



The Media Board's contribution to the AVMSD ex-post evaluation and review

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1. Introduction (context and methodology)

The Audiovisual Media Services Directive (AVMSD) provides sector-specific rules aimed at protecting viewers and users, especially minors and individuals with protected characteristics, from illegal and harmful audiovisual content, including certain forms of audiovisual commercial communications. Since its latest revision, in 2018, the AVMSD extends these protections to video-sharing platforms (VSPs), in recognition of their growing role in content dissemination, including user-generated videos, especially among younger audiences, and their capacity to influence public opinion, while considering their limited responsibility regarding the content stored on their platforms.

In parallel to the emergence of new types of online services, the European regulatory landscape for media has been constantly evolving in the last years, notably with the adoption of the Digital Services Act (DSA) when it comes to how content, including media content, is disseminated and intermediated online. This has made online content regulation increasingly complex. In this new context, the European Commission (hereafter: Commission) will evaluate and review¹ the AVMSD.

The objective of this document is to provide a comprehensive, forward-looking contribution to the Commission's upcoming ex-post evaluation of the AVMSD. Drawing on the expertise and experiences of National Regulatory Authorities (NRAs), the report offers practical recommendations for consideration on how to possibly adapt the AVMSD to today's rapidly evolving digital media environment and changing media consumption habits, including through the impact of (generative) Artificial Intelligence (AI). It adds value by highlighting regulatory gaps, difficulties met by NRAs with the implementation of the legislation and identifying overlaps with newer EU legislation (such as the DSA and European Media Freedom Act [EMFA]). It proposes possible solutions for consideration to improve legal clarity and enforcement efficiency, while respecting cultural specificities. Thus, the report is meant to serve as a strategic guide to ensure an effective European media regulation while preserving national diversity and fundamental rights.

The methodology used combined questionnaires with both quantitative and qualitative data analysis, complemented by structured discussions about the future of the media regulatory framework within the Media Board.

2. Legal instrument

The AVMSD has been set-up as a minimum harmonisation instrument and is the cornerstone of the EU media acquis. The Directive provides for minimum harmonisation of audiovisual content-rules, the concrete transpositions of which can reflect national specificities².

¹ European Commission 2026 Work Programme: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0870&qid=1761126156157>

² Article 4(1) Directive (EU) 2018/180

The Media Board strongly advises maintaining this approach for its revision and therefore discarding the option of a regulation³. This position has been already supported by ERGA in former activities and reports⁴ and is based on two major arguments:

2.1. Minimum harmonisation directive and respect for subsidiarity and proportionality

Audiovisual content is both an economic service (subject to the Treaty on the Functioning of the European Union [TFEU], the freedom to provide services, the freedom of establishment etc.) as well as cultural activity. Therefore, the EU Directive minimum harmonisation approach has contributed to the completion of the internal market while respecting subsidiarity and Member States' specificities. For instance, it ensured the preservation of national public policy objectives, such as the promotion of cultural and linguistic diversity, and other relevant policy priorities such as the prominence of services of general interest.

As a result of the flexibility provided by the Directive, Member States have adopted more detailed or stricter rules in areas that were particularly important to them, that also reflected cultural and historical specificities, for instance in the area of protection of minors and promotion of European works⁵.

In that sense, the Media Board supports the stance of the Council who in its conclusions of 13th May 2025, drew the Commission's attention to the relevance of the AVMSD as a whole and reminded it about the importance of the balance between the internal market approach, the principle of subsidiarity and the respect for Member States' competence to develop cultural policies in line with the Treaties and other Union law.

2.2. Strong cross-border cooperation since 2018 and improved structured framework for cooperation since EMFA

A relevant consideration when assessing the choice of legal instrument is that effective cross-border enforcement does not necessarily require a shift towards a fully harmonised Regulation. Since 2018, cooperation between NRAs has been reinforced thanks to the adoption in 2020 of the ERGA's Memorandum of Understanding (MoU).⁶ This MoU has then been institutionalised in Articles 14 and 15 EMFA in order to provide a structured framework for cross-border cooperation. This demonstrates that a Directive – even as a minimum-harmonisation instrument – can deliver coherent and effective cross-border outcomes when supported by robust cooperation mechanisms.

³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15752-Audiovisual-media-services-evaluation-and-update-of-EU-rules_en

⁴ https://media-board.europa.eu/document/download/21a472ed-c612-49bb-b953-115b1c628e86_en?filename=ERGAs-views-on-the-future-priorities-for-media-policy_0.pdf, https://media-board.europa.eu/document/download/042b2729-63ae-4170-b30c-bff52490129f_en?filename=SG1-WS1-Protection-of-Minors_final.pdf, https://media-board.europa.eu/document/download/e5eae733-3fd1-4f61-a6fe-7398de26f943_en?filename=ERGA-SG4-Report_European-legal-framework-for-digital-services_final.pdf

⁵ For the full text, see: <https://data.consilium.europa.eu/doc/document/ST-7710-2025-INIT/en/pdf>

⁶ Report on ERGA MoU implementation in 2024 and its 4 years of functioning https://media-board.europa.eu/document/download/b91b9bbc-e80b-413b-8666-7230b4f50f3c_en?filename=ERGA-SG1-WS4-Report-MoU-implementation_final-report.pdf&prefLang=sk

Therefore, in the view of the Media Board, this approach remains valuable and should be continued in the future. This should not, however, prevent the Commission from, within the framework of the minimum harmonisation Directive, proposing further harmonisation of some provisions if it is deemed necessary and appropriate to reach the regulatory goals.

