



Media Board submission to the consultation on the review of the Audiovisual Media Services Directive (AVMSD)

Section 1: General overview

1.1 *To what extent are you familiar with the AVMSD? (one answer possible)

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

Section 2: Scope and enforcement

Definitions

Explanation: Article 1 provides definitions of key terms related to the audiovisual sector that determine the scope of the Directive, for example, “audiovisual media service”; “video-sharing platform service”; “programme”; “user-generated video”, etc. Article 1 does not include a definition of influencers.

1.1 *To what extent do you think that the existing definitions of the AVMSD are still accurate and relevant in light of the latest market and technological developments (e.g. increasing role of video-sharing platforms and on-demand services), entry of new players (such as influencers) and shift of viewers towards the digital environment?

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

1.2 If possible, please explain your answer and provide specific examples.

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 new types of services 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. There may be a need for clarification in the following areas:

- Certain “hybrid services” presenting elements of VSPs, or constituting a combination of on-demand and linear audiovisual media content, or AVMS and other content, 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.
- 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 to distinguish between single "services" and regulate through the "service" prism (as opposed to a more encompassing approach towards "offers").
- 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 (such as *hybrid services* mentioned above).
- 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.

User interfaces are not currently included in the scope of the AVMSD, but Media Board members expressed the desire for the inclusion of user interfaces and greater alignment between the AVMSD and the EMFA (art 20), 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 (see reply to the question on Article 7a). In the same vein, consistency with the European Accessibility Act when it comes to "services providing access to audiovisual media services" is key.

- 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 and to ensure greater alignment and consistency with other EU provisions (such as EMFA).

Audio-only services such as radio and podcasts, currently fall outside the Directive's 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, since the adoption of the EMFA radio broadcasts and podcasts are also subject to certain European rules regarding media freedom and pluralism.

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.

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.

- 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 especially for minors, and certain other content-related rules.

- 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.
- 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).

Influencer definition

Explanation: The AVMSD already applies to influencers when their activities are covered by the definition of “audiovisual media service” and they can therefore qualify as media service providers. However, the Directive does not explicitly mention or define influencers. This has created legal uncertainty and fragmented regulatory approaches at national level. Furthermore, other EU legislation, such as the Digital Services Act, the Unfair Commercial Practices Directive and the Transparency and Targeting of Political Advertising Regulation, also contain rules applicable to influencers, irrespective of whether they qualify as media service providers.

1.0. In your opinion, is it sufficiently clear that the current AVMSD includes influencers in its scope, despite the fact that their activities are not explicitly covered in the legal definition of “audiovisual media service”?

- Yes
- **No**
- I do not know

1.1 *With regard to a possible clarification of the status of influencers under the AVMSD, what would be your preferred option? (one answer possible)

- Maintaining the **status quo**. While influencers are not explicitly defined as “media service providers” in the AVMSD, it is sufficiently clear that influencers are included in its scope when their activities meet the criteria of the current “audiovisual media service” definition.
- **Explicitly mentioning** the provision of audiovisual content by influencers under the current definition of ‘audiovisual media service’ when a number of specific criteria, e.g. concerning revenues, followers, etc, are fulfilled.
- **Considering influencers as a separate category** of audiovisual content providers, in addition to media service providers and video-sharing platform providers, with its own definition and targeted obligations.
- **Other, please specify:**

Regarding the clarity of the inclusion of influencers in the AVMSD the Media Board recommends that the Commission consults its 2025 Report - The regulation of influencers (included in the Board’s contribution to the call for evidence on AVMSD ex-poste evaluation).

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

Regarding the regulation of influencers certain key issues have been identified by NRAs such as:

- 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.

Therefore, the report concluded that it might be affirmed that a specific guidance or the harmonisation at European level would make it possible to avoid the aforementioned legal uncertainties and national inconsistencies. In the Media Board's view, it could be envisaged to explicitly include 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 subjects, 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 minimum framework could include a shared definition of audiovisual media services that clearly includes influencers- that might be adapted to the size and particularity of the local market by leaving it to the Member States to determine eventual thresholds. In addition, 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.

Our key recommendation is a 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.

2.4. *With regard to the AVMSD rules applicable to influencers, what would be your preferred option?

- Maintaining the status quo. Under this approach, all the AVMSD rules are applicable to influencers.
- Determining which AVMSD rules are applicable to influencers. This approach would clarify the specific AVMSD rules that should apply to influencers.
- **Other, please specify:**

For further explanation the Media Board recommends reading its 2025 Report on the regulation of influencers:

Since influencers often 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 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.

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.

2.4.1. *[IF TICKED ANSWER “Determining which AVMSD rules are applicable to influencers. This approach would clarify the specific AVMSD rules that should apply to influencers”, then*

**Please rank (drag & drop) the following AVMSD areas of rules that should apply to influencers’ activities, in order to ensure a level playing field?*

- *Protection of viewers, in particular minors (Articles 6, 6a)*
- *Rules on audiovisual commercial communications (Articles 9-11)*
- *Rules on television advertising and telesshopping (Articles 19-26)*
- *Right of reply (Article 28)*
- *Prominence of general interest services (Article 7a)*
- *Avoiding overlays for commercial purposes or modification of content (Article 7b)]*

2.5. **What concrete rules and accompanying measures, if any, would you support? (can pick all the answers)*

- Clear disclosure/labelling requirements concerning content provision in exchange for any consideration, either money or in-kind, as part of the AVMSD transparency obligation for advertising, product placement and sponsorship.
- Demonetization of undisclosed provision of content in exchange for consideration, either money or in-kind, as part of the AVMSD measures to be taken by VSPs.
- Clear disclosure of financing from Member State’s authorities, including public funds for state advertising, and financing from third country authorities, including advertising revenues received from them.
- Union codes of conduct on professional standards.
- **Other, please specify:**
- None

See reply above regarding labelling and transparency requirements.

Separately, we would like to draw attention to the emerging issue of news influencers at national level.

European Works definition

Explanation: According to **Article 1(1)(n)** of the AVMSD, European works are defined as

- *Works originating in Member States;*
- *Works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe;*
- *Works co-produced between the Union and third countries.*

When, for the first two points, they fulfil certain conditions related to, among others, the place of establishment of the producer, the control of the production and the contribution to the production costs.

2.6. *In your view, to what extent is the current definition of European works (see Article 1(1)(n)) fit for purpose to achieve the objectives of the AVMSD, in particular as regards supporting European cultural diversity and promoting European audiovisual content? (*one answer possible*)

- Fully fit for purpose
- Largely fit for purpose
- **Partially fit for purpose**
- Not fit for purpose
- I do not know

If possible, please explain your answer and provide specific examples:

See further explanation in the Media Board's *2025 Report on Promotion of European works*.

Given the policy objectives of the Directive related to the promotion of diversity and culture, the questionnaire inquired from NRAs whether certain specific types of content (i.e., pornographic content, radio programmes which are simultaneously broadcasted – with video – on television, weather forecast, and reality shows) are considered European works according to their enforcement practices. Their responses highlighted that the inclusion of specific content types in the definition of European works varies significantly among NRAs.

NRAs were asked whether the definition of European works itself warranted further discussion. A clear majority answered affirmatively, signalling a recognition of the need to revisit and potentially refine the criteria.

When NRAs were asked whether the geographical scope of the current definition warranted further discussion, opinions were divided.

Types of 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 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.

2.7. *What changes, if any, would you suggest to the definition of European works to better support cultural diversity, European identity and audiovisual production in the EU?

See above.

We refer the Commission to the ERGA 2024 Report on the promotion of European works, and the Media Board 2025 report on the promotion of European works:

Any change should be without prejudice to national transpositions of the definition of European works and Member States' capacity to envisage sub-quotas for national/regional/local works. Sub-quota provisions not only create new opportunities for creative talents and cultural professionals but also ensure that recent and independent productions receive visibility.

- 2.8. *What accompanying verification or monitoring arrangements, if any, would you suggest? (such as verification of origin of co-productions by media regulators, guidance on verification by the Media Board, databases of European works)

As suggested in the 2025 Report on Promotion of European works, the Media Board recommends:

- Exploring work with the European Audiovisual Observatory's LUMIERE VOD in view to centralise at European level, data available to National Regulatory Authority on the categorisation of works as European

Jurisdiction and enforcement

Explanation: *Article 2 of the AVMSD provides that audiovisual media service providers fall under the jurisdiction of the Member State where the provider is established (i.e. country-of-origin principle). There are different criteria to establish jurisdiction, especially in case the formal establishment alone does not bring a clear result, in particular:*

- *Member State where the editorial decisions are taken;*
- *Member State where most of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates;*
- *Member State where satellite uplink is located or Member State that granted satellite capacity.*

Article 28a of the AVMSD establishes that a video-sharing platform provider falls under the jurisdiction of the Member State where the provider is established following the rule of the E-Commerce Directive (i.e. country-of-origin (COO) principle). Where no such establishment exists, the following criteria apply to determine jurisdiction:

1. *Member State where the parent undertaking or a subsidiary of the VSP provider is established;*
2. *Member State where another undertaking of its group is established.*

Article 3 of the AVMSD ensures that Member States cannot restrict retransmissions on their territory of audiovisual media services from other Member States. Yet, Member States can provisionally derogate from this principle under certain conditions and following a multi-step

procedure, if those audiovisual media services contain incitement to violence or hatred, put at risk the protection of minors, or are a threat to public security and/or health.

