



Working Group 1 – Audiovisual media matters
WS3 - The regulation of influencers

Summary

1.	Introduction.....	3
1.2.	Aim of the report.....	4
2.	Historical background and legal framework.....	5
3.	Relevant experiences	6
3.1	Methodology	6
3.2	Measures and initiatives currently in place and planned for the near future	7
3.3	Definition of influencers and registry	9
3.4	Classification of contents provided by influencers	12
3.5	Rules on advertising and commercial communication.....	12
3.6	Specific sectors of regulation	12
3.7	Regulatory regime for influencers.....	13
3.8	Monitoring and sanctioning mechanism	14
3.9	Information campaigns	15
4.	Lesson learnt and conclusions	15
ANNEX 1	20

1. Introduction

The digital transformation of the media landscape has brought about new forms of content creation and distribution, with vloggers and online influencers emerging as key players in shaping public discourse and audience behaviour—particularly among younger demographics. As their reach and influence grow, so do the regulatory challenges, particularly within the framework of the Audiovisual Media Services Directive (AVMSD).

Many national Regulatory Authorities (NRAs) across the EU have increasingly reported difficulties in applying the existing legal tools to these new actors, due to ambiguities in the current definitions and inconsistencies in national implementations. This has led to legal uncertainty, fragmented enforcement, and an uneven regulatory playing field. At the same time, the principle of subsidiarity remains central to determining the appropriate level of intervention, requiring a careful balance between EU-level harmonization and national autonomy.

In recent years, the rapid convergence of audiovisual and audio services has blurred the boundaries traditionally used to define media regulation within the European framework. Video-sharing platforms have increasingly diversified their offerings by introducing features that automatically convert video content into audio streams, thereby producing podcasts and other audio-on-demand services for new and often unregulated audiences. The recent introduction of such technologies since 2022, which automatically transform video streams into audio formats to create podcasts and other audio-on-demand content for audiences not covered by the AVMS Directive, also raises questions about the Directive's objectives. In particular, these developments call into question whether the Directive remains fit for purpose in addressing evolving content formats and ensuring coherent regulatory oversight across audiovisual and audio services.

This report explores the regulatory challenges posed by influencers and vloggers, evaluates potential approaches to improve legal clarity and consistency, and assesses how the subsidiarity principle can guide future policy developments in this area.

1.1. Executive Summary

This report examines the growing regulatory challenges related to the activities of vloggers and online influencers under the current EU audiovisual media framework, specifically the Audiovisual Media Services Directive (AVMSD). Many national Regulatory Authorities (NRAs) have expressed concerns about the lack of a consistent, common approach to determining when such individuals qualify as audiovisual media service providers, particularly when their activities blur the line between personal expression and economic activity.

Due to differing interpretations and implementations across Member States, the current regulatory landscape is in many cases marked by legal uncertainty and fragmentation, which can prove to be especially problematic given the cross-border nature of online content and the substantial impact that influencers can have on public opinion and vulnerable audiences.

To address these challenges, the report considers the possible need for a broader and more flexible definition of AVMS that more clearly accounts for influencers and their specificities, while also taking into consideration the avenue of the development of EU-level guidance to support uniform interpretation and application of the existing framework. Both options aim to improve regulatory clarity, enable effective enforcement, and ensure a level playing field—while minimizing unnecessary administrative burdens and avoiding overregulation.

The report also reflects on the fact that, while regulation at the Union level is a reasonable answer given the cross-border dimension of digital media, nonetheless Member States shall retain sufficient flexibility to address specific cultural and market contexts. Striking this balance is key to ensuring a coherent, fair, and future-proof approach to audiovisual media regulation in the EU.

1.2. Aim of the report

The pervasiveness of social media and the growing spread of the activities of subjects, hereinafter referred to as “influencers” who create, produce, and disseminate audiovisual contents to the public through video-sharing platforms and, in general, through social media, has begun to attract the interest of public institutions in the light of the impact they have on users, and especially minors, consumers, and, more generally, on society.

This led many Members States and, in the Media Board’s perspective, many NRAs to reflect on the legal and regulatory provisions applicable to these entities, in particular with a view to promoting greater transparency and awareness among stakeholders and the public. The topic of the influencers has frequently been brought to the attention of European regulators in recent years, becoming one of the key themes in ERGA's work program.

Already in its 2018 Analysis and Discussion Paper, accompanying the revision of the Audiovisual Media Services Directive (AVMS Directive), ERGA highlighted challenges and reflected varying regulatory perspectives on the question whether “vlogger channels” –

as they were named at that time – or comparable audiovisual offers can be considered as audiovisual media services (AVMS).¹

The term “vloggers” has been used in all ERGA’s previous activities from 2018 to 2023 and also referred to as such in its Work Programmes. However, in the present report, the term “influencers” has been considered more adequate to the actual use in the current language. It should be noted that in practice, in absence of a definition agreed upon, also other terms or labels are used synonymously for such activities, such as: “TikTokers”, “YouTube channels”, “Instagrammers”, “content creators” or “uploaders”. All these activities have in common that they consist of an offer of audiovisual content, user-generated and uploaded on video sharing platforms and social media; such offer - depending on the type of platform - is often organized and made available to the public via pages or channels.²

Sharing best practices is a key element of the cooperation within ERGA and, today, in the Media Board and can contribute to a more common approach in some areas which are still considered to be complex and challenging. The 2023 ERGA report presented itself as a “toolbox from which every NRA can select the instruments that are best equipped for the local situation”

In general, Media Board members and Observers have adopted numerous national and local initiatives taken with regard to influencers, as well as different approaches, as reported in the following paragraphs.