Recommendation A: The AVMSD should remain a directive as this allows to combine the internal market approach based on minimum harmonisation with national particularities, including cultural specificities and national enforcement, in respect of the principle of subsidiarity

3. Definition and scope of the Directive

3.1. Definition of audiovisual media services

At present, the scope of the AVMSD is limited to providers of audiovisual media services (AVMS) as well as video-sharing platforms (VSPs). The definition of AVMS appears to be limited as it refers to “either a television broadcast (...) or an on-demand audiovisual media service (...)”. However, consideration should be given to the current fast changing audiovisual media market which brought new types of services and at the same time also generated a shift in consumption habits.

New forms of services have indeed emerged on the market, several of which cannot easily be classified as AVMS, as they do not necessarily fall in the linear or non-linear category. NRAs have expressed encountering challenges in applying the current definition in some cases. Based on the experiences of NRAs, there may be a need for clarification in the following areas:

- Certain “*hybrid services*” have emerged, presenting elements of VSPs, or constituting a combination of on-demand and linear audiovisual media content, or AVMS and other content⁷, or new online services which are offering different types of content. They pose challenges in terms of categorisation as both AVMS and VSPs.
- Podcasts accompanied by videos which are an increasingly popular format.
- User-generated content and influencers’ activities in cases where they are not easily categorised as AVMS.⁸
- The emergence of offers encompassing a mix of several linear channels, related catch-up TV offers, on-demand content, additional features, FAST channels, within which it is increasingly difficult (and probably less and less relevant, e. g. when it comes to obligations of production and programming of European works⁹)

⁷ Hybrid services can for example mix user generated content with the provider’s own content or selected content (under the provider’s editorial control). Another type of service that may pose some challenges is provided by operators with their own platform (play-service) with audiovisual content from other media service providers.

⁸ For further information on the regulation of vloggers see the annex and previous ERGA reports accessible on the Media Board website: [ERGA archive - Reports on vloggers](#).

⁹ E. g. difficulty to apply criterium of low audience share.

to distinguish between single “services” and regulate through the “service” prism (as opposed to a more encompassing approach towards “offers”).

In addition, recent market studies¹⁰ indicated that audiences of traditional broadcast services decline, while VSPs and subscription video on demand (SVOD) services’ audiences continue to grow. Online platforms are becoming more and more important as a source of access to news and entertainment. This paradigm shift should be taken into account in the AVMSD evaluation and review process and reflected in any future legislative proposal in order to ensure regulatory consistency and a level playing field.

Recommendation B:

- B1. It is recommended that the definitions and scope in the AVMSD be evaluated to assess whether it is necessary to better adapt them to new types of relevant services (i. e. hybrid services).
- B2. The definition of AVMS should be future-proof and technology-neutral in nature in order to allow a proportionate regulation of services of a different nature.

3.2. User interfaces

User interfaces are not currently included in the scope of the AVMSD, but some of its provisions do have an impact on them. This is for instance the case for Art. 7a AVMSD and the services of general interest whose prominence should be ensured – if the Member State decided to transpose this provision – on user interfaces.

In parallel, it is to be noted that Article 20 EMFA, concerning the right for the customization of the media offer, imposes new obligations on user interfaces which are explicitly covered by the scope of and defined in EMFA.

Therefore, Media Board members expressed the desire for the inclusion of user interfaces and greater alignment between the AVMSD and the EMFA, particularly with regard to the scope and definitions used in both legal instruments. Moreover, this would be useful to ensure a proper implementation and enforcement of Art. 7a AVMSD and should help to ensure a better interplay with Art. 20 EMFA. In the same vein, consistency with European Accessibility Act when it comes to “*services providing access to audiovisual media services*” is key.

Recommendation C:

- C1. It is recommended to include in the scope of AVMSD and define the user interfaces, for the purpose of explicitly imposing them the AVMSD obligations related to services of general interest.

¹⁰ Media Industry Outlook report 2025 ([Link](#)).

3.3. Audio services

Audio-only services such as radio and podcasts, currently fall outside the Directives' scope.

Media Board members have expressed support for including audio services within the scope of the AVMSD under certain conditions. In fact, almost all NRAs do already regulate (at least linear) audio services at national level. While traditionally audio services had rather a local or national nature, there are now increasing cross-border aspects, especially for podcasts.

Moreover, it is to be noted that since the adoption of the EMFA radio broadcasts and podcasts¹¹ are also subject to certain European rules regarding media freedom and pluralism¹².

A harmonised (minimal) European framework could further enhance consistency and legal certainty and including audio services in the scope of AVMSD could also help to ensure a level playing field. The potential inclusion of audio services may be particularly relevant for the prominence of services of general interest, but could be also considered for the provisions related to audience protection – especially for minors – and could possibly encompass certain other content-related obligations.

