untrue statements to the Legal Authorities.

## **6. Purchasing work, goods and services**

- a) purchase of goods and services with service contracts**
- b) purchase of operating goods and services**
- c) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities)**
- d) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals)**
- e) purchase of consultancy services**
- f) purchase of marketing-related rights**

The control of the activity provides for the following:

- Transparent standards of conduct, that are also impartial, objective at all stages of the supply/consultation/performance and professional service process to ensure the best possible cost, quality and time arrangements;
- The roles, responsibilities and operational procedures for the phase of requesting, assessing and approving requests for supply/consultation/performance and professional services;



- the identification of roles and responsibilities for the formalised verification activity of what was purchased from both a technical and editorial point of view..

See the following provisions regarding the specific stages of the process:

**Implementation of process to request supplies/consultation/performance and professional services**

- the formal planning by the claimants Committes, where compatible with the plans of production, of their supply requirements of goods, services and works
- formalisation of requests for supplies/consultation services/performance and professional services, which must contain:
  - the purpose of the request, i.e. the precise description of the goods, work or service that needs to be acquired;
  - the product category of the goods, service or work to be procured;
  - the financial value of the request;
  - administrative-accounting and management information;
  - places, times and terms of delivery, duration of benefits and frequency of the project status report;
  - the type of procedure to be followed explaining in full and in detail the reasons for the possible use of negotiated procedures;
  - the technical specifications or technical requirements of the goods, work or service to be acquired, or the description of the respective characteristics, specifying the quality, technical characteristics and compliance with legal requirements, with special reference to safety at work, health and environmental protection;
  - the reason justifying any need to negotiate directly with a single economic operator;
  - the Department/Structure that will have the role of “contract manager”;
  - other specific information provided for the goods, the work or service to be sourced, when necessary;
- formal approval of the request for supply/consultation/professional service, in line with the current system of powers;
- if the requesting Departments/Facilities are the same as the Facilities who have to make the purchase, the guarantee that the principle of separation of

activities will be complied with, keeping the persons who manage the purchase separate from those who request it or use it;

- the traceability of this verification activity.

**Selection of the suppliers/consultants and qualification process:**

- the rules and criteria that permit the technical and management capacity and the ethical, economic and financial reliability of a supplier/consultant to be checked and monitored on the basis of objective, pre-established elements; the selected supplier/consultant must be able to guarantee:
  - the safeguarding and protection of the environment;
  - promotion of healthy and safe work conditions;
  - compliance with health and safety measures at the workplace;
  - prohibition on forced labour or exploitation of minors;
  - freedom of trade union association and collective bargaining;
- the prediction of an invitation to tender for selection of the supplier/consultant unless individual cases which allow entering into direct negotiations;
- the assessment of suppliers/consultants must comply with the principles of transparency, equal treatment and the Code of Ethics;
- the provision of a register/list of suppliers, specifying:
  - the procedures relating to the request for admission, analysis and evaluation of the request, the designation and its effects, the ways to manage and update the list;
  - the matters expressly exempt from the obligation to be on the company register/list;
- formalisation and approval of the results of the supplier's evaluation by note forwarded to the relevant attorney;
- the provision of a validity period relating to the status of being designated as supplier/consultant, which must be adequate, and ensure periodic checking and updating, also following feedback, inspections or systematic gathering of information.

**Procurement:**

- formalisation of the procedure starting from definition of the requirement up to authorisation and issuing of a purchase request, with indication of the management methods and authorisation levels;
- identification of the purchase order, checking to ensure that it corresponds with the authorised purchase request, the authorisation and performance procedures;
- provision of methods to receive and the declare acceptance of the goods/service acquired;
- checking that the requests for supplies/consultation/performance and professional services come from authorised parties;
- ensuring that recourse to direct negotiations with a single economic operator are only carried out in the cases provided for by law and case law and clearly identified, adequately motivated and documented, and subject to suitable control and authorisation systems;
- identification of the rotation criteria for the persons involved in the supply process;
- separation of the main activities between the person who makes the decision to begin procedures, the one who decides on the requirements for participation in the tender/selection, the one who decides on the choice of contracting party, the one who makes the agreement, the one who decides on any changes/additions, the one who checks compliance with the contractual terms, the one who manages relations with the third party contracting parties at the assessment and testing stages or at delivery, and the one who manages any settlements);
- the provision regarding the prohibition on entering into contracts with parties indicated on the Reference lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), subject to formal authorisation by the Chief Operating Officer or the General Manager regarding the powers assigned;

**Contracts:**

- drafting the written contract for the supply/consultation/performance and professional services in accordance with the principles and guidelines defined by the applicable Facilities/Departments;
- the separation of tasks between the persons who manage the operating activities during the supply/consultation/performance and professional services requesting process and the person who approves the contract;
- definition of the management methods of the contract amendments that charge the drafting of a new purchase request and the explanation of the reasons for it;

- drafting contractual terms and conditions that take account of:
  - costs;
  - safety conditions;
  - procurement times;
  - any other relevant aspects for execution of the activity;
  - method used to pay for the goods, the work or the service requested (unit instalments, lump sum, repayable, etc.) in accordance with company payment policy rules;
  - duration of the contracts;
- the addition of the following agreements into the contracts for supplies/consultation/performance and professional services:
  - specific binding clauses for third parties aimed at preventing behaviour, actions or omissions that could lead to liability in accordance with Legislative decree 231/01; clauses that provide for the obligation to be aware of and comply with the standards in the Code of Ethics and the Model adopted by Rai Com; and application of penalties in the event of breach of said obligations;
  - specific anti-bribery clauses such as: (i) a declaration by the supplier that the amount paid comprises the exclusive payment for the work described under the contract and that it may never be given to a Public Party or private party, or one of their family members, as a bribe, or transferred directly or indirectly to members of the company bodies, directors or Company employees; (ii) a prohibition on suppliers directly or indirectly transferring the payment to directors, managers, members of the company bodies or employees of the company or their family members;
  - the indication of the parties for whom the supplier / consultant takes on the responsibility for guaranteeing compliance with applicable laws, and more specifically refers to the applicable Anti-Bribery laws<sup>76</sup> and the Code of Ethics;
  - rules governing sub-contracting;
  - the application of penalties in the event of breach by the supplier/consultant of the obligations, declarations and guarantees

---

<sup>7</sup> Anti-Bribery Laws: a) the Italian Criminal Code, Decree 231 and other applicable provisions (law 6 November 2012, no. 190, containing "Provisions for the prevention and suppression of bribery and unlawfulness in the public administration"), the FCPA (the Foreign Corrupt Practices Act issued in the United States), the Bribery Act 2010 (issued in the United Kingdom), the other public rights laws and commercial laws against bribery in effect in the world and international anti-bribery treaties such as the Convention of the Organisation for Cooperation and Economic Development in the fight against the bribery of foreign public officials in international economic transactions and the United Nations Convention against bribery; b) the internal Anti-Bribery provisions adopted by the company in order to prevent bribery-related risks

indicated above, or in the event of breach of the anti-bribery laws;

- for the tender contracts, standard contractual clauses regarding the costs of safety and compliance with the rules regarding the specific clauses with which the contractors declare that they are aware of and undertake to comply with prevailing labour laws (for example the payment of contributions, fulfilling safety obligations), protection of minors and women's work, hygiene-health conditions and safety conditions, trade union rights or in any case the right of association and representation required by the laws of the country where it operates, and financial traceability;
- the allocation of the Contract to a Contract Manager, specifying the role and duties, and acceptance by the contract manager of the role and duties assigned with provision for or authorisation by an authorised person in a higher position, who is not the manager, in the event of changes/additions and/or renewal of the contract. The Contract Manager will receive shall receive adequate training and training on the standards and rules of conduct of the Company, the Code of Ethics and Model 231, and more specifically on the Anti-Bribery Laws. The Contract Manager will be in charge of:
  - monitoring and verifying the correct performance of the Contract;
  - ascertaining and ensuring that the counterparty always operates in compliance with the criteria of maximum diligence, honesty, transparency, integrity and in accordance with Anti-Bribery Laws, Model 231 and the Code of Ethics of the Company;
  - noting any critical issues encountered in the performance of the relationship in the activities carried out by the Supplier/Consultant in order to immediately alert the applicable department;
- identifying and implementing rules and responsibilities to store and file the documentation relating to the various phases of the processes put in place and carrying out the controls needed to ensure compliance of the procedure.

#### **Correct performance of the service**

- verification of the correctness and consistency of the contract / purchase order (PO) with respect to the subject of the purchase and verification of the consistency of the fees with respect to the service requested
- verification of consistency between the subject who provided the service (good/work/service) and the subject indicated in the PO/contract and the subject who issued the invoice.

## **2. Recruitment, management and development of staff**

The control of the activity provides for the following:

- recruitment of staff in compliance with the principles of transparency, publicity and impartiality;
- The roles, responsibilities and operational procedures for the request, assessment and approval stages for staff recruitment requests;
- the staff selection/recruitment steps in accordance with the hiring requirements established by the Company;
- the performance of staff selection/recruitment phases in line with the insertion needs identified by the Company;
- due to the small size of the Company and the high degree of technical specialisation that the Company's business requires, alternative measures to staff rotation are mainly adopted (e.g. (i) the segregation of duties and functions, (ii) the verification and introduction of control principles of the various activities), so as to be able to mitigate the risks to which the staff rotation discipline is subject. Moreover, the Company refrains from implementing practices such as so-called tying and the artificial splitting of objectively unitary assignments;
- the recruitment, through job posting, of internal resources adequate to the need (in qualitative and quantitative terms), prior to the recruitment of external candidates. In the event of unavailability or absence of internal profiles, of lower availability compared to the needs or of only partial compliance with the profile sought, a subsequent search phase will be carried out on the external market.
- selection notices for the recruitment of external candidates are published by means of advertising tools (web, press advertisements, notices, etc.). The selection of candidates is managed directly or with the support of specialised external companies and takes place through the evaluation of qualifications and/or professional experience and/or the administration of tests. For the recruitment of managerial and/or specialised profiles, given their peculiarities and the highly competitive context that characterises the commercial context, Rai Com may entrust the search for personnel to specialised companies (so-called headhunting or similar) as an alternative to the selection procedures indicated;
- for the recruitment of permanent staff referred to professional profiles that are not present in the Company, at a non-managerial level, recourse shall be made to the selective procedures referred to the Parent Company;
- a priori identification of the cases excluded from the recruitment criteria: a) cases in derogation, adequately justified and subsequently authorised at the competent organisational level, such as the holders of positions characterised by professional relationships of trust in relation to the position that objectively requires such nature and/or in relation to the specific skills required, such as those reporting directly to the Top Management; b) the recruitment of workers included in professional recruitment basins in application of agreements signed by the Company and the Trade Unions as well as workers who have already

- been employed by Rai Com, with subordinate employment contracts, supply contracts or self-employment contracts; c) the hiring of workers enrolled in the targeted employment lists pursuant to Law 68/99 and subsequent amendments and additions. In this case, recruitment may be regulated by specific agreements. Applications are received spontaneously, as well as through the competent offices pursuant to the aforementioned law no. 68/99 in the event of a request by the Company for pre-selection pursuant to Article 7, paragraph 1 of the same law; d) exceptional cases and/or objective urgency, adequately motivated and subsequently authorised by the competent organisational level, for the performance of distribution and commercial activities;
- conferment of external appointments (by means of freelance work contracts, of an occasional or coordinated and continuous nature) in relation to objective, ascertained and tracked Company needs, formalised and justified by the Heads of the requesting Company Departments/Facilities
  - formalisation of the request for conferment of the appointment, by the Head of the requesting Department/Corporate structure, after ascertaining the impossibility of using resources of his/her own sector or of the Company. In the event of unavailability or absence of internal profiles, of lower availability compared to requirements or only partial compliance with the profile sought, at the end of a traceable process, the Head of the requesting Department/Business Unit shall propose the appointment;
  - the formalisation of the appointment by means of contracts signed by persons with valid power of attorney, in compliance with the powers of attorney in force from time to time, ensuring adequate traceability and segregation of responsibilities;
  - without prejudice, in any case, to the need for adequate justification and subsequent authorisation by the competent organisational level, particular cases of exclusion, including cases of renewal of appointments, in the selection procedures, even if only partial, from the criteria indicated concern a) professional profiles of an artistic or cultural nature or, in any case, those directly or indirectly functional to the performance of activities of a distribution and commercial nature; b) exceptional cases and/or cases of objective urgency, determined by non-programmable causes, adequately motivated and subsequently authorised by the competent organisational level; c) exceptional cases, adequately motivated and subsequently authorised by the competent organisational level, characterised by a close relationship of professional trust and/or confidentiality and by a high technical-specialist content, in all the Company Departments/Facilities, functional to maintaining or improving the competitive level in the reference market.
  - rules and responsibilities for the preservation and archiving of the documentation relating to the various phases of the processes implemented and the controls to verify compliance with the procedure;
  - formal request to candidates, in the event of external selection, of any kinship relations with members of the Public Administration or employees of the Company, and the relative degree of kinship; all candidates, collaborators and employees are required to sign self-declarations of incompatibility and



incompatibility at the recruitment stage.

- formal verification of the identification and supporting documentation required for recruitment (e.g. certificate of qualifications, certificate of pending charges, etc.);
- verification, by appropriate organisational levels, of any situations of conflict of interest;
- provision of the prohibition to hire persons indicated in the reference lists relating to the financial fight against terrorism (published by the Financial Intelligence Unit set up at the Bank of Italy), unless authorised, formally, by the Chairman and Managing Director in relation to the powers vested in them;
- formalisation of the outcome of the assessment of candidates at the various stages of the selection process, by the persons involved;
- formal definition and approval by the parent company of the annual budget dedicated to labour costs;
- formal identification of the percentage of the budget to be dedicated to remuneration policy interventions;
- formal definition of the procedures and process for carrying out performance evaluations;
- formal approval, in line with the existing system of powers, regarding the allocation of bonuses; .
- approval/verification of requests for leave/permits and/or justification in the event of illness;
- transmission of justification by the employee in case of illness or maternity;
- periodic checks on compliance with legal regulations concerning the performance of work in line with normal working hours and the enjoyment of holidays, rests, leaves and leave, as well as forecasting the activities to be followed in the event of any deviations;
- monthly checks to reconcile employee attendance;
- monitoring attendance;
- for external consultants: determination, management and payment of staff social security, contribution and welfare payments, including the preparation of related declarations;
- for external consultants: authorisation of payment arrangements for staff social security, contribution and welfare payments;
- for external consultants: monitoring of the deadlines to be met for



communications, reports and fulfilments vis-à-vis the competent social security and welfare bodies;

- for external consultants: signing communications to be transmitted to the competent Social Security and Welfare Bodies, after verifying the completeness, accuracy and truthfulness of the data and information contained therein.

### **3. Management of the financial transactions, including intra-group**

The control of the activity provides for the following:

- the separation between the Directorates/Structures in charge of planning, management and control of the financial resources;
- rules formalised in intercompany contracts for the management of invoicing between Group Companies;
- the use of adequate corporate management information systems, for the management of activities relating to active and passive invoicing and to the related collections and payments, which guarantee the recording of all the process phases involving the generation of a cost/revenue and which do not allow the active/receivable invoice to be issued/recorded and the related collection/payment to be finalised without adequate documentary support
- the procedures for the use of corporate credit cards, in particular: the approval process of the virtual card, the rules for reporting and reimbursement of expenses.

With reference to payments:

- i. the declaration that the service has been performed;
- ii. the controls and registration procedures for the invoices received;
- iii. the procedure for preparing and authorising the payment proposal;
- iv. the payment procedures;
- v. formalisation of the reconciliation of the current bank accounts by reasons for leaving; any reconciliation items must be justified and traceable with supporting documentation;
- vi. formal authorisation of the payment, in line with the existing system of powers;
- vii. the obligation to make payments only to the payee to the account held in the payee's name; no payments may be made to a numbered account or in cash, or to a person other than the payee, or in a country other than

that of the payee or the country where the service was performed;

- viii. payments are made: (a) with the prior written authorisation of the Contract Manager certifying that performance has been effected and/or the conditions set out in the Contract for payment have been fulfilled, (b) only against written invoices or requests for payment from the other party and in accordance with the terms of the Contract.

with reference to payments:

- i. the controls and recording methods for invoices issued;
- ii. the methods for registering and accounting for the takings;
- iii. the prohibition on using cash or other bearer financial instruments for any collection, payments, fund transfers, use or other utilisation of financial resources, and the prohibition on the use of anonymous current accounts or savings books or those with false names. Any exceptions to the use of cash or other bearer financial instruments shall be permitted for small amounts and are governed by specific procedures (for example petty cash procedures);
- iv. the prohibition on having relations, negotiating and/or entering into and/or performing contracts or actions with the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), subject to formal authorisation by the Chief Operating Officer or the Chief Executive Officer in accordance with the powers assigned;
- v.
- vi. the prohibition of accepting and executing payment orders from unidentifiable persons, who are not present in the registry and whose payment is not traceable (amount, name/name, address and account number) or if it is not ensured, after carrying out checks when opening/changing the supplier/customer registry in the system, that the name of the supplier/customer and the header of the account to which the payment is to be sent/ from which it is to be accepted fully correspond.

#### **4. Sale of goods and services in Italy and abroad:**

- a) Sale of rights to public parties;**
- b) Sale of rights in Italy;**
- c) Sale of rights abroad;**
- d) Other Sales (for example consultation services, television channels, etc.);**

**e) Sale of rights on web platforms.**

The control of the activity provides for the following:

- the definition of the roles and responsibilities of the Directorates/Structures that are involved in preparation of the documentation needed to define the agreement as the occasion arises;
- compliance with the principle of traceability of the process adopted to define the contract;
- the obligation to exclusively use contract models prepared by the applicable Directorates/Structures and submit any significant changes to the aforementioned models for approval by these facilities;
- the obligation to formalise and sign the contracts before starting the service and limitation of the option to enter into contracts after the service has begun to exceptional cases, with the specific reasons given in writing;
- the prohibition on having relations, negotiating and/or entering into and/or performing contracts or actions with the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), subject to formal authorisation by the Chief Operating Officer or the Chief Executive Manager in accordance with the powers assigned;
- checking the existence, availability, ownership and source of the goods being sold.

See the following provisions regarding the specific stages of the process:

***Identification of the counterparty***

- the prohibition on entering into contractual relations with customers who do not meet requirements in terms of morals and profession competence skill established by the company;
- requesting customers to produce a self-declaration that sets out the corporate structures (including minorities) and chain of control (including any trustees for which the beneficiaries are also named), in addition to a declaration of compliance of the entire corporate structure and chain of control with the ethics and professional standards of the Company. This standard can be waived by a risk analysis and assessment process providing that formal authorisation has been obtained by the corporate position of the appropriate hierarchical level;
- the check, by the Sales Directorate, of the information obtained;

- The prohibition on entering into contracts with parties on *black lists*. Parties are put onto black lists by the Administrative Directorate if the following conditions are met:
  - out-of-court credit recovery entrusted to specialist agencies;
  - cases taken to court or to arbitration;
  - insolvency or subject to bankruptcy procedures;
  - unpaid credit written off;
  - there is evidence of fraud against the Company;
  - other cases identified by the applicable Administrative Directorate on the basis of specific situations;
- the supplies/services will be blocked and the contract will be revoked if a counterparty is put onto the black list;
- the authorisation by the Chief Operating Officer and/or the General Manager, on the basis of the powers given, to maintain any business relations with customers on a black list if there are specific business reasons;
- formal definition of the procedure to be followed when identifying business opportunities;
- checks on the consistency of the commercial initiative with respect to the corporate strategy, the initiatives already in place and the technical-economic feasibility of the initiative;
- verifications preparatory to the commercial agreement, with regard to: (i) the availability of the rights in the portfolio, (ii) the reliability of the counterparty, (iii) the estimate of any technical costs of executing the contract, (iv) the need to prepare a business plan for the initiative
- formal definition of the operating procedures and process to be followed in the negotiation and conclusion of commercial agreements.

### **Contractual standards**

- contracts must be determined in association with the applicable Directorate/Structure, in particular, with the Legal and Corporate Affairs Structure, to guarantee compliance with current legislation, including antitrust regulations, administrative liability and anti-bribery laws;
- the contracts must be in writing with the exception of the cases expressly indicated in company procedures, and contractual standards must be used.

- ad hoc clauses or even ad hoc contracts can be used if necessary, or the customer's standard contractual terms providing that they have been approved by the applicable Facilities/Departments;
- the allocation of the Contract to a Contract Manager, specifying the role and duties, and acceptance by the contract manager of the role and duties assigned with provision for or authorisation by an authorised person in a higher position, who is not the manager, in the event of changes/additions and/or renewal of the contract. The Contract Manager shall receive adequate training and training on the standards and rules of conduct of the Company, the Code of Ethics and Model 231, and more specifically on the Anti-Bribery Laws. The Contract Manager will be in charge of:
  - monitoring and ensuring the correct performance of the Contract;
  - ascertaining and ensuring that the counterparty always operates in compliance with the criteria of maximum diligence, honesty, transparency, integrity and in accordance with Anti-Bribery Laws, Model 231 and the Code of Ethics of the Company;
  - noting any critical issues in the performance of the agreement with respect to the activities carried out by the Supplier/Consultant in order to immediately alert the applicable Directorate/Structure.

#### ***Price lists/Fees***

- the establishment of drafting criteria for the proposals/offers of sale to the counterparties;
- any changes to the structure of the price components and the criteria for determining them that have to be justified and approved by the applicable Committee;
- the formalisation of the discount levels subject to a specific authorisation procedure;
- the provision of the correct, complete and timely communication of contractual price lists/prices/discounts in the company's IT sales system; the price/discount on the invoice will be approved by the applicable Directorate/Structure and will not exceed the approved contractual price list/price/discount; the transfer of data related to the system prices (register, order and invoice) must be done promptly and completely.

#### ***5. Revenues from the use of Rai Com music in RAI programs***

The control of the activity provides for the following:

- the identification and separation of the Departments, including the Parent Company, involved in the activity in question;
- obtaining due authorisation from the Head Offices/Departments, including the Parent Company;
- the roles, responsibilities and operational procedures to define the transfer of music, produced internally by Rai Com or purchased by third parties in the Rai programs;
- identification of specific information flows between the Departments involved in the process, to obtain joint control and coordination;
- the identification and separation of the Departments, also of the Parent Company, involved in the activity in question;
- obtaining the necessary authorisations from the Departments/Departments, including those of the Parent Company;
- the storage and filing of revenue-related documentation and controls to allow reconstruction of the different stages of the processes put in place.

## **6. Free gifts, presents and benefits**

The control of the activity provides for the following:

- the roles, responsibilities and operational procedures for the request, assessment and approval stage of the free gifts;
- identification of the characteristics that any gift must have, such as:
  - it may not be a cash payment;
  - it must be given for legitimate business reasons and in good faith;
  - it may not be given to exercise undue influence or expectations of a return favour;
  - it must be reasonable according to the circumstances, be in good taste and comply with standards of generally accepted professional courtesy, in accordance with local laws and regulations that apply to public or private parties<sup>8</sup>;
- that any free gifts made to family members or persons indicated by a private party, business partner<sup>9</sup> or public party, proposed at their request, or if no

---

<sup>8</sup> Only applicable for activities carried out abroad.

<sup>9</sup> Each third party, who is not an employee, who receives or provides products or services from/to the Company or from/to third parties who act on behalf of the company (for example consultants, intermediaries, dealers, agents, etc.).

- proposal was made, that can be traced to the relationship linking them to the beneficiary, must be considered to be a benefit provided directly to the private party, business partner or public party, and therefore subject to the limitations provided by the applicable procedure;
- the accurate, transparent registration of the financial information with enough details about expenses for corporate free gifts and the gifts relating to specific projects. These expenses must be backed up by applicable documentation to identify the name and title of each beneficiary<sup>10</sup> and the purpose of each gift, the economic advantage of other benefits;
  - the provision regarding the prohibition on giving gifts to the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy) subject to formal authorisation by the Chief Operating Officer regarding the powers assigned;
  - a summary report (for example half-yearly) of the items given, for each type of free gift, in the applicable period, containing:
    - the purpose,
    - the beneficiary,
    - the description of the item,
    - the purchase price,
    - the request made with indication of the relative authorisation,
    - the quantity given,
    - the date given.
  - management of the specific top management corporate gift requirements in accordance with the approved budgets in agreement with the respective secretarial offices;
  - the storage and filing of documentation relating to the gifts offered or received by people in order to check compliance with the applicable procedure and allow reconstruction of the different stages of the processes put in place;
  - appointment of a Free gift Manager to manage the free gifts. The Free gift Manager shall receive adequate training and training on the standards and rules of conduct of the Company, the Code of Ethics and Model 231, and more specifically on the Anti-Bribery Laws;
  - The Free gift Manager shall be in charge of:

---

<sup>10</sup> This provision does not apply to gifts with limited economic value (for example diaries, umbrellas, calendars, pens, etc.).

- monitoring and ensuring the correct performance of the Free gift distribution process;
- monitoring and storing the items to be used as free gifts.

### **Free gifts, economic benefits offered or received by staff**

In addition to the above, control of the activity provides for the following:

- that any free gifts, economic benefits or other benefits offered or received by staff must be reasonable and in good faith from an objective viewpoint;
- the obligation to notify the direct superior about the free gift or economic benefit offered to or received by staff if the actual or estimated value exceeds (or probably exceeds):
  - the “individual limit” of 150 euros<sup>11</sup>;
  - the “cumulative limit” (corresponding to four times the “individual limit”) that accrues when the same party or organisation receives or is offered, in one year, a free gift or an economic benefit that exceeds that amount, even if individually each free gift or benefit does not exceed the “individual limit” indicated above;
- the registration (even if the free gift was refused) in an accurate, transparent manner, on a suitable register, kept by the applicable Directorate/Structure and containing the following information:
  - name of the person who was offered or who received the free gift or economic benefit (beneficiary);
  - name of the company and the person who made that offer or provided the free gift or economic benefit;
  - date the free gift was offered to the staff;
  - current or estimated value;
  - indication of whether it was accepted or refused and reasons.

### **Free gifts given to third parties**

---

<sup>11</sup>The reference value indicated as “modest value” was identified in accordance with governmental circular of 8 February 2012 in which the “instructions for all the facilities that depend on the Ministry for the Economy and Finance and the President of the Council, to ensure efficiency and good value in administrative activities” were established.



In addition to the above, control of the activity provides that a gift is reasonable and bona fide when it is directly related to: (i) the promotion, demonstration or illustration of products or services; (ii) the development and maintenance of cordial business relations.

## **7.        *Organisation and management of events***

The control of the activity provides for the following:

- the roles, responsibilities and operational procedures for the request and assessment stage of the event to be included in the Events Plan;
- the performance of all the event activities in accordance with the approved budget;
- identification of the information that the requests must contain:
  - promoter;
  - reasons;
  - cost;
  - any other sponsors present.
- formalisation, in a suitable document, of the assessment of the requests made by a team established for the purpose;
- identification of the parties authorised to approve the event;
- formalization, in a suitable document, of the assessments of the requests made by a dedicated team
- identification of those who authorise the event; the execution of the reporting of the event through the certification of the performance and the final calculation of the expenses incurred for the organisation and management of the event;
- definition of the modalities for issuing the acceptance test prior to the payment of the invoice;
- the formalisation of the rules and responsibilities for storing and filing the documentation relating to the various phases of the processes put in place and the controls needed to ensure compliance of the procedure.

## **8.        *Travelling expenses and advances***

The control of the activity provides for the following:

identification of application of the applicable procedures by the parties who can authorise travel and services outside the company to ensure implementation pursuant to the criteria of cost-effectiveness and the approved budget. Specifically, these parties evaluate:

- during the travel authorisation stage:
  - the need for the travel and the reasonableness of the duration, authorising any special conditions;
  - the need to provide an advance and its amount.
- during the report authorisation stage, the reasons relating to:
  - the reasonableness of the costs incurred;
  - the use of taxis where not normally permitted;
  - the use of means of transport in special cases or to reach destinations that had not originally been planned for;
- the means of reimbursement and preparation of the statement of travel expenses;
- the ceiling for the use of cash advances for travel expenses;
- the types of expenses which can be reimbursed if there is sufficient supporting documentation;
- identification of the controls related to correct implementation of the authorisation procedure and the documentation supporting the reimbursement request for the expenses sustained for travel and work performed outside the place of work;
- the storage and filing of documentation relating to the request, authorisation, agreement and management stages of the activities, and the controls to allow reconstruction of the different stages of the processes put in place.
- periodic monitoring of expense reports and related contributions paid to employees, with a view to identifying any concentrations or anomalies.

## **9. Selection, contractualisation and management of agents**

The control of the activity provides for the following:

- the analysis of the dimensioning of the number of the agents necessary to achieve the Company business goals;
- formalisation of the request to start the selection process, consistent with the

actual budget availability;

- verification of requests on the basis of the organisational needs budget;
- formal provision of a selection channel;
- formalization of the decision-making process and the reasons leading to the choice of agent;
- definition of the minimum requirements of reliability/integrity/commercial credibility of the agent on the basis of certain relevant indicators (for example adverse public data - protests, insolvency proceedings - or acquisition of sales information on the company, the shareholders and the directors through specialised companies and/or by obtaining specific self-certification by the counterparty and/or by submission of the General Criminal Record Certificate);
- the prohibition on having relations, negotiating and/or entering into and/or performing contracts or actions with the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), subject to formal authorisation by the Chief Operating Officer or the Chief Executive Officer in accordance with the powers assigned;
- separation of the departments that select the agents/introduced business agents, that sign the contract, calculate the remuneration, make payments and authorise settlement of the payments;
- formal signature and approval of the contract, by appropriate organisational levels, in compliance with existing powers of attorney;
- the traceability of the relevant documentation, the level of formalisation and filing procedures/timeframes;
- the definition of remuneration linked to pre-established parameters;
- specific binding clauses for third parties aimed at preventing behaviour, actions or omissions that could lead to liability in accordance with Legislative decree 231/01; clauses that provide for the obligation to be aware of and comply with the standards in the Code of Ethics and the Model adopted by Rai Com; and application of penalties in the event of breach of said obligations;
- specific anti-bribery clauses such as:
  - a declaration by the agent that the amount paid comprises the exclusive payment for the work described under the contract and that it may never be given to a Public Party or private party, or one of their family members, as a bribe, or transferred directly or indirectly to members of the company bodies, directors or Company employees;
  - a prohibition on the agent directly or indirectly transferring the payment to directors, managers, members of the company bodies or employees of

the company or their family members;

- the application of penalties in the event of breach by the agent of the obligations, declarations and guarantees indicated above, or in the event of breach of the anti-bribery laws;
- the right of the Company to carry out controls on the agent if there is a reasonable suspicion that the agent could have breached the contractual provisions described above;
- the existence of indicators that trigger further control procedures upon the occurrence of certain irregularities (for example if the agent carries out sales activities in a country or industrial sector well-known for bribes and corruption);
- the identification of specific cases and updating and/or review criteria, ordinary or extraordinary, of the initial agent evaluation (for example if a payment increase was requested rather than a discount, for issues not related to changes in the contract terms during negotiations);
- the allocation of the Contract to a Contract Manager, specifying the role and duties, and acceptance by the contract manager of the role and duties assigned with provision for or authorisation by an authorised person in a higher position, who is not the manager, in the event of changes/additions and/or renewal of the contract. The Contract Manager shall receive adequate training and training on the standards and rules of conduct of the Company, the Code of Ethics and Model 231, and more specifically on the Anti-Bribery Laws. The Contract Manager will be in charge of:
  - monitoring and ensuring the correct performance of the Contract;
  - ascertaining and ensuring that the counterparty always operates in compliance with the criteria of maximum diligence, honesty, transparency, integrity and in accordance with Anti-Bribery Laws, Model 231 and the Code of Ethics of the Company;
  - noting any critical issues in the performance of the agreement with respect to the activities carried out by the agent in order to immediately alert the applicable Directorate/Structure;
- the rules and responsibilities for storing and filing the documentation relating to the various phases of the processes put in place and the controls needed to ensure compliance of the procedure.