This report is meant to be not only a summary of best practices on influencers’ regulation in order to update the previous work but, according to Media Board’s mission, is going to focus on the actual difficulties NRAs had/are going to /may have to deal with when tackling the regulation of influencers and sharing the best practices in the regulation, application and enforcement of the legal framework for influencers.

Moreover, it compares the different national approaches to determine the most relevant issues and identify potential legal and regulatory gaps.

2. Historical background and legal framework

Influencers have represented a cornerstone in ERGA work of the past years since 2020. In 2021, ERGA published its first vloggers report (Report: Analysis and recommendations concerning the regulation of vloggers) with the aim to identify common indicators for the assessment of vloggers content as (on-demand) audiovisual media services in terms of the AVMS Directive. ERGA-members agreed on the report’s main observations and findings, namely that many vloggers have become professional market players, and that

¹ [ERGA SG3 – Analysis and Discussion Paper to contribute to the consistent implementation of the revised AVMSD](#) (2018).

² ERGA SG1 – Consistent implementation and enforcement of the new AVMSD framework: Report – [Analysis and recommendations concerning the regulation of vloggers](#) (2021), p. 3.

their content can be regarded as an audiovisual media service in their own right, directly competing with traditional media services in regards of audience shares and advertising revenues.

Further, the number of subscriptions and views of vloggers content indicate they have a mass media impact. As a consequence, the need for unambiguous regulation and adequate supervision in regards of the core media values, such as the protection of minors and transparency of commercial communications, was supported by all ERGA-members.³ Interesting national approaches were identified in the first report. Those observations and findings are fed into suggestions and recommendations for the interpretation of the key criteria of the notion of on-demand (OD) AVMS when applied on the specific situation of vloggers.⁴ Many ERGA-members expressed the need for a follow-up in 2022, and to focus more on the regulatory requirements for vloggers. This second report explored the practical challenges National Regulatory Authorities (NRAs) were facing such as how to identify and localize vloggers. Further, the report provided an overview of national practices regarding the regulation and supervision of advertising and other types of commercial communication in vloggers' content. Just like the first report, the second report is a mapping of some of the best practices and concludes with recommendations.

The 2023 report also explored the NRAs experiences regarding practical issues and achievements in the area of supervision and enforcement, addressing the practical experience in the assessment of commercial communications, including a focus on NRAs best practices in assessing whether a video containing commercial communications is targeting minors, giving an overview of several best practices of monitoring and enforcement strategies of NRAs and describing the different steps NRAs can take in their communication strategies regarding vloggers.

3. Relevant experiences

In this section, the relevant results from the survey are shown, summarizing the most relevant topics and highlighting the different approaches adopted at national and local level.

3.1 Methodology

In April 2025, Media Board circulated a survey among its members and observers, aimed at gathering information from NRAs to offer insights on the national and local initiatives concerning the regulation of influencers adopted so far. The purpose of the survey was,

³ ERGA SG1 – Consistent implementation and enforcement of the new AVMSD framework: Report – [How to identify and localise vloggers and regulate their commercial communication?](#) (2022), p. 4.

⁴ ERGA SG1 – Consistent implementation and enforcement of the new AVMSD framework: Report – [Analysis and recommendations concerning the regulation of vloggers](#) (2021), p. 26.

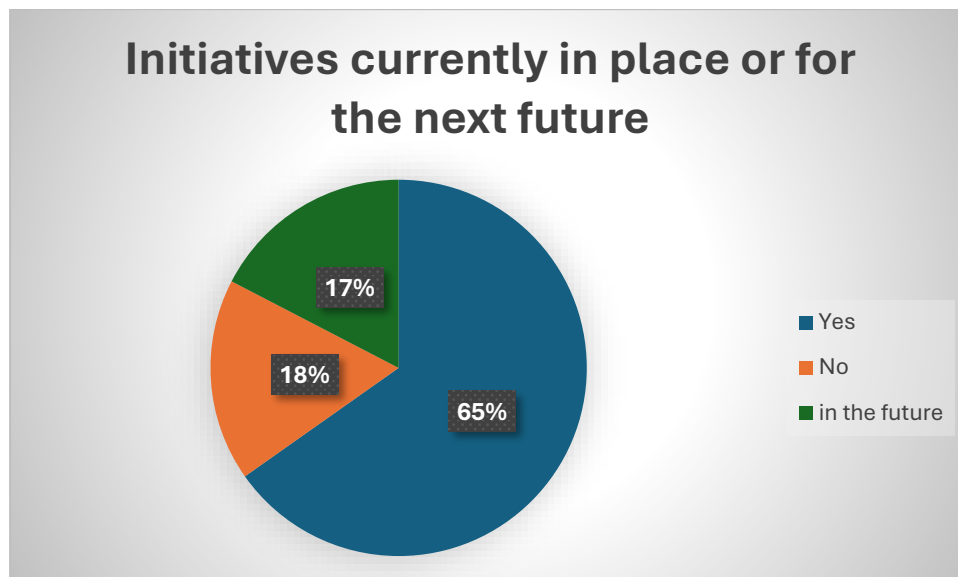
on one side, to compile an inventory of measures and initiatives that NRAs have in place to regulate influencers, and, on the other, to compare the different national approaches in order to identify potential legal/regulatory gaps and determine the most relevant issues NRAs had to deal with when tackling the regulation of influencers. All this while gathering the views of NRAs on the most important issues regarding this topic.

