



Brussels, 5.1.2024  
SWD(2024) 4 final

**COMMISSION STAFF WORKING DOCUMENT**

**Reporting on the application of Directive 2010/13/EU "Audiovisual Media Services Directive" as amended by Directive (EU) 2018/1808, for the period 2019-2022**

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## 1. INTRODUCTION – BACKGROUND TO THIS REPORT

Directive (EU) 2018/1808<sup>1</sup>, amending the Audiovisual Media Services Directive (, hereinafter “the AVMSD”), was adopted in November 2018, to bring the AVMSD in line with the new media landscape and shifting market reality.

It aims to create fair conditions for all players in the audiovisual sector, including traditional television broadcasters and on-demand service providers, and to extend some of the rules to video-sharing platforms.

The new rules strengthen the protection of minors and consumers and help combat hate speech in all audiovisual content. They also reinforce the country-of-origin principle, place an emphasis on the promotion of European audiovisual works, give broadcasters more flexibility in terms of advertising, introduce further measures on accessibility and guarantee the independence of audiovisual regulators. It should be recalled that the AVMSD has to be interpreted and applied in a manner consistent with Union law, in particular the fundamental rights protected by the Union legal order and the general principles of Union law.

To ensure a coherent implementation of the new AVMSD rules across the Union, in 2020 the Commission adopted two sets of guidelines: **the guidelines on video-sharing platforms** which concern the practical application of the essential functionality criterion of the definition of a ‘video-sharing platform service’<sup>2</sup> and **the guidelines on European works** which focus on the calculation of the share of European works in on-demand catalogues and the definition of low audience and low turnover<sup>3</sup> allowing for certain derogations.

Article 33 of the AVMSD provides that by 19 December 2022<sup>4</sup>, and every three years thereafter, the Commission must submit a report to the European Parliament, the EU Council and the European Economic and Social Committee on the application of the AVMSD. However, due to the late transposition of the Directive by some Member States, due by 19 September 2020, this report had to be postponed. This report covers the period 2019-2022. Its main objective is to examine how Member States have implemented the revised AVMSD in the reporting period, focusing on the main changes brought about by that Directive.

This report looks specifically at a wide range of important areas of the AVSMD, in particular: the scope of application of the AVMSD, the country-of-origin principle and the cooperation between national regulators and ERGA, the protection of minors, the accessibility of audiovisual media services to persons with visual or hearing disabilities, the rules on prominence of audiovisual media services of general interest, the rules on signal integrity, the audiovisual commercial communications, the co-/self-regulatory initiatives, , the rules on video-sharing platforms and the independence of media regulators. Where relevant, the report refers to the proposed provisions of the European Media Freedom Act proposal (EMFA)<sup>5</sup>.

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<sup>1</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

<sup>2</sup> Communication from the Commission Guidelines on the practical application of the essential functionality criterion of the definition of a ‘video-sharing platform service’ under the Audiovisual Media Services Directive 2020/C 223/02, C/2020/4322.

<sup>3</sup> Communication from the Commission Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover 2020/C 223/03, C/2020/4291.

<sup>4</sup>

<sup>5</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive

The implementation of the rules for the promotion of European works by linear and non-linear service providers is not covered in this report, as it is subject to a separate reporting exercise pursuant to Articles 13 and 16 of the AVMSD. The Commission is planning to issue the report covering the period 2020-2021 shortly.

The report is based on the replies from Member States to a questionnaire sent by the Commission to the national authorities<sup>6</sup>. It takes also into account recent cases settled by the Court of Justice of the European Union (CJEU) as well as information on developments in the area of audiovisual media services in Europe.

On 9 May 2023, the European Parliament adopted a non-legislative resolution on the Implementation of the Audiovisual Media Services Directive, based on an own-initiative report, that examines the implementation of the AVMSD since its revision in 2018<sup>7</sup>. The Commission responded to the resolution in September 2023<sup>8</sup>.

## **2. APPLICATION OF THE DIRECTIVE**

### **2.1. Material scope of application with a special focus on the new definitions set out in the AVMSD**

According to the input received, most Member States did not experience significant problems regarding the scope of application of the revised AVMSD, or regarding its new definitions.

A number of Member States reported having encountered difficulties in the regulation of video-sharing platforms and on-demand audiovisual services as regards definitions. The main challenges related in particular to the classification of certain providers as either video-sharing platforms or media services, as well as to the distinction between video-sharing platforms and video-on-demand services on the basis of the editorial responsibility criterion.