Article 4 of the AVMSD establishes that Member States may adopt more detailed or stricter rules. They can derogate from the principle of country-of-origin under certain conditions and following a multi-step procedure, if a media service provider targets their territory but it has established itself in another Member States in order to circumvent such stricter rules.

Article 4a states that Member States are to promote forms of co-regulation and to encourage self-regulatory practices through the adoption of national codes of conduct and that Member States and the Commission may foster self-regulation through Union codes of conduct.

Article 5 requires audiovisual media service providers to make certain basic information easily, directly, and permanently accessible to users. Information includes name, geographical address, contact details, jurisdiction assignment. Paragraph 2 allows Member States to introduce laws requiring media service providers to make additional information publicly accessible, specifically details about their ownership structure, including beneficial owners.

2.9. To what extent do you agree with the following statements concerning the AVMSD provisions on jurisdiction and enforcement?

	To large extent	a some extent	To small extent	a Not at all	I do not know
* The AVMSD is sufficiently clear and effective to determine jurisdiction (Arts. 2, 28a).		x			
* The existing derogation procedure from the country-of-origin principle is sufficient and effective in practice (Art. 3).		x			
* The current anti-circumvention procedure is sufficient and effective for addressing situations where action against a service not established but targeting a Member State may be necessary (Art. 4).			x		
* Member States have effectively encouraged the use of co-regulation, self-regulatory practices and related codes of conduct (Art. 4a).		x			
* Media service providers make the required information accessible to users (Art. 5).	x				

2.9.1. If possible, please explain your answer and provide specific examples.

As pointed out in the Media Board's reply to the ex-post evaluation and review of the AVMSD, the Media Board observed some issues regarding:

Articles 3 E-Commerce Directive and 28a AVMSD- Derogation procedures : 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, Article 3(4) ECD permits exceptions for ", public policy, in particular the prevention, investigation, detection and prosecution of criminal offences" which is not included in Article 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.

Article 2, 28a AVMSD- determination of the jurisdiction: -the Media Board considers that the provisions are clear to some extent.

Members of the Board pointed out that determining the jurisdiction of VOD services under Article 2 can raise difficulties in practice due to the fact that they may have complex corporate structures, decentralised operations across multiple Member States with sometimes decentralised editorial functions as well, while they target audiences in several Member States. Therefore, they would welcome some clarification as to the interpretation and practical determination of criteria foreseen by Article 2(3)(b)) such as "*significant part of the workforce*" (as well as "*stable and effective link with the economy of the Member State*". In addition, it was flagged that the implementation of Article 2(4)(b) concerning jurisdiction linked to the satellite-uplink can be difficult in practice, as the uplink can change rapidly which creates legal uncertainty as to the competent authority. Finally, it was pointed out that it is unclear how Article 2 AVMSD relates to Article 14 EMFA on structured cooperation, when the two NRAs disagree about the place of establishment of MSP.

Regarding Article 28a AVMSD members pointed out that. determining jurisdiction for VSPs can raise difficulties due to complex corporate structures (distributed teams or operations across multiple Member States), The criteria of '*stable and effective link with the economy of the Member State*' foreseen in the Article would benefit from further clarity to reply to these concerns. In addition, Article 28a(3) foresees the scenario where "the parent undertaking", "subsidiary undertaking" or other undertakings of the group are each established in different Member States, it was pointed out that timely cooperation and information sharing among NRAs is crucial to be able to make the framework work efficiently. Finally, uncertainty was

pointed out regarding the articulation of Article 28a(7) and the new structured cooperation under Articles 14 and 15 EMFA.

Some Media Board members, while acknowledging the importance of the country-of-origin principle, pointed out that VOD and VSPs providing cross-border services and established outside of that Member State raise issues in terms of ensuring a level playing field at national level (for instance for commercial communications, or protection of minors) as such online services targeted specifically their national audience (in the local language, with content tailored and advertising directed specifically to the national audience), while at the same time not being subject to the same obligations as local service providers and competing for the same audience/ revenues.

Article 3 AVMSD-freedom of reception and derogation from the country-of-origin principle: although the derogation procedure is legally defined, the Media Board would like to highlight that practical challenges may arise in the implementation of the Article, especially in the digital environment. Given the speed and scale of online dissemination of content, national regulators in the targeted Member State can face challenges in reacting proportionately and timely. In addition, some ambiguity was pointed out linked to the coordinated application of Article 17 EMFA and the implementation of Article 3 AVMSD.¹ Namely, coordinated action taken by NRAs in line with EMFA and the exception foreseen in the AVMSD.

Article 4 AVMSD -anti circumvention procedure: Some NRAs consider that they have limited experience with the provision. Member States have the possibility to require media service providers under their jurisdiction to comply with more detailed or stricter rules, and targeted countries can derogate from the country-of-origin principle under certain conditions following a multi-step procedure. The procedure foreseen by Article 4(3)(b) is conditioned upon demonstrating that the media service provider has established itself in another Member State to circumvent stricter rules. Based on recent cases, the Media Board acknowledges that in practice proving intentional circumvention can be complex.² This is due to the fact that the onus to prove the circumvention lies with the notifying Member State while providers can justify their choice of establishment with various business reasons (such as tax benefits or infrastructure).

Article 4a AVMSD-use of co-regulation, self-regulation: the Media Board considers that the use of co-regulatory practices has been encouraged to some extent and highlighted that voluntary mechanisms may not always contribute to consistent compliance. Regulatory oversight remains necessary for instance to guarantee the effective protection of minors and transparency of audiovisual commercial communications.

Article 5 AVMSD- information requirements: Media Board members consider that media service providers in general make the required information accessible. At the same time, it was

¹ ERGA 2024 Report on the implementation and cross-border enforcement of the European legal framework for digital and audiovisual media services

² C(2018) 532 final, Commission Decision of 31.1.2018 on the incompatibility of the measures notified by the Kingdom of Sweden pursuant to Article 4(5) of Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services

Opinion of the European Board for Media Services on the notification by the Hungarian National Media and Info communications Authority concerning envisaged measures regarding the media service provider CLT-UFA SA pursuant to Article 4 of Directive 2010/13/EU

noted by some that while traditional broadcasters generally comply, emerging services or certain platform-based operators’ compliance is less visible or harder to verify.

Therefore, the Media Board would welcome

- Articles 3 E-Commerce Directive and 28a AVMSD 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.
- Article 2 AVMSD: 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.
- Article 3 AVMSD and Article 17 EMFA: 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 Article 17 EMFA.
- The Commission’s guidance and clarification on the application of Articles 2, and 28a and the terms highlighted in order to determine jurisdiction in light of complex business models of the digital VOD services and VSPs .
- Clarification of the articulation between Article 2 and 28a(7) AVMSD provisions and the new procedures established by EMFA (such as structured cooperation and Article 15)).
- Enhancing timely information exchange among NRAs in order to establish jurisdiction over VSPs under Article 28a.

Interplay with other EU law, in particular the Digital Services Act (DSA) and the Unfair Commercial Practices Directive (UCPD)

Explanation: The Digital Services Act (DSA), as the horizontal legal framework applicable to online intermediaries including video-sharing platforms, interacts with and complements certain existing rules of the AVMSD, in particular Article 28b, that apply to video-sharing platforms. Questions have arisen as to the interplay between the horizontal framework of the DSA and the sector-specific framework of the AVMSD and the potential need to bring more clarity to the EU legal framework. In November 2025, the Commission published a Report on the application of Article 33 of Regulation (EU) 2022/2065 (DSA) and the interaction of that Regulation with other legal acts, including the AVMSD (COM(2025) 708 final).