24 responses were received in total.⁵

Further relevant elements emerged during the discussion and data gathering related to the drafting of the merged report between WG1 deliverable 6 and WG4 report on the AVMSD and were considered to fit better in the present report.

3.2 Measures and initiatives currently in place and planned for the near future

16 countries out of 24 replied saying there are initiatives currently in place at a national or local level⁶, while 5 more ⁷ replied that they are planning to do so for the next future.

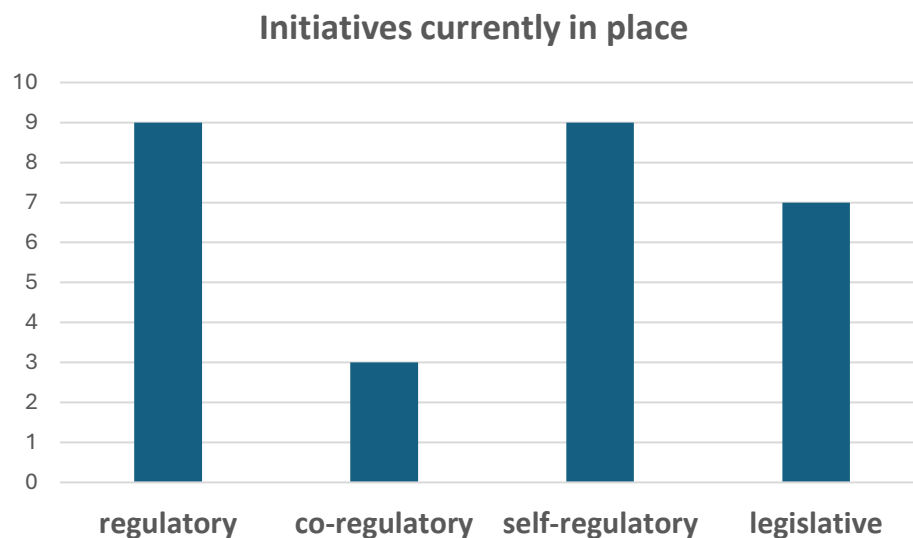


⁵ Albania, Belgium (CSA), Belgium (Medienrat), Belgium (VRM), Bulgaria, Croatia, Cyprus, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden.

⁶ Countries with initiatives currently in place: Belgium (CSA), Cyprus, Greece, Italy, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain.

⁷ Belgium (Medienrat), Luxembourg, Malta, Poland, Spain (as for Spain, apart from the initiatives already in place and duly reported, there is currently a legislative proposal concerning the protection of minors in digital environments, undergoing parliamentary scrutiny. This draft legislation should introduce substantial amendments to the General Audiovisual Communication Law regarding influencers, with the primary objective of reinforcing safeguards for minors against harmful or inappropriate content disseminated through digital media platforms.)

The answers specifying the nature of the initiatives in place show a very fragmented map, proving a differentiated approach amongst Media Board Members and Observers and, in many cases, the overlapping of diverse initiatives in the same country, as shown by the following figure.



More precisely, the answers report that three countries⁸ have in place the full range of measures: regulatory, co-regulatory, self-regulatory and legislative; one country has in place regulatory, co-regulatory and self-regulatory initiatives,⁹ three countries rely on self-regulation,¹⁰ one country has adopted both legislative and regulatory provisions¹¹; furthermore, two countries have in place regulatory and self-regulatory schemes¹² and one country has adopted solely legislative measures.¹³

During the adoption process, over 40% and about 35% of the respondents reported about the issues encountered respectively in the adoption process or during the implementation. For instance, CNMC - ES highlighted that, during the two public consultations they held regarding the regulation of vloggers, no influencer, influencer marketing agency or relevant agent related to them participated: this reflected a certain distance of these subjects from the regulation applicable to their services.

The same distance among the interested subjects and regulation is reported by CvdM – NL, stating in their answers that, while legally influencers are all classified the same as the large streaming companies, however these are two completely different groups, which makes it quite difficult to find a balance, particularly for influencers of small and

⁸ Spain, Netherlands, France.

⁹ Italy.

¹⁰ Bulgaria, Cyprus, Greece.

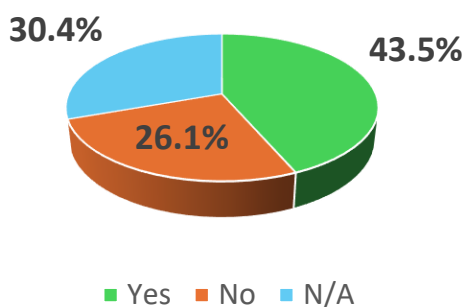
¹¹ Lithuania.