Any potential expansion of the Directive's scope to include audio services should be preceded by a thorough impact assessment to evaluate the legal, regulatory and market implications of such a change, while taking into account the specificities of the sector.

Recommendation D:

- D1. It is recommended to the Commission to consider an eventual extension of the scope of the AVMSD to include audio services under some provisions of the AVMSD, particularly regarding the prominence of services of general interest, but possibly also protection of audiences and minors, and certain other content-related rules.
- D2. A careful analysis of the impact on the audiences as well as on the audio sector itself should be carried out, in order to properly assess the possible benefits and downsides of such inclusion.
- D3. Additionally, the Commission should look into the issue of cross-border non-linear audio services (podcasts) especially regarding the protection of audiences (protection of human dignity, no incitement to hatred etc.), as well as the interplay with the EMFA, the DSA and the E-Commerce-Directive (ECD).

4. Interaction between the AVMSD and DSA and the added value of the AVMSD

When considering the future of the regulatory framework for media, particular attention must be paid to its interaction with the recent European legal framework – especially the rules shaping how online platforms engage with users and handle and moderate audiovisual content posted by users.

¹¹ In addition, the DSA regulates intermediary services who in certain cases make available audio content.

¹² Recital 9 of Regulation (EU) 2024/108, EMFA.

Given the complementary nature of the AVMSD with the DSA, maintaining VSPs within the scope of the AVMSD ensures a coherent and comprehensive regulation of all services providing audiovisual content that affect media pluralism and media freedom in the internal market. This is further fostered also thanks to enhanced cooperation among regulatory authorities under Art. 15 EMFA dedicated to VSPs.

The two instruments appear to complement each other regarding a dual approach to content and systemic regulation, ensuring that all players comply with a baseline set of rules ensuring a safe online environment. Three main arguments support this claim:

4.1. Framework for coherent and sustainable audiovisual policy

The AVMSD pursues a different overall regulatory objective and therefore remains complementary to the DSA. It is an internal market directive based on the country-of-origin principle, setting clear and specific standards that promote a level playing field in the audiovisual sector. It upholds cultural diversity, protects minors and users, safeguards media pluralism, and counters incitement to violence and hatred, while safeguarding the fundamental right to freedom of expression in accordance with the principles of proportionality, fairness and consistency. The AVMSD is the backbone of a coherent and sustainable audiovisual policy that supports a diverse and democratic media environment across the European Union (EU).

4.2. Clear definition of illegal and harmful content

The DSA does not define what is illegal or harmful: what constitutes illegal or harmful content is rather defined in other laws either at EU level or at national level. Therefore, Member States retain the competence to adopt legislative provisions determining what type of content is illegal or harmful.

The AVMSD offers a sector-specific framework that sets a minimum harmonisation at EU-level including to ensure that VSPs take appropriate measures regarding certain illegal and harmful audiovisual content in line with Article 28b (e. g. incitement to violence or hatred; activity which is a criminal offence under Union law, namely public provocation to commit a terrorist offence, offences concerning child pornography and offences concerning racism and xenophobia, content that may impair the physical, mental or moral development of minors). This is both effective and reflective of the cultural, legal, and societal contexts of each Member State.

4.3. Scope and types of obligations

The AVMSD correctly includes VSPs in its scope. The rules in Art. 28b AVMSD designed to prevent harm in a proactive manner on VSPs are still relevant. The obligations foreseen in article 28b AVMSD apply to all VSPs regardless of their size and nature. This is a clear advantage of the AVMSD compared to the DSA which exempts small- and micro-enterprises from the obligations that apply to providers of online platforms.

Further, consideration could be given to whether the definition of VSP in the AVMSD could be adapted to market developments. NRAs have pointed out that a reassessment of the editorial responsibility of VSPs is necessary in line with the considerations laid out in Recital 11 of the EMFA. Such a reassessment should also be considered for so-called

“hybrid services” that include elements of VSPs and other and/or new concepts of online services. The latter have indeed in some cases started to exercise editorial control over sections of their services and could be qualified as both a VSP-provider or a provider of a very large online platform or a media service provider.

Finally, ERGA acknowledged in 2024¹³ that new forms of content distribution, targeting, and manipulation in the digital environment can give rise to significant societal risks. To complement that, there is growing evidence of threats to civic discourse and electoral integrity, particularly stemming from coordinated inauthentic behaviour¹⁴. The promotion and coordination of media literacy initiatives at EU level, geared towards electoral periods, may also be beneficial to improve citizens' critical understanding of online content, particularly with regard to disinformation and misinformation, as well as the growing impact of influencers on public opinion via social media platforms. NRAs have been actively contributing to the monitoring of Code of conduct on disinformation and ERGA has been sharing best practices of NRAs on media literacy.¹⁵

Recommendation E:

- E1: The AVMSD complements the DSA and offers particular added value when it comes to ensuring a safe online -environment for users and minors. This approach must be kept to avoid creating loopholes that the DSA is not able to address.
- E2: VSPs should remain in the scope of the AVMSD to ensure a technology neutral and coherent regulation for all kinds of audiovisual content
- E3: Furthermore, the definition of VSP could benefit from being evaluated and possibly updated to consider new market developments.