2.10. In your view, how clear is the interplay between Article 28b AVMSD and the DSA in the areas listed below?

To a large extent	To some extent	To a small extent	Not at all	I do not know
-------------------	----------------	-------------------	------------	---------------

* Protection of minors referred to in Articles 28b(1)(a) and (3) AVMSD and Article 28 DSA on online protection of minors.	x
* Audiovisual commercial communications rules applicable to VSPs referred to in Article 28b(2) AVMSD and Article 26 DSA on advertising on online platforms.	x
* Protection from harmful/illegal content through <u>terms and conditions</u> referred to in Article 28b(3)(a) AVMSD and Article 14 DSA .	x
* Protection from harmful audiovisual commercial communications through <u>terms and conditions</u> referred to in Article 28b(3)(b) AVMSD and Article 14 DSA on terms and conditions.	x
* <u>Reporting and flagging mechanisms</u> referred to in Article 28b(3)(d) AVMSD and Article 16 DSA on notice and action mechanisms.	x
* <u>Feedback mechanisms</u> referred to in Article 28b(3)(e) AVMSD and Article 17 DSA on statement of reasons.	
* Availability of <u>out-of-court dispute resolution</u> mechanisms referred to in Articles 28b(7) and (8) AVMSD and Article 21 DSA on out-of-court dispute settlement.	
* <u>Systemic risk-related obligations</u> referred to in Articles 28b(1) and (3) AVMSD and Articles 34 and 35 DSA on risk assessment and mitigation of risks.	x

2.10.1. If possible, please explain your answer and provide specific examples:

As indicated in the *Media Board's contribution to the AVMSD ex-post evaluation and review*,³ given the complementary nature of the AVMSD with the DSA, the Board insists on maintaining VSPs within the scope of the AVMSD. Three main arguments support this claim:

- Framework for coherent and sustainable audiovisual policy: The AVMSD pursues a different overall regulatory objective. It is an internal market directive based on the country-of- origin principle, setting clear and specific standards that promote a level

³ https://media-board.europa.eu/document/download/b8f3478e-673c-4b51-97ca-6438a51954c9_en?filename=The%20Media%20Board%27s%20contribution%20to%20the%20AVMSD%20ex-post%20evaluation%20and%20review.pdf&prefLang=fr

playing field in the audiovisual sector. It upholds among others cultural diversity, protects minors and users, safeguards media pluralism.

- Clear definition of illegal and harmful content: The DSA does not define what is illegal or harmful: The AVMSD offers a sector-specific framework with a minimum harmonisation at EU-level it ensures 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.
- Scope and types of obligations: The rules in Article 28b AVMSD are 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 including small- and micro- enterprises (which are exempted under Article 19 DSA).

Furthermore, the Board put forward theme-specific recommendations regarding VSPs – Protection of minors:

Firstly, 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”.

Secondly, 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 content⁴ 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).

While the Media Board considers that the obligations targeting VSPs are still necessary, it considers that the interplay between the DSA and AVMSD could be made clearer. In this regard

⁴ See reply to question related to the protection of minors.

we draw attention to the Media Board's reply to the public consultation on the Article 28 DSA guidelines⁵, which pointed out which sector specific obligations VSPs are subject to :

- Article 28b(1)(a) and (3) AVMSD and Article 28 DSA (protection of minors): Article 28 of the Digital Services Act creates a horizontal obligation for all online platforms accessible to minors regardless of the type of service they provide. AVMSD rules apply across all VSPs, without exceptions for micro or small enterprises, which is important as the majority of porn platforms would belong to this category.

The AVMSD explicitly identified certain specific categories of illegal and harmful content from which VSPs have to protect minors from. Including programmes, user-generated videos and audiovisual commercial communication which may impair their physical, mental or moral development. Furthermore, those VSPs have the obligation to protect the general public, including minors from incitement to violence or hatred, and content the dissemination of which constitutes an activity which is a criminal offence under Union law. Appropriate measures that VSPs have to put in place have to be determined “in light of the nature of the content in question, the harm it may cause, the characteristics of the category of persons to be protected as well as the rights and legitimate interests at stake.”

By foreseeing the possibility for Member States to impose on video-sharing platform providers more detailed or stricter measures provided that such rules are compliant with Union law the AVMSD allows the recognition of national specificities.

National regulatory authorities (including also those that are not Digital Service Coordinators under the DSA) play a crucial role in the direct enforcement of the measures without intermediaries. Furthermore, a cross-border cooperation mechanism has been established in order to ensure an efficient collaboration and the application of the VSP rules under the AVMSD, first on the basis of an MoU, and later codified by the European Media Freedom Act (EMFA).

- Article 28b(2) AVMSD and Article 26 DSA: While Article 26 DSA foresees general transparency obligation for all online platforms VSPs have a wide range of obligations in line with Article 28b(2) and (3) of the AVMSD. Article 28b(3)(c) also requires VSPs to put in place functionality to declare that the content uploaded contains commercial communications. In addition, the AVMSD introduced a prohibition to directly exhort minors to buy or hire product or services, encourage them to persuade their parents or others to purchase goods.

Finally, product placement in children's programmes is not allowed for audiovisual media services in line with Article 11(2) of the AVMSD. The Media Board draws attention to the fact that NRAs have also established criteria to determine if vloggers are targeting minors (2023 Report – Learning from the practical experiences of NRAs in the regulation of vloggers).

- Article 28b(3)(a) AVMSD and Article 14 DSA: VSPs are equally obliged to include in their terms of services requirements foreseen in Article 28b(1) AVMSD that they protect minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development, as well as the public,

⁵ Reply of Media Board to consultation DSA protection of minors https://media-board.europa.eu/document/download/c242ec7b-8a04-4911-9921-028a59dce369_en?filename=Reply%20of%20Media%20Board%20to%20consultation%20DSA%20protection%20of%20minors.pdf&prefLang=fr

including minors from incitement to violence and hatred and from content the dissemination of which constitutes a criminal offence under Union law.

- Article 28b(3)(b) AVMSD and Article 14 DSA: In the same way, such terms have to include and apply obligations of Article 9(1) regarding commercial communications that are not marketed and sold or arranged by the video-sharing platform provider.
- Article 28b(3)(d) AVMSD and Article 16 DSA: VSPs have the obligation to explain to user what effect has been given to such report and flagging pursuant to the AVMSD. In addition, they have to put in place transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints in relation to flagging and reporting (28b(3)(e)).
- Articles 28b(1) and (3) AVMSD and Articles 34 and 35 DSA: Articles 28b(1) and (3) AVMSD apply to all VSPs regardless of their size. The guidelines on Article 28 DSA explained that when determining which measure to apply, providers of online platform accessible to minors should identify at a minimum certain basic information and risks incurred by minors. In this respect, the Media Board supported the reference to the 5C typology of risks. In addition to measures that the provider is already taking to prevent and mitigate risk. However, VSPs must also comply with certain obligations in order to prevent certain risks enshrined in Article 28b(1) of the AVMSD. Furthermore, Article 28b(5) AVMSD empowers the NRAs to assess the appropriateness of those measures.

In addition to the considerations related to DSA-AVMSD interaction as reflected in the reply to the public consultation, the Board draws attention to the following points:

- DSA foresees that the regulation is without prejudice to other acts of Union law regulating the provision of information society services in general, regulating other aspects of the provision of intermediary services in the internal market or specifying and complementing the harmonised rules set out in this Regulation, such as Directive 2010/13/EU.⁶ NRAs have started handling complaints and concrete cases related to the dissemination of illegal content online at national level which required them to apply both legislations.⁷ Nevertheless, recent experiences show that practical and operational questions still occur about in which cases and how to apply the provisions from the different legislations⁸ as well as the dissemination of harmful content by hybrid services combining VSP services as well.
- similarly to the DSA, the AVMSD could benefit from provisions ensuring that the violation of obligations are sanctioned.
- Article 9 DSA, which established a procedure for national authorities to directly order service providers to remove illegal content, even if the service provider is not based in the same country as the issuing authority (see also Recital 38 DSA). Yet, the legal bases for authorities to issue these orders stem from national law or other sources of European law and explicitly not from Article 9 itself (see Recital 31).⁹

⁶ Recital 11 of Regulation (EU) 2022/2065

⁷ EPRA spotlight contribution Highlighting the added value of AVMSD VSPs regulation on a specific case study by the CMS

⁸ ERGA 2024 report on the implementation and cross-border enforcement of the European legal framework for digital and audiovisual media services

⁹ ERGA 2024 report on the implementation and cross-border enforcement of the European legal framework for digital and audiovisual media service 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&prefLang=fr

2.11. *What would be your preferred approach to improve clarity on the interplay between Article 28b AVMSD and the DSA? (one answer possible)

- Maintaining the status quo, I consider that the links are clear enough.
- Adopting EU guidelines clarifying the interplay between the DSA and the AVMSD, on the basis of the Report published in the context of Article 91(1) DSA
- Amending the AVMSD to streamline the interplay with the DSA.
- Other, please specify:

As mentioned above the Media Board continues to insist on maintaining VSPs in the scope of the AVMSD, as sector specific obligations are still relevant.

At the same time, the Board also acknowledges that the interplay between Article 28b AVMSD and DSA could be improved, by amending the AVMSD in the following ways:

- Clarify the relationship to the DSA and remaining operational questions mentioned in reply to the previous question.
- Consideration could be given to whether the definition of VSP in the AVMSD could be adapted to market developments.
- The Commission could consider if additional content rules should be proposed in line with the “Theme specific recommendations regarding VSPs” mentioned above.