¹² Belgium (after the entrance into force in October 2025 of the self-regulatory certificate for the whole of Belgium organised by the Conseil de la Publicité/Raad for Reclame) and Poland.

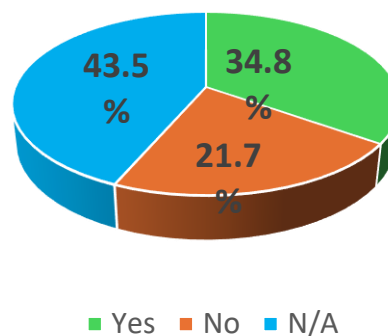
¹³ Slovenia.

medium dimensions, who find new obligations and administrative duties as burdensome and difficult to understand.

Q.18 Issues experienced in the legislative - regulatory process



Q.19 Issues experienced in the implementation



CEM – BG considers that the absence of a legal definition for “influencer” prevents an effective enforcement, while for KRRiT – PL the encountered challenges include unclear criteria for when influencer activity qualifies as VOD and limited enforcement capabilities and, moreover, forum shopping, with influencers operating from abroad to avoid local regulation. ALIA – LU considers that the influencer sector presents a real regulatory challenge, mainly due to its constantly evolving nature. This rapid evolution makes it difficult to establish a timeproof, effective framework. While the French law raised some comments by the European Commission, to ensure consistency with the AVMSD and e-commerce regime, solved by the law text adopted, CSA – BE raises also the difficulties in establishing the question of territorial jurisdiction and finding direct contacts of the influencers. The issues of finding contacts of the influencers are echoed also by other respondents (ES, NL). RTK – LT addresses also the issues of influencers contesting the assessment made by NRAs regarding their regulation.

3.3 Definition of influencers and registry

While almost 74% of respondents rely on the qualification of influencers as AVMS providers, 87% of the respondents do not have a legal and binding definition of influencer. Apart from some partial definitions, limited to a specific sector or self-regulatory initiative¹⁴, two countries have foreseen a definition for influencers¹⁵. Other countries rely more on criteria and thresholds and similar options to identify the subjects falling within the scope of the regulation.

¹⁴ For instance, as reported by FI, PL, GR, CY.

¹⁵ Italy, Slovenia.

In 17 countries, influencers are considered as audiovisual media service providers,¹⁶ in 7 of them specific criteria are defined for influencers in order to fall under the definition¹⁷.

A review of national responses reveals significant diversity in how countries approach the eligibility criteria for influencers. Some countries have begun defining specific thresholds—such as follower counts or audience reach—while others rely on broader or more qualitative indicators, reflecting both the complexity of the influencer ecosystem and the evolving nature of regulation in this area.

Some countries have proposed or implemented concrete eligibility thresholds. Spain, for instance, establishes a series of criteria in order to be considered as a “user of special relevance”. Spanish law introduces a “definition of users of special relevance” which corresponds to influencers matching a series of criteria. The criteria includes gross revenues and followers count (with a threshold at 1 million followers on a single video-sharing platform service or 2 million in aggregate, taking into account followers in all video-sharing platform services on which the influencer carries out its activity), although enforcement is reportedly complicated by the lack of transparent income data and the difficulty in tracking influencers across multiple platforms.”. Italy, for instance, has drawn a distinction between professional and amateur influencers and proposes thresholds of 500,000 followers or 1 million average monthly video views as part of its guidelines. Once these thresholds are met on one platform, the rules apply across all platforms, indicating a more comprehensive scope of regulation.

In the Netherlands, the regulatory approach has evolved. Initially, a threshold of 500,000 followers was used to limit the scope of supervision while systems were being set up. However, this is now being phased out in favour of a model where most influencers are subject to the Media Act regardless of follower count. A new threshold (100,000 followers/subscribers) is being introduced for registration and fee purposes. Interestingly, Dutch authorities have recognized that micro-influencers—despite their smaller audiences—can exert more influence due to their closer relationships with followers. This acknowledgment might push regulatory thinking beyond mere numbers and toward influence-based criteria.

Some regulators, like those in Portugal and Cyprus, deliberately avoid setting hard thresholds. Portugal, for example, focuses on the existence of a commercial relationship between the influencer and a brand, making any content creator subject to advertising rules if commercial communication is involved, regardless of their follower count. This reflects a growing trend of prioritizing intent and impact rather than reach.

Similarly, Slovenia’s approach considers a range of qualitative criteria (e.g., frequency of content, visibility metrics, agreements with platforms), rather than fixed numerical

¹⁶ Belgium (CSA), Belgium (VRM), Bulgaria, Cyprus, Finland, France (although In France, influencers are not automatically considered AVMS: when assessing whether an influencer qualifies, Arcom conducts a case-by-case analysis based on the definitions of AVMS) Greece, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden.

¹⁷Cyprus, Greece, Italy, Lithuania, Luxembourg, Poland, Slovenia.

thresholds. This nuanced model seeks to capture the actual media-like behaviour of content creators rather than relying solely on popularity.