#### **10.     *Activation of commercial partnerships across the world***

The control of the activity provides for the following:

- the partners must only be well-known organisations, reliable and with an excellent reputation with respect to honesty and fair trading practices unless

- otherwise formally authorised by the CEO in the case of beginner or emerging partners;
- the classification of every partner;
- formalisation of the decision-making process and the reasons that led to the choice of partner and the investment hypotheses, taking account of the artistic, publishing and economic-financial assessments of the production, and an analysis of the consistency with the publishing policies defined by Company Management and the investment plans of the Company;
- definition of the minimum reliability/integrity/commercial credibility requirements of the partner on the basis of certain relevant indicators (for example adverse public information - protests, insolvency proceedings - or acquisition of sales information on the company, the shareholders and the directors through specialised companies and/or by obtaining specific self-certification by the counterparty and/or by submission of the General Criminal Record Certificate);
- the prohibition on having relations, negotiating and/or entering into and/or performing contracts or actions with the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), subject to formal authorisation by the Chief Operating Officer or the General Manager in accordance with the powers assigned;
- definition of the modalities for updating due diligence and/or qualification/accreditation aimed at verifying the maintenance of the relevant requirements over time;
- the formalization of any stage of trade negotiations with partners in order to outline the preliminary economic and commercial terms and the main editorial components of the agreement;
- the traceability of the relevant documentation, the level of formalisation and filing procedures/timeframes;
- the formalization of the agreement with the partner as authorized by the Competent Procurator;
- specific binding clauses for third parties aimed at preventing behaviour, actions or omissions that could lead to liability in accordance with Legislative decree 231/01; clauses that provide for the obligation to be aware of and comply with the standards in the Code of Ethics and the Model adopted by Rai Com; and application of penalties in the event of breach of said obligations;
- specific anti-bribery clauses such as:
  - a declaration by the counterparty that the amount paid comprises the exclusive payment for the work described under the contract and that it may never be given to a Public Party or private party, or one of their family members, as a bribe, or transferred directly or indirectly to

members of the company bodies, directors or Company employees;

- a prohibition on the counterparty directly or indirectly transferring the payment to directors, managers, members of the company bodies or employees of the company or their family members;
- the application of penalties in the event of breach by the agent of the obligations, declarations and guarantees indicated above, or in the event of breach of the anti-bribery laws;
- the right of the Company to carry out controls on the partner if there is a reasonable suspicion that the partner could have breached the contractual provisions described above;
- the existence of indicators that trigger further control procedures upon the occurrence of certain irregularities (for example if the partner carries out sales activities in a country or industrial sector well-known for bribes and corruption.);
- definition of the methods for verifying the conformity of the service received with the provisions of the order/contract/order
- definition of the methods for verifying the consistency between the party that provided the service (good/work/service), the party indicated in the order/contract and the party that issued the invoice
- definition of the modalities for issuing approval for the payment of the invoice upon verification of its consistency with the service and the order/contract/contract
- definition of the modalities for verifying the terms and conditions of the contract in relation to the payment method.

#### **11. Issuing of press releases and corporate adversiting**

The control of the activity provides for the following:

- definition of the roles and tasks of the subjects involved in the preparation and dissemination of data and news provision of separation between the function providing the data, the function in charge of preparing the press release and the subject authorising its dissemination
- definition and formal approval of an Annual Communication Plan and sharing of the same with the RAI Press Office;
- traceability of the sources and information by the person responsible for issuing press releases and similar information items;
- formalisation of rules for the identification of roles and responsibilities for external

communication and for the archiving of the approved document;

- formalisation of constraints (procedures or internal circulars, contractual clauses) for maintaining the confidentiality of relevant information of which Employees/External Collaborators become aware. Such constraints must expressly provide for the prohibition of dissemination of the relevant information inside or outside the Company, except through the institutionally prescribed channel;
- the formalisation of standards, rules and activities within the scope of the corporate communication processes with special reference:
  - to identification of the responsibilities and the standards of conduct to adopt;
  - to identification of the roles, tasks and responsibilities in the determination, approval and distribution of the corporate communications;
  - the characteristics of the advertising message, which: must be clear, truthful and accurate; be transparent and recognisable as such (and especially a prohibition on subliminal advertising) so that the intended audience is not passively subjected to it; must not praise non-existent qualities or effects; be fair, especially with respect to the competition; must identify a party who will be in charge of keeping up to date with regulations and case law on the matter.

**12. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels.**

The control of the activity provides for the following:

- automatic and manual controls for the preparation and processing of reports;
- formal approval of the statements by the Director of Management;
- verification of the correctness and consistency of the contract preparatory to the invoicing of the fees
- authorisation for the payment of invoices;
- traceability of activities and documents relating to the activity.

**13. Warehouse management.**

The control of the activity provides for the following:

- clear definition of the company subjects authorised to manage the physical handling of goods;

- access to company warehouses allowed exclusively to the dedicated Company personnel in charge of managing the warehouse;
- execution and formalisation of a periodic inventory aimed at verifying the correspondence of the accounting warehouse quantity with the actual physical quantity in stock;
- checking for misalignments that emerge during the physical count (between physical stock and book stock);
- authorisation of the recording of inventory adjustments;
- existence of quality controls on goods (including transport mode controls);
- profiling of users within the company's information system dedicated to warehouse management;
- execution and formalisation of testing/quality control activities on materials/goods received prior to their storage;
- verification of the complete and correct recording of the quantities/value of warehouse entries;
- formal provision of an incoming, outgoing and periodic check on the quality of the goods to ensure identification of all obsolete, damaged etc. stock;
- formal provision for the disposal of damaged, obsolete etc. stock;
- verification of the fiscal regularity of the management of goods exits.

#### **14. *Distribution of RAI channels abroad***

The control of the activity provides for the following:

- formal definition of the procedures to be followed when identifying commercial opportunities;
- definition of the roles and responsibilities of the Departments that are from time to time involved in the preparation of the documentation necessary for the definition of the agreement;
- formal definition of the operating methods and the process to be followed in the negotiation and conclusion of commercial agreements;
- observance of the principle of traceability of the process adopted to reach the definition of the agreement;
- obligation to use exclusively contract models prepared by the competent



Directorate and to submit for the approval of the same Directorate any significant variations with respect to the aforementioned models;

- obligation to formalise and sign contracts before the commencement of the service and limitation to exceptional cases, specifically justified in writing, of the possibility of concluding contracts after the commencement of the service;
- verification of the correct execution of the activities carried out and the delivery of the service with respect to the requirements and terms defined in the contracts;

verification, before marketing, of the correct affixing of the name and/or trademark and/or distinctive sign on the product.

## **5. SPECIAL SECTION B - Counterfeiting instruments or distinctive marks and Crimes against industry and commerce**

This Special Part, after a brief description of the predicate offences set forth in Article 25-bis and 25-bis no.1 of Legislative Decree 231/01 applicable to Rai Com, identifies the sensitive activities and the principles for implementing the decision-making processes that all the Recipients of this Model must adopt in order to prevent the occurrence of specific offences.

### **5.1 The relevant elements of counterfeiting instruments or distinctive marks (article 25-bis of Legislative decree 231/01) and crimes against industry and commerce (article 25-bis.1 of Legislative decree 231/01)**

#### ***Counterfeiting, alteration or use of markings, trademarks or distinguishing signs or patents, models and designs (article 473 Criminal Code)***

This offence punishes (i) anyone who, being aware of the existence of the industrial property title, counterfeits or alters trademarks or distinctive signs, whether national or foreign, of industrial products, or anyone who, without having taken part in the counterfeiting or alteration, makes use of such counterfeited or altered trademarks or signs; ii) anyone who counterfeits or alters national or foreign industrial patents, designs or models, or, without having taken part in the counterfeiting or alteration, makes use of such counterfeited or altered patents, designs or models.

#### ***Introduction into the State and sale of products with false markings (article 474 Criminal Code)***

The criminal offence punishes - apart from where there is criminal association in the offences as provided under article 473 - anyone who introduces into the territory of the State, in order to gain profit, industrial products with trademarks or other distinctive marks, Italian or foreign, that are falsified or altered.

Apart from cases of conspiracy to counterfeit, alter, introduce into the territory of the State, anyone who holds for sale, offers for sale or otherwise puts into circulation, in order to make a profit, products industrial products with counterfeited or altered trademarks or other distinctive signs, national or foreign.

#### ***Disturbing the freedom of industry or trade (Article 513 of the Criminal Code)***

This offence punishes anyone who uses violence against property<sup>12</sup> or fraudulent means<sup>13</sup>

---

<sup>12</sup> Violence against property' refers to the notion contained in Article 392(2) of the Criminal Code, according to which 'for the purposes of criminal law, violence against property occurs when the property is damaged or transformed or its purpose is changed'.

to prevent or disrupt the exercise of an industry or trade. The offence protects the normal exercise of industrial or commercial activity by private individuals.

The offence is of a subsidiary nature because it is intended to operate where the act does not constitute a more serious offence.

### ***Unlawful competition with threat or violence (Article 513-bis of the Criminal Code)***

The criminal law punishes anyone who, in the exercise of a commercial, industrial or otherwise productive activity<sup>14</sup>, engages in acts of competition with violence or threats<sup>15</sup>. The penalty is increased if the acts of competition concern an activity financed in whole or in part and in any way by the State or other public bodies.

### ***Fraud against national industries (Article 514 of the criminal code)***

This offence punishes anyone who, by offering for sale or putting into circulation<sup>16</sup>, on domestic or foreign markets, industrial products with counterfeit or altered names, brands or distinctive signs, causes damage to national industry<sup>17</sup>.

### ***Fraud in the exercise of trade (Article 515 of the criminal code)***

This offence punishes anyone who, in the exercise of a commercial activity, or in a shop

---

<sup>13</sup> "Fraudulent means" are to be understood as those means capable of misleading, such as artifices, deception, simulations, lies. Therefore, the frequent occurrence of the typical fact as an act of competition has led part of the doctrine to identify fraudulent means with the facts described in Article 2598 of the Civil Code and, therefore, for example, in the use of other registered trademarks, the dissemination of false and tendentious news, and in general in false advertising and parasitic competition, i.e. imitation of the competitor's initiatives so as to cause confusion.

<sup>14</sup> "Commercial" is any activity of interposition in the circulation of goods, 'industrial' is any activity aimed at producing goods or services, and 'production' is any activity economically oriented towards the preparation and offering of products or services on a certain market

<sup>15</sup> The aforementioned provision refers to those forms of conduct which, by being implemented with violence or threats, constitute unfair competition that takes the form of forms of intimidation, which tend to control commercial, industrial or production activities, or in any case to condition them.

In fact, the criminal offence was introduced by the legislator to punish competition carried out using mafia methods; therefore, according to the *voluntas legis*, the use of typical forms of intimidation typical of organised crime is typified, which, using violent or threatening methods, affects the fundamental law of market competition, intended to ensure the proper functioning of the economic system and, by reverberation, the freedom of persons to determine their own business.

However, no special relationship can be established between the offence under Article 513 bis of the Criminal Code and the offence of criminal conspiracy under Article 416 of the Criminal Code and mafia-type criminal conspiracy under Article 416 bis of the Criminal Code, given the episodic nature of the former and the associative nature of the latter: it follows that they can be combined.

Finally, the offence in question absorbs those of private violence, damage and battery. Finally, the relationship with the hypothesis in Article 513 of the Criminal Code.

<sup>16</sup> The conduct of putting up for sale and putting into distribution circuits relates to the activity of marketing, production and distribution, as a necessary adjunct to the activity of production.

<sup>17</sup> Alongside the provision on trade marks and distinctive signs, the offending provision also includes 'names', identifiable as those indications such as names, insignia, emblems, signatures, etc. affixed to mark products but not forming part of the trade mark.

open to the public, delivers to the purchaser a movable item for another, or a movable item, by origin, provenance, quality or quantity, different from that declared or agreed.

### ***Sale of industrial products with false markings (article 517 Criminal Code).***

In accordance with the criminal law elements, anyone who puts intellectual property or industrial products up for sale or otherwise into circulation<sup>18</sup>, with Italian or foreign names<sup>19</sup>, trademarks or distinctive marks, that could mislead the buyer as to the origin, source or quality of the work or product.

### ***Manufacture and sale of goods produced through misappropriation of industrial property rights (article 517-ter Criminal Code)***

Subject to application of articles 473 and 474 of the Criminal Code, the criminal law regulation punishes anyone who, being in a position to be aware of the existence of the ownership of industrial property, manufactures or uses industrial methods on objects or other goods by misappropriating industrial property rights, or in breach of said rights, or anyone who, in order to gain profit, introduces into the territory of the State, holds for sale, puts up for sale to consumers, or in any case places the goods described above into circulation.

It is also incriminated who, in order to gain profit, introduces into the territory of the State, holds for sale, puts up for sale to consumers, or in any case places the goods described above into circulation.

These crimes will be subject to punishment on condition that Italian and EU regulations and international agreements on the protection of intellectual property or industrial property have been complied with.

## **5.2 Identification of the areas and the susceptible activities relating to counterfeiting instruments or distinctive marks and crimes against industry and commerce**

The analysis of the company processes<sup>20</sup> led to identification of the activities in which the criminal offence referred to under article 25-bis and 25-bis.1 of Legislative decree 231/01 could take place, as detailed below.

---

<sup>18</sup> The harm to national industry, which is the constituent element of Article 514, may take the form of any injury caused to national industry, such as, for example, a decrease in business in Italy or abroad, failure to increase business, tarnishing of the good name of the company in relation to the product in question or to fair trading.

The offence is deemed to have been committed at the time and place where the harm occurred. Therefore, the offence is deemed to have been committed in Italy, even if the trade is carried on in foreign markets, provided that the effects have repercussions, damaging the national economic potential.

<sup>19</sup> Distinctive national or foreign marks or signs' means emblematic or named signs used by the entrepreneur to distinguish a product or a commodity. However, it is not necessary for trade marks to be registered as Article 517 of the criminal code, unlike Article 474 of the criminal code, does not require prior compliance with industrial property laws. The trade mark may also be a group trade mark, in that it indicates the origin of the products of all the connected enterprises. By 'names' is meant the names that characterise the product within the same genre.

The processes examined in relation to article 25-*bis* and article 25-*bis*.1 are listed below:

**1. Sale of goods and services in Italy and abroad**

- a) Sale of rights to public parties**
- b) Sale of rights in Italy**
- c) Sale of rights abroad**
- d) Other Sales (for example consultation services, television channels, etc.)**
- e) Sale of rights on web platforms**

**2. Distribution of RAI channels abroad.**

### **5.3 Rules of conduct and implementation of decision-making processes**

#### **5.3.1 Rules of conduct**

This Special Section deals with the express prohibition by Corporate Bodies, Employees - on a direct basis - or external staff - limited to the obligations provided for under specific procedures and codes of conduct and the specific clauses in the contracts implementing the following principles - of:

- carrying out, helping to carry out, or causing the carrying out of behaviour that - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (articles 25-*bis* and 25-*bis*.1 of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

Within the scope of the aforementioned behaviour, the following is more specifically prohibited:

1. putting - including through advertising messages and telepromotions - industrial products up for sale or into circulation with names, trademarks or distinctive marks, Italian or foreign, that could mislead the buyer as to the origin, source or quality of the work or product;
2. providing untrue information that damages potential third party competitors;
3. carrying out any form of intimidation or harassment against competitors.

### 5.3.2 Rules implementing decision-making processes

The *standards* of control identified for the individual Susceptible Activities are listed here below.

#### **1. Sale of goods and services in Italy and abroad**

##### **a. Sale of rights to public parties**

##### **b. Sale of rights in Italy**

##### **c. Sale of rights abroad**

##### **d. Other Sales (for example consultation services, television channels, etc.)**

##### **e. Sale of rights on web platforms**

The activities shall be carried out in compliance with the standards of control provided for in the "Sale of goods and services in Italy and abroad: a) Sale of rights to public parties; b) Sale of right in Italy; c) Sale of right abroad; d) Other Sales (for example consultation services; television channels, etc.); e) Sale fo rights on web platforms" process reported in "Special Section A - Offences in relations with the Public Administration and bribery between private parties" to which reference is made.

Execution of the activities also provides for the following for the susceptible activities indicated above:

- ensuring that the activities carried out are performed properly and delivery of the goods in accordance with the requirements and terms defined in the contracts;
- prior to putting on sale, ensuring that the name and/or trademark and/or distinctive mark has been put on the product properly;
- checking that the nature, quantity and characteristics (including qualitative) of the goods correspond with the permitted tolerances, with what is indicated on the documents that confirm execution of the supply or with the contractual commitments.

#### **2. Distribution of RAI channels abroad**

The activity is carried out in compliance with the control standards set out for the process "Distribution of RAI channels abroad" is carried out in compliance with the control standards set out in "Special Section A - Offences in relations with the Public Administration and Bribery between private individuals", to which reference should be made.

## **6. SPECIAL SECTION C – Corporate Offences, Tax offences and Smuggling**

### **6.1 The relevant elements of the corporate offences (article 25-ter of Legislative decree 231/01), tax offences (article 25-quinquiesdecies of Legislative decree 231/01), smuggling (article 25-sexiesdecies of Legislative decree 231/01)**

This Special Section, after a brief description of the predicate offences referred to in Articles 25-ter (so-called corporate offences), 25-quinquiesdecies (so-called tax offences) and 25-sexiesdecies (so-called smuggling offences) of Legislative Decree 231/01, identifies the sensitive activities and the principles of conduct and implementation of the decision-making processes that all Recipients of this Model must adopt in order to prevent the occurrence of the specific offences.

#### ***False corporate disclosures (article 2621 Civil Code)***

- This provision punishes directors, general managers, managers in charge of drafting corporate accounting documents, auditors and liquidators of companies issuing financial instruments admitted to trading on a regulated market in Italy or another European Union country, who, in order to obtain an unjust profit for themselves or others, in financial statements in financial statements, reports or other corporate communications addressed to shareholders or the public, knowingly present untrue material facts or omit material facts whose disclosure is required by law on the economic, asset or financial situation of the company or of the group to which it belongs, in a manner concretely likely to mislead others.

#### ***False statements in a prospectus (article 2623 Civil Code)***

This criminal behaviour entails reporting false information in the prospectuses required for soliciting investments or admission to listing on regulated markets, or in the documents to publish during public offers of acquisition or exchange, that could mislead or hide information or news with the intention of misleading the intended audience of the prospectus.

#### ***Obstructing control (article 2625 Civil Code)***

This conduct is committed in the event that the directors prevent or obstruct, by concealing documents or other suitable devices, the performance of the control activities legally attributed to the shareholders or other corporate bodies, where the conduct has caused damage to the shareholders. The offence is punishable on complaint by the offended party

and the penalty is doubled if the offence is committed in relation to companies with securities listed on regulated markets in Italy or other European Union States or distributed among the public.

***Unlawful return of capital contributions (article 2626 Civil Code)***

The 'typical conduct' envisages, outside the cases of legitimate reduction of share capital, the return, also by means of simulated transactions, of contributions to shareholders or the release of the same from the directors' obligation to make them. In other words, the aforementioned offence punishes a reduction of capital, with the result that the reduction of the real capital is not formalised by lowering the nominal capital, the value of which is therefore higher than the real capital. The offence must be committed against the shareholders, and in order for the offence to be committed, it is not necessary that all shareholders be released from their obligation to contribute, but it is sufficient that a single shareholder or several shareholders be released.

***Unlawful allocation of profits or reserves (article 2627 Civil Code)***

This offence occurs, unless the act constitutes a more serious offence, when directors distribute profits or advances on profits not actually earned or allocated by law to reserves, or distribute reserves, even if not established with profits, which may not be distributed by law. The return of profits or the re-establishment of reserves before the deadline for approval of the balance sheet. extinguishes the offence.

***Unlawful transactions on shares or equity interests of the parent company (article 2628 Civil Code)***

The conduct described in the provision committed with acquisition or subscription - not including the cases permitted by law - of shares or equity interests, also issued by the parent company, which affects the amount of the share capital or the reserves which cannot be distributed by law

***Transactions prejudicial to creditors (article 2629 Civil Code)***

This offence occurs when directors, in breach of the law protecting creditors, there is a reduction in the share capital or mergers or demergers with other companies that causes loss to creditors.

It is a method of extinguishing the tort that damages are paid to creditors before the trial.

***Failure to disclose a conflict of interest (Article 2629-bis of the Civil Code)***

This offence punishes any director or member of the management board of a company with securities listed on regulated markets in Italy or in another European Union Member



State or widely distributed among the public who fails to inform the other directors and the Board of Statutory Auditors, in breach of Article 2391 of the Civil Code, first paragraph, the interest which, on his own behalf or on behalf of third parties, he has in a certain transaction of the Company or, in the case of a Managing Director, he also fails to abstain from the transaction by informing the management body, if damage to the company or third parties has resulted from the breach.

### ***Fictitious capital formation (Article 2632 of the Civil Code)***

This conduct may occur where the directors and contributing shareholders, even in part, fictitiously form or increase the company's capital by allocating shares or quotas in excess of the amount of the share capital, by reciprocal subscription of shares or quotas, or by significantly overvaluing contributions in kind or receivables, or even the company's assets in the case of transformation.

### ***Unlawful allocation of company assets by liquidators (article 2633 Civil Code)***

The offence is committed by allocating company assets among shareholders prior to paying the company creditors, or allocating the amounts necessary to pay them, causing loss to the creditors. The penalty is imprisonment for six months to three years.

It is a method of extinguishing the tort the repayment of the loss to the creditors prior to the finding will be one way of nullifying the offence.

### ***Undue influence at the shareholders' meeting (article 2636 Civil Code)***

The "typical" conduct will occur when the majority at the shareholders' meeting uses false actions or fraud in order to obtain unfair advantage for themselves or others.

### ***Stock manipulation (article 2637 Civil Code)***

The offence will be committed if false news is circulated or simulated operations or other deceptive actions are carried out that could actually cause a significant alteration to the price of financial instruments, which are unlisted, or where a request for admission to trading on a regulated market has not been submitted, or that significantly affect the trust of the public in the capital stability of banks or banking groups.

### ***Obstruction of the work of public supervisory authorities (article 2638 Civil Code)***

The conduct in question takes place where, with the specific aim of obstructing the exercise of the functions of the public supervisory authorities, the directors, general

managers, managers in charge of drawing up the corporate accounting documents, auditors and liquidators of companies or entities and other persons subject by law to the public supervisory authorities, or bound by obligations to them expose, on the occasion of communications owed to them by law, material facts not corresponding to the truth, even if subject to assessment, concerning the economic, asset or financial situation, or conceal, totally or partially, by other fraudulent means facts that they were obliged to communicate concerning the company's economic, asset or financial situation, even if the information concerns assets owned or administered by the company on behalf of third parties. The punishment is doubled if the offence concerns companies with securities listed on regulated markets in Italy or other European Union Member States or widely distributed among the public pursuant to Article 116 of the Consolidated Act referred to in Legislative Decree No. 58 of 24 February 1998. The same punishment shall apply to the aforesaid persons where, in any form whatsoever, including by omitting the communications due to the aforesaid authorities, they knowingly obstruct their functions.

***Fraudulent declaration using invoices or other documents for non-existent transactions (article 2 paragraphs 1 and 2-bis of Legislative Decree 74/2000)***

This offence punishes anyone who, in order to evade taxes on income or value added, using invoices or other documents for non-existent transactions, indicates fictitious passive elements in one of the declarations relating to those taxes. The offence is deemed to have been committed by availing oneself of invoices or other documents for non-existent transactions when such invoices or documents are recorded in compulsory accounting records, or are held for the purpose of providing evidence to the tax authorities.

***Fraudulent declaration by means of other artifices (article 3 of Legislative Decree 74/2000)***

The provision punishes anyone who, in order to evade income tax or value added tax, by carrying out objectively or subjectively simulated transactions or by making use of false documents or other fraudulent means capable of hindering the assessment and misleading the tax authorities, indicates in one of the declarations relating to such taxes assets for an amount lower than the actual amount or fictitious liabilities or fictitious credits and deductions, when, jointly

- a) the tax evaded is higher, with reference to any one of the individual taxes, than thirty thousand euros;
- b) the total amount of the assets evaded from taxation, also by means of the indication of fictitious passive elements, is higher than five per cent of the total amount of the assets indicated in the tax return, or in any case, is higher than one million five hundred thousand euro, or if the total amount of the fictitious credits and deductions is higher than five per cent of the amount of the tax, or in any case, is higher than thirty thousand euro.

The offence shall be deemed to have been committed with the aid of false documents when

such documents are recorded in the compulsory accounting records or are held for evidence against the tax authorities.

Mere breach of the obligations to invoice and record assets in the accounting records or the mere indication in the invoices or in the records of assets that are lower than the real ones do not constitute fraudulent means.

***Issuance of invoices or other documents for non-existent transactions (article 8 paragraphs 1 and 2-bis of Legislative Decree 74/2000)***

The provision punishes anyone who, in order to allow third parties to evade income or value added tax, issues or issues invoices or other documents for non-existent transactions.

For the purposes of the application of the provision, the issuance or issue of several invoices or documents for non-existent transactions during the same tax period shall be regarded as a single offence.

If the untrue amount indicated in the invoices or documents, per tax period, is less than one hundred thousand euro, imprisonment from one year and six months to six years shall apply.

***Concealment or destruction of accounting documents (article 10 Legislative Decree 74/2000)***

Unless the act constitutes a more serious offence, the provision punishes anyone who, in order to evade income tax or value added tax, or to allow third parties to evade them, conceals or destroys all or part of the accounting records or documents whose preservation is mandatory, so as not to allow the reconstruction of income or turnover.

***Fraudulent evasion of taxes (article 11 of Legislative Decree 74/2000)***

The provision punishes any person who, in order to evade the payment of income or value added taxes or of interest or administrative sanctions relating to such taxes for a total amount exceeding Euro fifty thousand, falsely alienates or performs other fraudulent acts on his own or on other persons' assets capable of rendering ineffective, in whole or in part, the compulsory collection procedure. If the amount of taxes, penalties and interest exceeds two hundred thousand euro, imprisonment from one year to six years shall apply.

The provision punishes with a term of imprisonment from six months to four years anyone who, in order to obtain for himself or for others a partial payment of taxes and related accessories, indicates in the documentation submitted for the purposes of the tax settlement procedure assets for an amount lower than the actual amount or fictitious liabilities for a total amount exceeding Euro fifty thousand. If the amount referred to in the preceding sentence exceeds Euro two hundred thousand, imprisonment from one year to six years shall apply.

**Limited to when the offence has been committed (i) in the context of cross-border fraudulent schemes (i.e. at least two different countries) and (ii) for the purpose of evading value added tax (i.e. excluding IRES) for a total amount of no less than €10 million: Untrue declaration (Article 4 of Legislative Decree 74/2000) - Failure to make a declaration (Article 5 of Legislative Decree 74/2000) - Undue compensation (Article 10-quer of Legislative Decree 74/2000)**

The offence of 'false declaration' occurs when in one of the annual income tax or value-added tax declarations, in order to evade tax, assets are indicated for an amount lower than the actual amount or non-existent liabilities are indicated. The offence is punishable only if certain value thresholds are exceeded in relation to the amount of tax evaded and the total amount of the items removed from taxation.

The 'omitted declaration' consists - as is clear from the rubric - in the failure to submit, even as a substitute taxpayer, one of the declarations relating to income tax or value added tax, in order to evade such taxes.

The offence of 'undue offsetting' is committed when the sums due in respect of tax payments are not paid, using, pursuant to Article 17 of Legislative Decree No. 241/1997, undue and non-existent credits as offsets.

### **Offence of smuggling under Presidential Decree 43/1973**

As a result of Legislative Decree no. 75/2020 (implementation of the so-called 'BIP Directive'), the catalogue of offences relevant under Legislative Decree no. 231/2001 was further enriched by the introduction of the new Article 25-sexiesdecies concerning the offence of smuggling laid down in Presidential Decree no. 43/1973 (hereinafter, for the sake of brevity, 'TULD' - Consolidated Law on Customs).

Articles 282 to 301-bis of the TULD contain the sanction provisions on the subject of smuggling, under which, as a general rule, anyone who introduces into the territory of the State, in violation of customs provisions, goods that are subject to border duties, for the definition of which reference should be made to Article 34 of the TULD, shall be punished.

In particular, the second paragraph of Article 34 TULD provides that “*Among customs duties, the following constitute border duties: import and export duties, levies and other import or export charges provided for by Community regulations and their implementing rules, and in addition, with regard to imported goods, monopoly duties, border surtaxes and any other tax or surtax in favour of the State*”.