2.12. *In your opinion should the coordination between the two enforcement frameworks, of the AVMSD and the DSA, be improved (e.g. through increased information sharing mechanisms or through dedicated cooperation mechanisms?

- Yes
- No
- I do not know

If possible, please explain your answer and provide specific examples of possible solutions you would suggest:

The Media Board considers important to have a structured cooperation with the DSA Board. Therefore, it would like to underline the importance of the cooperation already started regarding basic procedures and handovers.(ERGA Proto Working Group 4 – 2025 Terms of Reference (ToR))

Explanation: The **Unfair Commercial Practices Directive (UCPD)** interacts with, and complements, certain existing rules of the AVMSD. As safety net legislation, the UCPD applies to practices of all traders in business-to-consumers relations protecting consumers against misleading and aggressive practices. In case of conflict between the UCPD and more specific EU legislation (*lex specialis*) such as the AVMSD, the latter prevails. This is relevant in particular concerning the AVMSD rules on protection of minors from harmful content included in audiovisual commercial communications and also concerning the AVMSD rules on of transparency audiovisual commercial communications.

2.13. In your view, how clear is the interplay between the AVMSD and the UCPD in the areas listed below?

	To large extent	a	To some extent	To small extent	a	Not at all	I do not know
* Protection of minors e.g. direct appeal to children to buy products or services				X			
* Rules on influencer marketing e.g. clear disclosure of content provision in exchange for consideration, either money or in-kind				X			

2.13.1. If possible, please explain your answer and provide specific examples.

The Media Board considers that the interplay between the AVMSD and the UCPD would benefit from greater clarity and coherence. The AVMSD and UCPD have complementary goals but they are applied and enforced in different ways. It's worth noting that many of the NRAs are only responsible for the enforcement of the AVMSD.

Nevertheless, the Media Board wishes to point out common points regarding the two instruments, such as the protection of minors. The AVMSD includes specific rules for audiovisual commercial communications (for example, restrictions on direct appeals to children and standards for harmful content). While the UCPD applies broadly to misleading or aggressive commercial practices targeting consumers, including minors. Because both frameworks can apply to the same online case, it may be unclear which legal basis should be used.

Secondly, another potential common point is the regulation of influencers. As influencers may also be considered "traders" under the UCPD.

The AVMSD provides a reinforced form of consumer protection because it does not limit its analysis to the purely economic dimension of a commercial practice. Instead, it also takes into account the specific characteristics and influence of audiovisual content on viewers. This distinguishes it from the UCPD, which mainly focuses on the economic fairness of business practices and their impact on consumers' transactional decisions:

The UCPD is designed to ensure that traders do not mislead or unfairly pressure consumers when promoting products or services. Its central concern is whether a commercial practice distorts the economic behaviour of the average consumer, (false information, omitting essential details, or using aggressive sales techniques). The key question is whether the practice affects the consumer's ability to make a free and informed purchasing decision, as economic actors in the marketplace.

The AVMSD, by contrast, recognizes that audiovisual media have a particularly strong persuasive power (Audiovisual programs, streaming content, and videos on digital platforms combine images, sound, narrative, and emotional elements) that can influence viewers much more directly than traditional advertising. Moreover, they often reach very large audiences simultaneously and may have a particularly strong impact on vulnerable groups, such as minors.

For this reason, the AVMSD

- regulates beyond the economic aspects of advertising the way commercial communication appears within audiovisual content.
- requires that advertising be clearly identifiable and distinguishable from editorial content introduces rules on product placement, informing the audiences when a product has been included in a program or video for promotional purposes.
- includes specific measures to protect minors from harmful or inappropriate audiovisual commercial communications.
- entails that authorities can intervene not only when a commercial practice misleads consumers economically, but also when the structure, presentation, or context of audiovisual content may have harmful or manipulative effects on viewers. This means that protection can arise even in situations where the advertising message is not strictly misleading from an economic point of view, but where the audiovisual format itself raises concerns, (not clearly identifiable as advertising or targets vulnerable audiences).

The Media Board would like to point out that the Fitness check on EU consumer law (preparatory work on the DFA¹⁰) also provided some guidance regarding influencers and applicable rules, acknowledging ERGA's past work.

It states that “in particular, the specific requirements related to advertising transparency, advertising fairness, and protection of vulnerable groups (in particular minors) can apply both in the scenario where an influencer could be considered as a provider of audiovisual media services and in the scenario where an influencer is a user of a video-sharing platform service, but does not fulfil the relevant criteria to qualify as audiovisual media service provider. Therefore, the AVMSD remains the main EU legislation regulating specific content requirements for influencers’ audiovisual commercial communications and complements EU consumer law on influencers marketing practices.”

2.14. * On the interplay between the AVMSD and the UCPD, what would be your preferred approach?

- Maintaining the status quo
- Adopting EU guidelines clarifying the interplay
- Other, please specify

As explained above, the Media Board’s preferred option would be amending the AVMSD to clarify and ensure consistency with consumer legislation. This should not result in the streamlining of obligations currently foreseen in the AVMSD. Finally, we call for avoiding any additional complexities with the upcoming Digital Fairness Act, with regard to the applicable rules and the competent authorities.

2.15. * In your opinion should the coordination between the two enforcement frameworks, of the AVMSD and the UCPD, be improved (e.g. through increased information sharing mechanisms or through dedicated cooperation mechanisms)?

¹⁰ https://commission.europa.eu/document/download/707d7404-78e5-4aef-acfa-82b4cf639f55_en?filename=Commission%20Staff%20Working%20Document%20Fitness%20Check%20on%20EU%20consumer%20law%20on%20digital%20fairness.pdf

- Yes
- No
- I do not know

Regulatory authorities

Explanation: The European Board for Media Services (“the Media Board”) has replaced and succeeded the previous European Regulators Group for Audiovisual Media Services (ERGA) which was set up under **Article 30b AVMSD**. The Media Board has been established by Article 8 of the European Media Freedom Act (EMFA). The Media Board is an independent advisory body composed of national regulatory authorities or bodies aiming to promote the effective and consistent application of EU media law, including the EMFA and the AVMSD.

2.16. *In your experience, to what extent has the European Board for Media Services ('Media Board, previously ERGA) been effective in promoting the consistent and effective application of the AVMSD?

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

2.16.1. If possible, please explain your answer and provide specific examples.

With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established ERGA, which was replaced by the Media Board.

In the past years, ERGA and the Media Board have been effectively promoting the consistent and effective application of the AVMSD in the following ways:

- Working groups have provided technical expertise and best practice exchange on priority areas such as the protection of minors, influencers, countering disinformation, media literacy, European works, VSPs obligations, services of general interest, accessibility, cross-border enforcement etc.¹¹
- Information sharing took place among members via the MoU and later the structured cooperation in line with Article 14 and 15 EMFA.¹² This has also led to more effective supervision and enforcement in the handling of requests for assistance in cross-border matters.

¹¹ https://media-board.europa.eu/erga-documents_en

¹² see 2025 Media Board report on The performance and application of the structured cooperation mechanisms in 2025 https://media-board.europa.eu/erga-documents_en

Section 3: Audiovisual commercial communications

Explanation: Article 9 of the AVMSD establishes rules that audiovisual commercial communications need to comply with (e.g. being readily recognisable as such and not using subliminal techniques; not prejudicing respect for human dignity; not including or promoting any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation; not encouraging behaviour prejudicial to health or safety; limitations to the advertising of certain products such as alcohol or medicinal products; special protection for minors) and which apply to all media service providers, including influencers, and also to video-sharing platforms according to Article 28b. Articles 10 and 11 establish certain requirements for audiovisual media services providers concerning product placement and sponsorship. Articles 19-26 establish additional rules, including quantitative limits, concerning only television advertising.

3.1. To what extent do you consider that the following provisions on audiovisual commercial communications have effectively protected viewers against inappropriate, hidden or excessive audiovisual commercial communications?

3.1.1. Requirements for all AVMS providers

	To large extent	a some extent	To small extent	a Not at all	I do not know
* Qualitative requirements (Article 9) - e.g. audiovisual commercial communication shall be readily recognisable as such, not use subliminal techniques, not prejudice respect for human dignity, not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation, etc.					X
* Rules on sponsorship (Article 10)					X
* Rules on product placement (Article 11)					X

3.1.2. Requirements for TV advertising and teleshopping only

	To large extent	a some extent	To small extent	a Not at all	I do not know
* Quantitative limits on television advertising and teleshopping (Articles 20 and 23)			X		
* Rules for TV advertising and teleshopping (Articles 19-25)			X		

3.1.3. Requirements for video-sharing platforms

To large extent	a	To some extent	To small extent	a	Not at all	I do not know
-----------------	---	----------------	-----------------	---	------------	---------------

* Rules on commercial communications for VSPs (Article 28b(2)) X

3.1.4. If possible, please explain your answer and provide specific examples.

Article 10- sponsorship and Article 11 product placement- Media Board members consider that in general the rules have protected users regarding sponsorship and product placement. At the same time, they pointed out that the rules are not applicable to VSPs. This poses problem as harmful audiovisual commercial communication by influencers can occur online, especially in user generated videos distributed via VSPs, where editorial responsibility is less clear (promotion of unhealthy foods, fraudulent schemes).