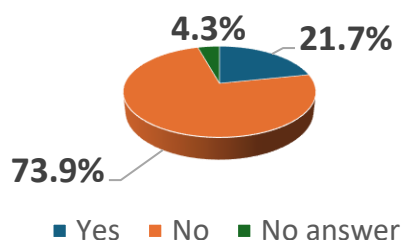
Other countries, such as Latvia and Lithuania, are in the process of developing their frameworks.

There are also countries, such as Belgium (French-speaking community), which does not have any specific thresholds and acknowledges the presence of micro-influencers and their high engagement rate.

On the other end of the spectrum, some countries simply state that no thresholds exist or that they have not been considered relevant from the regulator perspective. This is the case, for example, in Slovakia, where the legislator decided, due to the perceived lack specificity in the AVMSD, not to set any thresholds. As a result, the regime applies even to the smallest vloggers engaged in economic activity, raising questions about proportionality, enforceability and the practical ability to identify relevant actors.

The presence of a register or a list of influencers subject to regulatory/legislative provisions is confirmed by 5 respondents ¹⁸ . More in detail, Spain has a registry, supervised by the Ministry for Digital Transformation and Public Service, to which the “users of special relevance” shall register to, along with audiovisual media service providers, video-sharing platform service providers, and audiovisual media service aggregation providers; the Spanish law also foresees the prior notification procedure for the commencement of activity for such subjects. In Italy, the recently adopted Code of conduct specifies that influencers meeting the criteria indicated by AGCOM shall register themselves with a specific communication to the Italian regulator. In Lithuania, influencers who are considered as AVMS providers shall provide notification about this activity to the regulator. Slovakia includes influencers within its registry of all the providers of AVM services; these lists are published on the regulator’s website and sent to the European Commission and to the European audiovisual Observatory to feed the MAVISE database. Similarly, also Poland and Sweden report that, while a central influencer register is not foreseen, however, in the cases in which influencers are considered as AVMS providers, they shall nonetheless provide notification about their activities to the national regulators.

National registry or list of influencer



¹⁸ Lithuania, Spain, Italy, Poland, Slovakia.

3.4 Classification of contents provided by influencers

Contents provided by influencers are or can be considered VOD in 10 countries,¹⁹ in 8 of them specific criteria have to be met accordingly.²⁰ For instance, in Spain the model considers “users of special relevance” (influencers who comply with the criteria established in the Audiovisual General Communication Law), in broad terms, as audiovisual media services regardless of the specific type of services they provide. Bulgaria, France and Greece seem to have a similar approach, where, if the content provided by influencers meets the statutory criteria for video-on-demand services under the national law, then it may be classified as such. In Slovakia, the criteria for the classification of contents are established by a ministerial decree. This decree includes on top of the age suitability criteria also new provisions on the criteria for the new descriptors for the types of potentially harmful content. In 9 countries there is a classification of content,²¹ of which a vast majority consider the rules limited to commercial content only, while 4 countries reported that the applicable rules apply to both commercial and personal contents.²² Temporary contents, such as the stories, are included in the regulatory scope for 9 respondents²³.

3.5 Rules on advertising and commercial communication

14 respondents specifically replied that in their country there are in place self-regulatory initiatives specifically regarding advertising and commercial communications.²⁴ 17 respondents²⁵ reported that in their country specific criteria were identified in labelling content, in order to duly identify commercial communication. Seven out of these declared that these labelling methods have been agreed upon with stakeholders. Apart from slight discrepancies in naming these hashtags and their multiplicity (advertising, paid partnership, invitations and so on), an aspect transversally agreed upon is the need for transparent communication, clearly identifying commercial communication when included in a content.

3.6 Specific sectors of regulation

¹⁹ Bulgaria, Greece, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovenia, Sweden.

²⁰ Bulgaria, Greece, Italy, Lithuania, Luxembourg, Poland, Slovenia, Slovakia.

²¹ Belgium (VRM), Bulgaria, Finland, France, Germany, Italy, Lithuania, Poland, Portugal.

²² Belgium (CSA), Netherlands, Slovenia, Spain.

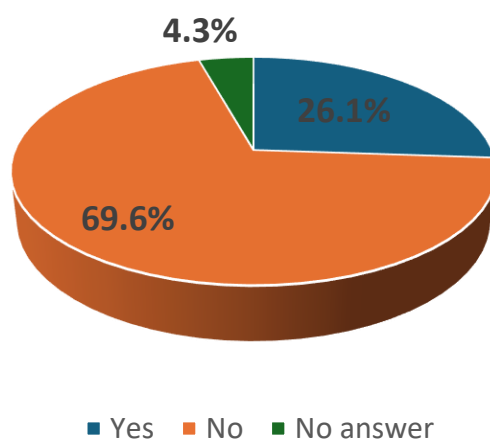
²³ Spain, Netherlands, Finland, Italy, Portugal, Belgium (CSA), Belgium (VRM), Germany, Slovakia.

²⁴ Belgium (VRM), Bulgaria, Cyprus, France, Greece, Italy, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden.