## **6.2 Identification of susceptible areas and activities within the scope of corporate offences**

The analysis of the company processes led to identification of the activities in which the criminal offence referred to under article 25-ter of Legislative decree 231/01 could take

place. The processes examined are listed below:

1. **Preparation of the financial statements, reports or other corporate communications provided for by law;**
2. **Management of relations with the shareholder, the Board of Statutory Auditors and the auditing firm;**
3. **Management of relations with public parties and Supervisory authorities:**
  - a) **to obtain authorisations or licences;**
  - b) **to request occasional/specific administrative measures;**
  - c) **to manage obligations, assessments or inspections;**
  - d) **to the management of recruitment-related obligations of personnel;**
  - e) **to manage social security treatment;**
  - f) **other.**
4. **Capital transactions and allocation of profits;**
5. **Communication, Conduct and Minutes of Assembly.**

The analysis of corporate processes has made it possible to identify the sensitive activities within the scope of which the types of offences referred to in Article 25-quinquiesdecies of Legislative Decree No. 231/01 could abstractly be committed, as detailed below:

1. **Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general;**
2. **Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties**
3. **Management of court, out-of-court or arbitration proceedings**
4. **Management of financial transactions, including intra-group**
5. **Free gifts, presents and benefits**
6. **Travelling expenses and advances**
7. **Reporting on the sale of rights and conventions and retransmissions of the Rai Channels**
8. **Warehouse Management**

**9. Purchasing work, goods and services / security trading**

- a) ***purchase of goods and services with service contracts***
- b) ***purchase of operating goods and services***
- c) ***purchase / hire of audiovisual / musical / photographic / products / work material(including the rights by legal entities)***
- d) ***purchase / hire of audiovisual / musical / photographic / products / work material(including the rights by individuals)***
- e) ***purchase of consultancy services***
- f) ***purchase of marketing-related rights***

**10. Preparation of the financial statements, reports or other corporate communications provided for by law**

**11. Sale of goods and services in Italy and abroad**

- a) ***Sale of rights to public parties***
- b) ***Sale of rights in Italy***
- c) ***Sale of rights abroad***
- d) ***Other Sales (for example consultation services, television channels, etc.)***
- e) ***Sale of rights on web platforms***

**12. Revenues from the use of Rai Com music in RAI programs**

**6.3 Rules of conduct and implementation of decision-making processes**

**6.3.1 Rules of conduct**

This Special Section provides for the express prohibition of corporate bodies, employees - on a direct basis - and external staff - limited to the obligations provided under specific procedures and codes of conduct and the specific clauses in the implementation contracts of the following principles – of:

- carrying out, helping to carry out, or causing behaviour that - considered individually or collectively - includes, directly or indirectly, the elements of the offence falling under those considered above (article 25-ter and/or art. 25-quinquiesdecies of Legislative decree 231/01);
- conduct import operations in such a way as to ensure the proper management

of the amounts to be paid to the Customs Agency;

- breaching the company principles and procedures provided under this Special Section.

This Special Section therefore provides for the obligation by the parties indicated above to diligently comply with all prevailing laws, and more specifically:

1. ensure that they behave honestly, transparently and on a collaborative basis, in compliance with the law and company procedures, in all activities aimed at putting together the financial statements and other corporate communications, in order to provide the shareholders and third parties with true and correct information on the economic, capital and financial situation of the company;
2. strictly comply with all regulations aimed at protecting the completeness and effectiveness of the share capital so as not to harm the guarantees of creditors or third parties in general;
3. ensure the normal operation of the Company and Corporate Bodies, guaranteeing and facilitating all types of internal control of company management as provided under the law, and the free and correct execution of the wishes of the shareholders' meetings;
4. not carry out false transactions or issue false news about the Company;
5. carry out, in any form or of any nature, purchases, sales or other types of transactions, on financial instruments, using inside information that they became aware of through their position as a member of a board of administration, management, or control of the issuer, or of the investment in the capital of the issuer;
6. carry out said transactions, using inside information that they became aware of in the exercise of work, a profession, a job or a position;
7. disclose this information to third parties apart from reasons relating to the normal exercise of work, profession, duties or position;
8. recommend or induce third parties to carry out transactions giving cause for legal action on the basis of this information;
9. circulate false news that could lead to alteration of the prices of financial instruments;
10. carry out simulated operations or other deceptive actions that could alter the price of financial instruments.

Within the scope of the aforementioned behaviour, the following is more specifically prohibited:

- a) the portrayal, or sending for processing and portrayal in financial statements or other corporate communications, false data, information with data missing, or in any case information that does not reflect the real situation, on the economic, capital or financial situation of the company;



- b) the portrayal, or sending for processing and portrayal in the separate accounts, false data, information with data missing, or in any case information that does not reflect the real situation;
- c) leaving out data or information required by law on the economic, capital or financial situation of the company, also for the purposes of the separate accounts;
- d) returning contributions to the shareholders or freeing them from the obligation to make them, apart from cases of lawful reduction of share capital;
- e) allocating profits or advances on profits not actually earned or earmarked for legal reserves;
- f) purchasing or subscribing to own shares outside the cases provided for by law to the detriment of the share capital;
- g) reducing the share capital or carrying out mergers or demergers in breach of the law protecting creditors, causing them loss;
- h) creating or falsely increasing the share capital, giving shares for a value that is lower than their par value;
- i) doing anything that would materially prevent, by hiding documents or using other fraudulent means, the execution of the control by the shareholders or the Board of Statutory Auditors;
- j) determining or unlawfully influencing the adoption of decisions at shareholders' meetings, and to that end carrying out simulated or fraudulent actions that could artificially alter the proper expression of the wishes of the shareholders' meeting;
- k) publishing or disclosing false notifications or carrying out simulated transactions or other fraudulent or deceptive behaviour, relating to the economic, financial or capital situation of the Company;
- l) presenting untrue facts in the aforementioned communications or presentations, or hiding significant facts regarding the economic, capital or financial position of the Company;
- m) distributing or helping distribute, in any way, false information, news or data or performing fraudulent transactions or in any case misleading, in a way that could only partially lead to modification of the price of financial instruments;
- n) complying with the rules that govern formation of the price of financial instruments, strictly avoiding the performance of actions that could significantly modify them, taking account of the actual market situation.



### 6.3.2 Principles of implementing the decision-making processes

#### Section A

The control standards identified for the individual Susceptible Activities, within the scope of which the corporate offences referred to in Article 25-ter Legislative Decree 231/2001 could abstractly take place, are listed below.

#### **1. Preparation of the financial statements, reports or other corporate communications provided for by law**

The execution of the activities provides for the following:

- the definition of the main phases in which the activity in question is organised, such as:
  - management of the general accounts;
  - measuring and estimating the items in the financial statements;
  - drawing up separate financial statements and interim accounting statements;
  - preparation of tax compliance documentation.
- the definition and distribution to the persons involved in the preparation of the financial statements, of regulations that clearly define the accounting standards to adopt to define the items in the financial statements, and the operational procedures to account for them. These regulations must be added/updated with the indications provided by the applicable office on a timely basis in accordance with any new civil laws, and distributed to the above-mentioned intended audience;
- the definition of rules and responsibilities aimed at checking the amounts on the financial statements with specific reference to the control activities on the financial disclosure;
- the definition of instructions for the Directorates to establish what data and news must be provided to the Control, Administration and Finance Directorate in relation to the annual and interim closings (for the separate financial statements) and the Administrative Management of the Parent Company (for the consolidated financial statements), with what methods and the relative time-frames;
- acquisition by RAI-Radiotelevisione Italiana Spa of the letter confirming the veracity and completeness of the information provided in order to draw up the consolidated financial statements and provision of the same confirmation system for the separate financial statements of the Company;
- holding one or more meetings between the auditing firm, the Board of Statutory Auditors, the Supervisory Body, the Chief Financial Office (also as

Financial Reporting Officer) before the meeting of the Board of Directors to approve the financial statements, to assess any critical points that emerged during the audit;

- compliance with the obligation whereby the only party to change the accounting figures can be the Directorate/Structure who generated them. Adequate justification, documentation and filing of any changes made to the draft financial statements /interim statements must also be provided;
- the provision, in addition to the Directorate/Structure involved in drawing up the financial statements and related documents, of basic training (regarding the main legal and accounting principles and issues on the financial statements) to the Departments/Facilities involved in defining the items in the financial statements;
- use of a system (including computer) to send the data and information to the applicable department/facility with specific procedures to manage access, with procedures that allow the single steps to be traced and identification of the parties that input the data onto the system and that can reveal unauthorised access;
- attribution of roles and responsibilities relating to the holding, storage and updating of the financial statements files and the other corporate accounting documents (including the confirmations), from their formation and approval of the draft financial statements by the Board of Directors to the filing and publication (including on the computer) of them after approval by the Shareholders' meetings, and relative filing.

## **2. Management of relations with the shareholder, the Board of Statutory Auditors and the auditing firm**

The execution of the activities provides for the following:

- the obligation to provide maximum collaboration and transparency in relations with the auditing firm, the board of statutory auditors and for shareholder requests;
- the obligation to send to the auditing firm and the Board of Statutory Auditors - in advance - all the documents relating to the items on the agenda of the shareholders' meetings or the meetings of the Board of Directors for which an opinion has to be given in accordance with the law;
- the guarantee, by the head of the applicable Directorate/Structure, of the completeness, relevance and accuracy of the information and the documents provided to the auditing firm, the board of statutory auditors or the shareholder, and making the information and/or documents requested and/or necessary to carry out the auditing available to them in order to guarantee compliance with the applicable regulations;

- the attribution of roles and responsibilities regarding collection of all the requests which arrived on a formal basis and all the information/data/documents delivered or made available to the auditing firm, the Board of Statutory Auditors or the shareholders as a result of those requests.
- the regulation of the auditing firm selection stages and the rules to maintain the independence of the auditing firm for the term for which it is engaged.

**3. Management of relations with public parties and Supervisory authorities:**

- a) to obtain authorisations or licences;**
- b) to request occasional/specific administrative measures;**
- c) to manage obligations, assessments or inspections;**
- d) to the management of recruitment-related obligations of personnel;**
- e) to manage social security treatment;**
- f) other.**

The activity is carried out in compliance with the control standards laid down for the process "Management of relations with public bodies and the Supervisory Authorities" and set out in "Special Section A - Offences in relations with the Public Administration and Bribery between private individuals", to which we refer.

**4. Capital transactions and allocation of profits**

The execution of the activities provides for the following:

- the formalisation of rules, also from RAI-Radiotelevisione Italiana Spa, for the Directorates/Structures involved in preparing the documents at the basis of the Board of Directors decisions on advances on dividends, contributions, mergers and demergers, where the responsibilities and methods to prepare the supporting documentation are established;
- preparation of a report for the Board of Directors that justifies the distribution of profits and reserves in accordance with legal requirements;
- the documentation and filing, with the applicable Directorates/Structures, of the main stages of the susceptible activities in question.

**5. Communication, Conduct and Minutes of Assembly**

The regulation of activities provides for:

- the preparation of documents necessary for the holding of meetings of the Board of Directors and Shareholders' Meetings and the taking of minutes of the meetings of the corporate bodies;
- that the relevant documents, agenda, convocations, resolutions, minutes must be filed, archived and preserved (in paper and/or electronic format) at the competent structures.

## **Section B**

The control standards identified for the individual Susceptible Activities, within the scope of which the tax offences referred to in Article 25-quinquiesdecies Legislative Decree 231/2001 could abstractly take place, are listed below.

### ***1. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general;***

The activity is carried out in compliance with the control standards laid down for the process "Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general" and set out in "Special Section A – Public Administration and Bribery between private parties" to which reference is made.

### ***2. Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties***

The activity is carried out in compliance with the control standards laid down for the process "Management of the activities of request / acquisition and/or managing of aid, funding, loan, or guarantees granted by public/private parties

" and set out in "Special Section A – Public Administration and Bribery between private parties" to which reference is made.

### ***3. Management of court, out-of-court or arbitration proceedings***

The activity is performed in compliance with the control standards laid down for the process "Management of court, out-of-court or arbitration proceedings " and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

### ***4. Management of financial transactions, including intra-group***

The activity is carried out in compliance with the control standards laid down for the process "Management of financial transactions, including intra-group transactions" and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **5. Free gifts, presents and benefits**

The activity is carried out in compliance with the control standards laid down for the "Free gifts, presents and benefits" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **6. Travelling expenses and advances**

The activity is carried out in compliance with the control standards laid down for the "Travelling expenses and advances" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **7. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels**

The activity is carried out in compliance with the control standards laid down for the "Reporting on the sale of rights and conventions and retransmissions of the Rai Channels" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **8. Warehouse Management**

The activity is carried out in compliance with the control standards laid down for the "Warehouse Management" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **9. Purchasing work, goods and services / security trading:**

**a) purchase of goods and services with service contracts**

**b) purchase of operating goods and services**

**c) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities)**

**d) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals)**

**e) purchase of consultancy services**

**f) purchase of marketing-related rights**

The activity is carried out in compliance with the control standards laid down for the "Purchasing work, goods and services / security trading" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

**10. Preparation of the financial statements, reports or other corporate communications provided for by law**

The activity is carried out in compliance with the control standards laid down in this Special Section, in Section A on corporate offences, to which reference is made. Furthermore, in order to mitigate the risk of the offences provided for in Article 25-quinquiesdecies of the Decree being committed, the control principles relating to the areas at risk "Purchase of works, goods and services", including the purchase of consultancy services, listed in Special Section A and the control principles relating to the area "Sales of goods and services in Italy and abroad" listed in Special Sections A and B of this Model are also recalled.

In particular, the performance of the activity also provides:

- existence of controls and methods for recording invoices received/issued;
- existence of formalised rules in intra-group contracts for the management of invoicing between Group companies;
- the use of adequate corporate management information systems, for the management of activities related to active and passive invoicing and to the relevant collections and payments, that guarantee the recording of all process phases that entail the generation of a cost/revenue and that do not allow issuing/recording the active/receivable invoice and finalising the relevant collection/payment without adequate documentary support
- that Rai ComRaiCom's administrative-accounting processes must be defined and regulated within the framework of a Governance and Control model that guarantees the definition of roles, instruments and operating methods relating to such processes and that provides for periodic checks on the reliability of the controls envisaged on the main stages of the processes;
- a ban on the use of cash or other bearer financial instruments, for any collection, payment, transfer of funds, use or other use of financial assets, as well as a ban on the use of anonymous or fictitiously registered current accounts or passbooks. Any exceptions to the use of cash or other bearer financial instruments are allowed for small amounts and are governed by a specific procedure (e.g. petty cash procedure);

- the prohibition of accepting and executing payment orders from unidentifiable persons, who are not present in the registry and whose payment is not traceable (amount, name/name, address and current account number) or if it is not ensured, after carrying out checks when opening/changing the supplier/customer registry in the system, that the name of the supplier/customer and the header of the account to which the payment is to be sent/ from which it is to be accepted fully correspond;
- that payments are made: (a) subject to written authorisation from the Contract Manager certifying that the service has been rendered and/or that the conditions provided for in the Contract regarding payment of the consideration have been met, (b) only against invoices or written requests for payment from the counterparty and in accordance with the terms of the Contract.

**11. Sale of goods and services in Italy and abroad:**

- a. Sale of rights to public parties;**
- b. Sale of rights in Italy;**
- c. Sale of rights abroad;**
- d. Other Sales (for example consultation services, television channels, etc.);**
- e. Sale of rights on web platforms.**

The activity is carried out in compliance with the control standards laid down for the "Sale of goods and services in Italy and abroad" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

**12. Revenues from the use of Rai Com music in RAI programs**

The activity is carried out in compliance with the control standards laid down for the "Revenues from the use of Rai Com music in RAI programs" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

**7. SPECIAL SECTION D – Organised crime, crimes of terrorism, crimes against individuals, receiving stolen goods, money-laundering and the use of money, goods or benefits with unlawful origin, self-laundering, offences relating to non-cash payment instruments, convincing others not to make statements or to make false statements to the legal authorities, employment of citizens from other countries who are not legally resident in the country, cross-border offences**

This Special Section, after a brief description of the main predicate offences set forth in Article 24-ter, Article 25-quater, Article 25-quinquies, Article 25-octies, Article 25-octies.1, Article 25-decies, and Article 25-duodecies of Legislative Decree 231/01, as well as transnational offences, identifies the sensitive activities and the principles of conduct and implementation of decision-making processes that all Recipients of this Model must adopt in order to prevent the occurrence of specific offences.

**7.1 The relevant elements (article 24-ter, article 25-quater of Law 146/2006, article 25-quinquies, article 25-octies, 25-octies.1, article 25-decies, article 25-duodecies of Legislative decree 231/01)**

**ORGANISED CRIME OFFENCES**

Law No. 94 of 15 July 2009 concerning 'Provisions on public security' introduced Article 24-ter into Decree 231/01 concerning organised crime offences

***Criminal association (article 416 Criminal Code)***

With reference to the types of offences considered above, the criminal sanction is linked to the mere fact of participation in, as well as the promotion, constitution, organisation of a criminal association formed by three or more persons, regardless of the actual commission (and separate punishment) of the offence constituting the purpose of the association. This means that the mere conscious participation in a criminal association by an exponent or employee of the company could give rise to the administrative liability of the company itself, provided that the participation or participation in the association is also instrumental to the pursuit of the interest or advantage of the company itself.

However, it is required that the association bond be expressed through a minimum of organisation of a stable nature over time and the sharing of a programme to carry out an indefinite series of offences. The occasional agreement to commit one or more specified offences is therefore not sufficient.

Enhanced liability of the entity is envisaged in the cases provided for in Article 416(6) of the Criminal Code.



***Mafia-type association (article 416-bis Criminal Code);***

The offence is committed through participation in a mafia-type association consisting of three or more persons. Those who promote, direct or organise the association are also punished. Mafia-type association occurs when those who form part of the association use the force of intimidation connected with membership of the associations, subjugation, and the consequent code of silence to commit crimes, to directly or indirectly acquire the management or in any case control of businesses, permits, authorisations, public tenders or services or to make unfair profits or benefits for themselves or others, or in order to prevent or hinder the free exercise of the vote or to procure votes for themselves or others during elections.

The provisions of this Article also apply to the Camorra, the 'ndrangheta and other associations, however locally denominated, including foreign ones, which, making use of the intimidating force of the associative bond, pursue aims corresponding to those of mafia-type associations.

Moreover, Article 24 ter of Legislative Decree No. 231/2001 provides for the liability of the entity for all offences committed by availing oneself of the conditions laid down in Article 416-bis of the criminal code.

***Mafia-related political election exchange (article 416-ter Criminal Code)***

This punishes anyone who accepts the promise to procure votes using the methods set out under the third paragraph of article 416-bis, in exchange for the provision or promise to provide money or other benefits with imprisonment of four to ten years.

This sanction shall apply to people who promise to procure votes using the methods set out under the first paragraph.

***Kidnapping for robbery or extortion (article 630 Criminal Code)***

This crime refers to cases where a person is kidnapped in order to obtain, for themselves or for others, unfair advantage as the price for freeing the person, and is punished by imprisonment of twenty-five to thirty years. The offence will be aggravated if the kidnapping results in the unintentional death of the kidnapped person. The sentence will be imprisonment of thirty years in that case.

***Provisions against illegal immigration (article 12, paragraphs 3, 3-bis, 3-ter and 5 of Legislative Decree 286/98)***

- Article 12 of the Consolidation Act referred to in Legislative Decree 286/98 punishes, unless the fact constitutes a more serious offence, anyone who promotes, directs, organises, finances or transports foreigners into the territory

of the State or carries out other acts aimed at illegally procuring their entry into the territory of the State or of another State of which the person is not a citizen or does not have the right of permanent residence, in the case where "the action regards the entry or illegal stay in the territory of the State of five or more people;

- the life or safety of the person was exposed to danger when attempting to procure the entry or illegal stay;
- the person was subject to inhuman or degrading treatment when attempting to procure the entry or illegal stay;
- the action was carried out by three or more people acting in association or using international transport services or forged or altered documents or in any case illegally obtained";
- the perpetrators of the actions had weapons or exploding devices available.

An aggravating circumstance is provided for if the facts are committed for the purpose of recruiting persons to be destined to prostitution or in any case to sexual exploitation, or if they concern the entry of minors to be employed in unlawful activities in order to favour their exploitation, as well as when the facts are committed 'for the purpose of profiting, even indirectly.

The fifth paragraph of Article 12, moreover, punishes, unless the fact constitutes a more serious offence, anyone who 'in order to gain an unfair profit from the illegal condition of the foreigner or within the scope of the activities punishable under this Article, favours the permanence of the latter in the territory of the State in violation of the rules of this Consolidated Act

### ***Aiding and abetting (article 378 Criminal Code).***

Article 378 of the Criminal Code condemns the conduct of anyone who - after having committed a crime punishable by a life sentence or imprisonment, apart from the case of being an accomplice in the crime, helps anyone to avoid investigation or searches by the Authorities. The provisions of this article shall also apply if the person who has been helped cannot be charged or did not commit the crime.

### ***Inducement not to make statements or to make false statements to the judicial authorities (article 377-bis Criminal Code)***

Article 377-bis of the Criminal Code sanctions behaviour by anyone who uses violent means, threats, or the "offer or promise of money or other benefits" to persuade anyone who is asked to make statements before the judicial authorities that can be used in criminal proceedings not to make statements, or to made false statements if they have the right not

to respond<sup>20</sup>.

## **TERRORIST OFFENCES**

The general nature of the references made under article 25-*quater* are problematic with respect to the exact identification of the criminal elements that could involve application of the rules provided under Legislative decree 231/01. However, the following elements can be identified as the main predicate offences of the liability pursuant to Legislative decree 231/01 with reference to “*crimes committed for the purpose of terrorism or subverting the democratic order envisaged by the criminal code and special laws*”:

A. with respect to crimes envisaged by the Criminal Code:

### ***Criminal association for the purpose of terrorism, including international, or subversion of the democratic order (article 270-bis of the Criminal Code)***

The offence punishes anyone who promotes, establishes, organises, manages or funds criminal associations that propose committing acts of violence for terrorist purposes or the subversion of the democratic order. It is punished also Anyone who merely participates in said criminal associations. For the purposes of criminal law, terrorism purposes will also be found when the acts of violence are directed against a foreign State, or international institution or body. With respect to the convicted person, it will always be obligatory to confiscate the property that will be needed or intended to be used to commit the crime and the property that is the price, product, and profit, or that constitutes the use”.

### ***Assistance to the criminal associates (article 270-ter of the Criminal Code)***

-The offence punishes, apart from where there is criminal association or aiding and abetting  
- who gives refuge or provides food, lodgings, means of transport or instruments of communication to any of the persons indicated under articles 270 and 270-bis.

### ***Recruitment for terrorism purposes, including international terrorism (article 270-quater of the Criminal Code)***

The offence punishes anyone, apart from the cases provided for under article 270-bis, who recruits one or more persons to carry out acts of violence or the sabotage of essential public services, for terrorism purposes, even if aimed against a foreign State, or international institution or body, shall be punished with imprisonment from seven to fifteen years”.

---

<sup>20</sup> This crime was introduced into the criminal code, and more especially within the scope of crimes against the judicial authorities, by article 20 of Law no. 63 of 2001.

***Training activities for terrorism purposes, including international terrorism (article 270-quinquies of the Criminal Code)***

The offence punishes, apart from the cases provided for under article 270-bis, who trains or in any case provides instructions on the preparation or use of explosive materials, firing weapons or other weapons, chemical substances or bacteriological or poisonous or dangerous substances, or any other technique or method to carry out acts of violence or sabotage of essential public services, for terrorism purposes, even if aimed against a foreign State or international institution or body, shall be punished with imprisonment from five to ten years. This punishment shall also apply to the person who has been trained.”

***Financing of conduct for terrorist purposes (Article 270-quinquies.1 of the Criminal Code)***

This offence punishes anyone who, apart from the cases referred to in Articles 270-bis and 270-quater.1, collects, disburses or makes available goods or money, howsoever realised, intended to be used in whole or in part for the perpetration of the conduct for terrorist purposes referred to in Article 270-sexies.

***Subtraction of seized goods or money (Article 270-quinquies.2 of the Criminal Code)***

This offence punishes anyone who steals, destroys, disperses, suppresses or deteriorates goods or money, subject to seizure for the purpose of preventing the financing of the conduct for terrorist purposes referred to in Article 270-sexies.

***Actions for the purpose of terrorism (article 270-sexies of the Criminal Code)***

In the event of conviction or application of the penalty pursuant to Article 444 of the Code of Criminal Procedure for any of the offences committed for terrorist purposes referred to in Article 270-sexies, the confiscation of the things that served or were intended to commit the offence and of the things that constitute the price, product or profit thereof shall always be ordered, unless they belong to a person extraneous to the offence, or, when this is not possible, the confiscation of goods, which the offender has the availability of, for a value corresponding to such price, product or profit.

***Attacks for the purpose of terrorism or subversion (article 280 of the Criminal Code)***

The offence punishes anyone, who, for the purpose of terrorism or subversion of the democratic order attacks the life or safety of a person.

***Act of terrorism with deadly weapons or explosives (article 280-bis of the Criminal Code)***

It is punished, unless the action constitutes a more serious offence, anyone who carries out any actions aimed at damaging the mobile or fixed property of others for terrorism purposes by the use of explosive devices or in any case deadly devices,. For the purposes of this article, explosive devices or in any case deadly devices are intended to be weapons or similar items indicated under article 585 and capable of causing significant material damage.

***Acts of nuclear terrorism (Article 280 ter of the Criminal Code)***

Anyone who, for the purposes of terrorism referred to in Article 270 sexies, procures radioactive material for himself/herself or for others; creates a nuclear device or otherwise comes into possession of one. It shall also be a punishable offence for anyone who, for the purposes of terrorism referred to in Article 270 sexies, uses radioactive material or a nuclear device; uses or damages a nuclear facility in such a way as to release or with the concrete danger that it will release radioactive material.

***Kidnapping for the purpose of terrorism or subversion (article 289-bis Criminal Code)***

The offence punishes anyone, who, for the purpose of terrorism or subversion of the democratic order, kidnaps someone.

***Incitement to commit some of the crimes provided under the first and second sections (article 302 of the Criminal Code)***

The offence punishes anyone who incites anyone else to commit one of the crimes, with criminal intent, as provided under the first and second sections of this title.

***Assistance to conspirators or to an armed group (article 307 of the Criminal Code)***

The offence punishes anyone - apart from where there is criminal association or aiding and abetting - who gives refuge or provides food, lodgings, means of transport or instruments of communication to any of the persons who were involved in the criminal association or the group indicated in the two articles above [i.e.: political conspiracy by association; armed group].

B. with respect to the crimes provided for under special laws:

- **article 1 of Law 15/1980** provides that any offence that is committed for the purpose of terrorism or the subversion of democracy will be considered to be an aggravating circumstance; the article 5 of the same law provides that the perpetrator of an offence committed for the purpose of terrorism or subversion of the democratic order who voluntarily prevents the event from

taking place and provides decisive evidence for the exact reconstruction of the event and for the identification of any accomplices shall not be punishable

- **law 342/1976** punishes crimes against the safety of air navigation;
- **law 422/1989** punishes crimes against the safety of sea navigation and crimes against the safety of installations on intercontinental platforms.

### ***Receiving stolen goods (article 648 Criminal Code)***

Legislative Decree No. 231 of 2007, implementing Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering, the proceeds of criminal activities and terrorist financing, and Directive 2006/70/EC laying down implementing measures, introduced into Decree 231 Art. 25-octies, which extends the scope of the administrative liability of entities in relation to the offences of receiving, laundering and using money, goods or benefits of unlawful origin (offences referred to in Articles 648, 648-bis and 648-ter of the Criminal Code). Moreover, Article 3 of Law No. 186/2014 introduced the offence of self-laundering in Article 648-ter.1 of the Criminal Code, providing for its inclusion within Article 25-octies of Legislative Decree No. 231/2001.

Below is a description of the offences referred to in Article 25-octies of Legislative Decree 231/01.

### ***Money laundering (article 648-bis Criminal Code)***

The offence of receiving stolen goods is committed by any person who, apart from cases of complicity in the offence, acquires, receives or conceals money or goods resulting from any offence, or in any case intervenes in having them acquired, received or concealed in order to procure a profit for himself or others.

### ***Use of money, assets or benefits of unlawful origin (article 648-ter Criminal Code)***

The offence of money laundering is committed by anyone who "outside cases of complicity in the offence, replaces or transfers money, goods or other utilities originating from a crime/contravention; or carries out other transactions in connection therewith, so as to hinder the identification of their criminal origin.

### ***Self-laundering (article 648-ter.1 Criminal Code)***

The offence punishes anyone who, having committed or helped perpetrate a crime committed with criminal intent, uses, replaces, or transfers the money, assets or other

assets derived from the commission of said offence (even in form of contravention) into economic, financial, entrepreneurial or speculative activities to actually prevent identification of their criminal origins.

In this sense, it will not be punishable if the goods are intended for mere use or personal enjoyment.

## **OFFENCES RELATING TO NON-CASH PAYMENT INSTRUMENTS**

The legislative framework concerning offences relating to non-cash payment instruments was introduced by Legislative Decree No. 184 of 8 November 2021 - which added Article 25-octies.1.

We set out below the offences referred to in Article 25-octies.1:

### ***Misuse and counterfeiting of non-cash payment instruments (Article 493-ter of the Criminal Code)***

This offence punishes anyone who improperly uses credit or payment cards, or any other similar document enabling the withdrawal of cash or the purchase of goods or the provision of services, or any other non-cash payment instrument. Specifically, payment instruments are to be understood as (i) a device, (ii) an object or (iii) a protected record, intangible or tangible, or a combination thereof, other than legal tender which, alone or in conjunction with a procedure or a series of procedures, enables the holder or user to transfer money or monetary value, including through digital means of exchange (e.g. home banking, cryptocurrency, etc.). In addition, anyone who forges or alters the above-mentioned payment instruments or documents shall be punished.

### ***Possession and distribution of computer equipment, devices or programmes aimed at committing offences involving non-cash payment instruments (Article 493-quater of the Criminal Code)***

This offence punishes any person who possesses, disposes of or acquires the above-mentioned payment instruments or documents of unlawful origin or which are in any case forged or altered, as well as carries out payment orders produced with them.

In addition, Rai Com also considers relevant the general reference in Legislative Decree 184/2021, which states: "**Any other offence against public faith, against property or which in any case offends property provided for by the Criminal Code, when it concerns non-cash payment instruments**".

The reference is "open" and, from time to time, specific applicable criminal offences will be identified.



## **OFFENCES AGAINST THE INDIVIDUAL PERSONALITY**

This article refers to specific provisions contained in Section I Chapter III Title XII Book II of the Criminal Code

We will list the crimes referred to under article 25-*quinquies* here below:

### **Forcing into or keeping in slavery or servitude (article 600 Criminal Code)**

The offence punishes who exercises power corresponding to the right to ownership over another person or anyone who forces or keeps persons in a condition of continuous enslavement, forcing them to work or provide sexual services or to beg, or in any case to services that exploit them.

A person will be forced into or kept in a state of enslavement when violence, threats, fraud, abuse of authority is employed, or advantage is taken of a situation of physical or mental inferiority or a situation of necessity or through the promise or giving of money or other advantages to those who have authority over the person,

### **Child prostitution (article 600-*bis* Criminal Code)**

The crime involves the forcing into prostitution of a person who is younger than eighteen, or in aiding and abetting or exploiting, management, organisation or control prostitution. of a person under the age of eighteen years, or otherwise making a profit.