NRAs also pointed out the difficulty of regulating such embedded influencer marketing and branded content on platforms as the line between editorial content and commercial integration can be blurred, which can make consistent enforcement more challenging.

Besides influencer marketing, risks related to an unequal regulation across services, and algorithmic targeting were pointed out.

Article 11-product placement- the Media Board is of similar opinion as regarding Article 10. In addition, it was pointed out that rules could be adjusted to better fit VOD services (labelling of product placement).

For the rest see next reply.

3.2. * With regard to the AVMSD rules on audiovisual commercial communications, please select your preferred option:

- **Maintaining the status quo**
- **Self-/co-regulation or guidance:** this option would entail self-/co-regulatory codes of conduct or guidance by the Media Board to address in a granular way harmful or sensitive commercial communications that are not regulated specifically by the AVMSD, such as those for dietary advice or supplements, plastic surgery or aesthetic treatments.
- **Revising the AVMSD**

3.2.1. *[If you selected “Revising the AVMSD” in the previous question, please select one or more of the following options.*

- *Simplification and streamlining of rules: This option would reduce complexity and duplication while maintaining key principles. It could entail a single set of horizontal principles applicable to all services, such as transparency requirements and reinforced editorial independence and qualitative requirements. It would strengthen the level playing field by eliminating regulatory discrepancies between providers of linear and non-linear audiovisual media services, and between providers of audiovisual media services and video-sharing platforms*

- Updating and expanding the qualitative rules on harmful audiovisual commercial communications to address emerging risks. This approach would introduce greater granularity and/or new categories of harmful or sensitive commercial communications, such as those for dietary advice or supplements, plastic surgery or aesthetic treatments. EU delegated/implementing acts could provide additional details.
- Extending quantitative advertising limits beyond television broadcasting to on-demand services. This option would extend and/or adapt the quantitative advertising limits to services other than television broadcasting in order to strengthen the level playing field.
- Extending quantitative advertising limits beyond television broadcasting to video-sharing platforms. This option would extend and/or adapt the quantitative advertising limits to services other than television broadcasting in order to strengthen the level playing field.
- **Other, please specify:]**

Definition of audiovisual commercial communications (Article 1(1)(h) and (k) and (m) AVMSD): 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).

Quantitative and insertion rules (Art. 19 and 20 and 23 AVMSD), as demonstrated by recent market studies, 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.¹³

Therefore, Media Board members suggest that rules could apply to all relevant types of services in a same vein, while taking into account the specificities of those services.

Article 23 AVMSD: 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 also on VOD services and VSPs(as the current rules only apply to linear services), taking into account technological differences 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.

- 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, in particular minors.
- 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. 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

¹³ [Media Industry Outlook report 2025](#)

Content-related rules (Art. 9 and 22 AVMSD): 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 which apply only to linear and non-linear services, NRAs expressed interest in ensuring viewers are effectively protected from irresponsible advertising also on VSPs (financial scams, food supplements, surgical and aesthetic procedures), 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.

- The Board recommends that 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.
- The actual respect of obligations related to commercial communications by and on VSPs should be carefully assessed, taking into account the specificity of VSPs

3.3. * Based on your experience or knowledge, do you have concerns related to stricter or more detailed national rules on commercial communications?

- Yes
- No
- I do not know

3.3.1. * Please describe (If answered yes or no)

As recalled in the Media Board's contribution to the AVMSD call for evidence, it is important that the AVMSD remain a Directive. The minimum harmonisation of audiovisual content-rules ensures that the transpositions reflect national specificities.

Media Board members note that a risk of asymmetry exists when a set of rules only applies to one category of audiovisual media players, as it is currently the case with linear audiovisual media. The update of the rules could be considered so they apply, where relevant and as mentioned in the response to the previous questions, to non-linear audiovisual media and video-sharing platforms.

3.4. * Based on your experience or knowledge, do you have concerns related to online platforms acting as gateways to media content through distribution agreements and general terms and conditions, including (advertising) revenue-sharing agreements.

- Yes
- No
- I do not know

3.4.1. * Please describe (If answered yes or no)

As demonstrated by recent market studies, 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.¹⁴ Online platforms increasingly act as central gateways to media content, exercising significant influence over content visibility, audience access and advertising revenues. This development may affect the business models and competitive conditions of audiovisual media services and raises questions regarding the level playing field and fair access to audiences.

This is further exacerbated by the fact that online platforms often operate under different regulatory and transparency standards, with limited editorial control over advertising practices and revenue-sharing arrangements. The growing role of platforms as intermediaries highlights the importance of ensuring coherent regulatory approaches across the media environment.

Online platforms have a significant bargaining power over media service providers, notably via their terms and conditions. They hold the decision over access to their services and available content, how and which content is aggregated, selected, made generally accessible, and in what form it is visible to users.

A growing number of advertisers move away from media service providers to prioritise VLOPs in their overall spending budget, ultimately reducing revenues for the former.

The shift in media usage and the way they function leads to their increased relevance in shaping public opinion. Existing national mechanisms for ensuring diversity, which go hand in hand with increased influence on public opinion, only apply to broadcasters. The AVMSD could include a provision for the safeguard of media diversity and transparency rules, that would be implemented by Member States.

3.5. * In your opinion, is there a need for any mechanisms to ensure the financial sustainability and fairness of those agreements for media service providers and, consequently, the diversity of content on offer?

- Yes
- No
- I do not know

3.5.1. * Please describe (If answered yes or no)

N/A

Section 4: Protection of viewers

Rules relating to incitement to violence or hatred, public provocation to commit a terrorist offence (Article 6), protection of minors on media services (Article 6a) and on video-sharing platforms (Article 28b)

Explanation: Article 6 of the AVMSD establishes an obligation for Member States to ensure that audiovisual media services do not contain any incitement to violence or hatred and/or public provocation to commit a terrorist offence. **Article 6a** includes provisions to protect minors from harmful content (content which may impair their physical, mental or moral development). **Article**

¹⁴ [Media Industry Outlook report 2025](#)

28b specifically addresses VSP services, requiring them to take appropriate and proportionate measures to protect minors from harmful content referring to Article 6a, as well as the general public from certain types of programmes and user-generated videos, partly repeating the list of Article 6.

3.1. In your opinion, to what extent are the provisions under the AVMSD (Article 6, 6a and 28b) effective in protecting viewers, specifically against the following types of content?

3.1.1. *Protection by audiovisual media services*

	To large extent	a	To some extent	To small extent	a	Not at all	I do not know
* Content inciting to violence or hatred directed against a group of persons or members of a group (referring to the grounds mentioned in Article 21 of the Charter of Fundamental Rights)	x						
* Public provocations to commit terrorist offence	x						
* Content impairing the physical, mental, or moral development of minors	x						
* Content most harmful to minors, such as gratuitous violence and pornography	x						

3.1.2. *Protection by video-sharing platforms*

	To large extent	a	To some extent	To small extent	a	Not at all	I do not know
* Content inciting to violence or hatred directed against a group of persons or members of a group (referring to the grounds mentioned in Article 21 of the Charter of Fundamental Rights)			x				
* Public provocations to commit terrorist offence, child pornography, racism or xenophobia				x			
* Content impairing the physical, mental, or moral development of minors				x			
* Content most harmful to minors, such as gratuitous violence and pornography				x			

3.2. * In your view, what is the most appropriate option for addressing risks resulting from the proliferation of harmful content and for protecting minors on VSPs within the scope of the AVMSD?

- Maintaining the status quo: no changes to the rules on harmful content on VSPs.
- Introducing further specific categories of harmful content on VSPs to account for content with a potential negative impact on children's physical, mental or moral development, including their health, in addition to the category of content most harmful to minors, such as gratuitous violence and pornography
- Other, please specify:

4.2.1. *[IF TICKED ANSWER "Introducing further specific categories of harmful content on VSPs to account for content with a potential negative impact on children's physical, mental or moral development, including their health, in addition to the category of content most harmful to minors, such as gratuitous violence and pornography", then:*

** In your view, which further types of online harmful content should be specified in the Directive to ensure a better protection of minors on VSPs? (all answers possible)*

- Content promoting self-harm or suicide
- Content promoting eating disorders
- Cyberbullying, harassment, or humiliating content
- Content encouraging dangerous or harmful behaviours (e.g. risky challenges, unsafe stunts, consumption of addictive substances, addictive behaviours)
- Content including coarse/offensive language or disturbing scenes or themes
- Content promoting harmful stereotypes
- Content promoting body dysmorphia
- Other, please specify:]

Note regarding the table on the effectiveness of Article 6, 6a and 28b: we regret that the question above doesn't allow better distinction among AVMS, dividing them into linear services and VOD.