For instance, one Member State stressed that the need to assess the classification as a video-sharing platform on a case-by-case basis could increase the risk that the relevant providers may challenge the assessments made by its national regulatory authority.

Similarly, one Member State reported problems in identifying the scope of the rules on on-demand audiovisual media services. The issue in this case was whether the Directive should also apply to on-demand providers who disseminate their content on video-sharing platforms who do not reach a significant share of the total audience and do not qualify as mass media services.

Two Member States also highlighted the limited applicability of the relevant video-sharing platforms provisions in small countries, due to the fact that there are no video-sharing platforms established in those countries. As a possible remedy, to enable all Member States to regulate the content disseminated on video-sharing platforms, it was suggested that the scope of the rules be extended to also cover natural persons offering audiovisual content on such platforms.

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2010/13/EU, COM(2022) 457 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0457>

<sup>6</sup> The Commission has not yet completed its assessment of the correctness of national measures taken by Member States to transpose the revised AVMSD.

<sup>7</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2023-0134\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0134_EN.html)

<sup>8</sup> SP(2023)377

Some Member States referred to challenges in the application of the AVMSD to on-demand providers, stemming from the definition of on-demand audiovisual media service which they considered to be too general.

In particular, one Member State pointed to the very broad scope that the rules in question appear to have in practice, which allows to identify as on-demand audiovisual media services also websites containing videos which are not part of their main functionalities.

Some Member States flagged issues connected to their national laws that go beyond the AVMSD. For example, two Member States reported challenges concerning the extension to on-demand service providers of obligations imposed at national level to register with their national regulatory authority. One of them reported that some on-demand providers questioned the fact that the curation and presentation of the content on their platforms could qualify as editorial responsibility and disputed whether the obligation to register apply to them.

One Member State also reported problems in identifying media service providers on social networks and video-sharing platforms, especially as regards the distinction between channels or accounts that produce editorial content and can qualify, accordingly, as media service providers and channels or accounts that produce content that should be considered as user-generated content.

Similarly, some Member States referred to difficulties in addressing the regulation of so-called “vloggers/influencers”, given that the AVMSD does not include a definition of those. In particular, it was reported that the main problem stemmed from the different approaches followed by the national regulatory authorities as regards identifying vloggers/influencers as media service providers. For this reason, one Member State suggested taking a harmonised approach, in particular in markets that share the same language, including with respect to the application of rules concerning the identification of audiovisual commercial communications.

A few Member States also reported problems in applying some of the other new AVMSD definitions. In particular, two Member States referred to difficulties encountered in relation to the new definition of user-generated video, as regards the possibility to qualify live-streamed content on certain platforms as such. They also referred to difficulties concerning the practical application of the essential functionality criterion in the definition of video-sharing platform service, while another Member State reported challenges as regards the application of the provisions on product placement where no payment is declared by the relevant providers.

## **2.2. Free provision of services across the Union – country of origin principle**

The AVMSD is based on the ‘country-of-origin’ principle. Under this principle, audiovisual media service providers are, as a rule, subject only to the rules and jurisdiction of the Member State where they are established.

Pursuant to these rules, the service providers established in that Member State can freely provide their services across the Union, as Member States are required to ensure freedom of reception and not to restrict retransmission of audiovisual media services from other Member States for reasons that fall within the fields coordinated by the Directive<sup>9</sup>.

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<sup>9</sup> The CJEU held in this respect that it is solely for the Member State from which audiovisual media services emanate to monitor the application of the law of the originating Member State applicable to those services and to ensure compliance with Directive 89/552 as amended by Directive 97/36, and that the receiving Member State is not authorised to exercise its own control for reasons which fall within the fields coordinated by that directive (see judgment of 22 September 2011, *Mesopotamia Broadcast and Roj TV*, C-

Media services from third countries, for instance those that are distributed via the Internet, without any establishment in the Union, can be regulated by every Member State in which they can be received according to the respective national law. Enforcement in these cases may however be difficult, as it has been reported by some Member States.

The ‘country-of-origin’ principle has facilitated the cross-border transmission of television channels and video-on-demand (VOD) services. Additionally, the AVMSD sets some minimum - standards, which means that Member States are free to enact stricter or more detailed rules at national level, provided that such rules are in compliance with Union law.

