

Executive Summary

- i.* This investigation into a possible infringement of Article 102 TFEU by certain companies belonging to the Apple Group was opened on 2 May 2023 and its scope was extended on 8 October 2024.
- ii.* The investigation centred on the restrictive nature – from a competition-law perspective – of the App Tracking Transparency (“ATT”) policy, i.e. the privacy rules imposed by Apple, starting from April 2021, within its iOS mobile operating system, to third-party developers of apps distributed through the App Store.
- iii.* The investigation revealed that since the ATT prompt **does not meet the requirements** that privacy legislation imposes on developers with regard to the acquisition of consent, such developers are required to also resort to their own prompt to acquire consent (so-called CMP prompt), which is thus in addition to the ATT prompt imposed by Apple. This means that, within the iOS system, third-party developers are required to request consent **a second time** for the same purpose, namely for the collection and linking of data for advertising purposes.
- iv.* Apple’s infringement in this decision – amounting to an exploitative abuse by a dominant undertaking, pursuant to Article 102, letter a) TFEU – **concerns precisely the inevitable double consent request** imposed by the undertaking to third-party developers, following the finding that the terms of the ATT policy are *(i)* imposed unilaterally, *(ii)* detrimental to the interests of Apple’s commercial partners, and *(iii)* disproportionate to the achievement of any legitimate interest pursued by the dominant undertaking.
- v.* In this regard, it is worth noting that the **Authority does not hereby in any way challenge** Apple’s potentially legitimate decision to adopt safeguards designed to strengthen – also beyond what is strictly necessary – the protection of users’ privacy within the iOS system. On the contrary, while recognising the Authority’s interest in any safeguards that enhance consumer welfare, the decision takes issue with **the imposition of measures that are excessively burdensome** for developers **and disproportionate** to the privacy-protection objective allegedly pursued by Apple. Indeed, such objective could equally have been achieved through means **less restrictive** of competition (principle of proportionality), as is also apparent from the statements made by the Italian Data Protection Authority (hereinafter also referred to as the “Data Protection Authority”) in its opinion delivered to the Authority on 4 August 2025.
- vi.* The assessment aimed at establishing the exploitative abuse first of all found that Apple holds an absolute dominant position in the market for the supply to developers of platforms for the online distribution of apps to users of the iOS operating system. The findings of the investigation therefore showed that, by virtue of its dominant position, Apple was able to **unilaterally impose** the aforementioned rules laid down by the ATT policy on third-party app developers, without those developers being consulted in any way beforehand.
- vii.* With respect to the second constituent condition of exploitative abuse, namely the detriment to the interests of commercial partners, the investigation clearly showed that, within the iOS environment, the increased burden of the consent-acquisition process led, for third-party developers alone, to a reduction of consent rates for advertising profiling following the introduction of the ATT policy. Given that user data are a key input for personalised online advertising – since higher-quality

and larger volumes of data improve the ability to identify users who may be genuinely interested in the advertised product, service or app – the restrictions imposed by the ATT policy on the collection, linking and use of such data **are capable of harming** developers whose business model relies on the sale of advertising space, as well as advertisers and advertising intermediation platforms. This impact is even more pronounced for smaller operators, which have access to more limited data and therefore encounter greater difficulties in profiling users for advertising purposes following the introduction of the ATT rules.

viii. Although the fact that the conduct may harm competition is in itself sufficient to establish the abuse, based on well-established national and EU case law, the investigation found that the conduct did indeed produce effects, in terms of reduced revenues for developers and advertising platforms and increased costs for advertisers.

ix. Finally, as noted above, the lack of **proportionality** of the ATT policy with respect to the achievement of the alleged objectives of enhanced privacy protection is confirmed by the body of evidence demonstrating that those objectives could have been achieved without imposing a mechanism requiring **double consent** – particularly burdensome for third-party developers – by allowing developers to obtain such consent in a single step.

x. In other words, while fully supporting the objective of ensuring that users' consent is full, free and informed, the Authority found that – also on the basis of the opinion of the Data Protection Authority – Apple could have achieved the same level of privacy protection for its users through means less restrictive of competition. This would have prevented the unilateral imposition of additional burdens on third-party developers, thereby avoiding the **above-mentioned double consent requests** for advertising purposes.

xi. Moreover, the ATT rules appear capable of generating financial benefits for Apple itself, directly in the form of higher commissions collected from developers through the App Store and, indirectly, in terms of the growth of its own advertising service.

xii. As a matter of fact, revenues from App Store services increased, in terms of higher commissions collected from developers through the platform; likewise, Apple's advertising division, which is not subject to the same stringent rules, ultimately benefited from increased revenues and higher volumes of intermediated ads.

xiii. Therefore, considering that Apple holds an absolute dominant position in the market for the supply to developers of platforms for the online distribution of apps to users of the iOS operating system, the Authority established that Apple's conduct amounts to an **exploitative abuse**, in breach of Article 102 TFEU, that started in April 2021 and is still ongoing.