4.4. Theme-specific recommendations regarding VSPs – Protection of minors

The AVMSD recognises the heightened vulnerability of minors in the digital environment and addresses these risks through specific and enforceable content-related provisions. By doing so, a consistent and high standard of protection for users is ensured. There is a notable complementarity between the AVMSD and the DSA in the protection of minors. While Art. 28b AVMSD imposes targeted audiovisual content-related duties on VSPs, which are essential for reducing the exposure of minors to content that could impair their physical, mental and moral development, Art. 28 DSA introduces wider, due-diligence responsibilities for platforms accessible to minors, which are complemented by the guidelines of the Commission as per Art. 28 DSA. However, as outlined before, it is

¹³ ERGA's views on the future priorities for media policy 2024 ([Link](#)).

¹⁴ See: <https://cyber.fsi.stanford.edu/io/news/how-coordinated-inauthentic-behavior-continues-social-platforms>.

¹⁵ For further information see ERGA's past work on the Media Board's website, including: Improving Media Literacy campaigns on disinformation https://media-board.europa.eu/document/download/1e84d5fd-7461-4e8c-ace1-f0792df6f1c9_en?filename=ERGA-SG2-Report-2020-Improving-Media-Literacy-campaigns-on-disinformation.pdf

ERGA Report on disinformation: Assessment of the implementation of the Code of Practice https://media-board.europa.eu/document/download/fb345ebf-506d-4d06-ba87-bf63ff8d34a5_en?filename=ERGA-Executive-Full%20report.pdf

important to note that Art. 28 DSA does not apply to small and micro-enterprises. In this context, both frameworks should be seen as complementary and mutually reinforcing tools for delivering coherent and effective safeguards for minors in the digital space.

E4: The Commission could consider evaluating if additional content rules should be proposed in the scope of AVMSD, such as:

- Explicitly requiring VSPs to implement further measures precluding users from uploading child sex abuse material (which is illegal content). Pornography and extreme violence could be also subject to additional rules.
- Specifying and complementing the rules of the DSA with new categories of harmful content that would be subject to restriction or a more rapid moderation and the way such content is dealt with in algorithmically curated feeds (e. g. particularly harmful content to minors), that should also be reflected in the VSP' terms and conditions.
- specify and complement the rules of the DSA by ensuring that recommender systems do not specifically target minors with harmful content. This could be achieved by complementing content moderation policies with measures addressing algorithmic amplification, which should limit repeated exposure to similar harmful content that can have cumulative negative effects on children's development. The implementation of accessible, robust and effective parental control tools (incl. allowing parents to reset profiling algorithms and to access clear, easy-to-use controls mechanisms for limiting data-driven recommendations), in line with Art. 28b AVMSD, should be fostered.

The Commission could look into the commercial communications on VSPs and assess whether it would be relevant to regulate in the AVMSD new types of potentially harmful products (ex. financial scams, food supplements, surgical and aesthetic procedures).

5. (Un)level playing field (general considerations)

5.1. Distinction between linear and non-linear and applicable rules

While a fully levelled playing field has yet to be achieved, the AVMSD has taken important steps in that direction by extending its scope and relevant obligations to include both video-on-demand services and video-sharing platforms.

When on-demand media services were included in the AVMSD, European legislators assumed that users of such services had a high degree of control and that there was less need for protection. The question is whether these assumptions still hold true, given the way on-demand AVMS (including advertising and other commercial communication) are distributed and consumed in the online media ecosystem. Principle-based, technology-neutral legislation as well as level playing field should be key principles to be pursued in the revised directive.

The Commission should consider the need to further foster and ensure an effective level-playing-field amongst all services in scope of the AVMSD through similar types of rules.

However, technological specificities of various sub-sectors (linear and non-linear) might require the need for keeping the distinction between linear and non-linear audio-visual services, in order for this regulation to be effectively applicable.

Recommendations F:

- F1: The Commission should assess whether the AVMSD rules are still fit for purpose to ensure a level-playing-field for all providers under its scope. A distinction between linear and non-linear services might be needed to allow a level-playing-field to ensure that rules are easily applicable to technologically different types of services.
- F2: Factors such as audience impact, monetisation models, editorial responsibility, the degree of users' control and the role of algorithms in content recommendation¹⁶ are proposed to guide the future regulation in order to ensure it is even more evidence-based and future-proof.

5.2. Audiovisual commercial communications

5.2.1. Definition of audiovisual commercial communications

Media Board members emphasised that the definitions of television advertising, sponsorship, and product placement are still relevant, but that they should take into account new forms of advertising and possibly new business models (including dynamic ads insertion and shift to programmatic selling of advertising).

Recommendation G:

The definitions of audiovisual commercial communications, TV advertising, sponsorship, and product placement, should be evaluated to ensure that they are future-proof in order to encompass new advertising techniques and digital distribution methods. This should help ensuring fair competition and effective consumer protection across all AVMS.

5.2.2. Quantitative and insertion rules

As demonstrated by recent market studies¹⁷, even if linear broadcasting still holds 53 % of the revenues generated by AVMS in the European market, the strong growth of VSPs has disrupted advertising patterns and market dynamics.