The application of the ‘country-of-origin’ principle requires the knowledge about where the service originates from, that is which Member State has jurisdiction over that service. In most cases, the continuously improved MAVISE database of the European Audiovisual Observatory<sup>10</sup> has proved useful in this regard, as it indicates the country of jurisdiction of television channels, on-demand services and video-sharing platforms available in the European Economic Area.

Nevertheless, several Member States reported problems identifying the Member State with jurisdiction for the purposes of the AVMSD, in particular in the context of services originating from non-EU countries that are under the jurisdiction of a Member State due to the application of the Directive’s satellite criteria, i.e. services using satellite up-links<sup>11</sup> or satellite capacities in/of that Member State (Article 2(4) AVMSD).

One Member State pointed to the fact that there is no central register for satellite up-links or satellite capacities and that jurisdictional problems would also arise if a service used satellite up-links or satellite capacities in more than one Member State.

The AVMSD contains some limited exceptions to the operation of the country-of-origin principle. Member States can restrict the reception and retransmission of audiovisual media services on their territory only in limited cases and following the procedures laid down in Articles 3 and 4 of the AVMSD.

In 2021, the Latvian national regulatory authority for audiovisual media services applied the derogation procedure to restrict the retransmission of a Russian-language television channel from another Member State. This restriction was based on Article 3(2) AVMSD, which sets up a procedure under which Member States can derogate from the country-of-origin principle if an audiovisual media service provided by a media service provider under the jurisdiction of another Member State ‘manifestly, seriously and gravely’ infringes, *inter alia*, the prohibition of incitement to hatred (Article 6(1)(a)).

In line with the procedure established in Article 3(2), and after informing the Contact Committee, the Commission issued a Decision in May 2021 concluding that the measures taken by Latvia were compatible with Union law.<sup>12</sup>

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244/10 and C-245/10, paragraph 36 and the case-law cited). See, more recently, judgment of 4 July 2019, *Baltic Media Alliance*, C-622/17, paragraph 72.

<sup>10</sup> MAVISE database provides information on audiovisual media services active in the 27 Member States as well as in other European countries and Morocco (<http://mavise.obs.coe.int/>).

<sup>11</sup> A satellite up-link is the link from a ground station to a satellite.

<sup>12</sup> Commission Decision of 7 May 2021 on the compatibility of the measures adopted by Latvia pursuant to Article 3(2) of Directive 2010/13/EU of the European Parliament and of the Council to restrict retransmission on its territory of an audiovisual media service from another Member State, C(2021) 3162 final, <https://digital-strategy.ec.europa.eu/en/news/decision-latvia-suspend-broadcast-tv-channel-rossiya-rtr-compatible-eu-law>.

Following the Russian war of aggression against Ukraine in February 2022, the national regulatory authorities in Estonia, Latvia, Lithuania and Poland adopted measures to suspend the broadcasting of several Russian and Belarussian television channels in their territories, which were retransmitted from another Member State. This was because the regulatory authorities had concluded that the media service providers in question prejudiced or posed a risk of prejudice to public security, including the safeguarding of national security and defence.

There is a special urgent procedure Article 3(5) AVMSD for cases of manifest, serious and grave infringement of Article 6(1)(b) or cases of prejudices or of serious and grave risks of prejudice to public security, including the safeguarding of national security and defence. The Estonian, Latvian, Lithuanian and Polish authorities informed the Commission of the measures they had taken. The Commission considered that the adopted measures were not incompatible with Union law. The urgent procedure does not explicitly require the adoption of a Commission Decision unless it considers the measures to be incompatible with Union law.<sup>13</sup>

In the context of the Russian war of aggression against Ukraine, the possibility that some Russian media outlets were profiting from the country-of-origin principle, by using the satellite up-link in a Member State as a jurisdiction criterion to benefit from the freedom of retransmission within the Union, gained practical relevance.

Some Russian media that are state-owned or closely linked to the Russian government tried to distribute their content via satellite into Member States that had previously suspended these media in their territory under the procedures set out in Article 3 AVMSD (described above).

The lack of a mechanism in the AVMSD to restrict distribution of such content Union-wide was signalled by one Member State as a regulatory gap. In this context, it is relevant to indicate that the EMFA proposal includes a provision for a mechanism of coordination between national regulatory authorities to address scenarios like the ones described above, regarding media service providers established outside the Union that target audiences in the Union, where such media services prejudice or present a serious and grave risk of prejudice to public security and defence (Article 16 of the EMFA proposal).