Transposition of Articles 6a and 28b AVMSD: The Media Board analysed in its 2025 report on the protection of minors the definition of 'Content which may impair the physical, mental or moral development of minors'. And assessed the national implementation of such categories: NRAs' responses revealed two main approaches: 10 countries have incorporated into their legal framework additional definitions of harmful content which may impair the physical, mental or moral development of minors, beyond gratuitous violence and pornography and 13 countries rely solely on the Directive's wording without adding national criteria.

The report observed that a majority of NRAs have categories and classification criteria and identified common harmful content indicators/ categories including violence, sexual content, coarse language, use of substances, fear, and dangerous imitable acts. In addition, emerging/online harms were identified such as cyberbullying, image-based abuse, mis/disinformation and manipulative content.

The national approaches taken regarding content categorisation/classification primarily concern linear audiovisual services. For VOD and VSPs, the AVMSD foresees distinct regimes: while VOD services apply co-/self-regulatory age ratings and provide parental controls, VSPs

are mainly subject to procedural obligations to protect minors, rather than direct content classification.

In addition, as noted in the Media Board recommended that the Commission could consider evaluating if additional content rules should be proposed in the scope of AVMSD such as specifying and complementing the rules of the DSA with new categories of harmful content online 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.

The following categories deserve prioritisation and specific attention:

- Cyberbullying, harassment, or humiliating content
- Content promoting self-harm or suicide
- Content promoting eating disorder
- Content encouraging dangerous or harmful behaviours (e.g. risky challenges, unsafe stunts, consumption of addictive substances, addictive behaviours)

In addition, the issue of content promoting or inducing gambling addiction was highlighted by NRAs as well as the emerging issue of hatred and disinformation induced by AI generated content not labelled as such was pointed out.¹⁵

4.3. * Article 28b requires VSPs to put in place measures to protect minors from harmful content. To that end, it allows VSPs a degree of flexibility in selecting which measures to put in place. These include age verification mechanisms, parental controls, content rating and reporting and flagging mechanisms. In your view, what would be your preferred regulatory approach to ensure that the measures effectively protect minors from harmful content?

- Maintaining the status quo: no changes to the rules on measures for VSPs (allowing them flexibility in selecting measures).
- Making certain measures mandatory depending on the harmfulness of content: This option would entail requiring VSPs to mandatorily put in place one or more of the measures depending on how harmful the content is.
- Other, please specify:

4.3.1. [IF TICKED ANSWER “Making certain measures mandatory depending on the harmfulness of content: This option would entail requiring VSPs to mandatorily put in place one or more of the measures depending on how harmful the content is”, then:

To ensure a high and consistent level of protection of minors online across the EU, which options below could be considered? (all answers possible)

¹⁵ EU Parliament Think Tank – *Children and Deepfakes* (2025)
[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2025\)775855](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2025)775855)

- *Restricting through VSPs' terms and conditions: This option would entail requiring VSPs to restrict in their terms and conditions certain types of particularly harmful content, such as content promoting self-harm or suicide, content promoting eating disorders or cyberbullying*
- *Making age verification mandatory: This option would entail requiring VSPs to provide effective, easy-to-use, and accessible age verification, proportionate to the risks of the harmful content, such as pornography or gratuitous violence, and age group(s) concerned. It would complement any obligations under Articles 28 or 35 of the DSA.*
- *Making parental controls mandatory: This option would entail requiring VSPs to provide effective, easy-to-use, and accessible parental controls, proportionate to the risks of the harmful content, such as content encouraging dangerous or harmful behaviours or content including coarse/offensive language or disturbing scenes or themes, and age group(s) concerned. It would complement any obligations under Articles 28 or 35 of the DSA.*
- *Making content rating and labelling mandatory: This option would entail requiring VSPs to provide clear, consistent and meaningful content rating and labelling systems, including in a format that is usable by end-users and interoperable where appropriate.*
- *Other, please specify:]*

The Media Board recommends making the highlighted measures above mandatory depending on the harmfulness of the content:

- Restricting through VSPs terms and conditions*
- Making age verification mandatory
- Making parental controls mandatory
- Making content rating and labelling mandatory

*Regarding the first point, "restriction through the terms and conditions" certain types of particularly harmful content, the Media Board also considers that in line with the contribution above, this should not restrict the possibility to make certain provisions mandatory, should the Commission consider evaluating if additional content rules should be proposed.

In addition, it was suggested to make mandatory for VSPs the functionality available to the influencers and users uploading user-generated content to flag the age and content appropriateness of the content uploaded. NRAs consider that this would facilitate the compliance with national and local obligations of influencers.

Finally, additional recommended measures are foreseen in the section on the interaction of AVMSD and DSA.

- 4.4. * In your opinion, is there a need for the standardisation of content rating and/or labelling across the EU for VSPs and/or audiovisual media service providers, e.g. through an EU-wide industry-led content rating and labelling system or a European repository of content rating indicators, age labels and content descriptors?
- Yes, please specify:
 - No

in its contribution to the AVMSD ex-post evaluation/ 2025 report on the protection of minors, the Media Board presented a set of practical, gradual and non-binding solutions, developed within the EBMS framework.

These options are exploratory in nature and intended solely to inform voluntary cooperation and knowledge exchange among regulators. They operate strictly within the limits of the AVMSD, in full respect of the Country-of-origin principle (Article 3) and the minimum harmonisation framework (Article 4), and the Articles 6a and 28b(1)(a) concerning content which may impair the development of minors and do not create new legal obligations for NRAs or Member States.

The proposed approach is structured around two complementary levels. First, the creation of common reference tools that provide a shared voluntary reference point, promoting greater coherence and interoperability between national systems. Second, the promotion of flexible solutions and voluntary cooperation mechanisms that allow this common baseline to be adapted to different cultural, legal, or technological contexts.

- Create a European Repository of Indicators and Descriptors, a “common guide” with shared categories, pictograms, and criteria, updated periodically to address emerging risks (AI, VR/AR, livestreams). This repository would serve as a voluntary reference tool, designed to facilitate comparison and cooperation between national systems, without limiting or replacing national competences in defining content which may impair the physical, mental or moral development of minors.
- The repository could be maintained collaboratively within the EBMS framework, through periodic contributions and validation by national regulators. This cooperative structure would ensure regular updates and transparency, while preserving the voluntary and non-binding nature of the instrument.
- Develop a European Playbook, a practical manual for regulators and platforms to apply criteria uniformly, including equivalence tables between countries and clear examples. It could also integrate media literacy components to help parents, teachers, and young people understand age classifications;
- Promote “tailor-made” (flexible) solutions, allowing systems adapted to specific cultures or technologies, provided they comply with the European minimum baseline, through clear cooperation protocols between country of origin and country of destination;
- Reinforce transparency and auditing of platforms, ensuring that regulators have controlled access to criteria, algorithms, and testing environments, and integrate these requirements within the existing DSA framework to avoid duplication.

4.5. *In your view, are there any other measures that should be put in place to protect minors from harmful content online within the AVMSD?

- Yes, please specify:

- No

In addition to the measures already mentioned above Media Board members would like to emphasise the importance of measures to reduce maximum engagement features deployed by VSPs, for example constant autoplay.

Accessibility (Article 7)

Explanation: Article 7 mandates EU Member States to progressively enhance media accessibility for persons with disabilities, requiring a designated contact point, accessible emergency information, regular reporting, and encouraging accessibility action plans.

4.6. In your view, since the adoption of the AVMSD accessibility rules, to what extent do you consider that the measures taken by media service providers in your country have been effective to improve the accessibility of their services for persons with disabilities?

	To a large extent	To some extent	To a small extent	Not at all	I do not know
* Public service broadcasters		x			
* Commercial broadcasters		x			
* On-demand audiovisual media service providers		x			

4.6.1. If possible, please explain your answer and provide specific examples.

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.

- The Board recommends 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.
- 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.
- 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.
- 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.

Right of reply (Article 28)

Explanation: *Article 28 ensures that natural or legal persons whose legitimate interests have been damaged by incorrect factual statements in television programmes have a right of reply. Member States must guarantee that this right is exercised effectively, promptly, and in a manner proportionate to the harm caused*

- 4.7. * To what extent do you consider that the current right of reply in television broadcasting, as set out in Article 28, is effective?
- To a large extent
 - To some extent
 - To a small extent
 - Not at all
 - I do not know

4.7.1. If possible, please explain your answer and provide specific examples.

Many of the Media Board members are not competent for this issues. Nevertheless, it was pointed out that the framework works in the context of traditional broadcasting where the editorial responsibility of the broadcaster is clearly defined, content providers and editorial decision makers are clearly identifiable.