When it comes to ad insertion rules for linear services (Art. 19 and 20 AVMSD), Media Board members suggested that they could apply to all relevant types of services in a same vein, while taking into account the specificities of those services.

When aiming to achieve a fair market environment, the legislator may also assess options to establish a level-playing-field regarding the permitted volume of advertising (art.23 rules only apply to linear services), taking into account technological differences

¹⁶ The overall impact of technology is also considered here as well as the level of editorial responsibility in particularly for aggregator services.

¹⁷ Media Industry Outlook report 2025 ([Link](#)).

as well as the rules' impact on ensuring a high level of consumer protection. The legislator is therefore asked to cautiously balance out the rules and their impact regarding consumer protection, the advertising market and the players active on it, but also the administrative burden for regulators.

Recommendation H:

- H1: It is recommended to the Commission to assess the uneven application of quantitative and insertion rules applicable to linear services (Art. 19, 20 and 23 AVMSD) in comparison with non-linear services (and where relevant eventually also to VSPs), taking into account their respective distinct nature, the rules' relevance and the need to ensure viewers' protection.
- H2: If alignment of rules is envisaged, this could be based on a careful consideration of public interest, the economic impact on the market players as well as the capacity of the regulators to enforce those rules.

5.2.3. Content-related rules

The Media Board believes the content rules regarding audiovisual commercial communications are still overall relevant.

However, when it comes to the minimum qualitative rules of Art. 22 AVMSD which apply only to linear and non-linear services, NRAs expressed interest in ensuring viewers are effectively protected from irresponsible advertising¹⁸ also on VSPs, and to the extent possible for sponsorship and product placement, in order to properly protect viewers, and especially minors, but also ensure a regulatory level playing field across all type media service providers.

NRAs recommend the Commission to examine if it would be appropriate to introduce other horizontal content-related advertising provisions within the Directive that should in any case apply consistently across service types, including VSPs.

Recommendation I:

- I1: Existing rules from Art. 22 AVMSD aiming at preventing irresponsible alcohol advertising already applying to linear and non-linear services should be extended to VSPs to ensure a coherent protection of the public.
- I2: The actual respect of obligations related to commercial communications by and on VSPs should be carefully assessed, taking into account the specificity of VSPs.

5.2.4. Use of co-regulation (CR) and self-regulation (SR) regarding ACC for alcohol beverages and HFSS food and drinks

Media Board members did not report difficulties in encouraging the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in Art. 4a(1) AVMSD regarding inappropriate audiovisual commercial communications for alcoholic

¹⁸ Article 22 AVMSD foresees certain criteria that advertising for alcoholic beverages have to comply with.

beverages. However, it has been indicated that effective implementation of the codes, reinforced cooperation between industry and regulators, as well as increased awareness and broader adherence to codes could be further fostered.

Moreover, Media Board members did not experience difficulties in promoting the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in Art. 4a(1) AVMSD regarding inappropriate audiovisual commercial communications, accompanying or included in children's programmes, for foods and beverages containing nutrients and substances with a nutritional or physiological effect. However, some respondents reported encountering resistance from the sector during discussions on drafting a code of conduct in this area. Moreover, the fact the codes do not necessarily apply to VSPs or influencers has been identified as a challenge.

Generally, in the field of advertising practices, content standards have proven to be an appropriate measure. Given the above, it is therefore considered to continue fostering co- and self-regulation and to ensure they are visible as well as effectively applied.

Recommendations J:

The following recommendations, which aim to make the provisions of the AMVSD effective, are to the attention of the relevant stakeholders:

- J1: It is recommended to foster the monitoring mechanisms for co-regulation and self-regulation, including through exchange of best practices among NRAs.
- J2: It is recommended to strengthen the visibility, adoption, adherence and cross-media scope of the co-regulatory framework to improve its effectiveness in protecting the public, especially the children, from inappropriate advertising.
- J3: It could be considered to apply codes of conduct to VSPs as well, given the new forms of advertising and their often-underage audience.

6. Visibility, discoverability of content and media pluralism

6.1. Accessibility (Article 7 AVMSD)

The Media Board identified technical and financial challenges in media service providers meeting accessibility obligations, particularly for small and regional service providers. These challenges are related to limited monitoring and enforcement mechanisms, insufficient resources, and low awareness of existing obligations. Members expressed also concerns regarding compliance with the requirements by smaller media service providers for which additional guidance and support could be more beneficial than additional rules.

Recommendation K:

- K1: Clearer guidance would be useful on the nature and implementation of accessibility measures, including more clarification of the requirement to make services “continuously and progressively more accessible to persons with disabilities through proportionate measures” (Art. 7(1) AVMSD) as well as the

expected pace of progress, potential milestones, and the relationship between the AVMSD and the Accessibility Act.