According to several Member States, a specific challenging issue relating to the ‘country-of-origin’ principle and the freedom of reception and retransmission is the distribution of content deemed not suitable for certain age groups in the Member State of destination.

Cooperation and exchanges between the respective regulators do help to resolve cases where the rules of the Member State having jurisdiction (country-of-origin) have been violated. However, there are indications that some challenges remain where the content is deemed suitable for the age group in question by the authorities in the country of origin, but not by the authorities of the country of destination.

In the specific situation of video-sharing platforms distributing pornographic content, some Member States have used the derogation procedure set out in Article 28a(5) AVMSD in

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<sup>13</sup> According to Article 3(5) of Directive 2010/13/EU, “Where it comes to the conclusion that the measures are incompatible with Union law, the Commission require the Member State in question to urgently put an end to those measures”.

connection with Article 3 of the e-Commerce Directive<sup>14</sup>, when they have considered that the authority in the country of origin was not taking sufficient action.

In this regard, the EMFA proposal contains a specific mechanism to allow national regulatory authorities to request their counterparts to take the necessary actions to ensure the enforcement of the obligations by video-sharing platform providers under the AVMSD<sup>15</sup>. This will be key for ensuring that audiences, and in particular minors, are effectively protected across the Union when accessing the content on video-sharing platforms.

### **2.3. Protection of minors in audiovisual media services**

The revised AVMSD has increased the level of protection of minors in on-demand audiovisual media, achieving an alignment between broadcasters and on-demand services. Video-on-demand service providers must restrict access to any kind of “harmful content” for minors (Art.6a AVMSD). The same rule already applied to broadcasters. The measures applied need to be justified and proportionate to the potential harm of the programme. The most harmful content, such as gratuitous violence and pornography, needs to be subject to the strictest measures which provide a high degree of control (such as age verification or pin codes).

The Directive also encourages the use of co-regulation on content descriptors, to provide sufficient information to viewers about the possible harmful nature of the content of an audiovisual media service (Art 6a(1) AVMSD). Both the Member States and the Commission may foster self-regulation through relevant Union codes of conduct (Art. 6a(4)). Furthermore, the AVMSD also mandates that personal data of minors collected by media service providers must not be used for commercial purposes, like direct marketing, profiling or behaviourally targeted advertising (Art. 6a(2) AVMSD).

It should be noted that several Member States had already strengthened the protection of minors before they transposed the new rules now included in the AVMSD, by extending the measures provided for linear services (notably content rating, age verification and parental control systems) to also cover on-demand services. In the reference period, half of the Member States continued applying the existing measures (watersheds, content rating, parental control, age verification *etc.*) to ensure the protection of minors, both on linear and on-demand services.

While watersheds continue to be the main tool used for protecting minors in the linear environment, content rating, age verification and parental control are used in most Member States to prevent children from accessing harmful content on on-demand services.

Most Member States have foreseen new systems to describe the potentially harmful nature of the content of audiovisual media services (content descriptors) in line with the new rules in the AVMSD. Those systems are mainly based on visual symbols and acoustic warnings indicating the types of violent content (for instance violence, sex, fear, alcohol and drugs abuse). In some Member States, visual symbols must be displayed throughout the duration of the programme, or at least at the start of the programme. In a few Member States, acoustic warnings must precede the programme. In several Member States, the work to implement the rules on content descriptors is still ongoing.

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<sup>14</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (‘Directive on electronic commerce’).

<sup>15</sup> Article 14 of the EMFA proposal, which would not substitute Article 3 of the e-Commerce Directive.



The Commission will closely monitor the implementation of these rules in Member States. Regarding monitoring to ensure compliance with the requirements for the protection of minors, most Member States did not put in place new monitoring or enforcement initiatives in the reference period. Several Member States have nevertheless adapted their monitoring system through different means, notably the creation of a new protocol on commercial communication and content aimed at minors, recommendations for the safe use of electronic media, the adoption of specific guidelines for the monitoring of on demand services, or the establishment of a Commission that supervises compliance with legal regulations in the area of protection of minors.