The second paragraph incriminates, unless the act constitutes a more serious offence, the actions of anyone who carries out sexual acts with a minor of between fourteen and eighteen in exchange for money or other benefits, including promises.

### **Child pornography (article 600-*ter* Criminal Code)**

This crime will be committed by anyone who:

- a) using persons who are younger than eighteen, creates pornographic displays or produces pornographic material or forces persons of younger than eighteen to take part in pornographic displays;
- b) trades in the pornographic material described in point a);
- c) apart from the cases set out under point a) and point b), using any means, including electronic, distributes, spreads, circulates or publishes the pornographic material described under point a), or distributes or spreads news or information aimed at the sexual grooming or exploitation of persons younger than eighteen;



d) apart from the cases set out under point a), point b) and point c), offers or gives others, including free, the pornographic material described under point a);

Finally, the sixth paragraph incriminates anyone who attends pornographic displays or shows in which people of younger than eighteen are involved.

For the purposes of this Article, child pornography shall mean any depiction, by whatever means, of a child under the age of eighteen engaged in real or simulated sexually explicit activities, or any depiction of the sexual organs of a child under the age of eighteen for sexual purposes.

#### **Possession of pornographic material produced by sexually exploiting minors (article 600-*quater* of the Criminal Code)**

This crime will be committed by anyone who, apart from the cases set out under article 600-*ter* of the Criminal Code, knowingly procures or possesses pornographic material made using persons of younger than eighteen.

#### **Virtual pornography (article 600-*quater*.1 Criminal Code)**

The provisions pursuant to articles 600-*ter* and 600-*quater* also apply when the pornographic material shows virtual images created using images of persons younger than eighteen or part of them.

Virtual images refer to pictures made with graphic processing techniques that are not fully or partially associated with real situations, where the quality of screening makes non-real situations appear to be real.

#### **Tourist initiatives aimed at the exploitation of child prostitution (article 600-*quinquies* Criminal Code)**

Anyone who organises or advertises trips aimed at the exploitation of prostitution to the harm of minors or in any case including said activity.

#### **Trafficking in persons (article 601 Criminal Code)**

This offence punishes anyone who recruits, introduces into the territory of the State, transfers outside it, transports, transfers authority over, harbours one or more persons in the conditions set out in Article 600 or, carries out such conduct on one or more persons, by means of deception, violence, threats, abuse of authority or by taking advantage of a situation of vulnerability, of physical or mental inferiority or of a situation of need, or by promising or giving sums of money or other advantages to the person having authority over

them, in order to induce or compel them to work, to engage in sexual or begging activities or in any case to engage in illegal activities involving their exploitation or to submit to the removal of organs.

Anyone who, even outside the modalities referred to in the first paragraph, engages in the conduct referred to therein against a person under the age of 18 shall also be criminalised.

### **Purchase and sale of slaves (article 602 Criminal Code)**

The offence punishes, apart from the cases indicated in article 601, who acquires or sells or transfers a person who is in one of the conditions described in article 600.

### **Grooming of minors (609-undecies)**

The offence punishes who intends to commit the crimes set out under articles 600, 600-bis, 600-ter and 600-quater, even if relating to the pornographic material pursuant to article 600-quater.1, 600-quinquies, 609-bis, 609-quater, 609-quinquies and 609-octies, and grooms a person of younger than sixteen, shall be punished with imprisonment unless the action constitutes a more serious crime. Grooming refers to any action aimed at eliciting the trust of a minor using deceptive actions, enticements or threats carried out also by the use of the Internet or other networks or means of communication.

### **Illegal intermediation and exploitation of labour (Article 603-bis of the Criminal Code)**

Law 199/2016, unless the act constitutes a more serious offence, punishes anyone who engages in organised brokering, recruiting labour or organising labour activities characterised by exploitation, by means of violence, threats, or intimidation, taking advantage of the workers' state of need or necessity.

For the purposes of the first paragraph, the existence of one or more of the following circumstances constitutes an indication of exploitation

- 1) the systematic remuneration of workers in a manner manifestly at variance with national collective agreements or in any case disproportionate to the quantity and quality of the work performed
- 2) the systematic violation of regulations on working hours, weekly rest, compulsory leave, holidays
- 3) the existence of violations of regulations on safety and hygiene in the workplace, such as to expose the worker to danger to health, safety or personal safety
- 4) the subjection of the worker to particularly degrading working conditions, surveillance methods, or housing situations.

### **EMPLOYMENT OF THIRD-COUNTRY NATIONALS WHOSE STAY IS IRREGULAR**

On 9 August 2012, Legislative decree 109/2012 came into effect which regulates the implementation of Directive 2009/52/EC and introduced article 25-*duodecies* into Legislative decree 231/01 "Employment of citizens from other countries who are not legally resident in the country", as subsequently amended by Law No. 161/ 2017.

This offence is committed when the person acting as employer employs foreign workers without a residence permit, or whose permit has expired and whose renewal has not been requested, within the legal deadlines, or has been revoked or cancelled, in cases where the specific aggravating circumstances set out in Article 22(12-bis) of Legislative Decree No. 286 of 25 July 1998 apply:

- (i) there are more than three workers employed;
- ii) the workers employed are minors of non-working age;
- iii) the workers employed are subject to other particularly exploitative working conditions pursuant to the third paragraph of Article 603-bis of the criminal code.

In particular, the working conditions referred to in paragraph c) above concern the exposure of workers to situations of serious danger with regard to the characteristics of the services to be performed and the working conditions.

#### **7.2 Identification of the sensitive areas and activities falling under the area of organised crime, crimes of terrorism, crimes against individuals, receiving stolen goods, money-laundering and the use of money, goods or benefits with unlawful**

#### **origin, convincing others not to make statements or to make false statements to the legal authorities, employment of citizens from other countries who are not legally resident in the country, cross-border offences**

The analysis of the company processes led to identification of the activities in which the activities could hypothetically occur:

- A. the organised crime referred to by article 24-*ter* of Legislative decree 231/01, the crime of convincing others not to make statements or to make false statements to the legal authorities referred to under article 25-*decies* of Legislative decree 231/01, and cross-border offences referred to under articles 3 and 10 of Law no. 146 of 16 March 2006. The processes examined are listed below:

- 1. Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private.**

- 2. Purchase of work, goods and services:**
  - a. Purchase of goods and services with service contracts;**
  - b. Purchase of operating goods and services;**
  - c. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities);**
  - d. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals);**
  - e. Purchase of consultancy services;**
  - f. Purchase of marketing-related rights.**
- 3. Recruitment, management and development of staff.**
- 4. Management of the financial transactions, including intra-group.**
- 5. Sale of goods and services in Italy and abroad:**
  - a. Sale of rights to public parties;**
  - b. Sale of rights in Italy;**
  - c. Sale of rights abroad;**
  - d. Other Sales (for example consultation services, television channels, etc.);**
  - e. Sale of rights on web platforms.**
- 6. Revenues from the use of Rai Com music in RAI programs.**
- 7. Free gifts, presents and benefits.**
- 8. Organisation and management of events/sponsorships.**
- 9. Travelling expenses and advances.**
- 10. Selection, contractualisation and management of the agents.**
- 11. Activation of commercial partnerships across the world.**
- 12. Management of court, out-of-court or arbitration proceedings.**

B. the elements of crimes committed for the purpose of terrorism or the subversion of

democracy as referred to by article 25-*quater* of Legislative decree 231/01. and the crimes of receiving, laundering and using unlawful money and self-laundering referred to under article 25-*octies* of Legislative decree 231/01. The processes examined are listed below:

- 1. Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private.**
- 2. Purchase of work, goods and services:**
  - a. Purchase of goods and services with service contracts;**
  - b. Purchase of operating goods and services;**
  - c. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities);**
  - d. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals);**
  - e. Purchase of consultancy services;**
  - f. Purchase of marketing-related rights.**
- 3. Recruitment, management and development of staff.**
- 4. Management of the financial transactions, including intra-group.**
- 5. Sale of goods and services in Italy and abroad:**
  - a. Sale of rights to public parties;**
  - b. Sale of rights in Italy;**
  - c. Sale of rights abroad;**
  - d. Other Sales (for example consultation services, television channels, etc.);**
  - e. Sale of rights on web platforms.**
- 6. Revenues from the use of Rai Com music in RAI programs.**
- 7. Free gifts, presents and benefits.**
- 8. Organisation and management of events.**
- 9. Travelling expenses and advances.**
- 10. Selection, contractualisation and management of the agents.**

**11. Activation of commercial partnerships across the world.**

**12. Management of court, out-of-court or arbitration proceedings.**

**13. Publishing activities (editions and co-editions).**

**14. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general.**

**15. Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties.**

**16. Management of relations with public parties and Supervisory authorities:**

- a. to obtain authorisations or licences;**
- b. to request occasional/specific administrative measures;**
- c. to manage obligations, assessments or inspections;**
- d. to the management of recruitment-related obligations of personnel;**
- e. to manage social security treatment;**
- f. other.**

**17. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels.**

**18. Warehouse Management.**

**19. Management of environmental aspects.**

- offences related to non-cash payment instruments as referred to by article 25-octies. 1 of Legislative decree 231/01.

The processes examined are listed below:

**1. Recruitment, management and development of staff.**

**2. Management of financial transactions, including intra-group.**

Crimes against the individual person referred to under article 25-quinquies of Legislative decree 231/01. The processes examined are listed below:

**1. Purchase of work, goods and services:**

- a. Purchase of goods and services with service contracts;**

- b. Purchase of operating goods and services;**
  - c. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities);**
  - d. Purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals);**
  - e. Purchase of consultancy services;**
  - f. Purchase of marketing-related rights.**
- 2. Free gifts, presents and benefits.**
  - 3. Organisation and management of events.**
  - 4. Travelling expenses and advances.**
  - 5. Selection, contractualisation and management of the agents.**
  - 6. Activation of commercial partnerships across the world.**
  - 7. Publication of content on Internet sites/company web channels.**

The elements of the offence of Employment of citizens from other countries who are not legally resident in the country referred to in article 25-duodecies of Legislative decree 231/01. The processes examined are listed below:

- 1. Employment of foreign workers (employment/managing tender contracts)**
- 2. Recruitment, management and development of staff**

## **7.3 Rules of conduct and implementation of decision-making processes**

### **7.3.1 Rules of conduct**

This Special Section provides for the express prohibition of corporate bodies, employees - on a direct basis - and external staff - limited to the obligations provided under specific procedures and codes of conduct and the specific clauses in the implementation contracts of the following principles - of:

- carrying out, helping to carry out, or causing the carrying out of behaviour that
  - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (article 24-ter article 25-quater,

article 25-*quinquies*, article 25-*octies*, article 25-*octies*.1, article 25-*decies*, article 25-*duodecies* of Legislative decree 231/01, articles 3 and 10 of Law no. 146 of 16 March 2006);

- breaching the company principles and procedures provided under this Special Section.

This Special Section therefore provides for the prohibition on the above-mentioned parties from:

- committing or behaving in a way that could constitute or be connected to cross-border offences, relating to criminal association, including mafia type, convincing others not to make statements or to make false statements to the legal authorities, personal aiding and abetting and aiding and abetting relating to criminal association for the purpose of smuggling, and the unlawful dealing of narcotic or psychotropic substances, or relating to breaches against the laws against illegal immigration; such as:
  - i. forming part of, in any position, mafia or camomile type associations, or in any case, unlawful associations;
  - ii. doing anything directly aimed at obtaining the entry of a foreigner into the territory of the State in breach of the law, or actions aimed at obtaining the unlawful entry of a foreigner into another country of which the person is not a citizen or does not have a permanent residency permit;
  - iii. doing the same things set out in the point above to recruit persons to use for prostitution or in any case sexual exploitation, or that regard the entry of minors to be used in unlawful activities to aid and abet their exploitation;
  - iv. aiding and abetting foreigners staying in the territory of the State to obtain unfair advantage from their illegal status;
  - v. using any means to persuade a person asked to make statements before the legal authorities to be used in criminal proceedings, not to make the statements or to make false statements if they have the right not to answer;
  - vi. helping anyone escape investigation or evade searches by the authorities;
- having relations, negotiating and/or entering into and/or performing contracts or actions with the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), or forming part of organisations on said lists;
- giving benefits to the persons indicated on the Reference Lists relating to



- combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), or forming part of organisations on said lists,;
- hiring the persons indicated on the Reference Lists relating to combating the funding of terrorism (published by the Financial Information Unit set up at the Bank of Italy), or forming part of organisations on said lists;
  - promoting, establishing, organising, managing the funding, including indirectly, of associations that carry out acts of violence on persons or things for terrorist purposes, abroad or in any case to the detriment of a foreign country or an international institution or body;
  - giving refuge or hospitality, means of transport or instruments of communication to persons who form part of subversive associations or associations set up for terrorist purposes or to subvert the public order;
  - committing or doing something that knowingly accepts the risk that crimes against the individual person could be committed, such as:
    - i. forcing a person into slavery or similar;
    - ii. dealing with or trading slaves or persons in similar conditions to slaves;
    - iii. selling or purchasing even a single person forced into slavery;
    - iv. persuading a minor to carry out sexual acts in exchange for sums of money (child prostitution); doing something that facilitates the exercise of child prostitution or involves the exploitation of anyone who uses their body to gain part of the earnings;
    - v. exploiting minors for the creation of pornographic displays or material, and trading, selling, disclosing, transmitting, including free, of said material, or pornographic material that shows virtual images made using pictures of minors or parts of them;
    - vi. procuring or possessing pornographic material produced by sexually exploiting minors;
    - vii. organising or promoting trips that have the purpose, even if not the exclusive purpose, of exploiting prostitution to the detriment of minors;
  - replacing or transferring money, goods or other benefits originating from crimes committed with criminal intent or doing something, in relation to said operations, in a way that prevents the identification of their criminal origin;
  - using money or goods or other benefits from the crime in economic or financial activities;
  - employing foreign workers who do not have residence permits or whose permits have been revoked or expired and who have not requested, in accordance with the law, their renewal, revocation or cancellation.

### 7.3.2 Principles of implementing the decision-making processes

The *standards* of control identified for the individual Susceptible Activities are listed here below.

**1. Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private**

This is carried out in accordance with the standards of control provided for the “Management of negotiations of contracts, conventions, calls and framework agreements (of an active nature) with Organisations or Institutions, centralised or local, national or international, public or private” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

**2. Recruitment, management and development of Staff**

This is carried out in accordance with the standards of control provided for the “Recruitment, management and development of staff” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

**3. Management of the financial transactions, including intra-group**

This is carried out in accordance with the standards of control provided for the “Management of the financial transactions, including intra-group” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

**4. Sale of goods and services in Italy and abroad**

This is carried out in accordance with the standards of control provided for the “Sale of goods and services in Italy and abroad” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

**5. Revenues from the use of Rai Com music in RAI programs**

This is carried out in accordance with the standards of control provided for the

“Revenues from the use of Rai Com music in RAI programs” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private parties” to which the reader is referred.

## **6. Free gifts, presents and benefits**

This is carried out in accordance with the standards of control provided for the “Free gifts, presents and benefits” process reported in “Special Section “A” - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **7. Organisation and management of events**

This is carried out in accordance with the standards of control provided for the “Organisation and management of events/sponsorships” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **8. Travelling expenses and advances**

This is carried out in accordance with the standards of control provided for the “Travelling expenses and advances” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **9. Selection, contractualisation and management of the agents**

This is carried out in accordance with the standards of control provided for the “Selection and management of the agents” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **10. Activation of commercial partnerships across the world**

This is carried out in accordance with the standards of control provided for the “Activation of commercial partnerships across the world” process reported in “Special Section “A” - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **11. Management of court, out-of-court or arbitration proceedings**

This is carried out in accordance with the standards of control provided for the “Management of court, out-of-court or arbitration proceedings” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## **12. Publishing activities (editions and co-editions)**

The regulation of the activity provides for:

- the obligation to comply with the requirements dictated by the legislation on the protection of moral and patrimonial copyright, with specific reference to the use, storage and distribution of texts, music, drawings, images, photographs, computer programs and databases protected by copyright (the 'Works').
- In particular, they must be respected:
  - the provisions of law applicable with reference to the acquisition, conservation, use, reproduction, duplication, processing, dissemination and distribution (including through telematic networks) of the Works or parts thereof;
  - the legal provisions protecting the authorship of the Works as well as the limitations provided for the right to duplicate computer programs and to reproduce, transfer, distribute and/or communicate the contents of databases;
- The identification of authorisation mechanisms for the use, reproduction, processing, duplication and distribution of Works or parts thereof;
- the adoption of protection tools (e.g. access rights) relating to the preservation and archiving of Works by ensuring their inventory;
- The verification - upon receipt of supports containing computer programs, databases, phonograms or videograms of musical, cinematographic or audiovisual works and/or sequences of moving images - of the presence on them of the mark by the authorities in charge of copyright supervision, or of the exemption of the supports in question from this obligation;
- the involvement of the competent Directorate in the definition, where applicable, of contractual clauses containing the commitment/attestation (as the case may be) of the counterparty: - to be the legitimate owner of the rights of economic exploitation of the works protected by copyright that are the subject of the assignment or to have obtained from the legitimate owners the authorisation to grant their use to third parties;
- to indemnify and hold harmless the Company from any damage or harm that may be caused to it as a result of the untruthfulness, inaccuracy or incompleteness of

this declaration.

### **13. Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general**

This is carried out in accordance with the standards of control provided for the "Preparation of income statements or tax withholding statements or other statements needed to pay taxes in general" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

### **14. Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties**

This is carried out in accordance with the standards of control provided for the "Management of the request / acquisition and/or management of aid, funding, loans, or guarantees granted by public/private parties" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

### **15. Management of relations with public parties and Supervisory authorities**

This is carried out in accordance with the standards of control provided for the "Management of relations with public parties and Supervisory Authorities" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

### **16. Publication of content on Internet sites/company web channels**

The regulation of the activity provides for:

- the completeness, accuracy and truthfulness of all information and data published on the web;
- the analysis, prior to publication, of the information to be communicated via the web, in order to verify that it does not compromise the Company's activities and to prevent the risk of dissemination of false or misleading information on the Company's conditions
- the authorisation, consistent with the system of powers in force, for the dissemination of communications/information/statements in the name and on behalf of the Company through the web channel

- the provision of periodic updates of the contents of the Company's website and social channels;
- the provision of a specific contractual clause in the agreements entered into with suppliers of material and/or content for the website / other external communication material that provides for respect for copyright and distinctive signs (brand protection).

Furthermore, the activity is carried out in compliance with the control standards set out in "Special Section F - Computer crimes and unlawful data processing", to which we refer.

#### **17. Purchasing work, goods and services / security trading**

**a) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by legal entities)**

**b) purchase / hire of audiovisual / musical / photographic / products / work material (including the rights by individuals)**

This is carried out in accordance with the standards of control provided for the "Purchase of work, goods and services" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

This provides for the following:

- identification of roles and responsibilities in the formal checking of what has been purchased from both the technical and editorial standpoints;
- the traceability of said checking activity.

#### **18. Reporting on the sale of rights and conventions and retransmissions of the Rai Channels**

The activity is carried out in compliance with the control standards laid down for the "Reporting on the sale of rights and conventions and retransmissions of the Rai Channels" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

#### **19. Warehouse Management**

The activity is carried out in compliance with the control standards laid down for the "Warehouse Management" process and set out in "Special Section A - Public Administration and Bribery between private parties" to which reference is made.

## **20. Management of environmental aspects**

The activity is carried out in compliance with the control standards set out in 'Special Section H - Environmental offences', to which reference is made.

## **21. Employment of foreign workers (employment/managing tender contracts)**

This provides for the following:

- the obligation to put the reasons for the decision to allow/request the entry of a person into the territory of a State into formal form;
- assignment of responsibility for ensuring that:
  - the person entered the country in accordance with the reasons given;
  - compliance with legislation on immigration matters in the country of destination;
- indication of the persons for whom the Company obtains a permit for entering the territory of a country with indication of the date when the person will leave the country, where necessary;
- the formal creation of a specific application form to send to the prefecture in the event of hiring a non-EU national resident abroad;
- the commitment to guarantee the foreign worker the salary and insurance package provided under prevailing law and the applicable national collective labour contracts and to make the obligatory communications regarding the work relationship in the required timeframes;
- the filing of the work permit employment contract in the employee's folder and the authorisation issued by the applicable authority;
- ascertainment by the applicable Department/Facility, that the worker has the postal receipt of the application issuing the residence permit before starting the work relationship.

## **8. SPECIAL SECTION E - Crimes committed in breach of health and safety regulations at the workplace**

This Special Part, after a brief description of the predicate offences under art. 25-septies applicable to Rai Com, identifies the sensitive activities and the principles of conduct and implementation of decision-making processes that all the Recipients of this Model must adopt in order to prevent the occurrence of specific offences.

### **8.1 The relevant elements of crimes committed in breach of health and safety regulations at the workplace**

Law 123/2007 provided for an extension of administrative liability by introducing Article 25-septies, relating to offences of 'Manslaughter committed in violation of occupational health and hygiene regulations'. Below are the regulatory references of the relevant cases of the offences covered by Legislative Decree 231/01.

#### ***Manslaughter (article 589 Criminal Code)***

The offence punishes anyone who is negligently responsible for the death of a person.

#### ***Bodily harm through negligence (article 590 of the Criminal Code)***

The offence punishes who is responsible for bodily harm to another through negligence.or

through grievous bodily harm have been committed in breach of of occupational health and safety regulations.

Injuries are considered serious if: a) the event results in an illness endangering the life of the injured party, or an illness or incapacity to attend to ordinary occupations for a period of more than forty days; b) the event results in the impairment of a sense or an organ (Art. 583(1) criminal code). Injuries are considered very serious if the event results in: a) an illness that is certainly or probably incurable; b) the loss of a sense; c) the loss of a limb or a mutilation that renders the limb useless, or the loss of the use of an organ or the ability to procreate, or a permanent and serious difficulty of speech; d) deformation, or permanent disfigurement of the face (Article 583(2) of the criminal code).

### **8.2 Rai Com and management of workplace health and safety**

Rai Com works in premises on the basis of a lease entered into with RAI Television Italiana Spa, and the ordinary and extraordinary maintenance of the buildings and service systems of the infrastructure (for example air conditioning systems, fire-safety systems and protections, heating systems, etc.) are governed and defined on the basis of a contract between the two companies and are managed by the Rai Television Italiana Spa Purchasing and Services Department.



Rai Com also entered into a "Service Supply Contract" with RAI Television Italiana Spa in order to govern, inter alia, the following services (provided by RAI to Rai Com):

- Human resources management;
- General services;
- Administration and Treasury services;
- ICY Services;
- Production services.

The aforementioned "Service supply contract" states that "With the Prevention and Protection Service of its organisation, Rai guarantees the Safety and Health and Environmental Protection activities (risk assessment, identification of measures for the safety and health of the workplaces, compliance with prevailing law, processing of preventive and protective measures, etc.)."

The main components of the company prevention and management system that were identified were the following company positions:

- the *Employer*: the party described under article 2 letter b) of Legislative decree 81/08, and if the same as the General Manager, must ensure due compliance with all operational and organisational requirements under Legislative decree 81/08 as amended, and all other provisions of the law set out regarding the protection of health of the workers;
- the *Prevention and Protection Service Manager (RSPCA)*: a person appointed by the Employer pursuant to Article 17(1)(b) of Legislative Decree No. 81/08, as amended, to coordinate the risk Prevention and Protection Services, of the Company in carrying out the tasks referred to in Article 33 of Legislative Decree no. 81/08 as amended. The RSPCA must possess the professional skills and requirements referred to in Article 32 (Article 2 letter f) of Legislative Decree No. 81/08) and must receive the necessary training and periodic updates by the Company;
- the *Company Doctor*: a doctor who has one of the titles and the training and professional requirements pursuant to Legislative Decree 81/08, who works with the Employer to assess the risks. The Company Doctor who is nominated by the Employer to monitor the healthcare and all other tasks pursuant to Legislative Decree 81/08;
- the *Workers' Safety and Environment representatives (LS)*: persons elected as union representatives to represent the workers with respect to the health and safety issues during work (article 2 letter i) of Legislative decree 81/08);
- *Emergency and first aid operators*: As provided under article 43 of Legislative decree 81/08, Rai Com appointed one or more workers to implement the measures needed for first aid purposes and to prevent fires and carry out fire-safety, and worker evacuations. These workers must receive adequate training

and be formally appointed in writing and notification must be given to all interested parties and the Prevention and Protection Service Manager.

- *Worker*: a person who, regardless of the type of contract, works in the Employer's organisation, with or without remuneration, including to just learn a trade, skill or profession (article 2 letter a) of Legislative decree 81/08).

### 8.3 The Management System for the Health and Safety of Workers documentation

The main documents comprising the health and safety Management System include the following:

- *"Rules on the environment, and health and safety at work"*
- *"Risk Assessment Document"*, the purpose of which is to identify and assess the risks of the work activities carried out by Rai Com;
- Evacuation and emergency (specific plans for each separate place of work).

With specific reference to the Risk Assessment Document or DVR (Article 28, paragraph 2, Legislative Decree 81/08 and subsequent amendments and additions), it is an integral part of this Organisation, Management and Control Model pursuant to Legislative Decree 231/2001. In particular, the risk assessment contained in the DVR is carried out on the basis of what is regulated by the reference guidelines and best practices.

### 8.4 Identification of the sensitive areas and activities in the area of crimes committed in breach of health and safety regulations at the workplace

The analysis of the company processes led to identification of the activities in which the criminal offence referred to under article 25-septies of Legislative decree 231/01 could hypothetically occur. The processes examined are listed below:

1. **Planning:** the planning and organisation of the roles and activities related to the protection of health, safety and hygiene at the work place are aimed at:
  - establishing goals that are in line with company policies;
  - establishing the processes needed to reach the goals;
  - defining and allocating resources.
2. **Implementation and Function:** the Implementation and Function activity defines:
  - the organisational structure and responsibilities;

- training, consultation and communication methods;
- methods to manage the documentary system and checking of documents and data;
- operational control methods;
- emergency management.

**3. Corrective actions and control:** the corrective actions and control activity defines:

- the measurement and monitoring of performance;
- the registration and monitoring of accidents, incidents, breaches and corrective and preventive actions;
- registration management methods;
- periodic audit methods.

**4. Review by Management:** periodic reviews by Company Management are aimed at assessing whether the health and safety management system was properly created and whether it goes far enough to meet the policies and objectives of the company.

## **8.5 Rules of conduct and implementation of decision-making processes**

### **8.5.1 Rules of conduct**

This Special Section expressly prohibits Corporate Bodies, Employees - on a direct basis - and external staff from doing the following, limited to the obligations provided in the specific procedures and codes of conduct and specific clauses in the contracts respectively:

- carrying out, helping to carry out, or causing the carrying out of behaviour that
  - considered individually or collectively - includes, directly or indirectly, the elements of the offences considered above (25-septies of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

The prevention of accidents and protection of health and safety at the workplace is a fundamental requirement in the protection of human resources and third parties.

To this end, Rai Com there must also be the commitment to prevent and suppress behaviour and practices that could result in the humiliation of employees in their

professional capacity and expectations, or that could result in the isolation, disrepute or damage to their image at the workplace.

More specifically, decisions on health and safety are based on the following basic principles and criteria:

- avoidance of risks;
- assessment of the unavoidable risks;
- combating risks at the source;
- adapting the work to the person, especially with regard to planning the work stations and the choice of work tools and work or production methods, also to cut down on monotonous or repetitive work and reduce the effects of this type of work on health;
- taking account of the degree of development of the techniques;
- replacing anything dangerous with something that is not dangerous or less dangerous;
- planning prevention in order to obtain a cohesive whole that integrates work organisation, work conditions, social relations and the influence of the work place factors into the technique;
- giving priority to collective protection measures over individual protection measures;
- giving adequate instructions to the workers.

### **8.5.2 Principles of implementing the decision-making processes**

The *standards* of control identified for the individual Susceptible Activities are listed here below.

#### **A. Planning**

The regulations provide as follows for those activities:

**Policy and objectives:** a formal Policy document that defines the guidelines and general goals in health and safety that the company has decided to achieve:

- formally approved by top company management;
- containing the commitment to comply with prevailing law in applicable health

and safety measures and the other requirements agreed to;

- containing the commitment to prevent accidents and work-related illnesses and to continually improve the management and services of the health and safety system;
- adequately distributed to employees and the interested parties<sup>2121</sup>;
- periodically reviewed to ensure that the objectives expressed therein are appropriate and adequate with respect to the risks in the organisation (for example to new regulations and laws).

**Annual and long-term plans:** a Plan of Improvement / Plan of Investments in health and safety at the workplace, approved by the authorised company bodies:

- containing clear identification of the deadlines, responsibilities and availability of the resources needed for implementation (financial, human, logistical, equipment);
- adequately communicated to the organisation so that the staff is sufficiently aware of same;
- providing for the responsibilities with respect to the approval, execution and reporting of expenditure on health, safety and the environment.

**Legal and other provisions:** company rules that define the criteria and methods to adopt for:

- updates on applicable legislation and the other applicable instructions regarding health and safety;
- identification of where said instructions should apply (corporate area) and how to distribute them.

## **B. Implementation and Function**

The regulations provide as follows for those activities:

**System regulations and documentation:** corporate procedures that govern the roles and responsibilities in managing the documentation relating to the health and safety management system (for example manuals, procedures, work instructions), in accordance with the corporate policies and guidelines. More specifically, the aforementioned

---

<sup>21</sup> Interested individuals or groups, involved or influenced by the health and safety at work services of an organisation.

procedures should also describe the methods used to manage and file and keep the documentation produced (for example the filing/referencing procedures to guarantee an adequate level of traceability / checking).

**Organisation and Responsibilities - Employer:** organisational provisions to identify the employer that takes account of the organizational structure of the Company and what type of production it is involved in.

**Organisation and Responsibilities - Prevention and Protection Service Manager/Prevention and Protection Service Operators/Company Doctor/Emergency Operators:** organisational provisions regarding the appointment of a Prevention and Protection Service Manager, the Prevention and Protection Service Operators, the Company Doctor and the Emergency management operators who:

- will define the specific requirements in accordance with prevailing law;
- ensure the traceability of the checks carried out regarding possession of the specific requisites provided by applicable legislation;
- carry out assessments on the staff to understand the skills and availability to cover those specific roles;
- formally designate and make the relative appointments;
- ensure that the formal acceptance of the positions assigned can be traced.

**System of delegation of functions:** the existence of a system of delegation of functions drawn up in accordance with the following principles of case law

- effectiveness - existence and co-presence of decision-making and financial autonomy of the delegate
- technical-professional suitability and experience of the delegate
- supervision of the delegate's activity, non acquiescence, non-interference;
- certainty, specificity and awareness.