²⁵ Spain, Netherlands, Bulgaria, Finland, Poland, Italy, Latvia, Greece, Luxembourg, Portugal, Belgium (CSA), Slovenia, Albania, Belgium (VRM), France, Germany, Norway.

Five respondents ²⁶ declared that, in their country, an *ad hoc* regime for some categories of influencers was adopted (e.g. financial activities, crypto assets, baby influencers). Spain reports, in addition to the general restrictions and prohibitions of AVMSD, regarding tobacco and related products, alcohol and gambling, there is a specific regulation regarding financial products and crypto assets. Poland mentions the rules applicable to areas such as dietary supplements, alcohol, medical products and financial activities. Luxembourg specifies that the law lays down specific restrictions applicable to all audiovisual media services, including those operated by influencers, concerning the commercial communication of alcoholic beverages, medicinal products and treatments, tobacco products including electronic cigarettes. Furthermore, the Luxembourg Labour Code contains strict provisions to protect children and minors from exploitation in the workplace, including prohibiting child labour under 15 and regulating working conditions for minors. However, there is currently no specific legislation in Luxembourg that addresses the status or protection of “baby influencers” or child influencers. Portugal's regulatory approach to influencer marketing includes sector-specific guidelines and restrictions in areas such as infant nutrition, financial services, and gambling, to protect consumers, particularly vulnerable populations, by ensuring transparency and ethical advertising practices. Moreover, influencers promoting financial products, including cryptocurrencies, are subject to stringent regulations regarding unauthorized financial activities.

Ad hoc regime for specific sectors



3.7 Regulatory regime for influencers

Across different jurisdictions, the regulatory treatment of influencers is evolving. While some countries have integrated influencers into broader media or advertising frameworks, others rely on general legal principles without establishing influencer-specific regimes.

In many countries, influencers must adhere to existing legal frameworks covering audiovisual media, advertising, and consumer protection. For instance, under Spanish

²⁶ France, Spain, Portugal, Luxembourg, Belgium (CSA).

law, influencers who qualify as audiovisual media service (AVMS) providers must comply with the AVMSD provisions.

In countries like Portugal, Luxembourg, and Slovenia, there is not a special legal regime exclusively for influencers. However, influencers are bound by general laws regarding the specific topics of advertising, media regulation, and consumer protection laws. These include obligations related to commercial transparency, protection of minors, and compliance with sector-specific guidelines issued by regulatory authorities.

Where influencers meet the criteria for AVMS providers, as seen for instance in Luxembourg or Lithuania, they become subject to the full set of rules applicable to such entities, including those concerning content labelling and the protection of vulnerable audiences.

In Italy, the media regulator seeks to apply only necessary and proportionate obligations to professional influencers, in the main areas of advertising, children protection and hate speech.

Similarly, in Slovenia, certain articles of the Mass Media Act are expected to apply to influencers. These include provisions on the disclosure of conflicts of interest, the prohibition of incitement to violence or hatred and incitement to commit terrorist crimes, the protection of children, and rules on advertising, sponsorship and product placement. Malta, where no formal regime for influencers exists yet, there is the idea to level the playing field between traditional broadcasters and new digital content creators, particularly in the areas of advertising and child protection.

3.8 Monitoring and sanctioning mechanism

13 respondents reported about a monitoring system in their countries. For instance, Spain, Italy, Poland, and Portugal have adopted active monitoring mechanisms. Monitoring might include both ex officio investigations and complaint-driven actions, particularly regarding commercial communication and protection of minors. Greece has formed a committee with the aim to identify content providers that can be classified as AVMS providers and that may include influencers.

By contrast, other countries, including Cyprus, Malta, and Slovenia, currently lack formal monitoring structures. Others, like Finland, rely on consumer protection and advertising ethics bodies to supervise influencer marketing practices, while Luxembourg focuses more on awareness than enforcement at this stage.

When it comes to sanctions, 18 out of 24 respondents reported to have legal provisions in place. Spain, for example, uses a tiered system of administrative fines ranging from €10,000 to €1.5 million depending on the severity and impact of the violation. Italy, Poland, and Latvia also impose financial penalties when influencers breach the applicable rules. However, in practice, many of these regimes are yet to result in frequent sanctions, indicating a preference for preventive and corrective approaches over

punitive measures. France²⁷ regularly sanctions influencers not only with administrative fines but also by practicing “naming and shaming” as part of its interventions with regard to influencers. To this end, a list with influencers sanctioned is published not only on the website of the competent entity issuing the fines, but also on their accounts on social networks.

Finally, most jurisdictions²⁸ (16 out of 24 respondents) provide a way for users to report influencer misconducts, with the offer of online complaint mechanisms through their national regulator’s websites. Some countries also have sector-specific portals or campaign-based reporting tools to encourage public participation.

3.9 Information campaigns

Six respondents out of 24 have reported having in place initiatives to inform influencers and the public about the regulatory initiatives regarding their sector. This means that approximately 26% of countries have implemented initiatives to inform influencers and the public about regulatory developments in their sector. This relatively low figure may indicate the need for a more proactive communication and public engagement strategies, since it might result in potentially leading to gaps in awareness, compliance, and trust. Given the increasing role of influencers in shaping public opinion and behaviour, enhancing such outreach initiatives could be crucial for more effective policy implementation and public understanding.