In relation to the provisions on the protection of personal data, the vast majority of Member States did not report any issues on the application of the rules. For some Member States, the area of data protection falls outside the remit of the national media regulators, since the national data protection authorities are the competent bodies.

#### **2.4. Accessibility of audiovisual media services to persons with disabilities**

Member States are required to ensure that media service providers under their jurisdiction actively seek to make content accessible to persons with disabilities. The means to make audiovisual media services accessible should include, but not be limited to, sign language, subtitling for the deaf and hard of hearing, spoken subtitles and audio description. These accessibility requirements should be met through a progressive and continuous process.

Thirteen Member States reported that obligations have been introduced to provide a certain proportion of programmes with accessibility features such as subtitles, spoken subtitles, sign language or audio description. Member States tend to set higher standards of accessibility, for example requiring a higher proportion of programmes with accessibility means, for public broadcasters, compared to private broadcasters. There is also a tendency to apply different obligations taking into account the nature of the content. For instance, several Member States apply more stringent accessibility requirements to audiovisual media services of general interest, political and economic debates and news programmes.

According to the Member States, the accessibility of non-linear audiovisual media services has improved during the reporting period. Thirteen Member States have reported specific regulations applicable to on-demand audiovisual media service providers. Also, five of those Member States have introduced specific quotas for accessible non-linear content.

Several Member States have introduced exemptions to the accessibility requirements based on the programme type (e.g., thematic channels intended for live music and sports broadcasts) and on the size of the audiovisual media service provider or on its market share (e.g. exempting micro-enterprises).

Several Member States reported that the media service providers' financial condition and technical development of accessibility services is taken into account when determining how and to what extent the accessibility measures are imposed. As regards the technical implementation of accessibility measures, several Member States noted the successful use of automated tools, such as speech recognition and subtitling technologies.

As far as monitoring is concerned, Article 7(2) of the revised AVMSD requires Member States to ensure that media service providers report to the national regulatory authority on a regular basis on how they are implementing accessibility measures. Fourteen Member States noted that media service providers have reported to the competent national regulatory authority on their implementation of accessibility measures.

The revised AVMSD also requires Member States to encourage media service providers to develop accessibility action plans. Ten Member States have reported that accessibility action plans have been developed by media service providers during the reporting period.

Several Member States explained that action plans have not yet been reported by media service providers due to the late transposition of the revised AVMSD.

One Member State requires media service providers to submit an accessibility action plan when applying for a license for the provision of television services. Another Member State reported that the national regulatory authority has developed a unified accessibility action plan which media service providers can use for creating their own action plans. This Member State also reported that almost all media service providers under its jurisdiction have developed accessibility action plans.

Accessibility measures set out in the AVMSD complement Directive (EU) 2019/882<sup>16</sup> on the accessibility requirements for products and services, which must be fully applied by Member States by 28 July 2025. That Directive includes measures to improve the accessibility of products providing access to audiovisual media services such as websites, online applications, set-top box-based and downloadable applications, mobile device-based services, including mobile applications and related media players, connected television services as well as accessibility features of electronic programme guides (EPGs).

## **2.5. Prominence of audiovisual media services of general interest**

The revised AVMSD (Article 7a) recognises the possibility for Member States to take measures to ensure the appropriate prominence of audiovisual media services of general interest. Member States may impose such obligations where they are proportionate and necessary to meet clearly defined general interest objectives, such as media pluralism, freedom of speech and cultural diversity. Such obligations may only be imposed where they are necessary to meet general interest objectives clearly defined by Member States and in accordance with Union law.

Over the period 2019-2022, most Member States had not adopted legislation of this kind. One of the reasons given by Member States for this was the lack of an identified need in the national context. In some Member States, options to implement the requirement and to adopt more detailed legislation were being explored at the time of drafting this report.

Two Member States had adopted prominence schemes with secondary law explaining how to ensure prominence, to which services and interfaces to which their rules apply and how content of general interest is to be determined. At the same time, several others had adopted legislation recognising the possibility to regulate the matter but had taken few or no further measures regarding how to apply the rules through more specific measures and criteria.

Some Member States reported that before the AVMSD was revised, they already had certain rules in place concerning, for example, priority in channel numbering, appropriate visibility of emergency messages by public authorities and must-carry obligations for certain television broadcasting services.