The formalised system of delegation of functions entails the existence of corporate rules that:

- provide for the clear identification of the scope of operation of the delegation

- guarantee the verification of the traceability and permanence of the delegations and the traceability of the express acceptance of the delegation by the delegates/sub-delegates
- explicitly indicate whether or not the delegate may sub-delegate health and safety functions;
- provide for the traceability of the criteria on the basis of which the consistency between the delegated functions and the assigned decision-making and spending powers is determined;
- define control procedures concerning the permanence of the delegate's technical-professional requirements, a periodic update and professional technical development plan for the delegate and the professional figures he/she employs, and a periodic evaluation system of his/her technical-professional capacities;
- provide for a formalised continuous/periodic information flow between the delegating party and the delegate
- regulate a formalised supervisory activity.

**Identification and assessment of the risks - Roles and Responsibilities:** company rules that identify roles, responsibilities and the procedures to execute, approve and update the global assessment and record all the risks in the company. More specifically, this procedure:

- identifies roles, authority, skill requirements and the need to train the staff in charge of identifying the dangers, the risks and risk control;
- identifies the responsibilities for the checking, approval and update of the contents of the Risk Assessment Document;
- identifies the methods and criteria to use to review the timeframes or periods decided for the danger identification process and risk assessment;
- where necessary, ensures that the involvement of the company doctor can be tracked when identifying dangers and making risk assessments;
- assesses the various types of sources of risk: dangers that are ordinary or generic, ergonomic, specific, process-related or organisational and identification of standard areas in terms of danger within the company;
- identify the workers' representative roles;
- provide a list and description of the chemical agents and equipment and

machines at the work site;

- explicitly define the assessment criteria used for the various risk categories in accordance with prevailing regulations and instructions.

**Presence of the Risk Assessment Document:** a document that reports on the risk assessment drawn up in accordance with the rules, and defining at least the following:

- the assessment procedure, specifying the criteria adopted;
- identification of the prevention and protection measures and the individual protection provisions resulting from the assessment;
- the plan of the measurements considered to be necessary to ensure improvement of the safety levels over time.

**Operational control – Assignment of jobs and duties:** company rules that identify the criteria and procedures defined to assign duties to the workers by the Employer. More specifically, this procedure:

- defines the criteria used to assign the duties to the workers on the basis of their ability and conditions in relation to their health and safety, and from what has emerged from the results of the health assessments carried out;
- defines the organisational measures to ensure participation by the Company Doctor and the Prevention and Protection Service Manager in the definition of the roles and responsibilities of the workers;
- ensures that the assessments made for that scope can be traced (for example definition of check lists setting out the lists of critical jobs and/or processes that can impact on health and safety).

**Emergency management:** company rules to manage emergencies in order to reduce the effects on the health of the public and the external environment. More specifically, this procedure:

- identifies the measures to control risk situations in the case of an emergency;
- provides indications on how to leave the work station or dangerous area where there is serious and immediate danger;
- determines how the appointed workers should implement measures to prevent fires, evacuate the workers in the case of immediate, serious danger and provide



first aid;

- identifies the measures to take to avoid risks to the health of the public or damage to the external environment;
- describes the ways and the scheduling/frequency of emergency drills.

**Management of fire risk:** there must be company rules that define the measures needed to prevent fires. More specifically, this procedure contains:

- the roles and responsibilities for the activities to carry out for the request to issue and renew the fire prevention certificate, including monitoring the measures requested by the Fire Department;
- instructions on how to inform the workers on the rules of behaviour to implement in the event of fire;
- the filing and checking procedures of the fire-safety measures;
- information on the fire register filing and updating procedures.

**Periodic meetings:** a calendar that provides for periodic meetings of all the parties involved in checking the situation in the management of health and safety issues and adequate circulation of the results of the meetings through the organisation in accordance with prevailing law.

**Consultation and communication:** company rules that govern the distribution of information on health and safety matters to ensure that all company levels are made aware of how to identify, reduce and manage risks in the workplace. More specifically, this procedure governs:

- the periodic information given by the employer to the employees;
- the information to the Company Doctor, if necessary, on the processes and risks linked to the type of work carried out.

**Information and training:** company rules governing the training process. More specifically, this procedure:

- defines the methods to use to train each worker on: company risks, prevention and protection measures, specific risks and safety rules, dangerous substance characteristics (safety sheets and good operating practice rules), emergency

- procedures, appointees and roles of the Prevention and Protection Service Manager and the company doctor, where applicable instructions on how to use the work equipment and the individual protection equipment;
- defines the criteria on how to provide training to each worker (for example on recruitment, transfer, change of duties, introduction of new equipment, technologies or hazardous substances);
- with reference to the parties involved in managing the health and safety matters, sets out the identification of the environment, the content and methods of how to provide training according to the role within the organisation (Worker Safety Representatives, Prevention and Protection Service Operators, Emergency and First Aid Teams);
- defines the timeframes in which to provide the training to workers on the basis of the methods and criteria defined (definition of a Training Plan on an annual or long-term basis).

**Relations with suppliers and contractors – information and coordination:** company rules that define:

- the methods and content of the information that must be provided to external companies regarding all the rules and instructions that a company awarded the contract for an order must be aware of and must undertake to comply with and have its employees comply with;
- the roles, responsibilities and methods to use to draw up the Risk Assessment Document which indicates the measures to adopt to eliminate the risks due to interference between workers if different companies are involved in carrying out a job.

**Relations with suppliers and contractors – qualification:** company rules that define the supplier qualification procedure. More specifically, this procedure takes account:

- of the results of the checks on the technical-professional requirements of contractors pursuant to article 26, paragraphs 1 and 90, paragraph 9 of Legislative decree no. 81/2008;
- of compliance with anything established with the purchase specifications and the best technology available in terms of protecting health and safety.

**Relations with suppliers and contractors – contractual clauses:** contractual standards relating to the safety costs in supply contracts, tender contracts and sub-contracts.

**Asset management:** company regulations that govern the maintenance/inspection of the company assets to guarantee their completeness and adequacy. Specifically, these regulations provide for the following:

- the roles, responsibilities and methods to manage the assets;
- the periodic checks on the adequacy and completeness of the assets and compliance with applicable regulations;
- the planning, execution and check of the inspection and maintenance activities using suitably qualified staff.

### **C. Corrective actions and control**

The control of the activity provides for the following:

**Measurement and monitoring of performance - accidents:** a procedure indicating the following:

- the roles, responsibilities and methods to use to report, find and carry out internal investigations of the accidents;
- the roles, responsibilities and methods to use to report, trace and investigate the accidents that occur and the “near accidents”;
- the methods to use to communicate the accidents which occurred by the operational managers to the employer and the Accident Prevention and Protection Service Manager;
- the roles, responsibilities and monitoring methods for accidents which occur (taking into account any disputes/litigation pending relating to the accidents that have occurred in the workplace) in order to identify the areas where accident risk is higher.

**Measurement and monitoring of performance - other data (besides the accidents):** a procedure that defines roles, responsibilities and methods to use to record and monitor (including through the use of indicators):

- the data on the health inspections;
- the plant safety data (lifting devices and lifts, electrical systems, pressure equipment, underground tanks, laser equipment, machines);
- the data on hazardous substances and mixtures used in the company (safety sheets);

- other data besides the accident data (taking into account any disputes/litigation which may have arisen) in order to identify the areas where the accident risk is higher.

**Measurement and monitoring of performance - cases/disputes:** procedures that define the roles, responsibilities and monitoring methods for pending disputes/litigation relating to the accidents that have occurred in the workplace in order to identify the areas where the accident risk is higher.

**Auditing:** a procedure that governs roles, responsibilities and operational procedures relating to auditing and the periodic check of efficiency and effectiveness of the safety management system. More specifically, this procedure defines:

- the timescales for scheduling the activities (formal audit plan);
- the skills which the personnel involved in the auditing activities must have in accordance with the principal of independence of the auditor with respect to the activity that has to be audited;
- the audit registration methods;
- the ways to identify and apply the corrective actions if divergence is found compared to what was set out by the company health and safety management system or applicable laws and instructions;
- the way to check the implementation and effectiveness of the above-mentioned corrective actions;
- how to communicate the results of the audit to top management.

**Reporting:** company standards that govern the roles, responsibilities and operational procedures for reporting to top management. These reports must guarantee the traceability and availability of the data relating to the activities that regard the safety management system, and more specifically the periodic sending of related information:

- any differences between the results obtained and the planned objectives (including changes in the law, changes to the systems, the processes or the company procedures that could make it necessary to update the mapping and the Model);
- the results of the audits (including accident investigation reports, review reports and any communications/reports from the external interested parties such as control bodies and third parties).

#### **D. Management Review**

The control of the activity provides for the following:

**The review process:** a procedure that defines roles, responsibilities and methods to use to carry out a review by company top management in relation to the efficiency and effectiveness of the company health and safety management system. This procedure encompasses the following activities:

- analysis of any differences between the results obtained and the planned objectives;
- analysis of the audit results;
- analysis of the monitoring results on the performance of the health and safety management system (accidents, other data);
- the state of progress of any improvements made on the basis of the previous review;
- identification of any goals for improvement for the subsequent period and the need to make any changes to elements of the company health and safety management system;
- traceability of the activities carried out.

## 9. SPECIAL SECTION F – Computer crimes and unlawful data processing

This Special Section, after a brief description of the predicate offences of unlawful processing of data set forth in Article 24-bis, identifies the sensitive activities and the principles of conduct and implementation of decision-making processes that all Recipients of this Model must adopt in order to prevent the occurrence of specific offences.

### 9.1 The relevant elements of the computer crimes and unlawful data processing(article 24-bis of Legislative decree 231/01)

Law no. 48 of 18 March 2008 “Ratification and execution of the Convention of the Council of Europe on computer crimes, signed in Budapest on 23 November 2001, and provisions for the adaptation of internal legislation” expanded the criminal offences that can render a company liable, by inserting Article 24-bis<sup>22</sup> into Legislative Decree No. 231/2001, as subsequently amended by Law No. 133/2019..

These rules govern protection of **computer systems** (referring to “any equipment, device, set of equipment or devices, interconnected or connected, one or more of which, on the basis of a program, automatically process data” - article 1 Budapest Agreement of 23 November 2001) or **computer data** – referring to “any representation of facts, information or concepts that can be processed with a computer system, including a program that allows a computer system to carry out a function”.

The offences envisaged are as follows.

#### **Electronic documents (article 491-bis Criminal Code)**

If any of the misrepresentation provided under paragraph III<sup>23</sup> relates to a public or

---

<sup>22</sup> It should be noted that Article 24-bis, paragraph 3, of Legislative Decree no. 231/2001 provides that, in relation to the commission of the offences referred to in Articles 491-bis and 640-quinquies of the Criminal Code, the provisions of Article 24 (Undue receipt of funds, fraud to the detriment of the State or a public body or for the obtainment of public funds and computer fraud to the detriment of the State or a public body) of the decree (which is the subject of Special Section A) are not affected.

<sup>23</sup> Reference is made, in particular, to the following offences under Chapter III "Of forgery of documents" of the Criminal Code:

- Material forgery committed by a public official in public deeds (Article 476 of the criminal code).
- Material forgery committed by a public official in certificates or administrative authorisations (Article 477 of the criminal code)
- Material forgery committed by a public official in certified copies of public or private deeds and in certificates of the content of deeds (Article 478 of the criminal code)
- Ideological forgery committed by a public official in public deeds (Article 479 of the Criminal Code)
- Ideological forgery committed by a public official in certificates or administrative authorisations (Article 480 of the criminal code)
- Ideological forgery in certificates committed by persons performing a service of public necessity (Article 481 of the criminal code)
- False material breach committed by a private individual (Article 482 of the criminal code)
- Ideological forgery committed by a private individual in a public deed (Article 483 of the criminal code)
- Forgery in registers and notifications (Article 484 of the criminal code)

---

private computer document, with evidentiary value, the provisions of the Paragraph shall apply relating to public acts.

***Unauthorised access to a computer or data transmission system (article 615-ter Criminal Code)***

The offence punishes anyone who gains unauthorised access to a computer system or a data transmission system protected by security measures or who gains access against the express or implied wishes of the person who has the right to exclude them. The penalty is imprisonment of up to three years.

Access is abusive because it is carried out against the will of the owner of the system, which may be implicitly manifested by the provision of protections that prevent third parties from accessing the system.

Also liable for the offence of abusive access to a computer system is the person who, although having legitimately entered a system, remains there against the will of the system owner, or the person who has used the system for the pursuit of purposes other than those for which he was authorised.

The penalty inter alia aggravated if the act is committed by a public official or a person in charge of a public service, with abuse of power or in breach of the duties inherent in the function or service, or if committed with abuse of the capacity of system operator, as well as if the acts concern computer or telecommunication systems of public interest.

***Unauthorised possession and distribution of access codes to computer or data transmission systems (article 615-quater of the Italian Criminal Code.)***

This crime will be carried out by anyone, in order to obtain an advantage for themselves or others, or to cause harm to others, who unlawfully obtains, reproduces, circulates, communicates or sends codes, key words or other methods that could be used to gain access to computer systems or data transmission systems protected by security measures or in any case provides instructions or indications on how to do this.

This offence occurs both in the event that the person who is lawfully in possession of the aforementioned devices (system operator) communicates them without authorisation to third parties, and in the event that such person unlawfully obtains one of these devices. Conduct is abusive if the access codes are obtained as a result of the violation of a rule, or contractual clause, prohibiting such conduct.

- 
- Forgery in a private contract (Article 485 of the criminal code)
  - False signing of blank papers. Private deed (Article 486 of the criminal code)
  - False signing of blank papers. Public deed (Article 487 of the criminal code)
  - Other forgery of a blank sheet of paper. Applicability of the provisions on material falsity (Article 488 of the criminal code)
  - Use of a false act (Article 489 of the criminal code)
  - Suppression, destruction and concealment of true acts (Article 490 of the Criminal Code)
  - Forgery of a holographic will, bill of exchange or credit instruments (Article 491 of the criminal code)
  - Authentic copies that take the place of missing originals (Article 492 of the Criminal Code)
  - Forgery committed by public employees in charge of a public service (Article 493 of the Criminal Code)

---

An aggravated penalty is provided for if the offence is committed to the detriment of a computer or telematic system used by a company providing public services; or by a person in charge of a public service, with abuse of power or with violation of the duties inherent in the function or service, or with abuse of the role of system operator.

***Distribution of computer equipment, devices or programs aimed at damaging or interrupting a computer or data transmission system (article 615-quinquies of the Italian Criminal Code)***

Anyone who - in order to unlawfully damage a computer system or data transmission system, the information, data or programs contained therein or relating to them, or to aid in the total or partial interruption or alteration of its function - obtains, produces, reproduces, imports, circulates, communicates, delivers or in any case makes available other equipment, devices or computer programs, will commit the crime.

***Unlawful interception, blocking or interruption of computer or data transmission communications (article 617-quater of the Italian Criminal Code)***

This offence is committed when a person fraudulently intercepts communications relating to a computer or telecommunications system or between several systems communications relating to a computer system or a data transmission system or between different systems, or prevents or interrupts such communications, as well as, unless the act constitutes a more serious offence in the event that a person discloses, in part or in full, the content of the aforementioned communications by any means of public information.

An aggravated penalty is provided for, inter alia, if the offence is committed to the detriment of a computer or telematic system used by a company providing public services; or by a person in charge of a public service, with abuse of power or with violation of the duties inherent in the function or service, or with abuse of the quality of system operator.

***Installation of equipment that can intercept, prevent or interrupt computer or data transmission communications (article 617-quinquies of the Criminal Code)***

Anyone who, apart from the cases provided by law, installs equipment that can intercept, prevent or interrupt communications relating to a computer or data transmission system or between a number of systems will have committed the crime. The penalty is imprisonment of one to four years.

***Damage to computer information, data or computer programmes (article 635-bis Criminal Code)***

The crime, unless the actions constitute a more serious offence, involves the



destruction, damage, cancellation, alteration or elimination of information, data or computer programs of others, by anyone who does it.

The aggravation of punishment referred to in the preceding cases is also provided for in this case.

***Damage to information, data and computer programmes used by the State or other public body or of public utility (article 635-ter Criminal Code)***

Unless the action constitutes a more serious offence, the crime - which may be committed by anyone - involves actions aimed at the destruction, damage, cancellation, alteration or elimination of information data or computer programs used by the State or by another public organisation or related to one, or in any case one of public utility.

This offence differs from the previous one in that, in this case, the damage relates to property belonging to the State or to another public body or, in any case, to property of public utility; it follows that the offence also exists where data, information or programmes owned by private individuals but intended to satisfy an interest of a public nature are involved.

In order for the offence to be committed, it is sufficient that conduct aimed at deteriorating or suppressing the data is committed.

The offence is aggravated if the act gives rise to the consequences described above.

The penalty is increased if the act is committed with violence to the person or with threat or with abuse of the capacity of system operator.

***Damage to computer or data transmission systems (article 635-quater of the Criminal Code)***

Unless the action constitutes a more serious offence, the crime will be committed by anyone who - through the behaviour described under article 635-bis of the Criminal Code or through the introduction or transmission of data, information or programs - destroys, damages or renders computer or data transmission systems of others unusable in whole or in part, or seriously disrupts their function.

The penalty is increased if the offence is committed with violence to the person or with threat or with abuse of the capacity of system operator.

***Damage to public interest computer or data transmission systems (Article 635-quinquies Criminal Code)***

This crime will be committed if the action described under article 635-quater of the Criminal Code is aimed at destroying, damaging, or making public interest computer or data transmission systems unusable in whole or in part, or seriously disrupting their

operation. The penalty for this offence is imprisonment of one to four years. If the action results in the destruction or damage to public interest computer or data transmission systems, or if they are rendered unusable in whole or in part, the penalty will be imprisonment of three to eight years.

***Computer fraud by the provider of electronic signature certification services  
(article 640-quinquies Criminal Code)***

This crime will be committed by anyone who provides electronic certification services, who -in order to obtain unfair advantage for themselves or others or to cause harm to others - breaches the obligations set out under the law for the issue of defined certificates.

The penalty is increased if the offence is committed with violence to the person or with threat or with abuse of the capacity of system operator.

**9.2 Identification of susceptible areas and activities within the scope of  
computer crimes and unlawful data processing**

The analysis of the company processes, carried out during the Project, led to identification of the activities in which the criminal offence referred to under article 24-bis of Legislative decree 231/01 could hypothetically occur. The processes examined are listed below:

- 1. Information systems management**
  - a. Management of user profiles and the authentication process**
  - b. Management and protection of jobs**
  - c. Management of access to and from the outside**
  - d. Operation and protection of networks**
  - e. Management of system output and storage devices (for example USB, CD)**
  - f. Physical safety (including cable safety, network devices, etc.)**

Rai Com entered into a "Service Supply Contract" with RAI Radiotelevisione Italiana Spa in order to govern, inter alia, the following services (provided by RAI to Rai Com):

- Human resources management;
- General Services;

- Administration and Treasury services;
- ICT Services;
- Production services.

The activities indicated at points 1 to 4 and point 6 fall within the scope of the ICT services.

### 9.3 Rules of conduct and implementation of decision-making processes

#### 9.3.1 Rules of conduct

This Special Section provides for the express prohibition of Corporate Bodies, Employees - on a direct basis - and external staff - limited to the obligations provided under specific procedures and codes of conduct and the specific clauses in the contracts respectively - from:

- carrying out, helping to carry out, or causing the carrying out of behaviour that
  - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (24-bis of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

On the basis of applicable international standards, company computer safety systems refer to the set of technical and organisational measures aimed at ensuring the protection of the completeness, availability and confidentiality of the automated information and the resources used to acquire, store, process and communicate said information.

According to that approach, the basic computer safety goals of the Company are the following:

- **Completeness:** guarantees that all company data fully and fairly represents, in an objective manner without interpretation, the content to which it refers. This goal is pursued by adopting adequate countermeasures that prevent accidental or intentional alterations that could change the original meaning, or alternatively, make it possible to find said modification of the data and correct it.
- **Confidentiality:** guarantees that a piece of information pertaining to a company is only made available to the authorised applications and users;
- **Availability:** guarantees the availability of the company information in accordance with the need for business continuity and compliance with regulations (legal and non-legal) which require the storage of historical data or certain service levels.

More specifically, this Special Section provides for the following behaviour rules with reference to the above-mentioned parties:

- a) prohibition on altering public or private computer documents, that could have evidentiary use;
- b) prohibition on unauthorised access to the computer or data transmission systems of public or private parties;
- c) prohibition on unauthorised access to the computer or data transmission systems in order to alter and/or cancel data and/or information;
- d) prohibition on the unauthorised holding or use of codes, key words or other means that could permit access to a computer or data transmission system of competitors, public or private, in order to acquire confidential information;
- e) prohibition on the unauthorised holding or use of codes, key words or other means that could permit access to a computer or data transmission system in order to acquire confidential information;
- f) prohibition of any procurement and/or production and/or circulation of equipment and/or software that could damage a computer system or data transmission system of public or private parties, the information, data or programs contained therein, or that could fully or partially interrupt or alter their function;
- g) prohibition on any fraudulent interception, block or interruption of communications relating to the computer or data transmission systems of public or private parties, in order to acquire confidential information;
- h) prohibition on installing equipment for the interception, blocking or interruption of communications of public or private parties;
- i) prohibition on modifying and/or cancelling data, information or programs of private or public parties or in any case, of public interest;
- j) prohibition on damaging information, data or computer or data transmission programs of others;
- k) prohibition on destroying, damaging or making public interest computer or data transmission systems unusable;
- l) prohibition on unduly using, exploiting, circulating or reproducing intellectual property of any nature covered by copyright in any way, in any form, for money or for personal reasons;

Therefore, the above-mentioned parties must:

1. use the information, applications and equipment exclusively for official purposes;

2. not provide or sell third parties any computer equipment without the prior authorisation of the Purchasing and Service Directorate Manager;
3. notify the Purchasing and Service Directorate and the Manager of that Directorate of any theft, damage or disappearance of said instruments; additionally, if there is a theft of any type of computer equipment or it disappears, the interested party, or anyone to whom it was delivered, within 24 hours from the event, must provide the Computer Technology Department with the original claim to the Public Safety Authority;
4. avoid introducing and/or keeping in the Company (in paper, computer form or using company instruments), in any form or for any reason, documentation and/or computer material that is confidential and owned by third parties, subject to acquisition of their express agreement;
5. avoid transferring and/or sending files, documents or any other confidential documentation owned by the Company or any other Group company, outside the Company unless this has to be done for reasons closely related to their jobs, and in any case, subject to authorisation of their Managers;
6. avoid leaving their computers unattended and/or accessible to others;
7. avoid using the passwords of other users in the company, even for access to protected areas in their names or on their behalf, unless expressly authorised by the Computer Technology Manager;
8. avoid using software and/or hardware instruments that could intercept, falsify, alter or eliminate the content of computer communications and/or documents;
9. use the Internet connection for the purposes and time strictly necessary to carry out the activities that made the connection necessary;
10. comply with the procedures and standards provided, promptly notifying the applicable departments of any anomalous uses and/or functions of the computer resources;
11. only use products officially purchased by the company on the Company equipment;
12. not make copies of data or software unless it has been specifically authorised;
13. not use computer instruments for any purpose outside the specifically authorised purposes;
14. comply with all other specific regulations regarding access to the systems and the protection of the company's data and applications;
15. scrupulously comply with the company safety policies for the protection and control of the computer systems.

### 9.3.2 Implementation principles of the decision-making processes

As described in the previous paragraph, the preventive control measures adopted are consistent with international reference standards, as also taken from the "Confindustria 231 Guidelines - Special Section",

The control standards identified for the individual Sensitive Activities identified are listed below.

***It Security Guidelines:*** the standard requires a policy to be set out on the safety of the computer system, which, inter alia, provides for the following:

- a) the communication methods, including to third parties;
- b) the methods to use to review them, on a periodic basis and following significant changes.

***Organisation of safety for internal users:*** the standard requires a regulatory instrument that defines the roles and responsibilities of managing how internal users access the system and their obligations when using the IT systems.

***Organisation of safety for external users:*** the standard requires a regulatory instrument that defines the roles and responsibilities of managing how external users access the system and their obligations when using the IT systems, and on management of the relations with third parties in the event of access, management, communication and the supply of products/services to process the data and information by said third parties.

***Classification and control of the assets:*** the standard requires a regulatory instrument that defines the roles and responsibilities to identify and classify the company assets (including data and information).

***Physical and environmental safety:*** the standard requires a regulatory instrument that provides for adoption of controls to prevent unauthorised access, damage and interference to the premises and assets contained therein by making the areas and the equipment safe.

***Management of communications and operations:*** the standard requires a regulatory instrument that ensures the accuracy and the safety of operations on the IT systems through policies and procedures. More specifically, this regulatory instrument will ensure:

- a) the correct and safe operation of the information processors;

- b) protection from danger;
- c) the backup of information and software;
- d) the protection of information exchanges by using all types of communication instruments, including with third parties;
- e) the instruments used to track the activities carried out on the applications, systems and networks, and protection of said information from unauthorised access;
- f) a check of the logs that record user-activities, the exceptions and the security-related events;
- g) control of the changes to the processors and the systems;
- h) the management of removable devices.

**Access control:** the standard requires a regulatory instrument that governs access to information, computer systems, the network, the operating system and the applications.

More specifically, this regulatory instrument provides as follows:

- a) for individual authentication of users through user identification codes and passwords or other secure authentication systems;
- b) for staff control lists authorised to access the systems and the specific authorisations for the various users or categories of users;
- c) for registration and deregistration procedures to allow and revoke access to all the computer systems and services;
- d) for review of the access rights of users in accordance with pre-established time limits using a formal process;
- e) for the removal of the access rights in the event of termination or change of the type of relationship that gave the access right;
- f) for access to the network services exclusively to users who were specifically authorised and restrictions on the ability of users to connect to the network;
- g) for segmentation of the network so that it is possible to ensure that the connections and information flows do not breach the rules controlling access of the company applications;
- h) for closure of the inactive sessions after a pre-determined period of time;
- i) for keeping the storage devices (for example USB keys, CDs, external hard disks, etc.) and

- j) adoption of clear screen rules for the processors used;
- k) plans and operating procedures for the teleworking activities.

**Management of IT safety incidents and problems:** the standard requires a tool that adequately defines methods to use to process incidents and problems relating to IT safety. More specifically, this regulatory instrument provides as follows:

- a) for appropriate management channels to communicate the Incidents and Problems;
- b) for the periodic analysis of all the individual and recurring incidents and identification of the root causes;
- c) for management of problems that generated one or more incidents until they have been definitively resolved;
- d) for the analysis of reports and Incident and Problem trends and identification of preventive actions;
- e) for appropriate management channels to communicate all the system or service weaknesses that have been observed or are potential;
- f) for analysis of the documentation available on the applications and identification of weaknesses that could generate problems in the future;
- g) for the use of basic information to help resolve the Incidents;
- h) for the maintenance of the databases containing information on known errors that have not yet been fixed, the respective workarounds and the definitive solutions that have been identified or implemented;
- i) for the quantification and monitoring of the types, volumes, and costs linked to the incidents relating to IT safety.

**Auditing:** the standard requires a regulatory procedure that governs roles, responsibilities and operational procedures relating to the periodic checking of the efficiency and effectiveness of the IT management system.

**Human Resources and safety:** the standard requires adoption of a regulatory procedure that provides for the following:

- a) assessment (prior to entering into or agreeing a contract) of the experience of the people who will be working in the IT jobs, with special reference to IT system safety, and taking account of applicable regulations, the main ethics and classification of the information that the aforementioned parties will have access to;



- b) specific training and periodic updates on the company IT safety procedures for all employees, and, where relevant, for third parties;
- c) the obligation to return the assets supplied to carry out their jobs (for example computers, mobile phones, authentication tokens, etc.) by employees and third parties upon conclusion of the work relationship and/or contract;
- d) removal, for all employees and third parties, of the right to access the information, the systems and the applications upon conclusion of the work relationship and/or the contract or in the event of a change of job.

***Purchasing, development and maintenance safety:*** the standard requires adoption of a regulatory procedure that provides for the following:

- a) identification of the safety requirements during planning or changes to the existing IT systems;
- b) management of the risks of errors, losses or unauthorised changes to the information processed by the applications;
- c) the confidentiality, authenticity and completeness of the information;
- d) safety in the IT system development process.

## 10. SPECIAL SECTION G - COPYRIGHT CRIMES

This Special Section, after a brief description of the predicate offences set forth in Article 25-novies, identifies the sensitive activities, the principles of conduct and the principles for implementing the decision-making processes that all Recipients of this Model must adopt in order to prevent the occurrence of the specific offences.

### 10.1 The relevant elements of copyright crimes (article 25-novies of Legislative decree 231/01)

Law No. 99 of 23 July 2009 concerning 'Provisions for the development and internationalisation of enterprises, as well as on energy' included in Decree 231 Article 25-novies, which provides for the extension of the entity's administrative liability to include offences relating to the violation of copyright<sup>24</sup>. The elements referred to by article 25-novies of Legislative decree 231/01 in relation to the breach of copyright are:

- ***Dissemination of a protected intellectual work via telematic networks (article 171, paragraph 3 Law 633/1941).***

In relation to the criminal offence referred to in Article 171 of Law 633/1941, the Decree considered only two cases, namely

- the making available to the public, without having the right to do so, through the Introduction into a system of telematic networks. and with connections of any kind, of a protected intellectual work or part of it; the making available to the public, without having the right to do so, by means of insertion into a system of telematic networks and with connections of any kind, of an original work (of others) not intended for publicity, or with usurpation of the authorship of the work, or with deformation, mutilation or other modification of the work, where this causes offence to the honour or reputation of the author
- ***Unauthorised duplication, for profit, of computer programs; import, distribution, sale or possession for commercial or business purposes or leasing of programs on media not marked by the SIAE (Italian Society of Authors and Publishers); production of means to allow or facilitate the arbitrary removal or circumventing of the protection devices of computer programs (article 171-bis, paragraph 1, Law 633/1941).***

The offence punishes anyone who unlawfully duplicates, for profit, computer programs or for the same purposes imports, distributes, sells, holds for commercial or entrepreneurial purposes or leases programs contained on media not marked by the Italian Authors' and Publishers' Association (SIAE), who performs the described conduct in connection with any means intended solely to allow or facilitate the arbitrary removal or functional circumvention of devices applied to protect a computer program; or whoever, in order to make a profit, on media not bearing the SIAE mark reproduces, transfers

---

<sup>24</sup> Pursuant to Article 25-novies, second paragraph, of Legislative Decree No. 231/2001, the provisions of Article 174-quinquies, Law No. 633 of 1941, concerning, inter alia, the suspension of the business or activity by the police commissioner, the temporary cessation of the business or activity, and the revocation of the business licence or the authorisation to carry on the activity, in the event of specific repeat offences, remain unaffected.