4. Lesson learnt and conclusions

On the basis of the experiences reported and discussed among Media Board Members and Observers, one of the key objectives is to ensure a regulatory framework that is sufficiently adaptable to future developments, while at the same time being clear, accessible and understandable to all stakeholders. The regulatory framework must be robust and effective in addressing the challenges of this dynamic and increasingly influential sector, while striking the right balance between legal certainty, flexibility and regulatory efficiency.

Key Issues

- Fragmented national legislation may create legal uncertainty and inconsistencies with the AVMSD.
- Forum shopping risks arise when influencers relocate to countries with fewer obligations.
- Cross-border activities by influencers complicate enforcement and undermine national regulatory capacity.

²⁷ Although such sanctions are not based on the AVMSD and the national audiovisual law and they are not imposed by Arcom but by the consumer protection authority.

²⁸ Spain, Netherlands, Bulgaria, Poland, Latvia, Croatia, Greece, Luxembourg, Portugal, Sweden, Belgium (CSA), Lithuania, Albania, Belgium (VRM), France, Germany.

- Lack of awareness among influencers regarding existing audiovisual regulations leads to non-compliance.
- Balancing regulation and flexibility remains a challenge given the diversity of markets, languages, and cultural contexts across the EU.

Media Board Members and Observers mostly agree that, on one side, a more harmonised approach could be useful to ensure a level playing field across Europe as well as to ensure a minimum level of protection at EU-wide range.,

Nevertheless, it is acknowledged that the differences among the local markets of EU countries may not represent the ideal conditions for a horizontal approach. It is however stressed by many NRAs that the lack of a EU common legislation may entail forum shopping issues, since influencers may relocate to other EU countries where there are no or less obligations at this regard in place, which may challenge some the principles of AVMSD, such as the protection of minors. Moreover, a fragmented regulation/legislation might create issues of consistency with the AVMSD, creating legal complexities, or even contradictions, for instance for kinds of advertising or services that are partially allowed on certain online services but prohibited on on-demand audiovisual media services²⁹. It might also be relevant to spread information of the existing regulatory measures, as some answers reported that many influencers are still unaware that they may fall under on-demand AVMS regulations, exposing their content to unexpected restrictions.

If it should be recognised the possibility to adopt a regulation adaptable to the size of the market, a more balanced approach could be to combine quantitative and qualitative criteria to allow for case-by-case assessments of the services, ideally supported by Commission guidance, prepared with input from the EBMS, setting out common criteria. This would provide legal certainty and flexibility with minimal changes to the Directive itself (e.g. empowerment to issue guidelines).

Since often the influencers operate beyond national borders, have international followers/audiences and collaborate with international brands, it would be reasonable to consider establishing some consistent approaches across the EU, besides the existing framework. On the other hand, markets and influencers vary significantly across Europe, their reach and influence also depend on the (local) language they use etc. Even the biggest influencers in a smaller market might be insignificant from the European perspective, considering the number of followers or the size of brand collaborations. These aspects should be taken into account, as well as differences in the market size, cultural sensitivities, political or societal issues that are relevant in each Member State. If standardized rules are considered, they should be aimed at the protection of consumer rights (transparency of advertising, standardized labelling of advertisements, sponsorships disclosures etc.); sector specific restrictions on advertising of harmful products or services (alcohol, tobacco, medicines, etc), protection of children, collection

²⁹ It is the case, for instance, for the alcoholic beverages as reported by ARCOM – FR.

of followers' personal data, and prevention of hate speech, while ensuring freedom of speech. Common EU legislation would also enable cross-border enforcement mechanisms in the case of infringements affecting audiences in several Member States.

To conclude, it might be affirmed that a specific guidance or the harmonization at European level would make it possible to avoid the aforementioned legal uncertainties and national inconsistencies, by facilitating a clear, common and minimal framework, thus limiting “loopholes” and grey zones in a consistent and smooth application, while respecting the differences among local and national markets.

In particular, it could be envisaged to explicitly include the influencers and the services they provide among media services, including them in the parts of the Directive that might apply to them and establishing a common European framework for the principles and responsibilities of these subject, while leaving it up to the Member States to transpose the Directive in line with their own specific requirements and in the respect of their singularities.

The common and minimal framework could include a shared definition of influencer - that might be adapted to the size and peculiarity of the local market by leaving to Member States to determine eventual thresholds – along with a set of common rules influencers have to respect in their activities, such as the protection of minors, transparency in advertising, and the prevention of hate speech.

If a common definition of influencers is considered, the establishment of shared principles could be useful, starting from the crucial concept of editorial responsibility, the legal basis that triggers the applicability of the Directive's requirements to media service providers. Attributing it to influencers would enable the sequential application of the relevant obligations under the AVMSD. In conclusion, the regulation of vloggers and influencers presents a growing challenge for National Regulatory Authorities (NRAs), particularly in the context of the current audiovisual regulatory framework. A key issue identified by several NRAs is the lack of a harmonized approach across Member States when it comes to assessing and regulating the activities of influencers. This is especially problematic given the difficulty in determining whether such individuals are engaged in economic activities that would qualify them as audiovisual media services under the AVMSD.