All in all, Member States have adopted a range of different approaches regarding the regulation of prominence of audiovisual media services of general interest. It is worth noting that, in order to ensure consistent regulatory practices, the EMFA proposal<sup>17</sup> envisages that

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<sup>16</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services ([OJ L 151, 7.6.2019, p. 70](#)).

<sup>17</sup> See note **Error! Bookmark not defined.**

the Commission will produce guidelines related to Article 7a of the AVMSD with the assistance of the new European Board for Media Services.

## **2.6. Signal integrity**

To protect the editorial responsibility of media service providers and the audiovisual value chain, certain measures are in place to guarantee the integrity of programmes and audiovisual media services. For this purpose and according to Article 7b of the AVMSD, Member States must 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.

All Member States but one had transposed the measures on signal integrity by the end of the reporting period. One Member State has introduced measures to compensate media service providers whose right to signal integrity has been infringed. In such cases, the competent national regulatory authority has the right to determine the infringer's gained economic advantage, confiscate such sum and pay the confiscated sum to the media service provider. The company suspected of the infringement must provide the regulatory authority with all the information and provide access to records to the extent necessary to establish whether an infringement has taken place and determine the economic advantage gained.

None of the Member States reported issues with signal integrity measures or infringements during the reference period. A small number of Member States have decided to monitor compliance with signal integrity measures primarily based on complaints. One Member State reported that the competent national regulatory authority has been authorised to issue exemptions from the requirement to receive consent from media service providers to overlay or change audiovisual media services.

## **2.7. Audiovisual Commercial communications**

The revised AVMSD has introduced a number of changes concerning the regulation of audiovisual commercial communications. Among other things, the Directive now contains tighter rules to protect children from inappropriate audiovisual commercial communications, it extends rules concerning advertising of alcoholic drinks to cover on-demand audiovisual media services, and it prohibits not only all forms of audiovisual commercial communications for tobacco products but also includes the prohibition for electronic cigarettes and refill containers introduced by the Tobacco Products Directive (2014/40/EU).

Additionally, while the maximum advertising time on television broadcasting has not been increased, the revised AVMSD gives more flexibility, allowing broadcasters to choose more freely when to show ads throughout the day.

When it comes to infringements or complaints concerning audiovisual commercial communications registered during the reporting period, most Member States provided examples. Similarly to the findings in the previous Application Report<sup>18</sup>, the most cited issues concerned Article 9(1)(a)<sup>19</sup> (recognisability of audiovisual commercial communications and prohibition of surreptitious audiovisual commercial communications) and Article 11 (product placement rules)<sup>20</sup>. They were mentioned by eight and seven Member States, respectively. A

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<sup>18</sup> Report on the application of Directive 2010/13/EU "Audiovisual Media Services Directive" for the period 2014-2019, <https://digital-strategy.ec.europa.eu/en/library/report-application-directive-201013eu-audiovisual-media-services-directive-period-2014-2019>

<sup>19</sup> This provision was not modified by the revised AVMSD.

<sup>20</sup> This provision has been modified by the revised AVMSD, but its previous version already covered product placement.

few Member States mentioned issues concerning compliance with the hourly amount of admissible advertising on television broadcasting. One Member State indicated that it is difficult for them to monitor advertising time.

Two Member States raised issues concerning food advertising in particular. One of them reported that it would be beneficial to display warning statements in connection with advertising of unhealthy foods and drinks. Another Member State reported an instance of incorrect information and unfair commercial practices related to the advertising of food supplements and of food for specific groups.

Additionally, some Member States mentioned the introduction or the existence of legislative tools, such as banning the advertising of unhealthy food and drinks that target children, which go beyond the obligation and scope of the Directive on this matter. Some of these laws include specific references to nutritional tables to verify compliance with the legislation.

No issues with audiovisual commercial communications for alcoholic drinks were identified. In this regard, one Member State informed that in the reporting period it had introduced new, stricter rules going beyond the AVMSD.

Issues related to tobacco advertising were mentioned by two Member States, including hidden advertising for smoking products.

Some Member States flagged issues connected to their national laws that go beyond the AVMSD, for example with regard to advertising gambling services, toys for children and exceeding a sound volume limit for television advertising.

One Member State noted that the category of “children’s programmes” could be very broad if it includes family-oriented television shows such as cooking and talent shows. This is relevant when implementing the rules on product placement.