- ***Reproduction on media not marked by the Italian Society of Authors and Publishers, transfer to another medium, distribution, communication, display or demonstration to the public, of the contents of a database in order to gain profit; extraction or reuse of the database in breach of the rights of the creator and user of a database; distribution, sale or leasing of databases (article 171-bis, paragraph 2, Law 633/1941).***

The offence referred to in subsection 1 punishes anyone who, for profit and for a non-personal use, engages in the following conduct

- unauthorised duplication, reproduction, transmission or distribution in public with whatever means, in whole or in part, of intellectual property intended for television, cinema, sale or rental of disks, tapes or similar media or any other media containing phonograms or videos of musical, cinematographic or audio-visual works or sequences of moving images (letter a);
- unauthorised reproduction, transmission or distribution in public with whatever means, of literary, dramatic, scientific or educational, musical or dramatic-musical, multimedia works, or parts thereof, even if included in collective or composite works or databases (letter b);
- despite not having taken part in the duplication or reproduction, introduction into the territory of the State, possession for sale or distribution, trade, rental, or transfer of any kind, public screening, broadcast via television by whatever method, and broadcast via radio, of the public listening unlawful duplications or reproductions referred to in letters a) and b) without having contributed to their duplication or reproduction (letter c);
- possession for sale or distribution, trade, sale, rental, transfer of any kind, public screening, broadcast via radio or television by any method, of videotapes, cassettes, any medium containing phonograms or videos of musical, cinematographic or audio-visual works or sequences of moving images or other media that require the Italian Society of Authors and Publishers mark to be attached, but which lack that mark or have counterfeit or altered marks (letter d);
- retransmission or distribution by any means of an encrypted service received by means of equipment or parts of equipment for decoding broadcasts with conditional access, in the absence of agreement with the legitimate distributor (letter e);
- introduction into the territory of the State, possession for sale or distribution, sale, rental, or transfer of any kind, commercial promotion, or installation, of devices or special decoding elements that permit access to an encrypted service without payment of the fee due (letter f);
- manufacture, import, distribution, sale, rental, transfer of any kind, advertising for sale or rental, or possession for commercial purposes, of devices, products or components, or the provision of services, whose commercial use or prevalent purpose is to circumvent effective

technological protection measures or that are designed, produced, adapted or developed to enable or facilitate the circumvention of such measures (letter f-bis);

- unauthorised removal or alteration of the electronic rights-management information referred to in article 102-*quinquies*, or distribution, import for distribution, broadcast by radio or television, communication or making available to the public, of works or other protected materials from which such electronic information has been removed or altered (letter h).

-

Therefore, it is punished the reproduction, duplication, transmission or unauthorised broadcasting, sale or trade, transfer of any kind or illegal import of more than 50 copies or pieces of works protected by copyright and related rights (letter a);

- communication to the public, through the input for profit of a work or part of work protected by copyright onto a system of computer networks through connections of any kind in breach of the exclusive author's right of communication to the public (letter a-bis);
- engagement in the behaviour contemplated by Article 171-*ter*, paragraph 1, Law 633/1941, by those exercising the reproduction, distribution, sale, marketing or import of works protected by copyright and associated rights for business purposes (letter b);
- promotion or organisation of the unlawful activities identified in Article 171-*ter*, paragraph 1, Law 633/1941 (letter c).

- ***Failure to notify the SIAE of the identification data of media that does not require marking by producers or importers of such media, or misrepresentation regarding the fulfilment of the obligations regarding the mark (article 171-septies, Law 633/1941).***

The provision punishes:

- the producer or importer, who markets on the national territory or imports media for which the marking referred to in Article 181 bis is not provided for, who does not promptly communicate to the SIAE the identification data of the work
- whoever, unless the act constitutes a more serious offence, falsely declares the fulfilment of the obligations on the mark referred to in Article 181 bis, paragraph 2.

- 
- ***Fraudulent production, sale, import, promotion, installation, modification, utilisation for public and private use, of equipment or parts of equipment for decoding audio-visual broadcasts with conditional access via air, satellite, cable, in both analogue and digital form (article 171-octies, Law 633/1941).***

The regulation punishes both those who install and use decoders of encrypted television transmissions (for public or private use) for fraudulent reasons (“with conditional access” “regardless of the application of a fee”) but also those who produce or distribute these devices.

The provision punishes, where the act does not constitute a more serious offence, anyone who, for fraudulent purposes, produces, offers for sale, imports, promotes, installs, modifies, uses for public or private use equipment or parts of equipment suitable for decoding audiovisual transmissions with conditional access made over the air, by satellite, by cable, in both analogue and digital form.

## **10.2 Identification of susceptible areas and activities within the scope of breaching copyright**

The analysis of the company processes, , led to identification of the activities in which the criminal offence referred to under article 25-noviesof Legislative decree 231/01 could hypothetically occur, listed before:

- 1. Purchase of marketing-related rights.**
- 2. Sale of goods and services in Italy and abroad:**
  - a. Sale of rights to public parties;**
  - b. Sale of rights in Italy;**
  - c. Sale of rights abroad;**
  - d. Other Sales (for example consultation services, television channels, etc.).**
- 3. Revenues from the use of Rai Com music in RAI programs.**
- 4. Publishing activities (editions and co-editions) / company web channels.**
- 5. Publication of content on the company Internet sites.**
- 6. Installation of protected computer programs (for example software anddatabases).**
- 7. Distribution of RAI channels abroad.**
- 8. Issuing of press releases and corporate advertising.**

### **10.3 Rules of conduct and implementation of decision-making processes**

#### **10.3.1 Rules of conduct**

This Special Section provides for the express prohibition of corporate bodies, employees - on a direct basis - and external staff - limited to the obligations provided under specific procedures and codes of conduct and the specific clauses in the implementation contracts of the following principles - from:

- carrying out, helping to carry out, or causing the carrying out of behaviour that
  - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (article 25-*novies* of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

Within the scope of the aforementioned behaviour, the following is more specifically prohibited:

- unlawfully making protected intellectual property, or a part thereof, available to the public, by introducing it into a system of data transmission networks through connections of any kind;
- unlawfully duplicating, importing, distributing, selling, possessing, installing, renting computer programs contained on media that do not have the mark of the Italian Society of Authors and Publishers;
- using means that can permit or facilitate the arbitrary removal or actual avoidance of devices applied to protect the programs referred to above;
- unlawfully reproducing, transferring onto other media, distributing, communicating, submitting or showing in public the contents of a database, or extracting or re-using or unlawfully distributing, installing, selling or renting databases or the data contained therein;
- unauthorised duplication, reproduction, transmission or distribution in public of intellectual property intended for television, cinema, or for the sale or rental, phonograms or videos of musical, cinematographic or audio-visual works or sequences of moving images on any medium, literary, dramatic, scientific, educational, musical or dramatic-musical works or multi-media works.
- introducing into the territory of the State, holding for sale, selling or in any case transferring in any way, or sending with any means, the unlawful duplications or reproductions mentioned above;
- holding for sale, sale, transferring of any kind, transmitting phonograms or videos of musical, cinematographic or audio-visual works or sequences of moving images on any media, by any means, that require attachment of the Italian Society of Authors and Publishers mark, which lack that mark or have a counterfeit or falsified mark;

- retransmission or distribution by any means of an encrypted service received by means of equipment or parts of equipment for decoding broadcasts with conditional access, in the absence of agreement with the legitimate distributor;
- introduction into the territory of the State, holding for sale, sale of any kind, commercial promotion, installation of devices or special decoding elements that permit access to an encrypted service without payment of the fee due;
- manufacturing, importing, sale, rental, transferring of any nature, advertising for sale or rental, holding for commercial purposes, or using for commercial purposes, equipment, products or components that could circumvent the “technological measures of protection” put in place to protect the copyright and the other rights related to its exercise;
- unlawfully removing or altering “electronic information” placed to protect the copyright or other rights related to its exercise, or distributing, importing for the purpose of distribution, circulating, communicating with any means or making available to the public, works or other protected materials, from which the electronic information was removed or altered;
- fraudulent production, putting up for sale, importing, promotion, installation, modification, utilisation for public and private use, of equipment or parts of equipment for decoding audio-visual broadcasts with conditional access via air, satellite, cable, in both analogue and digital form.

Therefore, the above-mentioned parties must:

- only acquire, realise or put on the network content (photographs, video sequences, poetry, comments, reviews, articles or other written content, *files* of music or any format) that has a licence of use, or in any case, that complies with copyright laws and other rights connected to their use;
- first ensure (by one or more managers who have been expressly appointed for the purpose), where possible, or through specific controls including periodic, with maximum precision and timeliness, that the content on the network complies with prevailing law on copyright and rights connected with use of the protected intellectual property;
- ensure that there has been the express acceptance of responsibility by the third parties regarding compliance with copyright regulations and other rights related to use of the intellectual property for all the above-mentioned content that is put onto the network by third parties or acquired by the Company and put on the network.
- similarly, ensure that input onto the network of all the aforementioned content by users is carried out on condition that the users identify themselves (registration and authentication), and express acceptance of responsibility by the users regarding input onto the network of content protected by copyright regulations and the other rights related to their use;
- in any case it must be possible to trace all uploads, input of content onto



blogs, forums communities etc., with immediate removal of anything that does not comply with the copyright laws or other laws related to their use;

- only use software with licenses for use and within the limits and under the conditions provided by prevailing law and the license itself, apart from the computer programs available for downloading and free use, on in accordance with the terms and limits provided by law or the holder of the copyright and the other rights related to their use;
- only use databases with licenses for use and within the limits and under the conditions provided by prevailing law and the license itself, apart from the freely consultable ones, in accordance with the terms and limits provided by law or the holder of the copyright and the other rights related to its use, also with regard to the research extraction, processing, reworking or publishing the data contained therein.

### 10.3.2 Implementation principles of the decision-making processes

The standards of control identified for the individual Susceptible Activities are listed here below.

#### 1. Purchase of marketing-related rights

This is carried out in accordance with the standards of control provided for the “Purchase of work, goods and services” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

Furthermore, the execution of the activities provides for the following:

- involvement of the applicable Department in the definition, if applicable, of contractual clauses containing the commitment/declaration (according to the case) by the counterparties:
  - that they are the legitimate holders of the right to economic use of the works protected by copyright being transferred or that they have obtained the legitimate authorisation of grant in use to third parties;
  - that they will hold the Company harmless from any harm or prejudice that could result from the non-truthfulness, inaccuracy or incompleteness of said declaration.

#### 2. Sale of goods and services in Italy and abroad:

- a. Sale of rights to public parties;
- b. Sale of rights in Italy;



**c. Sale of rights abroad;**

**d. Other Sales (for example consultation services, television channels, etc.)-**

This is carried out in accordance with the standards of control provided for the "Sale of goods and services in Italy and abroad" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

**3. Revenues from the use of Rai Com music in RAI programs**

This is carried out in accordance with the standards of control provided for the "Revenues from the use of Rai Com music in RAI programs" process reported in "Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties" to which the reader is referred.

**4. Publishing activities (editions and co-editions)**

The activities listed above are carried out in compliance with the control standards set out in "Special Section D - Crimes of organised crime and transnational crime, terrorism, individual personality, receiving stolen goods, money laundering and use of money, goods or utilities of unlawful origin, self-money laundering, use of non-cash means of payment, inducement not to make statements or to make false statements to the judicial authorities, use of third country nationals whose stay is irregular.

Furthermore, the execution of the activities provides for the following:

- the obligation to comply with the instructions set out under the law in relation to the protection of the moral and property rights of the author, with specific reference to the use, storage and distribution of texts, music, designs, pictures, photographs, computer programs and databases protected by copyright (the "Works").

More specifically, the following must be complied with:

- the provisions of applicable law with reference to the acquisition, storage, use, reproduction, duplication, processing, circulation and distribution (including through data transmission networks) of the Works and their parts;
- the provisions of the law to protect the ownership of the Works and the limitations provided on the right to duplicate the computer programs and the reproduction, transfer, distribution and/or communication rights of the database content;
- identification of the authorisation mechanisms for the use, reproduction, processing, duplication and distribution of Works or parts of the Works;

- the adoption of protection instruments (for example rights to access) relating to the storage and filing of Works, ensuring that inventory will be taken;
- ensuring - upon receipt of the media containing computer programs, databases, phonograms, videos or musical, cinematographic or audio-visual works and/or sequences of moving images - that they contain the mark by the authorities in charge of monitoring copyright or the exemption of that obligation for that particular type of media;
- involvement of the applicable Department in the definition, if applicable, of contractual clauses containing the commitment/declaration (according to the case) by the counterparties:
  - that they are the legitimate holders of the right to economic use of the works protected by copyright being transferred or that they have obtained the legitimate authorisation of grant in use to third parties;
  - that they will hold the Company harmless from any harm or prejudice that could result from the non-truthfulness, inaccuracy or incompleteness of said declaration.

#### **5. Publication of content on the company Internet site**

This is carried out in accordance with the standards of control provided in the “Special Section D - Organised crime (etc.)” in addition to the “Special Section F - Computer crimes and unlawful data processing” to which the reader is referred.

#### **6. Installation of protected computer programs/Use of databases**

This is carried out in accordance with the standards of control provided for in “Special Section F - Computer crimes and unlawful data processing” to which the reader is referred, and compliance with the standards of control for the “Purchase of work, goods and services” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

This provides for the following:

- the obligation to comply with the law to protect the ownership of the Works and the limitations provided to the right to duplicate the computer programs and the reproduction, transfer, distribution and/or communication rights of the database content;
- identification of the authorisation mechanisms for the use, reproduction, processing, duplication and distribution of Works or parts of the Works;
- the adoption of protection instruments (for example rights to access) relating to the storage and filing of Works, ensuring that inventory will be taken;

- formally ensuring - upon receipt of the media containing computer programs, databases, phonograms or videograms or musical, cinematographic or audio-visual works and/or sequences of moving images - that they contain the mark by the authorities in charge of monitoring copyright or the exemption of that obligation for that particular type of media;
- management of the software licences that provide for, inter alia, the following:
  - a) the requirement definition methods; the methods to manage the licence acquisition process; c) the methods to check the license for use against what has been acquired;
- the rules for installing protected computer programs and identification of a party in charge of acquiring the protected computer programs that is different from the person in charge of installing them.

#### **7. Distribution of RAI channels abroad**

This is carried out in accordance with the standards of control provided for the “Distribution of RAI channels abroad” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

#### **8. Issuing of press releases and corporate advertising**

This is carried out in accordance with the standards of control provided for the “Issuing of press releases and corporate advertising” process reported in “Special Section A - Offences in relations with the Public Administration and Bribery between Private Parties” to which the reader is referred.

## 11. SPECIAL SECTION H – Environmental offences

This Special Part, after a brief description of the predicate offences under Article 24-undecies applicable to Rai Com, identifies the sensitive activities and the principles of conduct and implementation of decision-making processes that all the Recipients of this Model must adopt in order to prevent the occurrence of specific offences.

### 11.1 The relevant elements of environmental offences

Article 2, paragraph 2, of Legislative Decree No. 121 of 7 July 2011, concerning the 'Implementation of Directive 2008/99/EC on the protection of the environment through criminal law, as well as Directive 2009/123/EC amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements', included in d. lgs. 231/2001 art. 25-undecies, dedicated to the identification of environmental offences from which the administrative liability of the company derives, subsequently amended with the interventions brought about by Law no. 68 of 22 May 2015 (Provisions on crimes against the environment).

The offences that were considered to be potentially feasible are as follows.

#### ***Environmental pollution (Article 452-bis of the Criminal Code)***

This offence punishes anyone who unlawfully causes significant and measurable impairment or deterioration

- 1) of water or air, or of extensive or significant portions of the soil or subsoil
- 2) of an ecosystem, biodiversity, including agricultural biodiversity, flora or fauna.

When the pollution is produced in a protected natural area or an area subject to landscape, environmental, historical, artistic, architectural or archaeological constraints, or to the detriment of protected animal or plant species, the penalty is increased.

#### ***Environmental disaster (Article 452-quater of the Criminal Code)***

This offence is committed, apart from the cases referred to in Article 434 (collapse of buildings or other malicious disasters) of the criminal code, in the event of unauthorised conduct leading to an environmental disaster by irreversibly altering the balance of an ecosystem or where the elimination of the described alteration is particularly onerous and achievable only with exceptional measures; or the offence is committed against public safety by reason of the importance of the act or its damaging effects on the number of persons offended or exposed to danger.

There is an increase in the penalty if the disaster occurs in a protected natural area or an

area subject to landscape, environmental, historical, artistic, architectural or archaeological constraints, or in damage to protected animal or plant species.

***Culpable offences against the environment (Article 452-quinquies of the Criminal Code)***

If any of the acts referred to in Articles 452-bis and 452-quater is committed through negligence, the penalties provided for in those Articles shall be reduced.

If the commission of the acts referred to in the preceding paragraph results in the danger of environmental pollution or environmental disaster, the penalties are further reduced.

***Trafficking and abandonment of highly radioactive material (offence under Article 452-sexies)***

Unless the act constitutes a more serious offence, any person who unlawfully disposes of, purchases, receives, transports, imports, exports, procures for others, holds, transfers, abandons or unlawfully disposes of high radioactive material shall be punished.

***Associative offences aggravated by being directed (also concurrently) to the commission of the offences referred to in Title VI bis of the Criminal Code (Article 452-octies)***

When the association referred to in Article 416 is directed, exclusively or concurrently, to the commission of any of the offences referred to in this Title, the penalties provided for in Article 416 are increased.

When the organisation referred to in Article 416-bis is aimed at committing any of the offences provided for in this Title or at acquiring the management or in any case the control of economic activities, concessions, authorisations, contracts or public services in the environmental field, the penalties provided for in Article 416-bis are increased.

The penalties referred to in the first and second paragraphs shall be increased by between one third and one half if the association includes public officials or persons in charge of a public service who perform functions or provide services in the environmental field.

***Killing, destruction, catching, taking, possession of specimens of protected wild fauna and flora species (article 727-bis Criminal Code)***

The offence punishes, apart from the action constituting a more serious offence, anyone -apart from permitted cases - who kills, catches, or keeps a protected wild animal species apart from the cases in which the action involves a negligible quantity of these species with a negligible impact on the state of conservation of the species.

The offence punishes anyone - apart from the permitted cases - who destroys, picks or keeps specimens of protected wild flora will be punished with a fine of up to Euro 4,000, apart

from the cases in which the action involves a negligible quantity of these species with a negligible impact on the state of conservation of the species.

***Destruction or damage to habitats in a protected site (article 733-bis Criminal Code)***

The offence punishes, apart from where it is permitted, anyone who destroys a habitat in a protected location or in any case damages it or jeopardizes the state of conservation shall be punished with imprisonment of up to eighteen months and a fine of not less than Euro 3,000.

In order to apply this provision, "habitat in a protected location" refers to any species habitat where a zone has been classified as a zone of special protection in accordance with article 4, paragraphs 1 or 2, of directive 2009/147/EC, or any natural habitat or species habitat where a site was designated as a special zone of conservation in accordance with article 4, paragraph 4, of the directive 92/43/EC.

The risk of committing this offence could occur if company activities are carried out in protected natural areas.

***Water pollution (article 137 (5) of Legislative Decree 152/2006):***

- unauthorised discharge (absent, suspended or revoked authorisation) of industrial waste water containing hazardous substances (paragraph 2); discharge of industrial waste water containing hazardous substances in breach of the requirements imposed by the authorisation or the applicable authorities (paragraph 3);
- breach of the prohibitions on discharge into the ground, groundwater or underground (paragraph 11);
- discharge at sea by ships or aircraft of substances or materials whose spillage is prohibited, except in minimal quantities authorised by competent authorities (paragraph 13). The offence is punished with imprisonment of two months to two years.

***Unauthorised waste management (article 256) of the Legislative Decree 152/2006***

- collection, transportation, recovery, disposal, trade and brokerage of non-hazardous and hazardous waste, without the required authorisation, registration or notification (article 256, paragraph 1, letters a) and b);
- construction or operation of an unauthorised dump (article 256, paragraph 3, first sentence);
- construction or operation of an unauthorised dump intended - including partially - for the disposal of hazardous waste (article 256, paragraph 3, second sentence). The penalty is imprisonment from one to three years and a fine of Euro 5,200 to Euro 52,000;

- unauthorised mixing of waste (article 256, paragraph 5);
- temporary storage at the place of production of hazardous medical waste (article 256, paragraph 6).

***Contaminated sites (article 257) of the Legislative Decree 152/2006***

- pollution of the soil, subsoil, surface water and groundwater with concentrations exceeding the risk threshold (unless necessary decontamination measures are taken in accordance with a project approved by the competent authority), and failure to notify the competent authorities (paragraphs 1 and 2). The pollution referred to in paragraph 2 will be aggravated by the use of hazardous substances.

***Forgery and use of false waste analysis certificates (articles 258 and 260-bis of the Legislative Decree 152/2006)***

- Anyone who provides false information when drafting a waste analysis certificate with regard to the nature, composition and physical-chemical characteristics of the waste, or anyone who uses a false certificate during transportation (article 258, paragraph 4, second sentence);
- Anyone who drafts a false waste analysis certificate to be used in the waste traceability control system (SISTRI) with regard to the nature, composition or physical- chemical characteristics of the waste, or anyone who provides a false certificate in the data to provide for the purpose of tracing the waste (article 260-bis, paragraph 6).

***Unlawful waste trafficking (articles 259 and 260 of the Legislative Decree 152/2006)***

- Shipment of waste constituting unlawful trafficking (article 259, paragraph 1). The sanction will be increased if hazardous waste is being shipped.
- Activities organized through several operations and preparation of means and continuing operations, for the unlawful trafficking of waste (article 260). Crime, characterized by the specific intent of unfair profit and multiple significant actions (sale, receipt, transportation, export, import or abusive handling of large quantities of waste). Article 259 provides for two criminal offences related to cross-border trafficking and shipping of waste. In accordance with EC regulation no. 1013/2006, illegal shipment refers to any cross-border shipments made a) without previously notifying the applicable authorities, b) without the authorisation of the applicable authorities; c) with authorisation by the applicable authorities obtained by falsifications, false statements or fraud; d) in a way that is not actually specified in the notice or in the transport documents; e) in a way where recovery or disposal of the waste conflicts with



EU or international regulations and f) in conflict with the articles of the regulations themselves.

***Air pollution (article 279 of the Legislative Decree 152/2006)***

- breach, in the exercise of a business, of the emission limits, or of the requirements laid down by the authorisation, plans and programs or legislation, or by the applicable authorities, which also results in exceeding air quality target limits set by prevailing regulations.

**Crimes under Law no. 150 of 7 February 1992 in the international trading of specimens of flora and fauna in danger of extinction and keeping dangerous animals**

- import, export, transport and illegal use of animal species (in the absence of a valid certificate or license, or contrary to the requirements dictated by those measures);
- possession, use for profit, purchase, sale or exhibition for sale or for commercial purposes of specimens without the required documentation; unlawful trading of artificially propagated plants (article 1, paragraphs 1 and 2 and article 2, paragraphs 1 and 2). The conduct referred to in articles 1, paragraph 2, and 2, paragraph 2, will be aggravated in the case of repeat offences or offences committed in the exercise of business activities;
- falsification or alteration of certificates and licenses; notifications, communications or false or altered statements for the purpose of obtaining a certificate or license; use of false or altered certificates and licenses for the importation of animals (article 3-bis, paragraph 1);
- possession of live specimens of wild or captive bred mammal and reptile species, which constitute a danger to health and public safety (Article 6, paragraph 4).

***Offences under Law no. 549 of 28 December 1993, concerning the protection of stratospheric ozone and the environment***

- Breach of the provisions which provide for termination and reduction of the use (production, utilisation, marketing, import or export) of substances harmful to the ozone layer (article 3, paragraph 6).

***Offences envisaged by Legislative Decree no. 202 of 6 November 2007, on pollution of the marine environment by ships***

- negligent spill of pollutants at sea by ships (article 9, paragraphs 1 and 2);



- the wilful spill of pollutants at sea by ships (article 8, paragraphs 1 and 2).

### 11.2. Rai Com and the environment

Rai Com works in premises on the basis of a lease entered into with RAI Radiotelevisione Italiana Spa, and the ordinary and extraordinary maintenance of the buildings and service systems of the infrastructure (for example air conditioning systems, fire-safety systems and protections, heating systems, etc.) are governed and defined on the basis of a contract between the two companies and are managed by the Rai Radiotelevisione Italiana Spa Purchasing and Services Department.

Rai Com also entered into a “Service Supply Contract” with RAI Radiotelevisione Italiana Spa in order to govern, inter alia, the following services (provided by RAI to Rai Com):

- Human resources management;
- General Services;
- Administration and Treasury services;
- ICT Services;
- Production services.

The aforementioned “Service supply contract” states that “With the Prevention and Protection Service of its organisation, Rai guarantees the Safety and Health and Environmental Protection activities (risk assessment, identification of measures for the safety and health of the workplaces, compliance with prevailing law, processing of preventive and protective measures, etc.).”

### 11.3. Identification of susceptible areas and activities within the scope of environmental offences

The analysis of the company processes of Rai Com, carried out during the Project<sup>25</sup>, led to identification of the activities in which the criminal offence referred to under article 25-*undecies* of Legislative decree 231/2001 could hypothetically occur, listed below:

1. **Planning:** planning activities are aimed establishing goals that are in line with company policies, establishing the processes needed to achieve the goals and defining and allocating resources.
2. **Implementation and Function:** Implementation and function is aimed at defining the organisational structure and responsibilities;

More specifically, with reference to operational control, the susceptible activities identified are the following:

---

<sup>25</sup> See paragraph 3.1 of the General Section.

- Waste management.

## 11.4 Rules of conduct and implementation of decision-making processes

### 11.4.1 Rules of conduct

This Special Section governs the **management of environmental aspects** and expressly prohibits Corporate Bodies, Employees - on a direct basis - and external staff from doing the following, limited to the obligations provided in the specific procedures and codes of conduct and specific clauses in the contracts respectively:

- carrying out, helping to carry out, or causing the carrying out of behaviour that - considered individually or collectively - includes, directly or indirectly, the elements of the offence considered above (25-undecies of Legislative decree 231/01);
- breaching the company principles and procedures provided under this Special Section.

More specifically, the Recipients must comply with the following in their work and execution of all related operations:

- each action that could have an environmental impact must attempt to reduce to a minimum the real or potential damage that could be caused to the environment;
- material should preferably be re-used and recycled, delaying its transformation into waste for as long as possible;
- the waste should preferably be recycled instead of being disposed of, reducing the overall quantity of waste produced to the greatest extent possible;
- the temporary storage and subsequent handing over of the waste must be done safely and in compliance with prevailing law;
- no waste may be thrown away or discarded in other places besides those permitted for waste collection and handing over; more specifically, the Company must ensure that the use, taking, collection and handing over are carried out in full compliance with the law and the authorisations, ensuring that said substances are not discarded or spilled into the environment;
- the treatment, handing over and transport of the waste must be carried out exclusively by parties who have the necessary knowledge to ensure the proper execution of procedures, with assurance that the staff will be able to use the adequate initial training, which should then be completed with further training;
- in the case of activities which are carried out by contractors or sub-contractors, where certain work or phases of work have to be carried out in areas subject to environmental protection, the Company must require strict compliance with the regulations set out under Legislative decree no.152/2006 and of course, Legislative decree 231/01, and inform the technicians and workers carrying out

the work that the environment as a whole should be protected, preserved or at least subject to the lowest impact possible, in compliance with applicable regulations and authorisations.

#### **11.4.2 Implementation principles of the decision-making processes**

The standards of control identified for the individual Susceptible Activities are listed here below.

##### **1. Planning**

The regulations provide as follows for those activities:

**Policy and objectives:** the existence of a formal document with the policies that define the reference frameworks to establish and review the environmental objectives and targets that the company decides to achieve, and that:

- is consistent with the nature, size and environmental impact of the business activities;
- contains the commitment to comply with prevailing law on applicable environmental matters, continuous improvement and the prevention of pollution;
- is implemented and kept active;
- is distributed to employees and parties that work on behalf of the organisation;
- is made available to the public;
- has been formally approved by top company management.

##### **2. Implementation and Function**

The regulations provide as follows for those activities:

**Function allocation system:** a function allocation system based on the following case-law development principles:

- effectiveness - with the authorised person having both decision-making and financial independence;
- technical and professional suitability and experience of the authorised person;
- monitoring of the activity of the authorised person, no acquiescence, no interference;
- certainty, specificity and awareness.

A formal system for allocating the functions requires company rules that:

- i) provide for clear identification of the area of operation of the authorisation;
- ii) guarantee that traceability can be checked and continuity of the authorisations and traceability of the express acceptance of the authorisation by the authorised persons/sub-delegated persons;
- iii) explicitly expresses the option for the authorised person to sub-delegate functions in environmental matters or not;
- iv) provides for the traceability of criteria on the basis of which the consistency between functions that have been authorised and decision-making powers and the expenditure assigned is determined;
- v) defines the control procedures to ensure that the authorised person maintains the technical-professional requirements, a periodic continuing education and technical-professional development plan, and a periodic assessment system of the technical-professional competence;
- vi) provides for a formal continuous/periodic information flow between the authorising party and the authorised person;
- vii) governs a formal monitoring system.

**Roles and Responsibilities:** the definition of roles and responsibilities for the application, maintenance and improvement of the Environmental Management System and to manage the environmental matters.

The attribution of responsibilities on environmental aspects:

- will be formally recorded;
- will be communicated within the organisation;
- will be consistent with the powers and organisational roles of the staff;
- will take account of the necessary skills for the performance of the activities;
- will take account of the possession of any specific requirements provided in accordance with prevailing environmental laws.

**Operational control:** company rules to keep the significant environmental aspects associated with the Company's activities under control, especially with regard to activities that could involve the commission of the environmental offences set out under Legislative decree 231/01.

**Waste management:** company rules that govern the management of waste produced by the organisation to ensure that it is carried out in accordance with regulatory requirements and prevailing law. More specifically, these company rules will define the roles, responsibilities and operational procedures for:

- the identification of all types of waste and attribution of the EWC code and any hazards attached, including through laboratory analyses, providing also for responsibilities and operational procedures to prepare the samples;
- compliance with the requirements of the regulations or the authorisation orders for the producers of waste (for example registration with SISTRI);
- management of the collection and temporary storage of waste in the place of production in order to ensure compliance:
  - with the temporary storage requirements (for example quantitative and time limits, signs, labels, containers, technical characteristics of the storage areas - for example waterproofing, cover, drainage systems, construction standards);
  - with the prohibition on mixing hazardous waste with non-hazardous waste and hazardous waste that has different harmful characteristics, including the dilution of hazardous substances;
- the initial and periodic checks to ensure that the registrations/communications/authorisations required by law for waste management by the third parties who receive the waste (intermediaries, transporters, recyclers, disposal operators) are in order (including checks of the licence plates of the vehicles);
- the preparation and filing of administrative documentation regarding waste management (for example forms, loading and unloading registers, Single Form Environmental Certificate, analytical certificates, authorisations, registers, communications);
- checking receipt of the fourth copy within the time-frames provided under regulations and actions to carry out if not received;
- traceability of all the activities related to waste management.