- K2: The introduction of a standardised reporting template and more detailed instructions on the information to be included in reports under Art. 7(2) AVMSD would be equally useful, while allowing for some flexibility and local adaptation.
- K3: In order to avoid overburdening the smaller players, an exemption might be considered for specific provider categories and the establishment of a minimum threshold as a minimal baseline – expressed in hours or percentage – for accessible content to be achieved consistently across the EU. An impact assessment of the potential effects of such a measure could be carried out.
- K4: Possible indicators and criteria for the quality of accessibility measures, as mentioned in the last 2024 ERGA Accessibility report¹⁹ could be considered as well. In this context, user organisations, interest groups and panels of persons with disabilities should be involved in assessing the quality of accessibility measures and ensuring a minimum level of quality, and input from experts in user organisations and academia should be sought.

6.2. Services of general interest (Article 7a AVMSD)

The Media Board has been assessing the cross-border regime for services covered by the AVMSD²⁰, including when it comes to services of general interest.

These services foster access for European citizens to audiovisual content that serves general interest, particularly in terms of media pluralism, freedom of expression and cultural diversity. The approach foreseen in Art. 7a AVMSD for the prominence of these services is also meant to create a positive economic impact on the sector itself, as it addresses the risks of marginalisation thus contributing to the sustainability of the European media sector.

However, implementation challenges have been identified in Member States that have transposed Art. 7a AVMSD.

These are primarily related to the complicated interplay with other European legislation (e. g., ECD) and difficulties in enforcing it across borders. Member States face challenges for effective enforcement of the national SGI schemes consistently across all interfaces and devices present in a given Member State, as some user interfaces are provided by players established in another EU Member State. Furthermore, the absence of a common regulatory framework for the prominence requirements has also been mentioned as a challenge for transnational interface providers to implement. The challenges related to the identification/designation of SGIs in the absence of a common definition as well as keeping the list up-to-date were also highlighted.

NRAs have also raised issues concerning the audio services, which by definition are not covered in the AVMSD but de facto are well in scope of the current national SGI schemes.

¹⁹ERGA report 2024 on the consistent implementation and enforcement of the European framework of audiovisual media services – Report on Accessibility ([Link](#)).

²⁰ ERGA report 2024 on the EU regulation of digital services – The Implementation and cross-border enforcement of the European legal framework for digital and audiovisual media services ([Link](#)).

This weakens the current approach overall and is regrettable as radio, as a widespread medium, also contributes to the objectives of general interest.

The issue of discoverability in the online environment was also identified as of utmost importance in order to strengthen EU citizens' access and exposure to services of general interest despite challenges posed by algorithms and recommender systems. This is particularly relevant given the changing consumption patterns of media content, especially by young people, and in the context of increasing disinformation campaigns. More specifically, the proper display of news content online on VSPs was also mentioned. Furthermore, consideration could be given to rules ensuring a better funding for news-content by platforms distributing such content and earning money by guiding the user to their integrated services. Concrete examples of such approaches can be found in Canada²¹ and Australia²².

Finally, besides the difficulties and limitations of the current SGI system, and the proposed solutions below, this system, though fundamental, only addresses one part of the challenges faced by SGIs. Other points such as must-carry and must-offer obligations, IP right issues, access to data, commercial conditions could be considered.

Last but not least, effective prominence rules should be complemented by media literacy/audience education initiatives to help citizens to assess, recognise, and value such content.

Recommendation L:

- L1: It is recommended to examine current provisions on services of general interest, and it could be envisaged to consider having a common approach for defining SGI (and eventually also content of general interest). It could possibly be accompanied by minimal and general criteria indicating the process to identify them. These could cover both principles to be followed by NRAs to select the SGIs (e.g., fundamental principles to follow such as proportionality, non-discrimination, transparency) and basic criteria to be met by the candidate MSPs for the SGI status (respect of media pluralism, freedom of expression and cultural diversity but also human rights etc.). However, and in line with the subsidiarity principle, the actual lists of concrete MSPs to be considered as SGIs should be defined at national level by the Member States having decided to transpose this provision.
- L2: In order to address the challenges related to the cross-border enforcement, it is recommended to consider the harmonisation of prominence requirements to be implemented by user interfaces. In practice, in addition to a definition and list of types of interfaces which could be explicitly included in the AVMSD scope, the main principle of such a harmonisation could be inscribed in the directive whereas concrete modalities could be fixed in a secondary EU legislation. This European harmonisation, while fixing the general objectives and means to achieve it, should also leave certain flexibility for providers of user interfaces to further adapt their prominence approaches to their services. This

²¹ Canadian Online News Act, see full text : <https://laws.justice.gc.ca/eng/acts/O-9.3/FullText.html>.

²² Australian News Media and Digital Platforms Mandatory Bargaining Code, see full text : <https://www.legislation.gov.au/C2021A00021/latest/text>.

should be without prejudice to article 7a which should remain non-mandatory and the Member States free to decide whether they wish to introduce a SGI scheme.

