

## **BECAUSE SANREMO IS SANREMO – SECOND CHAPTER**

The First Section of the Regional Administrative Court of Liguria, through its decision No. 843 issued on 5 December 2024, annulled the Municipal Council resolutions Nos. 341 of 21 November 2023 and 345 of 4 December 2023, by virtue of which the Municipality of Sanremo had confirmed the assignment of the organisation and broadcasting of the Sanremo Festival to RAI and RAI Pubblicità. The Court held that the execution of such an agreement with RAI should have been preceded by a call for competition, in compliance with the principles of competition, impartiality, publicity, and transparency set forth by the Italian Public Procurement Code.

In execution of the said decision, on 5 March 2025, the Municipality of Sanremo issued a call for tender for the assignment of the organisation and broadcasting of the Festival, following the concession for the use of the registered trademarks "Festival della Canzone Italiana" and "Festival di Sanremo."

The issuance of the tender was mandatory due to the enforceable nature of the Regional Administrative Court's decision and despite it having been challenged before the Council of State – whose public hearing for the discussion of the merits has been scheduled for 22 May 2025. Indeed, such ruling has not been suspended and, therefore, it remains effective and legally binding.

The Municipality of Sanremo has confirmed the previous organisational framework, providing for the assignment of the musical event to a single television operator that: (i) shall be a qualified broadcaster of audiovisual media services; (ii) shall have a generalist nature, falling within the category of national free-to-air audiovisual media service providers, registered in the LCN (Logical Channel Numbering) list established by the Ministry of Enterprises and Made in Italy in 2021; (iii) shall have proven organisational capacity in the management of events of public relevance.

The procedure will consist in two phases: an initial selection, issued through the publication of an invitation to tender, aimed at identifying the economic operator to be admitted to the subsequent negotiation phase; and a second phase, aimed at defining the final terms of the public-private partnership agreement.

Admission to the negotiation phase shall be determined by the Municipality on the basis of a reasoned decision, based on the following criteria: (i) quality and consistency of the artistic proposal in relation to the cultural profile of the Festival; (ii) pursuance of the public interest; (iii) organisational competence and broadcasting capability; (iv) strengthening the Festival's value; (v) economic return in favour of the Municipality; (vi) any further elements improving upon the current organisational structure.

The public-private partnership will cover the 2026, 2027, and 2028 editions of the Festival and could be extended for an additional two-years period, according to a

project negotiated with the Municipality. The successful tenderer will be required to ensure the full live broadcast of the event and will be granted the exclusive right to record and exploit the event for television and radio broadcasting purposes. Moreover, the concessionaire will be granted a license for the commercial use of public areas within the Municipality's territory.

Among the key innovations introduced by the tender it is worth noting the increase in the economic compensation in favour of the Municipality, whose amount cannot be inferior to €6,500,000 – compared to the €5,000,000 currently provided. Furthermore, the Municipality will be entitled to a minimum share of 1% of the advertising revenues and profits deriving from the exploitation of the trademarks and distinctive signs of the individual editions.

The selected partner will be required to bear all costs related to the organisation of the Festival and its collateral events, while the selection of the venue and the corresponding rental costs will be borne by the Municipality.

Without prejudice to the obligation to execute the Court's decision, the issuance of the said call for tender is justified by the need to ensure the timely planning and organisational continuity of the Festival, while the appeal before the Council of State remains pending, considering the cultural and social significance of the event and its broad resonance at a national level.

#### **DISCLAIMER**

The sole purpose of this *Client Alert* is to provide general information. Consequently, it does not represent a legal opinion nor can it in any way be considered as a substitute for specific legal advice.

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Laura Sommaruga, Partner  
Email: [laura.sommaruga@grplex.com](mailto:laura.sommaruga@grplex.com)

Sandra Sacchi, Junior Associate  
Email: [sandra.sacchi@grplex.com](mailto:sandra.sacchi@grplex.com)