***Applicable principles for adoption of the Organisational, management and control model  
pursuant to Legislative decree 231/01***

***Appendix A***

## APPENDIX A

### Regulatory framework

#### A.1. Introduction

Legislative decree no. 231 of 8 June 2001 (hereinafter “Legislative decree 231/01” or the “Decree”), in implementation of the authorisation granted to the Government with article 11 of Law no. 300 of 29 September 2000, sets out the rules and regulations on “*liability of organisations for unlawful administrative actions connected to offences*”, which apply to organisations that have legal personality and even companies and associations that do not have legal personality<sup>26</sup>.

The Decree mainly comes from certain international and EU conventions ratified by Italy, and provide for the liability of collective organisations for certain criminal offences: these entities can be considered to be “liable” for certain unlawful actions committed or attempted, also in the interest of or to the benefit of themselves, by members of top management (the parties “in top positions” or “at the top”) and those who are subject to the management or supervision of these parties at the top (article 5, paragraph 1 of Legislative decree 231/01)<sup>27</sup>.

Legislative decree 231/01 therefore updated Italian law so that both monetary and injunctive relief may be applied against organisations, on a direct, independent basis, in relation to offences attributed to parties who are functionally linked to the organisations in accordance with article 5 of the Decree<sup>28</sup>.

Administrative liability of organisations is separate from the criminal liability of natural persons who commit offences; it does not replace it but is added to the personal liability of the individual who has committed the offence.

However, this will be not be applied if the organisation involved has, inter alia, adopted and effectively implemented organisation, management and control models to prevent said offences prior to the offence being committed; these models can be adopted on the basis of codes of conduct (guidelines) drawn up by the representative associations of the company, including Confindustria, and communicated to the Ministry of Justice.

In any case, administrative liability will be not be charged if the top management and/or their subordinates acted solely in their own interests or in the interest of third

---

<sup>26</sup> Public economic organisations and private organisations that provide public services fall under that category, while the State and territorial public organisations, non-economic public organisations and organisations that carry out constitutionally significant functions do not fall under that category.

<sup>27</sup> Article 5, paragraph 1 of Legislative decree 231/01: “Liability of an organisation - The organisation will be liable for offences committed in its interest or to its benefit: a) by persons with representative, administrative or managerial authority for the organisation or one of its organisational units that has financial and functional autonomy and by persons who in fact manage or control the organisation; b) by persons subject to the management or supervision of one of the persons described under letter a)”.

<sup>28</sup> On the basis of article 8 of Legislative decree 231/01: “Autonomy of the liability of the organisation – 1. an organisation will be liable if: a) the offender has not been identified or cannot be charged; b) the offence is extinguished for a reason besides a pardon. 2. Unless the law provides otherwise, proceedings will not be taken against the organisation if a pardon has been granted for an offence where it could be liable and the accused party declined to apply it. 3. The organisation may decline the pardon”.

parties<sup>29</sup>.

## A.2. Nature of the liability

With reference to the nature of the administrative liability *pursuant to* Legislative decree 231/01, the Explanatory Report to the decree emphasises the “*birth of a third type that links the essential characteristics of the criminal system and the administrative system in the attempt to adapt the logic of preventive effectiveness to the even more crucial logic of maximum guarantee*”.

Legislative decree 231/01 introduced a type of “administrative” liability for organisations into our law - in compliance with the provisions of article 27, first paragraph of our Constitution “Criminal liability is personal” - but with numerous points of contact with a “criminal” type of liability<sup>30</sup>.

## A.3. Criteria for imputation of liability

Commission of one of the offences set out under the Decree constitutes the condition under which the applicable regulations will apply.

The Decree provides for objective and subjective imputation of liability criteria to be applied (with respect to organisations, in the broad sense).

### *Objective criteria for imputation of liability*

The first basic, essential objective criteria for imputation of liability is formed by the condition that the offence - or unlawful administrative action - is committed «*in the interest of or to the benefit of the organisation*».

The liability of the organisation will therefore arise if the unlawful action was committed in the *interest* of the organisation or *to benefit* the organisation without it being necessary for the objective to have been actually achieved or not. It therefore involves a criteria that relies on the *objective* – even though not exclusively – for which the unlawful action was carried out.

However, benefit criteria relates to *the positive result* that the organisation objectively attained through commission of the unlawful action, regardless of the intention of the

---

<sup>29</sup> Article 5, paragraph 2 of Legislative decree 231/01: “Liability of the organisation – *The organisation will not be responsible if the persons indicated in paragraph 1 acted exclusively in their own interests or in the interest of third parties*”.

<sup>30</sup> In that sense see – among the most significant – articles 2, 8 and 34 of Legislative decree 231/01 where the first article reaffirms standard criminal law principle of legality; the second article confirms the independence of organisation’s liability with respect to the finding of liability of the natural person who carried out the criminal action; the third article refers to the situation whereby said liability, dependent on the commission of an offence, is found within the scope of criminal proceedings and will therefore be subject to the guarantees attached to criminal proceedings. The punitive character of the sanctions applicable to the organisation are also taken into consideration.



person who committed it.

The organisation will not be liable if the unlawful action has been committed by one of the parties indicated by the Decree «*in the party's own interest or in the interest of third parties*». This confirms that if the exclusive interest sought prevents the organisation from being liable, liability will then arise if there is a *joint* interest between the organisation and the natural person, or that can be referred in part to one and in part to the other.

The second objective criteria for imputation of liability is formed by the person who carried out the unlawful action. As noted above, the organisation will be liable for the unlawful action committed in his/her interest or to his/her benefit only if the action has been carried out by one or more defined parties, which the Decree groups into two categories:

1) «*by persons with representative, administrative or managerial authority for the organisation or for one of its organisational units with financial and functional independence*», or by persons who «*in fact manage or control*», the company such as a lawyer, a director, a general manager or the manager of a branch or office or the persons who *in fact* manage or control the organisation<sup>31</sup> (known as the persons in “top management” or “management” positions; article. 5, paragraph 1, letter a) of Legislative decree 231/01);

2) «*by persons subject to the management or supervision of one of the top managers*» (persons subject to another's management; article 5, paragraph 1, letter b), of Legislative decree 231/01). People who *carry out* the decisions in the interest of the organisation, made by managers under the direction and supervision of the top management fall into this category. In addition to employees of the organisation, all those who act in the name of, on behalf of, or in the interest of these people can fall into this category, such as external staff, freelancers or consultants.

If more than one party acts in concert to commit the offence (giving rise to the *accomplices in the offence*: article 110 of the Criminal Code; the same is substantially true in the case of unlawful administrative actions), it is not necessary for the “defined” person to carry out the typical action provided by law, even on a partial basis. It is necessary - and sufficient - for these parties to provide a mindful, causal contribution towards the execution of the offence.

#### *Subjective criteria for imputation of liability*

The Decree delineates the liability of the organisation as direct, on its own behalf and culpability; the subjective criteria for imputation of liability relates to the degree of culpability of the organisation.

The organisation will be considered to be liable if it has not adopted or complied with good management and control standards related to the organisation and performance of its business activities. The *culpability* of the organisation, and therefore the option to accuse it, will depend on finding an improper or insufficient structure in the organisation of the company, which has not managed to prevent the commission of

---

<sup>31</sup> Such as the person known as the de facto manager (see article 2639 of the Civil Code) or the sovereign partner.

one of the predicate offences.

The organisation will not be considered liable if it - *prior to commission of the offence*

- adopted and effectively implemented an organisation and management model that is capable of preventing commission of the same types of offences as the one in question.

#### **A.4. Exempting value of the organizational, management and control model**

The Decree will exempt the organisation from liability if it - *prior to commission of the offence* - adopted and effectively implemented an “organisation, management and control model” (the Model) that is capable of preventing commission of the same types of offences as the one in question.

However, if the organisation eliminated the organisational shortcomings that led to the offence by adopting and implementing organisational models to prevent the onset of these types of offences before first instance proceedings are begun, it can avoid application of the injunctive measures in accordance with the provisions of article 17 of the Decree.

Additionally, if the Model is drawn up after the ruling, and is accompanied by compensation for damage and reimbursement of any benefits obtained, any injunctive relief ordered can be converted into a fine in accordance with article 78 of the Decree.

The Model operates to exempt the company if the predicate offence was committed by either a top manager or a party subject to the management or supervision of a top manager.

#### *Unlawful actions committed by top managers*

With respect to offences committed by top managers, the Decree introduced a type of *presumption of liability of the organisation*, since it provides for the exemption from its liability (pursuant the article 6 of the Decree) only if it shows that:

- a) « *the management body has adopted and efficiently implemented an “organisational and management model to prevent the types of offences that have occurred” before the action was carried out*»;
- b) «*the task of supervising operation and compliance with the models and ensuring that they are updated is entrusted to a body in the organisation that has independent powers to take the initiative and control*»;
- c) «*the people who have committed the offence have fraudulently evaded the organisational and management Model*»;
- d) «*there was no failure or insufficient supervision by the body with independent*

*powers to take the initiative or control».*

The conditions listed must *all concur* and be met in order for the organisation to be considered exempt from liability.

Therefore, the company must show that it is not part of the actions claimed against the top manager, proving that the above-mentioned requirements were met, and concur, and therefore, that commission of the offence did not result from its “organisational negligence”<sup>32</sup>.

*Unlawful actions committed by persons subject to the management or supervision of a top manager*

With respect to the offences committed by persons subject to the management or supervision of a top manager, the organisation will *only* be liable if it is found that

*«commission of the offence was made possible by the lack of compliance with management or supervisory obligations».*

In other words, the liability of the organisation will be based on failure to comply with management and supervisory duties, which duties are attributed by law to the top management or transferred to other parties pursuant to valid authorisation<sup>33</sup>.

In any case, there will be no breach of the management or supervisory obligations «if the organisation has adopted and efficiently implemented an organisational, management and control model that can prevent the types of offences in question from being carried out before the offence was committed».

In the event of an offence committed by a person subject to the management or supervision of a top manager, it involves an inversion in the burden of proof. In the case provided under the aforementioned article 7, the accusation must prove the failure to adopt and effectively implement a model of organizational, management and control that can prevent the offences of the type committed.

Legislative decree 231/01 describes the content of the organisation and management models, providing that they must do the following as specified by article 6, paragraph 2, in relation to extending authorisation powers and the risk of committing the offences:

- identify the activities that could lead to the possibility of the offences being committed;
- establish specific protocols to plan the formation and implementation of the organisation’s decisions in relation to the offences to be prevented;

---

<sup>32</sup> To that end, the Explanatory Report to the Decree provides as follows: “In order to find liability by the organisation, the offence must be capable of being linked to an objective plan (the conditions of which, as noted above, are governed by article 5); the offence must also express company policy or at least result from negligent organisation”. Further: “it starts with the assumption (empirically based) that if an offence is committed by a top manager, the “subjective” requirement of the liability of the organisation [i.e. what is known as “organisational negligence” of the organisation] will be met if the top manager expresses and represents company policy; where this does not occur, it will have to be the company who has to show its lack of involvement, and this can only be done by proving the existence of a series of concurring requirements.”

<sup>33</sup> Article 7, paragraph 1 of the Decree.

- identify suitable financial management methods for preventing the offences from being committed;
- provide for disclosure obligations to the body responsible for supervising the implementation and compliance of the models;
- introduce a disciplinary system that punishes failure to comply with the measures set out in the model.

Article 7, paragraph 4 of Legislative decree 231/01 also defines the requirements for the effective implementation of the organisational models:

- the periodic check and possible amendment of the model if significant breaches of the provisions are discovered, or if there are changes to the organisation or its business activities;
- a disciplinary system that punishes failure to comply with the measures set out in the model.

With reference to offences in the area of health and safety that could lead to administrative liability for the organisation, Legislative decree no. 81 of 9 April 2008 contains the Consolidated Act on Health and Safety at Work, and establishes that an organisation and management model must:

- also provide for suitable systems to record that the above activities have been carried out;
- in any case, to the extent required by the nature and size of the organisation and the type of work carried out, ensure that adequate facilities are set up to provide the technical skills and authority necessary to check, evaluate, management and control the risk, and a disciplinary system that can punish failure to comply with the measures indicated in the model;
- also provide for a system to ensure that the model continues to be implemented and the measures adopted continue to be appropriate. The organisational model must be reviewed and if necessary changed if significant breaches of regulations relating to the prevention of accidents or work hygiene are discovered, or if there are changes in the organisation and activities in relation to scientific or technological progress.

### A.5. Criminal offences and unlawful actions

On the basis of Legislative decree 231/01, the organisation can be held liable only for the offences expressly referred to under Legislative decree 231/01, if committed in its own interest or to its benefit by defined parties *pursuant to* article 5 paragraph 1 of the Decree, or in the case of the specific legal provisions that the Decree refers to, such as article 10 of law no. 146/2006.

The elements could be included, for ease of presentation, in the following categories:

- **crimes in relations with the Public Administration.** This is the first group of offences originally identified by Legislative decree 231/01 (articles 24 and 25)<sup>34</sup>;
- **crimes against public trust**, such as counterfeit money, legal tender or revenue stamps, provided under article 25-*bis* of the Decree, introduced by article 6 of Law Decree 350/2001, converted into law, with amendments by article 1 of Law no. 409 of 23 November 2001, containing “*Urgent provisions in view of the introduction of the euro*”<sup>35</sup>;
- **corporate criminal offences.** Article 25-*ter* was introduced into Legislative decree 231/01 by article 3 of Legislative decree no. 61 of 11 April 2002, which, within the scope of corporate law reform, also provided for expansion of the regime of administrative liability of companies to certain corporate criminal offences<sup>36</sup>;

---

<sup>34</sup> They include the following offences: Embezzlement to the detriment of the State or the European Union (article 316-*bis* Criminal Code), Unlawful receipt of funds to the detriment of the State (article 316-*ter* Criminal Code), Fraud to the detriment of the State or other public organisation (article 640 paragraph 2, n. 1 Criminal Code), Aggravated fraud to obtain public funds (article 640-*bis* Criminal Code), Computer fraud to the detriment of the State or other public organisation (article 640-*ter* Criminal Code), Extortion (article 317 Criminal Code), Bribery for the exercise of a function or bribery for an action that conflicts with official duties (articles 318, 319 and 319-*bis* Criminal Code), Bribery in legal records (article 319-*ter* Criminal Code), Bribery of persons engaged in public services (article 320 Criminal Code), Convincing others to give or promise benefits (article 319-quater Criminal Code), Bribing party crimes (article 321 Criminal Code), Incitement to bribery (article 322 Criminal Code), Bribery and incitement to bribery of the members of the European Union bodies or officials of the European Union and foreign countries (article 322-*bis* Criminal Code).

<sup>35</sup> They regard the crimes of Counterfeiting of money, spending and introduction into the State, with complicity, of counterfeit money (article 453 Criminal Code), Alteration of money (article 454 Criminal Code), Spending and introduction into the State, without complicity, of counterfeit money (article 455 Criminal Code), Spending of counterfeit money received in good faith (article 457 Criminal Code), Counterfeiting of duty stamps, introduction into the State, purchase, possession or circulation of counterfeit duty stamps (article 459 Criminal Code), Counterfeiting of watermarked paper used for the manufacture of public credit instruments or duty stamps (article 460 Criminal Code), Manufacture or possession of watermarks or instruments for counterfeiting money, duty stamps or watermarked paper (article 461 Criminal Code), Use of counterfeit or altered duty stamps (article 464 Criminal Code). Law no. 99 dated 23 July 2009 containing the “Provisions for the development and internationalisation of companies, including in the area of energy” at article 15, paragraph 7, made changes to article 25-*bis*, which now sanctions also the forgery and alteration of trademarks or distinctive marks (article 473 of the Criminal Code) and the introduction into the country of products with false markings (article 474 Criminal Code).

<sup>36</sup> They include the offences of False corporate communications (article 2621 Civil Code as amended by article 30 of law no.

262 of 28 December 2005 and law no. 69 of 27 May 2015) and False corporate communications to the detriment of shareholders or creditors (article 2622 Civil Code, as amended by the second paragraph of article 30 of law no. 262 of 28 December 2005), Misrepresentation in reports or communications by the auditing firm (article 2624 Civil Code; article 35 of law no. 262/2005, introduced article 175 of Legislative decree no. 58 of 24 February 1998, as amended, part V, title I, chapter III, article 174-*bis* and 174-*ter*), Obstruction of audits (article 2625, second paragraph, Civil Code), Fictitiously paid-up share capital (article 2632 Civil Code), Improper return of contributions



- **crimes related to terrorism or the subversion of democracy** (referred to in article 25-*quater* of Legislative Decree no. 231/01, introduced by article 3 of law no. 7 of 14 January 2003). They relate to “*crimes related to terrorism or the subversion of democracy as provided by the criminal code and special laws*” and other crimes besides those listed above, “*that were in any case committed in breach of the provisions of article 2 of the International Convention for the Suppression of the Financing of Terrorism adopted in New York on 9 December 1999*”<sup>37</sup>;
- **market abuse**, referred to by article 25-*sexies* of the Decree<sup>38</sup>;
- **crimes against individuals**, as provided under article 25-*quinquies*, introduced into the Decree by article 5 of law no. 228 of 11 August 2003, such as child prostitution, child pornography, trafficking in persons or forcing into or keeping in slavery<sup>39</sup>;

(article 2626 Civil Code), Unlawful allocation of profits and reserves (article 2627 Civil Code), Unlawful transactions on shares or equity interests or of the parent company (article 2628 Civil Code), Transactions prejudicial to creditors (article 2629 Civil Code), Failure to give notice of conflict of interest (article 2629-bis Civil Code, introduced by article 31, first paragraph, of law no. 262 of 2005, which included letter r) of article 25-*ter* of Legislative Decree. 231/2001), Undue allocation of corporate assets by the liquidators (article 2633 Civil Code), Undue influence at shareholders’ meetings (article 2636 Civil Code), Market manipulation (article 2637 Civil Code), Impeding the public supervisory authorities from the exercise of their functions (article 2638 Civil Code.). Article 37, paragraphs 34 and 35, Legislative decree no.39 of 27 January 2010, implementing Directive 2006/43/EC relating to auditing the accounts, revoked article 2624 of the Civil Code and amended article 2625 of the Civil Code but did not coordinate with article 25-*ter* of Legislative decree. 231/01: in view of the obligatory principle in criminal law, the above-mentioned elements subject to recent legislative action should not therefore be listed under the catalogue of predicate offences of administrative liability of the organisation any longer.

<sup>37</sup> The international Convention for the suppression of the financing of terrorism adopted in New York on 9 December 1999 sanctions anyone who, illegally and wilfully, provides or gathers funds in the knowledge that they will be, even partially, use to carry out: (i) acts intended to cause death or serious bodily injury to a civilian, when the purpose of such act is to intimidate a population or to compel a government or an international organisation to do or to abstain from doing any act; (ii) acts constituting offences in accordance with the convention with respect to: safety of flying or navigation, protection of nuclear material, protection of diplomatic agents, inhibition of attacks by the use of explosives. The category of “*crimes committed for the purpose of terrorism or subverting the democratic order envisaged by the criminal code and special laws*” is mentioned by the law in a general manner, without indicating the specific regulations that would involve application of this article in the event of their breach. In any case, the main predicate offences can be identified as article 270-*bis* of the Criminal Code (*Association set up for terrorist purposes, including international or the subversion of democracy*) which sanctions anyone who promotes, establishes, organises, manages or funds associations that promote violent acts for terrorist or subversive purposes, and article 270-*ter* of the Criminal Code (*Assistance to people in the associations*) which sanctions anyone who gives refuge or provides food, lodgings, means of transport, or instruments of communication to any of the persons who form part of associations set up for terrorist or subversive purposes.

<sup>38</sup> Article 25-*sexies*, introduced by article 9 of law no. 62 of 18 April 2005 (“Community Law 2004”) provides that the company may be liable for charges of insider dealing (article 184 Consolidated Finance Act) and market manipulation (article 185 Consolidated Finance Act). On the basis of article 187-*quinquies* of the Consolidated Finance Act, an organisation may also be held liable for payment of an amount equal to the monetary administrative sanction paid for the unlawful administrative actions of insider dealing (article 187-*bis* of the Consolidated Finance Act) and market manipulation (article 187-*ter* Consolidated Finance Act), if committed in its own interest or to its benefit, by persons who belong to the categories of “top managers” or “parties subject to the management or supervision of others”.

<sup>39</sup> The offences subject to sanction are: forcing into or keeping in slavery or servitude (article 600 of the Criminal Code), trafficking in persons (article 601 of the Criminal Code), acquisition or sale of slaves (article 602 of the Criminal Code), offences relating to child prostitution and the exploitation of child prostitution (article 600-*bis* Criminal Code), child pornography and the exploitation of child pornography (article 600-*ter* Criminal Code), possession of pornographic material produced by the sexual exploitation of minors (article 600-*quater* Criminal Code), tourist initiatives aimed at the exploitation of child prostitution (article 600-*quinquies* Criminal Code). Law no. 172 of 1 October 2012 was published in the Official Gazette no. 235 dated 8 October 2012 on the «Ratification and execution of the Convention of the Council of Europe for the protection of minors against exploitation and sexual abuse», adopted by the Committee of Ministers of the Council of Europe on 12 July 2007 and opened for signature on 25 October 2007 in Lanzarote. Certain changes to the Criminal Code were made when ratifying the Convention of the Council of Europe that affect the scope of articles 24-*ter* and 25-*quinquies* of

- 
- **cross-border offences.** Article 10 of law no. 146 of 16 March 2006 provides for the administrative liability of an organisation also with respect to offences specified under the law that have cross-border characteristics<sup>40</sup>;
  - **crimes against life and personal safety.** Article 25-*quater*.1 of the Decree, introduced by law no. 7 of 9 January 2006, provides that the practice of female genital mutilation is one of the crimes where administrative liability can be attached to the organisation;
  - **manslaughter or grievous bodily harm through negligence, committed in violation of the rules on health and safety at work.** Article 25-*septies* provides for the administrative liability of the organisation in relation to the crimes described under articles 589 and 590, third paragraph of the Criminal Code (Manslaughter or serious or grievous bodily harm) committed in breach of the rules on the protection of health and safety at work<sup>41</sup>;
  - **receiving stolen goods, money laundering and use of money, assets or benefits of unlawful origin, and self-laundering.** Article 25-*octies*<sup>42</sup> of the Decree extends the liability of the organisation also with reference to the offences provided for under articles 648, 648-*bis*, 648-*ter*, 648-*ter* n.1 of the Criminal Code;
  - **offences relating to non-cash payment instruments.** Article 25-*octies*.1 of the Decree, introduced by Legislative Decree 184/2021, establishes the extension of the entity's liability also with reference to the offences provided for in Articles 493-*ter*, 493-*quater*; 640-*ter* of the Criminal Code.
  - **computer crimes and unlawful data processing.** Article 24-*bis* of the Decree provides for new elements of unlawful administrative action that result from certain

---

Legislative decree 231/2001. Legislative decree 39/2014 (article 3) added a reference to article 609-*undecies* into article 25-*quinquies* of Legislative decree 231/2001 containing «Grooming of minors», thereby including that offence in the list of offences to which legal persons can be subject.

40 The offences indicated under the aforementioned article 10 of law no.146/2006 (criminal association, mafia-type association, criminal association to smuggle foreign-processed tobacco, criminal association for the unlawful trafficking of narcotic or psychotropic substances, illegal immigration, convincing others not to make statements or to make false statements to the legal authorities, aiding and abetting) will be considered cross-border if the unlawful action is committed in more than one country, or, if committed in one country, with a substantial part of the preparation and planning of the unlawful action in another country, or even if committed in one country, it involves an organised criminal group who carry out criminal activities in more than one country. In this case, no further provisions were added to the body of Legislative decree 231/01. The liability derives from an independent provision in the aforementioned article 10, which establishes the specific administrative sanctions applicable to the above-mentioned offences - as mentioned - in the final paragraph stating "the provisions pursuant to Legislative decree no. 231 of 8 June 2001 apply to the unlawful administrative actions provided under this article".

<sup>41</sup> The aforementioned article was introduced by article 9, law no. 123 of 3 August 2007, as amended by article 300 (Amendment of Legislative decree no. 231 of 8 June 2001) of Legislative decree no. 81 of 9 April 2008, implementing article 1 of law no. 123 of 3 August 2007 regarding the protection of health and safety at the workplace, published on the Official Gazette *bi*, 101 - S.O. No. 108/ Official Gazette of 30 April 2008.

<sup>42</sup> Article 63, paragraph 3, of Legislative decree no. 231 of 21 November 2007, published on the Official Gazette on 14 December 2007 no. 290, containing the implementation of directive 2005/60/CE of 26 October 2005 and regarding prevention of the use of the financial system for money-laundering purposes of the proceeds of criminal activities and terrorism financing, and Directive no. 2006/70/EC, containing the implementing measures for it, introduced the new article into Legislative decree no. 231 of 8 June 2001, which provides for the administrative liability of an organisation even in the case of receiving stolen goods, money-laundering and using money, goods or benefits of unlawful origin. Article 3, paragraph 3 of Law no. 186 of 15 December 2014, published in the Official Gazette of 17 December 2014 with respect to the appearance and re-entry of capital held abroad and self-laundering, added to the Criminal Code, under article 648-*ter* 1.

---

computer crimes and the unlawful processing of data<sup>43</sup>;

- **crimes against industry and commerce**, referred to under article 25-*bis* no.1 of the Decree<sup>44</sup>;
- **organised crime**, referred to under article 24-*ter* of the Decree<sup>45</sup>;
- **offences relating to breach of copyright**, referred to under article 25-*novies* of the Decree<sup>46</sup>;

---

<sup>43</sup> Article 24-*bis* was introduced into the text of Legislative decree 231/01 by article 7 of law no. 48 of 18 March 2008 containing the ratification and execution of the Convention of the Council of Europe on computer crimes, signed in Budapest on 23 November 2001, and provisions for the adaptation of internal legislation published on the Official Gazette no. 80 dated 4 April 2008 - S.O. no. 79. Crimes which can attach administrative liability to organisations are those set out under articles 491- *bis* (Misrepresentation in computer documents), 615-*ter* (Unauthorised access to a computer or data transmission system), 615-*quater* (Possession and unauthorised distribution of access codes to computer or data transmission systems), 615- *quinquies* (Distribution of equipment, devices or computer programs that damage or interrupt a computer or data transmission system), 617-*quater* (Installation of equipment that can intercept, prevent or interrupt computer or data transmission communications), 617-*quinquies* (Installation of equipment that can intercept, prevent or interrupt computer or data transmission communications), 635-*bis* (Damage to computer information, data or programs), 635-*ter* (Damage to computer information, data or programs used by the State or other public organisations or in any case of public interest), 635-*quater* (Damage to computer or data transmission systems), 635-*quinquies* (Damage to public interest computer or data transmission systems) and 640-*quinquies* (computer fraud by the party who provides electronic signature certification services) of the Criminal Code.

<sup>44</sup> Article 25-*bis* no.1 was added by article 15, paragraph 6, of law no. 99 of 23 July 2009. The crimes that can attach administrative liability to organisations include: Disruption of the freedom of industry or trade (article 513 Criminal Code), Fraud in the exercise of trade (article 515 Criminal Code), Sale of non-genuine food items as genuine (article 516 Criminal Code), Sale of industrial products with false markings (article 517 Criminal Code), Manufacturing and sale of goods made usurping industrial property rights (article 517-*ter* Criminal Code); Falsification of geographical indications or designation of origin of agro-food products (article 517-*quater* Criminal Code), Unlawful competition with threats or violence (article 513 *bis* Criminal Code), Fraud against national industries (article 514 Criminal Code).

<sup>45</sup> The article 25-*ter* was introduced by Law no. 94 of 15 July 2009, article 2, paragraph 29. The crimes that can attach administrative liability to organisations include: Criminal association (article 416 Criminal Code, including the amendment introduced by Law no. 172 of 1 October 2012 ratifying the Convention of Lanzarote on the protection of minors against sexual exploitation and abuse), as an exception to the sixth paragraph); Criminal association for the aim of (article 416, sixth paragraph, Criminal Code): i) forcing into or keeping in slavery or servitude (article 600 Criminal Code); ii) trafficking in persons (article 601 Criminal Code); iii) the acquisition and sale of slaves (article 602 Criminal Code.); iv) crimes regarding breach of the laws on illegal immigration pursuant to article 12 Legislative decree 286/ 1998; Mafia-type association (article 416-*bis* Criminal Code); Mafia-related political election exchange (article 416-*ter* Criminal Code); Kidnapping for extortion (article 630 Criminal Code); Criminal association aimed at illicit trafficking of narcotic or psychotropic substances (article 74, Presidential Decree no. 309 of 9 October 1990); Illegal manufacture, introduction into the State, offering for sale, sale, possession and carrying in public places or places open to the public, of weapons of war or warlike weapons or parts thereof, explosives, clandestine weapons and other common firearms (article 407, paragraph 2, letter a), no. 5) Criminal Procedure Code) (see law 110/1975). Law no. 172 of 1 October 2012 was published in the Official Gazette no. 235 dated 8 October 2012 «Ratification and execution of the Convention of the Council of Europe for the protection of minors against exploitation and sexual abuse», adopted by the Committee of Ministers of the Council of Europe on 12 July 2007 and opened for signature on 25 October 2007 in Lanzarote. Certain changes to the criminal code were made when ratifying the Convention of the Council of Europe that affect the scope of articles 24-*ter* and 25-*quinquies* of Legislative decree 231/2001.