Media literacy (Articles 28b and 33a)

Explanation: *Article 33a of the AVMSD establishes that Member States shall promote and take measures for the development of media literacy skills and report about their implementation to the Commission. Article 28b establishes the provision of effective media literacy measures and tools among the measures to be adopted by video-sharing platforms.*

- 4.8. To what extent do you consider that measures taken by media market players under the current provisions on media literacy (Art. 28b and Art. 33a) are effective for the achievement of the following objectives?

4.8.1. By audiovisual media services

To a large extent	To some extent	To a small extent	Not at all	I do not know
-------------------	----------------	-------------------	------------	---------------

- * Protection of minors
- * Promotion of trustworthy media content
- * Combating disinformation

4.8.2. By video-sharing platforms

	To a large extent	To some extent	To a small extent	Not at all	I do not know
* Protection of minors					
* Promotion of trustworthy media content		X			
* Combating disinformation		X			

4.8.3. Please provide examples of measures that have been effective or ineffective and explain why.

In Its 2020 report on Improving Media Literacy- report on Media Literacy campaigns on disinformation ERGA concluded that:

It noticed with satisfaction several initiatives which fulfil the features of effective activity undertaken in order to combat disinformation like the Trusted News Initiative. However even these unfortunately do not reach audience wide enough.

- The media literacy campaigns or different initiatives designed to counter disinformation have limited reach and do not cover all EU Member States and in many cases the more detailed programmes are not translated in several languages.
- Some valuable ML initiatives developing digital competences among children do not cover lessons dedicated to disinformation recognition.
- In Europe there was no media literacy campaign addressed to elderly people (however one can find information on such a campaign addressed to this target group in US).
- Only in few cases the platforms organised face-to-face training for students, publicists, teachers, etc.; these practices were marginal and did not reach the wider population (especially youngsters).
- The platforms' media literacy activity is centred around the widening of user-friendly options and information pages; however, such functions and sites are hard to spot and do not reach users actively (e. g. context button on Facebook, Digital Literacy Library).

No interactive or audio-visual web-based campaigns were conducted by the platforms; their own informational pages, tips and guidelines are rarely propagated on the platforms.

The 2021 ERGA Media Literacy Report Recommendations for key principles, best practices and a Media Literacy Toolbox for Video-sharing Platforms further examined examples of Media Literacy practices by VSPs.

ERGA noted that “it is very difficult for NRAs to have visibility on VSPs' ML activities. It remains unclear to NRAs how and why VSPs select the ML initiatives they wish to pursue, deliver or fund. Transparency is therefore required if NRAs are to be able to independently assess the ML initiatives in question.”

It is clear that VSPs have for some years engaged in a variety of ML initiatives. (see 2020 EPRA report), include a mix of technology-led initiatives (e.g., content labelling and prominence,

behavioural nudges and service design, resources, advertising transparency) as well as funding, partnerships and events and campaigns.

While all these ML initiatives have value and are generally helpful to users, these appear to be delivered in an ad hoc fashion, without strategic planning from the platforms' perspective, in the absence of a platform policy framework for ML, with no apparent prior assessment of users' needs and without visibility from (NRAs) or other relevant partners. Therefore, enhancing visibility and transparency on any ML strategy, policy, data or research conducted by platforms themselves would significantly enhance the value of VSPs' ML initiatives and strive for higher level transparency and effective evaluation of their successes.

ERGA developed six key principles of ML, and a non-exhaustive illustrative list of examples of implementation of the key principles is provided. Each of the examples is accompanied with further details of the benefits for VSPs, users/citizens, NRAs and other relevant actors.

The Media Literacy Toolbox includes some concrete examples that aim to help VSPs to implement the ML key principles presented in this report.

Finally, it has been suggested that a reporting template based on the key principles may assist VSPs in their reporting to NRAs. This can provide a consistent and structured feedback of the VSPs on their ML activities. This would also support the assessment of the appropriateness of the ML measures by NRAs as required by the AVMSD (Article 28b (5)). Further exploration of what such a template model might look like and what it might achieve may be of use.

4.9. * With regard to the development of media literacy skills in the online environment, please select your preferred policy option:

- **Maintaining the status quo:** Keep the current provision under Article 28b, which requires video-sharing platforms, among other appropriate measures, to provide for effective media literacy measures and tools and raise users' awareness of those measures and tools.
- **Guidance for VSPs:** This approach would entail a non-binding guidance for VSPs concerning measures to be taken, while keeping the current provision under Article 28b.
- **Minimum specific obligations for VSPs:** This approach would entail the introduction of AVMSD-related minimum specific media literacy obligations for VSPs, such as implementing tools or features to improve media literacy or providing age-appropriate content guidance, in addition to measures foreseen under Article 35 DSA as regards VLOPs.
- **Other, please specify:**

See above.

4.10. * With regard to the reporting obligation of Member States on the implementation of the media literacy provision, please select your preferred policy option:

- **Maintaining the status quo:** This approach would maintain the current obligation according to which Member States have to report on media literacy measures they have taken, without any standardisation of reporting tools.

- Standardisation of Member States' reporting: This option would entail a standardised approach for Member States' reporting under Article 33a, for example through the use of digital tools and harmonised templates.
- Other, please specify:

The **2023 ERGA Media Literacy Report on the Experiences on the reporting exercise pursuant to Article 33a(2) of the AVMSD** provided suggestions for future reporting cycles:

- more time be given for preparing the report and contacting all entities involved in media literacy in the Member States.
- need to be informed in time and the publication of the guidelines well before the submission deadline of the report.
- the design of a clear framework, guidelines, and template for the collection of data, with more specific questions, standardizing the structure and format of the reports and data collection online .
- the need for a clearer (legal) definition for media and digital literacy was formulated, to provide a common framework as well as to help recognize which are the media and digital literacy initiatives that need to be accounted for.
- A summary and analysis of the reports was also expressed to be beneficial. Besides, the importance of receiving feedback on the report was highlighted.

Section 5: Strengthening media diversity in the internal market

Signal integrity (Article 7b)

Explanation: *Article 7b of the AVMSD states that Member States shall take appropriate and proportionate measures to ensure that audiovisual media services provided by media service providers are not, without the explicit consent of those providers, overlaid for commercial purposes or modified.*

5.1. * Question In your opinion, to what extent has this provision been effective in protecting the integrity of the content of audiovisual media service providers?

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

5.1.1. If possible, please explain your answer and provide specific examples

NRAs have reported that the provision is effective to a large extent. At the same time it's worth noting that in light of the changing viewer habits and the use of smartphones to access news content, and the viewing of VSP and online platforms content via smartTVs might increase the challenge for NRAs to effectively monitor the application of this provision.

Prominence of Audiovisual Media Services of general interest (Article 7a)

Explanation: Article 7a of the AVMSD states that Member States may take measures to ensure the appropriate prominence of audiovisual media services of general interest. This is possible under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity.

5.2. * In your opinion, to what extent is the current regulatory framework within the AVMSD effective in ensuring prominence of audiovisual media services of general interest?

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

5.3. Do you consider that audiovisual media services of general interest are sufficiently visible and easily accessible via the user interfaces commonly used to access such services, for example smart TVs, or via video-sharing platforms?

	Yes	No	I don't know
*Smart TVs		X	
*Video sharing platforms		X	

5.3.1. If possible, please explain your answer and provide specific examples.

As highlighted in the **Media Board's contribution to the AVMSD ex-poste evaluation and review**:

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.

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.

- The Board recommends that 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.
- 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.
- 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.

5.4. * In view of the objectives to safeguard media pluralism, freedom of speech, cultural diversity, media sustainability, and coherence with the European Media Freedom Act, do you consider that prominence rules would be needed also for non-audiovisual media services, such as audio (radio and podcast) and press publications?

- No
- **Yes, for audio services**
- Yes, for press publications
- Yes, for both

5.5. * In your opinion, is there a need for any mechanisms to ensure prominence of content produced by media services of general interest in the context of recommender systems or news feeds of platforms and user interfaces?

- **Yes**
- No
- I do not know

5.5.1. If possible, please explain your answer and provide specific examples.

See above

5.6. * With regard to this provision, please indicate your preferred policy option: (*only one answer*)

- **Maintaining the status quo** - keeping the adoption of prominence measures as an option for Member States without specific EU rules or guidance.