Three Member States reported that they or their national regulatory authorities are developing or have developed support measures regarding the identification of audiovisual commercial communications in vloggers’ content. One Member State has prepared guidelines regarding the identification of audiovisual commercial communications in audiovisual media services and radio programmes.

In February 2021, the Court of Justice of the EU issued a preliminary ruling<sup>21</sup> regarding the compatibility with the principle of equal treatment under Union law and Article 56 TFEU of a national law that prohibited television broadcasters from inserting, in their national broadcasts, television advertisements whose broadcasting is limited to a regional level.

In its ruling, the Court held that a total prohibition may go beyond what is necessary to preserve the pluralistic nature of the offer of television programmes by reserving revenue from regional television advertising for regional and local channels. Secondly, it held that this could create an unacceptable inequality between national television broadcasters and providers of advertising services on the internet. However, no issues connected to this judgment were reported by Member States during the reporting period.

## **2.8. Co-/self-regulatory initiatives**

Several Member States reported that new co-regulatory or self-regulatory schemes were adopted during the reporting period.

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<sup>21</sup> Judgment of 3 February 2021, *Fussl Modestraße Mayr GmbH v SevenOne Media GmbH, ProSiebenSat.1 TV Deutschland GmbH, ProSiebenSat.1 Media SE*, C-555/19.

Among the new initiatives reported, many were based on the activities of relevant national self-regulatory bodies. For instance, one Member State mentioned the crucial role played by the national self-regulatory body in steering voluntary cooperation among the relevant players in the advertising sector, including the creation of various codes of conduct in compliance with the conditions set out in Article 4a(1) of the revised AVMSD.

Another Member State reported about the introduction of a provision, in the field of the fight against disinformation, giving media providers that join a recognised voluntary self-regulation body the presumption that their offer is compatible with the relevant national legal framework.

A few Member States referred to the establishment of new codes of conduct for the protection of minors. One Member State in particular recalled the existence of a comprehensive system of “regulated self-regulation”, a specific form of self-regulation<sup>22</sup>, in the field of youth media protection, based on binding standards to respond with flexibility to new developments in the field.

It is also worth noting that under the European strategy for a better internet for kids,<sup>23</sup> the Commission is set to facilitate a comprehensive EU Code of Conduct on age-appropriate design. It will build upon and support the implementation of the Digital Services Act,<sup>24</sup> focusing on the rules dedicated to the protection of minors and contribute to the implementation of the AVMSD, involving industry, civil society, and academia<sup>25</sup>.

One Member State reported about the signing of a Charter whereby media service providers committed to improving the representation of persons with disabilities and increasing their participation in the media.

Some Member States mentioned new activities in the field of audiovisual commercial communications, including those targeting minors. These activities encompassed either the drawing up of new codes of conduct or the strengthening of the existing self-regulatory mechanisms, through the adoption of measures such as the development of a sanctions catalogue and other enforcement mechanisms, the establishment of a technical advisory body or the introduction of extensive reporting obligations.

As regards co- and self-regulation regarding inappropriate audiovisual commercial communications for alcoholic drinks and unhealthy foods and drinks targeted at children, the new initiatives reported by the Member States were mostly based on self-regulation with self-regulatory bodies often also in charge of monitoring their compliance and efficiency.

For instance, one Member State mentioned the creation of an ethics commission in charge of handling complaints on inappropriate advertisements for alcoholic drinks, with the power to order the termination of violations of the relevant code of conduct and to impose sanctions where media service providers fail to comply with its decision. Similarly, another Member

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<sup>22</sup> In a system of “regulated self-regulation”, certified voluntary self-regulatory bodies can be set up with the task to monitor compliance by their members with the relevant binding requirements provided by the law. In such a system, the relevant supervisory authority can only intervene if the certified voluntary self-regulatory body has exceeded the legal limits of its discretion.

<sup>23</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+)*, [COM\(2022\) 212 final](#).

<sup>24</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) ([OJ L 277, 27.10.2022, p. 1](#)).

<sup>25</sup> <https://digital-strategy.ec.europa.eu/en/policies/group-age-appropriate-design>.

State reported about a dispute resolution mechanism, provided by the relevant self-regulatory body for the advertising sector, which allows consumers and entities to complain in case of infringements of the relevant code of conduct on advertising of alcoholic beverages and ask for the modification or withdrawal of non-compliant advertisements. Some Member States mentioned similar complaint handling systems with respect to the enforcement of codes of conduct regulating commercial communications for unhealthy food and drinks targeting children. One Member State reported that the existing rules on advertising for unhealthy foods and drinks targeting children had also been extended to cover video-on-demand services, video-sharing platforms and user-generated content.