<sup>46</sup> Article 25-*novies* was introduced by Law no. 99 of 23 July: The crimes that can attach administrative liability to organisations include: making a protected intellectual property, or part thereof, available to the public, in a system of data transmission networks through connections of any kind (article 171, Law 633/1941 paragraph 1 lett a) *bis*); the crimes referred to above committed on the work of others not intended for publication if offensive to honour or reputation (article 171, law 633/1941 paragraph 3); unauthorised duplication, for profit, of computer programs; import, distribution, sale or possession for commercial or business purposes or leasing of programs on media not marked by the Italian Society of Authors and Publishers (SIAE); production of means for removing or circumventing the protection devices of computer programs (article 171-*bis* Law 633/1941 paragraph 1); reproduction, transfer to another medium, distribution, communication, display or demonstration to the public, of the contents of a database; extraction or re-use of the database; distribution, sale or leasing of databases (article



- **convincing others not to make statements or to make false statements to the judicial authorities** (article 377-bis Criminal Code) referred to by article 25-decies of the Decree<sup>47</sup>
- **environmental offences**, referred to by article 25-undecies of the Decree<sup>48</sup>;

171-bis Law 633/1941 paragraph 2); Unauthorised duplication, reproduction, transmission or distribution in public with whatever means, in whole or in part, of intellectual property intended for television, cinema, sale or rental of disks, tapes or similar media or any other media containing phonograms or videos of musical, cinematographic or audio-visual works or sequences of moving images; literary, dramatic, scientific or educational, musical or dramatic-musical, multimedia works, even if included in collective or composite works or databases; reproduction, duplication, transmission or unauthorised broadcasting, sale or trade, transfer of any kind or illegal import of more than fifty copies or pieces of works protected by copyright and related rights; input of intellectual property protected by copyright or a part thereof into a system of data transmission networks through connections of any kind (article 171-ter, Law 633/1941; Failure to notify the SIAE of identification data of media that does not require marking, or misrepresentation (article 171-septies, Law 633/1941); fraudulent production, sale, import, promotion, installation, modification, utilisation for public and private use, of equipment or parts of equipment for decoding audio-visual broadcasts with conditional access via air, satellite, cable, in both analogue and digital form (article 171-octies, Law 633/1941).

<sup>47</sup> Article 25-decies was added by article 4 of Law 116/09.

<sup>48</sup> Article 25-undecies was added to Legislative decree 231/01, extending the liability of the organisation to offences, most of which are offences, of:

a) unauthorised discharge of industrial waste water containing hazardous substances and discharge of these substances in breach of the requirements imposed by the authorisation (article 137, paragraphs 2 and 3 of Legislative decree no. 152 of 3 April 2006); discharge of industrial waste water in breach of the table limits (article 137, paragraph 5, first and second sentences of Legislative decree no. 152 of 3 April 2006); breach of the prohibitions on discharge into the ground, groundwater or underground (article 137, paragraph 11 of Legislative decree no. 152 of 3 April 2006); discharge at sea by ships or aircraft of substances whose spillage is prohibited (article 137, paragraph 13, of Legislative decree no. 152 of 3 April 2006); collection, transportation, recovery, disposal, trade and brokerage of waste, without the required authorisation, registration or notification (article 256, paragraph 1, letters a) and b) of Legislative decree no. 152 of 3 April 2006); construction or operation of an unauthorised dump (article 256, paragraph 3, first and second sentences of Legislative decree no. 152 of 3 April 2006); non

compliance with the provisions in the authorisation managing a dump or other waste related activities (article 256, paragraph 4 of Legislative decree no. 152 of 3 April 2006); unauthorised mixing of waste (article 256, paragraph 5 of Legislative decree no. 152 of 3 April 2006); temporary storage at the place of production of hazardous medical waste (article 256, paragraph 6 of Legislative decree no. 152 of 3 April 2006); pollution of the soil, subsoil, surface water or groundwater, and failure to notify the competent authorities (article 257, paragraphs 1 and 2 of Legislative decree no. 152 of 3 April 2006); preparation or use of a false waste analysis certificate (article 258, paragraph 4 and article 260 bis, paragraphs 6 and 7, of Legislative decree no. 152 of 3 April 2006); unauthorised trafficking of waste (article 259, paragraph 1 of Legislative decree no. 152 of 3 April 2006); organised unauthorised waste trafficking activities (article 260, of Legislative decree no. 152 of 3 April 2006); breach of waste traceability control system (article 260-bis, paragraph 8 of Legislative decree no. 152 of 3 April 2006); air pollution (article 279, paragraph 5, of Legislative decree no. 152 of 3 April 2006);

b) the import, export, transport or unlawful use of animal species and trading of artificially reproduced plants (article 1, paragraphs 1 and 2, and article 2, paragraphs 1 and 2, of Law no. 150 of 7 February 1992); falsification or alteration of certificates and licenses and use of false or altered certificates or licences to import animals (article 3 bis of Law no. 150 of 7 February 1992);

c) breach of the provisions relating to the use of substances that harm the ozone layer (article 3, paragraph 6 of Law no. 549 of 28 December 1993);

d) the wilful spilling of pollutants at sea by ships (article 8, paragraphs 1 and 2 of Legislative decree no. 202 of 6 November 2007); the wilful spilling of pollutants at sea by ships (article 9, paragraphs 1 and 2 of Legislative decree no. 202 of 6 November 2007);

e) killing, destruction, catching, taking, possession of specimens of protected wild fauna and flora species (article 727-bis Criminal Code)

f) destruction or damage to habitats in a protected site (article 733-bis Criminal Code.)

Law no. 68 of 22 May 2015, published in the Official Gazette General series - n. 122 of 28 May 2015 "Provisions regarding crimes against the environment".

With respect to the administrative liability of organisations, the law amends article 25-undecies, paragraph 1, of Legislative decree 231/01 adding the following predicate offences:

a) the crime of environmental pollution (breach of article 452-bis of the Criminal Code) with a fine of two hundred and fifty to six hundred units;

b) the crime of environmental disaster (breach of article 452-quater of the Criminal Code) with a fine of four

- **the offence of employing citizens from other countries who are not legally resident in the country** referred to in article 25-*duodecies* of the Decree<sup>49</sup>;
- **bribery offence between private parties**, referred to under article 25-*ter* letter *s bis* of the Decree<sup>50</sup>.
- **racism and xenophobia**, referred to in Article 25-*terdecies*<sup>51</sup>;
- **fraud in sporting competitions, unlawful gaming or betting and gambling by means of prohibited devices**, referred to in Article 25-*quaterdecies*;
- **tax offences**, referred to in Article 25-*quinqüesdecies*.
- **smuggling**. Article 25-*sexiesdecies* of the Decree, introduced by Legislative Decree 75/2020, establishes the extension of the body's liability also with reference to the offences of smuggling set out in Title VII, Chapter I, of

hundred to eight hundred units;

c) crimes committed without malicious intent against the environment (with reference to articles 452-*bis* and *quater*, breach of article 452-*quinqües* of the Criminal Code) with a fine of two hundred to five hundred units;

d) crimes of association aggravated by being aimed (also on a complicit basis) at committing the crimes described under title VI *bis* of the Criminal Code (breach of article 452-*octies*) with a fine of three hundred to a thousand units;

e) the crime of dealing in and abandoning highly radioactive material (breach of article 452-*sexies*) with a fine of two hundred and fifty to six hundred units.

Additionally, with respect to the offences that follow below, the original fines are confirmed:

- 727-*bis* (Killing, destruction, catching, taking, possession of specimens of protected wild fauna and flora species and

-733-*bis* Criminal Code (Destruction or damage to habitats in a protected site)

<sup>49</sup> Article 22, paragraph 12-*bis*, Legislative decree no. 286 of 22 July 1998, (known as the Consolidated Act on Immigration) Employment on fixed term and open-ended contracts referred to in article 25-*duodecies* of Legislative decree 231/01 "Employment of citizens from other countries who are not legally resident in the country" provides as follows: The penalties for the situation described under paragraph 12 (eds note: i.e. where the "employer who employs foreign workers who do not have residence permits as provided under this article, or whose permits have expired and where the renewal, revocation or cancellation has not been requested in accordance with the law") will be increased by one third to one half:

a) if the number of employees is more than three;

b) if the employees are not of working age;

c) if the employees are subject to other working conditions that are particularly exploitive pursuant to the third paragraph of article 603-*bis* of the Criminal Code (eds note: i.e. "situations of serious danger with regard to the type of services to provide and the conditions of work").

Article 603 *bis* of the Criminal Code, third paragraph "Unlawful intermediation and exploitation of work", provides that: "3. The following constitute specific aggravating circumstances that will increase the sanctions by a third to a half:

1) if the number of workers recruited is higher than three;

2) if one or more of the recruited persons is not of working age;

if the action was carried out by exposing the workers obtained to situations of serious danger with regard to the type of services to provide and the conditions of work".

<sup>50</sup> More specifically, article 25-*ter*, paragraph 1 of Legislative decree 231/01 had letter *s-bis* added), which referred to the new crime of bribery between private parties in the cases that fall under the new third paragraph of article 2635 of the Civil Code. The new letter *s-bis* of article 25-*ter*, referring to the "cases provided for under the third paragraph of article 2635 of the Civil Code", basically provides that in accordance with Legislative decree 231/01, companies that the bribing party belong to may be subject to sanction since only the company can benefit from the bribery carried out. On the other hand, the company to whom the bribing party belongs, by regulatory definition, suffers damage following breach of official or loyalty duties

<sup>51</sup> Law No. 167 of 20 November 2017 with "Provisions for the fulfilment of the obligations arising from Italy's membership of the European Union - European Law 2017" provided for the expansion of the catalogue of predicate offences of Legislative Decree No. 231/2001, inserting Article 25-*terdecies* entitled "racism and xenophobia", which provides that: "1. In relation to the commission of the offences referred to in Article 3, paragraph 3 *bis*, of Law no. 654 of 13 October 1975, the financial penalty of two hundred to eight hundred shares shall apply to the entity.

Presidential Decree No. 43/1973;

- **offences against the cultural heritage.** Article 25- septiesdecies of the Decree, introduced by Law no. 22/2022, establishes the extension of the entity's liability also with reference to the offences provided for in Articles 518-bis, 518-ter, 518-quater, 518-octies, 518-novies, 518-decies, 518-undecies, 518-duodecies, 518-quaterdecies of the Criminal Code;
- **laundering of cultural property and devastation and looting of cultural and landscape heritage.** Article 25-duodevicies of the Decree, introduced by Law 22/2022, establishes the extension of the entity's liability also with reference to the offences provided for in Articles 518-sexies and 518-terdecies of the Criminal Code.

#### A.6. Sanction system

The following sanctions will be applied under articles 9 - 23 of Legislative decree 231/01 against the organisation as a result of the commission or attempted commission of the above-mentioned offences:

- fines (and seizure as an interim measure);
- injunctive relief (which can also be applied as interim measures) with duration of not less than three months and not more than two years (in accordance with article 14, paragraph 1, of Legislative decree 231/01, “*The injunctive relief will specifically relate to the unlawful activity carried out by the organisation*”) which in turn may entail:
  - a ban on exercising the activity;
  - suspension or revocation of the authorisations, licences or permits that facilitated commission of the unlawful action;
  - a prohibition on contracting with the public administration unless a public service has to be obtained;
  - removal of concessions, loans, contributions or benefits and revocation of any that may have already been granted;
  - a prohibition on advertising goods or services;
- confiscation (and seizure as an interim measure);
- publication of the ruling (if injunctive relief has been sought).

The fine will be decided by the criminal court through a system based on “units” with a number that is not less than one hundred and not higher than one thousand, and for amounts that vary between a minimum of Euro 258.22 and a maximum of Euro 1549.37. The court will examine the following when deciding on the amount of the fine:

- the number of units, taking account of the seriousness of the event, the level of responsibility of the organisation and the activities carried out to eliminate or reduce the consequences of the event and prevent the commission of further unlawful actions;
- the amount of the single unit on the basis of the economic and capital situation of the organisation.

The organisation will pay the fine with its assets or a common fund (article 27, paragraph 1 of the Decree)<sup>52</sup>.

Injunctive relief will only apply to offences where this type of relief is expressly provided for on condition that at least one of the following conditions are met:

- a) the organisation obtained a significant benefit from committing the offence and the offence was committed by parties in top management positions or by parties subject to other management when, in this case, commission of the offence was determined or facilitated by serious organisational shortcomings;
- b) if the unlawful actions are repeated<sup>53</sup>.

Injunctive relief may be ordered for the following: crimes against the public administration, certain ones against public trust, terrorism-related crimes and subversion of democracy, crimes against individuals, female genital mutilation, cross-border crimes, crimes against health and safety, receiving stolen goods, money-laundering and use of money, goods or benefits of unlawful origin, and computer crimes and the unlawful processing of data, organised crime, certain crimes against industry and commerce, copyright infringement crimes and environmental crimes.

The court will determine the type and duration of the injunctive relief, taking account of how suitable the individual sanctions would be to prevent unlawful actions like those committed, and if necessary, may apply them on a joint basis (article 14, paragraph 1 and paragraph 3, Legislative decree 231/01).

Sanctions involving prohibitions on exercising the business, a prohibition on contracting with the public administration and a prohibition on advertising goods or

---

<sup>52</sup> The concept of assets must refer to companies and organisations with legal personality, while the concept of "common funds" regard associations without legal personality.

<sup>53</sup> Article 13, paragraph 1, letters a) and b) Legislative decree 231/01. To that end, see also article 20 Legislative decree 231/01, whereby "A repeat offence will be committed if the organisation has been found liable at least once for an unlawful action relating to the offence and commits another in the five years following conviction." Regarding the relationship between the above-mentioned regulations, see De Marzo, *work cited*, 1315: "As an alternative to the requirements set out under letter

a) [of article 13, eds note], letter b) identifies the repeat of the unlawful action as the condition for application of the injunctive relief expressly provided for by law. In accordance with article 20, the repeat offence will be committed if the organisation has already been found liable at least once for an unlawful action relating to the offence and commits another in the five years following conviction. In this case, even though liability for the previous breach has already been found and already been irrevocably sanctioned, commission of the offence shows the propensity or tolerance towards commission of the offences, so things do not have to be further held up by investigating the extent of the benefits obtained or analysing the organisational models adopted. What emerges in any case is the awareness that the ordinary fine system (and also the injunction system if the previous unlawful actions have met the conditions set out under letters a) or b) of article 13, paragraph 1) has not been capable of acting as an effective deterrent with respect to an action that conflicts with a basic canon of the law".

---

services may be applied - in the most serious cases - on a permanent basis<sup>54</sup>.

The court may allow the organisation's business activity to continue (instead of issuing an injunction), in accordance and under the conditions set out under article 15 of the Decree, appointing a commissioner to that end for a period equal to the duration of the injunction<sup>55</sup>.

### A.7. Attempts

If an attempt is made to commit the crimes subject to sanction under Legislative decree 231/01, the fines (in terms of amount) and the injunctive relief (in terms of duration) will be reduced by a third to a half.

The sanctions will not be imposed if the organisation voluntarily prevents the performance of the action or the realisation of the event (article 26 Legislative decree 231/01). In this case, the failure to impose sanctions is justified on the basis of the breaking off of all immediate relations between the organisation and the parties who purport to act in its name and on its behalf.

#### 1. 8. Changes in the organisation

Articles 28-33 of Legislative decree 231/01 govern the effect on the financial liability of the organisation of changes related to transformations, mergers, demergers or winding up of the company<sup>56</sup>.

---

<sup>54</sup> To that end, see article 16 of Legislative decree 231/01, whereby: "1. A permanent injunction may be ordered against exercising the business if the organisation obtained a significant benefit from the offence, and temporary injunctions had already been issued against the exercise of the business at least three times in the past seven years. 2. The court may apply a permanent injunction against the organisation from contracting with the public administration or advertising goods or services if the same sanction was applied against it at least three times in the past seven years. 3. If the organisation or its organisational unit is consistently used for the single or primary objective of permitting or facilitating the commission of crimes that it can be liable for, a permanent injunction against exercising its business is always applied, and the provisions of article 17 do not apply".

<sup>55</sup> Article 15 Legislative decree 231/01: "Legal commissioner – If the conditions for application of injunctive relief applies which would cause the business activity of the organisation to be suspended, the judge, when applying the interim measure, will order the business activity of the organisation to be continued by a commissioner for a period equal to the duration of the injunctive relief being applied, if at least one of the following conditions are met: a) the organisation carries out a public service or a publicly necessary service where a temporary suspension could lead to serious harm to the general public; b) the temporary suspension of the business activities of the organisation could cause serious damage to local employment levels taking account of its size and the local economy. With the ruling allowing the business activity to be continued, the court will indicate the duties and powers of the commissioner, taking account of the specific unlawful activities that had been carried out by the organisation. Within the scope of the duties and powers indicated by the court, the commissioner will take charge of adopting and efficiently implementing organisation and control models that will be capable of preventing the types of offences that have occurred. The commissioner may not carry out actions of extraordinary administration without court authorisation. The benefits resulting from the continuation of the business activity will be confiscated. A commissioner may not be ordered to run the business activity if business has been suspended following application of a permanent injunction".

<sup>56</sup> The law took account of two opposing requirements: on the one hand, the attempt to prevent these transactions from constituting an instrument to help the organisation from easily avoiding administrative liability, and on the other, not to penalise reorganisation efforts that do not intend to avoid this type of liability. The Explanatory report to the Decree states "The main principle followed was to govern the types of fines in accordance with the standards set out by the Civil Code regarding the other general debts of the original organisation, while, conversely,



In the event of transformation (in accordance with its nature that implies a simple change in the type of company without extinguishing the original legal party), the organisation will stay liable for the offences committed before the date the transformation took effect (article 28 Legislative decree 231/01).

In the event of a merger, the resulting organisation (including for merger by incorporation) will be liable for the offences that the organisations taking part in the merger were liable for (article 29 of Legislative decree 231/01).

Article 30 of Legislative decree 231/01 provides that in the event of partial demerger, the spun-off company will be liable for the offences committed before the date the demerger took effect.

The beneficiaries of the demerger (both total and partial) will be jointly and severally liable to pay the monetary fines due from the spun-off company for the offences committed before the date the demerger took effect, to the limit of the actual value of the net worth transferred to the single organisation.

This limit does not apply to the beneficiary companies to which the branch of activity in which the offence was committed was devolved.

The injunctive relief relating to offences committed before the date the demerger took effect apply to organisations where the branch of activity in which the offence was committed remained or was transferred, only in part.

Article 31 of Legislative decree 231/01 sets out the common provisions relating to both mergers and demergers, regarding the decision of the sanctions if these extraordinary operations occur prior to conclusion of the finding. The judge must determine the fine in accordance with the criteria provided under article 11 paragraph 2 of Legislative decree 231/01<sup>57</sup>, in any case referring to the economic and financial position of the organisation that was originally liable, and not to the position of the organisation to be sanctioned following the merger or demerger.

In the event of injunctive relief, the organisation who will be liable following a merger or demerger may ask the court for the conversion of the injunctive relief into a fine, on condition that: (i) the organisational negligence at the basis of the commission of the offence was eliminated, and (ii) the organisation has compensated for the damage and made any part of the advantage gained available (for the confiscation). Article 32 of Legislative decree 231/01 allows the court to take account of any convictions already made against the organisations forming part of the merger or the spun-off organisation for the purpose of the repeat offences, in accordance with article 20 of Legislative decree 231/01, in relation to the unlawful actions of the organisation resulting from the merger or the beneficiary of the demerger, with respect to the offences subsequently committed<sup>58</sup>. A single set of laws governs the sale and transfer

---

*maintaining the connection of the injunctive relief with the branch of the business in which the offence was committed*".

<sup>57</sup> Article 11 of Legislative decree 231/01: "Criteria for measuring the fine - 1. When measuring the fine, the court will determine the number of units, taking account of the seriousness of the event, the level of responsibility of the organisation and the activities carried out to eliminate or reduce the consequences of the event and prevent the commission of further unlawful actions. 2. The amount of the unit is set on the basis of the economic and capital situation of the organisation in order to ensure the effectiveness of the fine.(...)".

<sup>58</sup> Article 32 of Legislative decree 231/01: "Relevance of the merger or demerger with respect to repeat offences -

---

of companies (article 33 of Legislative decree 231/01)<sup>59</sup>; in the case of the transfer of a company in which the offence was committed, the transferee will be jointly and severally obliged to pay the monetary fine imposed on the transferor, with the following limitations:

- (i) this is subject to the right to enforce prior discussion by the transferor;
- (ii) the liability of the transferee is limited to the value of the company transferred and the fines resulting from the obligatory accounts, or due for unlawful administrative actions that it was in any case aware of.

On the other hand, the injunctions imposed on the transferor will not extend to the transferee.

### 1.9. Offences committed abroad

The organisation may be liable in Italy for offences - as contemplated under Legislative decree 231/01 - committed abroad (article 4 Legislative decree 231/01)<sup>60</sup>.

The assumptions on which the liability of the organisation for offences committed abroad are the following:

- (i) the offence must be committed by a party who is functionally linked to the organisation in accordance with article 5, paragraph 1 of Legislative decree 231/01;
- (ii) the organisation must have its main headquarters in Italy;

---

1. In the event of the liability of an organisation formed through a merger or a beneficiary of the demerger for offences committed after the date that the merger or demerger took effect, the court may consider the repeat offence, in accordance with article 20, also in relation to the sentences made against the parties who took part in the merger or the spun-off company for offences committed prior to that date. 2. To that end, the court will take account of the nature of the breaches and the business activities in which they were committed, and the characteristics of the merger or demerger. 3. With respect to organisations who benefit from the demerger, in accordance with paragraphs 1 and 2, the repeat offence can only be considered, if the branch of the business in which the offence was committed for which a conviction was made against the spun-off organisation, was transferred to them, even in part". The Explanatory report to Legislative decree 231/01 clarifies that "However, in that case, the repeat offence will not operate automatically, but will be subject to the discretionary judgement of the court in accordance with the actual situation. With respect to the organisations that benefit from the demerger, this may also be found only when it regards an organisation to whom the branch of the business activity where the previous offence was committed was transferred, even in part".

<sup>59</sup> Article 33 of Legislative decree 231/01: "Transfer of company. - 1. In the case of the transfer of a company in which the offence was committed, the transferee will be jointly and severally obliged, subject to the right to enforce prior discussion by the transferor, and within the limits of the value of the company, to pay the fine. 2. The obligation of the transferee will be limited to the fines resulting from the obligatory accounts, or due for unlawful administrative actions that it was in any case aware of. 3. The provisions of this article also apply in the case of the sale of a company". See the Explanatory report to Legislative decree 231/01 where it states: "It is understood that these transactions are also susceptible to being used to avoid liability: and however, the opposing need to protect the transfer and safety of the legal process is more meaningful than this since there is the possibility of the transfer of title that will maintain the identity (and liability) of the transferor or the transferee".

<sup>60</sup> The Explanatory report to Legislative decree 231/01 underlines the need to sanction criminal situations that frequently occur, also in order to avoid easy evasion of the entire set of laws in question. Article 4 of Legislative decree 231/01 provides as follows: "1. In the cases and under the conditions provided under articles 7, 8, 9 and 10 of the Criminal code, the organisations who have their main headquarters in the territory of the State will also be liable for offences committed abroad, provided that the State in which the action was committed does not bring charges against them. 2. Where the law provides that the offender will be punished upon request by the Ministry of Justice, action will be taken against the organisation only if the request is also formulated against the organisation.

(iii) the organisation may only be liable in the cases and under the conditions provided by articles 7, 8, 9, 10 of the Criminal Code (in the cases where the law provides that the offender - natural person - will be punished upon request by the Ministry of justice, action will only be taken against the organisation if the request is also formulated against the organisation itself)<sup>61</sup> and, also in compliance with the principle of legality set out under article 2 of Legislative decree 231/01, only for offences where the liability is provided by a specific legislative provision;

(iv) if the cases and conditions pursuant to the above-mentioned Criminal Code articles are met, the State of the place where the offence was committed will not take action against the organisation.

#### A.8. Finding unlawful actions

Criminal proceedings are held to find liability for unlawful administrative actions resulting from offences. To that end, article 36 of Legislative decree 231/01 provides *"The competence to find an organisation liable for unlawful administrative actions will be entrusted to a criminal judge qualified to rule on the offences in question. Provisions regarding composition of the court and the procedures relating to the offences on which the unlawful administrative action depends must be complied with for proceedings to find unlawful administrative action"*.

On the basis of improving the effectiveness, standardisation and procedural economy, another rule is the compulsory joinder of proceedings: proceedings against

---

<sup>61</sup> Article 7 Italian Criminal Code: "Offences committed abroad" - *Any citizen or foreigner who commits any of the following offences in a foreign country will be punished under Italian law: 1) crimes against the personality of the Italian State; 2) crimes involving the forging of the State seal and use of said forged seal; 3) crimes relating to counterfeit money in the State territory or Italian revenue stamps or legal tender; 4) crimes committed by public officials who are acting in the service of the State, abusing power or breaching duties relating to their jobs; 5) any other offence where special provisions of the law or international conventions establish that Italian criminal law shall apply*". Article 8 Italian Criminal Code.: "Political crimes committed abroad - *Any citizen or foreigner who commits any political crime in a foreign country that is not included in those listed under number 1 of the previous article shall be punished under Italian law, upon request by the Ministry of Justice. If it is a crime that can be punished upon complaint by the injured party, a complaint will also have to be made. For the purposes of criminal law, any crime that offends a political interest of the State or a political right of a citizen is considered to be a political crime. A common crime that has been determined in whole or in part by political motives is also considered to be a political crime.*" Article 9 Italian Criminal Code.: "Common offence committed by a citizen abroad - *Apart from the cases indicated in the two articles above, if the citizen commits a crime abroad, for which Italian law has established a life sentence, or imprisonment of not less than a minimum of three years, the person shall be punished in accordance with that law, if the person is in the territory of the State. If the crime warrants a punishment that restricts personal liberty for a shorter time period, the offender shall be punished upon request by the Ministry of justice, or by filing a motion or a complaint by the injured party. In the cases provided for by the provisions above, if they regard a crime committed against the European Union, a foreign country or a foreigner, the offender shall be punished upon request by the Ministry of justice, if extradition has not been granted or has not been accepted by the government of the country where the crime was committed*". Article 10 Italian Criminal Code.: "Common offence committed by a citizen abroad - *Apart from the cases indicated in articles 7 and 8, if a foreigner commits a crime abroad, against the country or a citizen, and for which crime Italian law has established a life sentence or imprisonment of not less than a minimum of one year, the person shall be punished in accordance with said law, if the person is in the territory of the State, and it has been requested by the Ministry of justice, or by filing a motion or a complaint by the injured party. In the crime is committed against the European Union, a foreign country or a foreigner, the offender shall be punished in accordance with Italian law, upon request by the Ministry of justice, provided that: 1) the person is in the territory of the State; 2) it is a crime that warrants a life sentence, or imprisonment of not less than a minimum of three years; 3) extradition has not been granted or has not been accepted by the government of the State where the crime was committed or that of the country to which the person belongs*".



the organisation must be joined, to the extent possible, to the criminal proceedings brought against the natural person who carried out the predicate offence for liability by the organisation (article 38 of Legislative decree 231/01). This rule is reconciled with the provisions of article 38, paragraph 2 of Legislative decree 231/01, which, on

the other hand, governs cases in which proceedings are brought separately for unlawful administrative actions<sup>62</sup>. The organisation will be represented at the criminal proceedings by its legal representative unless this person is charged with the offence on which the unlawful administrative action depends; if the legal representative does not appear, the organisation will be represented by the defending party (article 39, paragraphs 1 and 4, of Legislative decree 231/01).

*1.11. Codes of conduct drafted by the representative associations of the organisations*  
Article 6, paragraph 3, of Legislative decree 231/01 provides that “*Organisation and management models can be adopted, guaranteeing the requirements pursuant to paragraph 2, on the basis of codes of conduct drafted by representative associations of the organisations, communicated to the Ministry of Justice, who, in agreement with the applicable Ministries, may make observations on the suitability of the models to prevent offences, within thirty days*”.

Confindustria has defined the “Guidelines to establish organisation, management and control models pursuant to Legislative decree 231/01”, distributed on 7 March 2002, amended on 3 October 2002 with Appendices related to corporate offences (introduced into Legislative decree 231/01 with Legislative decree 61/2002), updated on 24 May 2004 and subsequently sent to the Ministry of Justice on 18 February 2008 for the adjustments aimed at providing instructions on the measures that could prevent the commission of new predicate offences relating to market abuse, female genital mutilation, cross-border organised crime, health and safety at the workplace and anti-money laundering (updated on 31 March 2008). On 2 April 2008, the Ministry of Justice gave notice of conclusion of the examination process of the new version of the “Confindustria guidelines for the construction of organisation, management and control models pursuant to Legislative decree 231/01” (hereinafter the “Confindustria guidelines”).

The updates to the Confindustria guidelines were completed in March 2014. The new version adapts the previous 2008 text to new legislation, case law and standards created in the intervening time. The document was subject to inspection by the Ministry of Justice who gave its definitive approval on 21 July 2014.

The Confindustria guidelines provide, inter alia, methods on how to identify the risk areas (sector/activities where the offences could be committed), planning for a control system (the protocols to plan the training and implementation of the organisation’s

<sup>62</sup> Article 38, paragraph 2, Legislative Decree 231/01: “*Proceedings will be taken separately for the unlawful administrative action by the organisation only when: a) suspension of the proceedings has been ordered in accordance with article 71 of the Code of Criminal Procedure [suspension of proceedings due to incapacity of the accused party, eds note]; b) the proceedings were settled with a summary judgement or with application of the penalty in accordance with article 444 of the Code of Criminal Procedure [application of penalty upon request, eds note], or the conviction was issued; c) compliance with the court proceedings make it necessary.*” In order to provide the complete picture, we also refer to article 37 of Legislative decree 231/01, whereby “*The organisation will not be liable for unlawful administrative action if the criminal action cannot be started or brought against the offender due to the lack of a prosecution condition*” (as set out under Title III of Book V of the Code of Criminal Procedure: action, application to begin proceedings, request for proceedings, or authorisation to proceed, pursuant to articles 336, 341, 342, 343 respectively of the Code of Criminal Procedure.).

decisions), and the contents of the organisation, management and control model.

More specifically, the Confindustria guidelines suggest that associated companies use *Risk Assessment* and *Risk management* processes, and provide for the following stages to define the model:

- identification of the risks and protocols;
- adoption of certain general instruments including the code of ethics with reference to the offences pursuant to Legislative decree 231/01 and a disciplinary system;
- identification of the criteria to choose the supervisory body, instructions on its requirements, duties and powers and the information obligations.

### **A.9. Control of suitability**

The assessment carried out by the criminal court regarding the existence of the elements of administrative liability by the company concerns two profiles. On the one hand, assessment on commission of an offence that falls within the scope of application of the Decree, on the other, the “control of suitability” of any organisational model adopted by the company.

The control by the court regarding the theoretical suitability of the organisational model to prevent the offences described under Legislative decree 231/01 will be carried out in accordance with the criteria known as the “forecast after the fact”.

The assessment of suitability will be formulated in accordance with a criteria which is substantially after the fact, so the court will ideally be placed in the position of the company as it existed when the unlawful action occurred, in order to test the suitability of the Model adopted.

In other words, an organisational model will be considered to have been “suitable to prevent the offences” if, prior to committing the offence, it could be considered to have been capable of eliminating, or at least minimising, with reasonable certainty, the risk of committing the offence which subsequently occurred.