- **Guidance** - keeping the adoption of prominence measures as an option for Member States while adopting EU guidelines on their implementation.
- **Optional prominence measures with some harmonised elements:** While some elements of the prominence obligations (e.g. addressees, technical measures, jurisdiction) would be harmonised at EU level for those Member States that decide to introduce such measures, others would be left to Member States' decision. EU delegated/implementing acts or the Media Board could provide additional details
- **Optional prominence measures under a harmonised framework:** Most elements of the prominence obligations, including the criteria for specifying the media services to be given prominence, as well as monitoring and enforcement arrangements, would be harmonised at EU level for those Member States that decide to introduce such measures
- **Mandatory prominence measures with some harmonised elements:** Prominence measures would be mandatory for all Member States, and certain elements of the prominence obligations (e.g. addressees, technical measures, jurisdiction) would be harmonised at EU level, while others would be left to Member States' decision. EU delegated/implementing acts or the Media Board could provide additional details.
- **Mandatory prominence under harmonised framework:** Prominence measures would be mandatory for all Member States. Most elements of the prominence obligations would be harmonised at EU level
- **Other, please explain:**

It is recommended by the Media Board in its contribution to the AVMSD ex-poste evaluation and review:

- 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.
- In order to address the challenges related to the cross-border enforcement and to foster effective implementation by service providers, it is recommended to consider the harmonisation of prominence requirements to be implemented by user interfaces. In practice, in addition to a definition (in line with the EMFA definition for art.20) 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 proposed by the European Commission, assisted by the Media Board. 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 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.
- 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 from Member States 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.

- 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).
- 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.
- 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.
- 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.

Promotion of European works (Articles 13, 16, 17 and 18)

Explanation: In application of **Article 13(1)** of the AVMSD on-demand audiovisual media service providers must secure at least a 30% share of European works in their catalogues and ensure prominence of those works.

In application of **Articles 16-18** of the AVMSD, broadcasters must reserve at least 50% of their transmission time for European works, and at least 10% of their transmission time or of their programming budget to European independent productions.

Article 13(2) of the AVMSD allows Member States to extend their financial contribution schemes to audiovisual media service providers that are established in other Member States but target audiences in their territories, if such obligations are proportionate and non-discriminatory.

5.7. Do you agree with the following statements regarding the impact of AVMSD provisions on the promotion of European works? (Articles 13, 16, 17 and 18)

To	a	To	To	a	Not	I	do
large		some	small		at all	not	
extent		extent	extent			know	

* The requirement for on-demand services to secure at least a 30% share of European works **X**

and ensure their prominence (Art. 13(1)) has been effective in promoting cultural diversity

* The requirement for broadcasters to reserve a majority proportion of transmission time for European works effectively promotes European content (Art. 16(1)). X

* The requirement to reserve at least 10% of transmission time or programming budget for independent European works effectively supports independent production (art. 17). X

* The requirement to reserve at least 10% of transmission time or programming budget for independent European works effectively supports independent production (art. 17). X

* The national financial contribution schemes have effectively contributed to support the production of European works. X

5.7.1. If possible, please explain your answer and provide specific examples.

The AVMSD establishes a comprehensive framework to actively promote cultural diversity through the production and distribution of European works. This commitment is explicitly articulated in Recital 69 of the 2010 AVMSD, and Article 16 of the AVMSD).

This framework has proven to be highly relevant and effective. The Media Board created a more detailed analyses of the current provisions and their impact in the 2025 report on European works and the 2024 ERGA report on the transposition and implementation of Article 13 (1), (2) and (6) as well as in its report from 2023.

To achieve this goal, the AVMSD and its transposition introduce a range of targeted measures contributing to ensuring cultural diversity:

- the use of sub-quotas. Article 17 of the AVMSD requires broadcasters to allocate at least 10% of their transmission time or programming budget to European works produced by independent producers, achieved by earmarking an adequate proportion for recent works. Member States may adopt stricter rules to the broadcast services under their jurisdiction based on language criteria, provided they comply with Union law. This flexibility, allowed by Article 4 (1) of the AVMSD, enables countries to promote works in national or regional languages in audiovisual media services under their jurisdiction, reinforcing cultural and linguistic diversity. (The 2024 ERGA report) (These provisions at national level not only create new opportunities for creative talents and cultural professionals but also ensure that recent and independent productions receive visibility.

-The financial contribution to the production of European works. Under Article 13(2) of the AVMSD, Member States can extend their financial obligation schemes to media service providers targeting their audiences, even if those providers are established in other Member

States, provided the measures are proportionate and non-discriminatory. This ensures that financial resources are directed toward the production and exploitation of European audiovisual content, thereby enhancing its quality and availability. National transposition and competence for Article 13 (2) of the AVMSD differ across Member States. (2023 and 2024 ERGA reports).

While not in scope of the AVMSD, NRAs note the existence of

- funding schemes to support European works. For example, the Danish Film Institute (DFI) provides extensive funding for the production, development, and distribution of Danish and European film and media projects. (feature films, documentaries, TV series, and digital formats), with a particular focus on preserving and promoting linguistic and cultural diversity, including works in minority languages such as Greenlandic and Faroese. By doing so, the DFI strengthens Denmark’s cultural heritage and ensures that diverse voices are represented.

State aid schemes are used to support audiovisual works and contribute to cultural diversity.

Finally, prominence is also recognised as a measure to ensure the visibility and discoverability of European works. The AVMSD emphasises the need to ensure the visibility of European content in increasingly fragmented VOD media catalogues. Indeed, according to the European Audiovisual Observatory, *“Where VOD services offer a certain content, the visibility of that content, in a potentially very large catalogue without prominence rules, may be such that it will not disappear from the catalogue but escape the attention of the viewers and ultimately be marginalised to the point that it is no longer findable”*. Article 13(1) imposes obligations on VOD providers to ensure that European works are prominently featured. The 2022 ERGA report underscores the importance of prominence in today’s digital environment, where it helps relevant content reach audiences, supports the financing of media production through advertising, and safeguards a pluralistic and diverse media landscape. As noted in recital 25 of the AVMSD, Article 7a on the prominence of audiovisual media services of general interest also indirectly contributes to the visibility of European works, provided it is transposed and effectively implemented in a Member State.

Transmission of cinematographic works only as agreed with rightsholders (Article 8)

Explanation: *Article 8 requires Member States to ensure that media service providers do not transmit films outside the periods established with rights holders.*

5.8. * To what extent is the requirement that media service providers respect agreed release windows for cinematographic works still relevant in practice?

- To a large extent
- To some extent
- To a small extent
- Not at all
- I do not know

5.9. Are there any challenges or issues related to the implementation of this obligation (e.g., negotiations with rights holders, enforcement difficulties, market impacts etc)?

I don't know.

Major events (Article 14)

Explanation: Article 14 enables each Member State to take measures to ensure that broadcasters under its jurisdiction do not broadcast on an exclusive basis events which are regarded by that Member State as being of major importance for society in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following such events.

5.10. * In your opinion, to what extent the provisions of the AVMSD on events of major importance for society (Art. 14) have been effective in ensuring wide access by the public to the events of major importance for society?

- To a large extent
- **To some extent**
- To a small extent
- Not at all
- I do not know

5.11. * Do you consider that the current rules on the determination and justification for the list of major events (Article 14) are adequate?

- Yes, fully adequate
- Largely adequate
- **Partially adequate**
- Not adequate
- I do not know

5.11.1. If possible, please explain your answer and provide specific examples.

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 State 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 further complicate the cross-border enforcement of obligations and effective public access to certain events of major importance.

Finally, the Board would like to highlight the fact that increasingly deals are being made on the level of VSPs.¹⁶ And that there's currently a lack of harmonised procedure on dispute settlement.

¹⁶ https://www.broadbandtvnews.com/2026/03/20/youtube-secures-fifa-world-cup-2026-preferred-platform-deal/?mc_cid=7d0fde98d4&mc_eid=e0e7d34d04

5.12. * In your view, how could the AVMSD deal with events of major importance under Article 14 in the future:

- Maintaining the status quo
- **Revising the AVMSD**

5.12.1. [* If you selected “Revising the AVMSD” in the previous question, please select one or more of the following options.

- Expansion of the scope to include on-demand audiovisual media service providers in addition to broadcasters
- Ease and/or simplify the process of recognition of events of major importance
- **Other, please specify:]**

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).

Greater transparency is also recommended by making national lists publicly accessible.

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.

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.

Short news reports (Article 15)

Explanation: Article 15 establishes that Member States shall ensure that, for the purpose of short news reports, any broadcaster established in the EU has access on a fair, reasonable and non-discriminatory basis to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster under their jurisdiction.

5.13. * Do you consider that the current provision on short extracts (Article 15) is still relevant and necessary in the current digital media environment?

- **Yes, fully relevant and necessary**
- Largely relevant
- Partially relevant
- Not relevant
- I do not know

5.13.1. [IF TICKED “partially relevant” or “not relevant”, then

* Please explain why and suggest alternatives (e.g., removing the provision, adjusting its scope).]

Section 6: Conclusions

Please feel free to elaborate on your response and/or add further objectives for a possible reform.

You may upload here a document on the subject of this consultation, as additional background reading to better understand your position and/or to provide concrete evidence (e.g. a quantification of burdens currently incurred). The maximum file size is 1MB. The Commission will publish all additional documents received.

Please upload your file(s) (Only files of the type pdf,txt,doc,docx,odt,rtf are allowed)