- L3: In the meantime, before the AVMSD is revised and in order to address the point above, guidelines by the Commission (as per Art. 16 EMFA) with the input of the Media Board or guidance/recommendation by the Media Board should be issued as soon as possible, drawing on the experience of NRAs that have implemented the provision. This is necessary to ensure compliance and enforceability in cross-border contexts and should also allow to address the issue of interplay with Art. 20 EMFA, the DSA and the ECD.
- L4: As mentioned above in the section on scope, considering the explicit inclusion of audio services – already covered in the current national SGI schemes in place – could be useful to ensure a common and minimal horizontal framework applicable also to these services (while taking into account the impact on the sector and national specificities).
- L5: The visibility of SGIs online, especially on VSPs, could also be considered taking into account the specificities of these services. The Commission could also investigate the possibility to support the visibility of *news* content in the Directive, in order for their providers to better compete with the attention economy of online services.
- L6: Moreover, given the rapid evolution of Generative AI tools that increasingly act as gateways to media content (e.g. conversational search engines or AI assistants), it may be relevant to consider how SGI content can remain visible and properly referenced in these new environments.
- L7: Finally, it is recommended to broaden the discussion to a possible regulatory framework applicable to SGI “distributors” (ISPs, Smart TVs, their operating systems, streaming sticks, VSPs like YouTube, etc.). Those could be subject to appropriate visibility requirements but also potentially other elements, which are central to ensuring fair conditions for SGI services vis-à-vis online players that give access to them/their contents. This could include among other must-carry, must-offer, rights issues, access to data, commercial conditions. Particular attention should also be given to issues such as harmonisation/guidance for common approach and cross-border enforceability.

7. Events of major importance (Article 14 AVMSD)

NRAs identified certain difficulties in implementing the provisions related to exclusive broadcasting rights, as set out in Art. 14 AVMSD. A key concern is that on-demand service providers are increasingly acquiring audiovisual sports broadcasting rights, thereby limiting public access to events considered of major importance. A particular concern is that access to this type of content is increasingly available through digital applications which, although free, require users to provide personal data with economic value, raising questions about equitable access to events of major importance. . This is the case especially when the broadcasting rights for EMI defined by a Member States are acquired

by video-on-demand (VOD) platforms established in another Member State, in which case there is a risk the country-of-origin principle might complicate the cross-border enforcement of obligations and effective public access to certain events of major importance .

Recommendation M:

- M1: It is recommended to consider extending the scope of Art. 14 AVMSD to explicitly include video-on-demand services (and if relevant/possible, also hybrid distribution models).
- M2: Greater transparency is also recommended by making national lists publicly accessible.
- M3: Consideration should also be given to the issue of the practical enforcement of access obligations to these events, particularly in a cross-border and digital environments.
- M4: It should be ensured that national audiences have effective access to the EMI defined by their Member States, even if the rights have been acquired by VOD players established in another Member State.

8. NRAs obligations, competences and resources (Article 30, 30a AVMSD)

Media Board Members have identified challenges in fulfilling the obligations laid down in Articles. 30 and 30a AVMSD, regarding the requirement that NRAs possess adequate financial, human and technical resources and sufficiently clear powers to fully exercise their competences under the AVSMD. It is to be noted that these requirements now also apply to EMFA-related tasks.

These challenges are further exacerbated by the broader regulatory context, where additional responsibilities stemming from recent EU legislation – including the EMFA, DSA, TTPA and the AI Act – place increasing pressure on national authorities and further complexify their tasks and activities, including by an increased need to coordinate/cooperate with other competent authorities at national level.

Recommendation N:

- N1: When revising the AVMSD, the Commission should take into consideration the potential challenges for implementation and enforcement of the revised rules and ensure the eventual new tasks for NRAs are well designed and achievable.
- N2: The Commission should strengthen its monitoring of the compliance by Member States of their AVMSD (and EMFA) obligations related to NRAs' resources, powers and competences as well as guarantees of independence, in order to ensure NRAs' are effectively equipped to fulfil their missions set out in Article. 30 and 30a AVMSD (and now also EMFA missions), which is not necessarily the case across the EU.
- N3: In order to compensate the current lack of resources of NRAs, the Commission could explore ways to support capacity-building and technical

reinforcement of NRA, including through an eventual dedicated EU-level financial support mechanism for NRAs, for specific projects related to their regulatory activities.

- N4: Finally, complementary tools could be envisaged for NRAs such as access to up-to-date data on media markets, in order to allow NRAs to carry out their tasks more effectively.

9. Observations regarding the enforceability of the Directive's provisions²³

Building on the previous work carried out by the Media Board²⁴, NRAs believe that looking ahead to the future legal framework for media, the Commission could consider addressing following two key points related to the practical enforceability of the AVMSD across borders.

9.1. Territorial competence and services originating from outside of the EU

As ERGA already pointed out in the abovementioned report from 2024, authorities may lack the tools to take effective action against rogue third-country broadcasters, due to legal constraints. This is particularly true when such services are broadcasted via satellite or internet. Nevertheless, effective enforcement mechanisms are needed to protect European audiences.

In practice, two main challenges arise:

- The AVMSD has been focusing solely on satellite criteria when determining jurisdiction of a Member State for services without a presence in the Union. This does not allow NRAs to take effective action against media service providers from third countries. The technical criteria allowing the establishment of competence is, in the first place, a volatile uplink. As a result, an easily displaceable distribution technology establishes the competence and therefore does not ensure effective or timely action by NRAs.
- Secondly, the growing relevance of online distribution is not clearly covered in AVMSD as the formulations do not specifically address such new forms of distribution. The current wording of the Directive only refers to a “re-transmission” of media services that are somehow originally distributed (i. e. via satellite). Therefore, the handling of the usage of media services in the Union through online distribution is not commonly addressed at EU-level, which is specifically relevant when acting against services from third countries. Although Art. 17 EMFA established a coordination mechanism between NRAs regardless of the way of distribution, the fact that AVMSD does not address the issue of jurisdiction for online distribution impede the willing NRAs to act after an opinion of the Media Board was issued under Art. 17 EMFA. These uncertainties risk the effectiveness of coordinated measures by the Media Board by not addressing persisting legal uncertainties within the Directive.