Furthermore, the development of on-demand audio services (podcasts), resulting from the duplication of video streams from these influencers, also raises questions regarding the regulation of such services at both the national and European levels.

The fragmented national approaches may lead to legal uncertainty and a lack of consistent enforcement across borders. This is particularly concerning considering the inherently cross-border nature of online content and the substantial influence that some of these individuals have, especially on younger and more vulnerable audiences.

However, even in the absence of a fully uniform approach across the EU countries, the answers highlight that the majority of countries, 17 out of 24 respondents, reported that influencers are or can be included within the definition of audiovisual media service providers.

- To address these regulatory gaps, a broader and more adaptable definitory framework could be explored, to encompass a wider range of relevant digital content and services, including those produced by vloggers and influencers. This could facilitate a more effective enforcement, ensure a level playing field among content providers, and help safeguard audiences—while also aiming to minimize any additional administrative burdens on both regulators and content creators.
- In order to avoid overregulation and in line with the subsidiarity principle, it is suggested that any legislative initiative regarding influencers should be principle-based and should not involve too detailed measures, also not disrupt national specificities and local initiatives already working smoothly.
- An alternative to be explored could be the issuance of further guidance or interpretative clarification at the EU level, which could provide NRAs with the necessary tools to consistently assess and apply the existing framework. This would help mitigate current ambiguities, support coherent regulatory practices, and better align national implementation with the evolving digital media landscape, without having to amend the AVMSD. Moreover, it could be envisaged a reinforcement in the public engagement strategies in most countries, strengthening the communication and information campaign to increase public awareness of the existing regulation, to avoid gaps in knowledge, compliance, and trust.
- In conclusion, a unified, clear, and future-proof regulatory approach is needed to ensure that the activities of vloggers and influencers are appropriately monitored and managed, without stifling innovation or disproportionately increasing compliance burdens. Addressing these challenges is essential for protecting viewers, maintaining regulatory fairness, and ensuring the continued relevance of the AVMSD in the digital age.

Key Suggestions & Solutions for consideration:

- Flexible Framework: a clear, adaptable, and future-proof EU regulatory framework.
- EU Guidance: Issue interpretative guidance to support consistent application by NRAs.
- Strengthening AVMSD application: Develop a common approach to ensure fairness, avoid forum shopping, and align with AVMSD core values.
- Future-proof definition: a definition of audiovisual media services that clearly includes influencers and possible new services,, while leaving the possibility to Member States to set thresholds or criteria to adapt to the conditions and size of local markets.

- Principle-Based Regulation: Avoid overregulation; respect subsidiarity and national specificities.
- Awareness Campaigns: Strengthen public and influencer awareness of existing rules.
- Outcome: A unified, fair, and innovation-friendly EU framework protecting consumers and ensuring regulatory coherence.

ANNEX 1

Questions of the survey submitted to Media Board Members and Observers

1. Is there any initiative in place in your country to regulate influencers?
2. If not, is there any initiative planned for the near future?
3. If yes, which kind of initiative is in place (regulatory, co-regulatory, self-regulatory or legislative)? Please provide details and mention if you have encountered any issues in the process.
4. Is there any self-regulatory initiative specifically addressing advertising practices by influencers?
5. Is there a definition for influencers? If yes, please specify the definition adopted.
6. Are influencers qualified as AVMS providers?
7. Are the contents provided by influencers identified as VOD?
8. Is there a classification of contents? E.g. do you consider the regulation applicable only to contents with commercial purposes or also to the personal ones? Are also temporary contents, such as stories, included? Please provide details.
9. Have you established any specific criteria in labelling in order to duly identify commercial communication (e.g. #ad)? If yes, have these labelling methods been agreed upon with stakeholders (e.g., via self-regulatory mechanisms)?
10. Are there any specific sectors with an ad hoc regime for some categories of influencers (e.g. financial activities, crypto assets, baby influencers)?
11. Are there any eligibility criteria (e.g., thresholds of followers or of revenues)? Please provide details and mention if you have encountered any issues in the application of these criteria.
12. What is the regime for influencers? What kind of provisions are they subject to?
13. Is there a national registry of influencers subject to regulatory/legislative provisions? Or any other official lists? Please provide details.
14. Is there a monitoring activity in place? Please provide details.
15. Is there a sanctioning mechanism in place?
16. Is there a regulatory mechanism put in place for users to send your NRA a complaint (e.g. a form on the NRA's website)?
17. Have you planned or put in place any information campaign? Please provide details.
18. Have you experienced any issues during the regulatory/legislative process? Please provide details.
19. Have you experienced any issues during the implementation of the regulation (e.g. forum shopping, data gathering)?

20. Are there any "lessons learnt" from the regulatory/legislative process that you would like to share?

21. Please elaborate on pros and cons of having a common EU legislation concerning influencers, considering that some of them are cross-border by nature. Is the national legal basis enough? Would it be useful to have a common EU legal basis? And if yes, what minimum items should be include and what should be left to EU?

22. Please feel free to add any other useful information (or link to any relevant documents, possibly in the English language) concerning the regulation of influencers in your country.