²³ The Media Board will continue discussions in 2026 to further develop these recommendations.

²⁴ ERGA Report 2024 on EU regulation of digital services – The implementation and cross-border enforcement of the European legal framework for digital and audiovisual media services ([Link](#)).

9.2. Derogation procedures (Articles 3 and 28a AVMSD)

The services in scope of the AVMSD are governed by two different country-of-origin principles and their derogation procedures. VSPs are governed by the AVMSD but, as they are online services, the matters related to the country-of-origin principle and its exceptions are governed by those from the ECD. This results in a dual regulatory framework at the EU level concerning the country-of-origin principle.

This also concerns the pre-conditions for a derogation from the principle of freedom of reception. The exceptions differ in both design and specific provisions. For instance, Art. 3(4) ECD permits exceptions for "public order protection," which is not included in Art. 3(2) AVMSD. The divergence between the ECD and AVMSD introduces complexities and ambiguities in interpreting exceptions, particularly in cross-border situations. These inconsistencies can complicate the effective enforcement of laws, as regulators may face challenges in determining when and how to apply stricter national rules to providers based in other Member States, leading to potential legal uncertainty across the EU.

Such analysis could also consider new possibilities for solving cross-border situations, i.e. through the cooperation mechanisms within EMFA. Having in mind these mechanisms standing side-by-side to the derogation procedures, less detailed cooperation and opinion mechanisms could be considered in the derogation mechanism.

Recommendation O:

- O1: The Commission should consider establishing a jurisdiction regime that allows effective action. Such regime could include the possibility to inverse the secondary criteria in order to favour the place of establishment of the satellite capacity (instead of the place of establishment of the uplink) allowing to identify the competent Member States more easily to avoid fast-changing jurisdictions of services on European satellites.
- O2: The Commission should assess how to clarify rules on online distribution and jurisdiction this will ensure that Media Board members will be able to swiftly act against online distribution of services that are subject to an opinion of the Media Board under Art. 17 EMFA.
- O3: The Commission should consider putting all services in scope of the AVMSD under a single derogation procedure from the country-of-origin principle within the same Directive and targeted for the specific provisions in media law. This would result in clearer possibility for NRAs to address cross-border harms and increase legal certainty. A possible blueprint could be the derogation mechanism from the ECD.

10. Other thematic recommendations

2025 Report on Promotion of European works²⁵

- **Cultural objectives of the AVMSD:** Maintain the AVMSD measures and their transposition that are supporting cultural diversity
- **Quantify the impact of legislation** (e.g., on article 13(2)) on the audiovisual sector with more systematic studies
- **Types on content qualified as European works:**
 - Assessment as to extending the article 16(1) exclusions (“*news, sports events, games, advertising, teletext services and teleshopping*”) to article 13(1), and reviewing the list itself
 - Consider updating of the European Commission guidelines on the calculation share of European works (article 13(7)) due to multiple understanding of “*short films*” and “*miniseries*”
- Additionally, further discussions should be launched to examine the **definition of European works**, ensuring it remains relevant, including for the creative and audiovisual sector
- **Explore work with the European Audiovisual Observatory’s LUMIERE VOD** in view to centralise at European level, National Regulatory Authority data on the categorisation of works as European
- **Enhance discussions on enforcement mechanisms for article 13(2)** to ensure consistent compliance across Member States
- **Continue sharing of best practices on prominence (article 13(1))** in view of further coordination and a possible voluntary tool
- **New consumption habits and market developments**
 - Further exchanges and analysis for a potential reassessment of the regulatory framework to better support the promotion of European works
 - Coordinated external studies (e.g., Media Industry Outlook) in cooperation with the Media Board and the audiovisual sector

2025 report on the Protection of minors²⁶

- The findings of this report could serve to inform reflections on how to further enhance transparency and consistency in the application of protection-of-minors provisions across the Union.
- In this context, it could be examined — from a purely analytical and non-prescriptive perspective — **whether voluntary tools such as a European Repository of Indicators and Descriptors** might, in the future, contribute to a more coherent and transparent reference framework, including for video-sharing platforms (VSPs).

²⁵ see the Media Board’s website

²⁶ see the Media Board’s website

- Likewise, the evaluation could explore how **flexible or “tailor-made” approaches** (voluntary option for services to use the classification systems or an equivalent of the targeted markets) already recognised by national legislation in some MSs and developed in practice by some NRAs. This might complement the shared AVMSD framework by ensuring cultural specificity and user comprehension reflecting national cultural contexts and adapting to technological developments, including the use of AI-based tools.

2025 Report on The regulation of influencers ²⁷

- **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.

²⁷ see the Media Board’s website