Almost half of the Member States reported that no new co-regulatory or self-regulatory scheme was adopted during the reporting period.

In this respect, one Member State reported that the lack of adoption of new initiatives was due to the fact that the areas in which such regimes are encouraged by the Directive had already been regulated by statutory law. Some Member States also indicated that the very recent transpositions of the revised AVMSD in their legislation had not yet allowed them to sufficiently explore the relevant self- and co-regulation mechanisms in their national frameworks.

One Member State also mentioned the establishment of a media ombudsperson, functioning as a media ethics self-regulative system, in charge of handling complaints regarding offensive or otherwise damaging information in the media about individuals.

In addition, some Member States reported they had adopted new rules in their national legislation encouraging co- and self-regulation regimes. They also reported initiatives taken by relevant providers and national regulatory authorities concerning the revision of existing codes or the development of new self- and co-regulation mechanisms to implement and comply with the new regulatory frameworks established following the transposition of the Directive.

Similarly, one Member State reported that it had given its national regulatory authority new powers to promote self-regulation and cooperation with self-regulatory bodies.

A few Member States also referred to the activities undertaken by their national regulatory authorities that could contribute to ensuring compliance with self-regulatory initiatives. These measures consisted of e.g., the issuing of opinions on the codes of conduct adopted by media service providers and the issuing of ordinances prescribing the technical measures and rules of conduct to be followed in cases of publication of media content that may harm minors.

They also included the adoption of recommendations, guidelines, awareness actions, or instructions with a view to guiding the sector on the advertising of certain low nutritional-quality food products and drinks in children's programmes.

Also indicated in this context were the creation of a committee of experts tasked with making proposals for improving advertising that encourages balanced diets and healthy lifestyles, and the imposition of pecuniary sanctions on the providers who fail to comply with decisions made by relevant self-regulatory bodies.

## **2.9. Video-sharing platforms**

Article 28b of the revised AVMSD requires Member States to ensure that video-sharing platform providers ("VSPs") under their jurisdiction meet various requirements. This includes the obligations for VSPs to apply appropriate measures to protect minors and the general

public from certain types of harmful and illegal content, as well as several obligations regarding audiovisual commercial communications.

All Member States, with one exception,<sup>26</sup> indicated that the obligations on video-sharing platforms were fully implemented in their national legal systems by the end of the reporting period. A few Member States noted that they made use of Article 28b(6) to adopt more detailed or stricter measures, which must comply with the requirements set out by applicable Union law. The recent European Audiovisual Observatory reports regarding VSPs also confirm the introduction of more protective measures by several Member States, in particular in relation to audiovisual commercial communications.<sup>27</sup>

Generally, Member States referred to a list of appropriate measures for VSPs that was set out in their national laws to comply with Article 28b(1) and (2) AVMSD. Two Member States explicitly stated that the list of measures set out in the law is non-exhaustive. A few Member States indicated that further detailed rules were pending or are being currently drawn up. One Member State noted that VSPs established on their territory are required to adopt a code of conduct that prescribes the measures listed in Article 28b(3).

It is worth noting that almost half of the Member States indicated that they did not have any video-sharing platforms under their jurisdiction and were therefore unable to report on the application of the measures.

Among those having VSPs under their jurisdiction, a number of Member States indicated that there are currently ongoing discussions with these VSPs as regards the appropriate measures to be taken. Two Member States reported that the adequacy of the measures will be assessed and re-discussed after a yearly activity report that will be prepared by VSPs. Another Member State indicated that the terms and conditions of VSPs are agreed with the media regulator and published once they are considered to fulfill the requirements set out in the law. Overall, relatively few Member States were able to report on the measures applied by VSPs.

When it comes specifically to **measures put in place by VSPs to protect minors from harmful content**, generally Member States indicated that the measures to be put in place by VSPs are the ones listed under Article 28b(3) of the AVMSD. Only a few Member States were able to report on specific measures that were applied in practice, given that not many have VSPs under their jurisdiction or that other regulators are in the process of examining the measures.

In particular, one Member State pointed to the measures applied by a VSP for content that could be considered as harmful. The VSP has built in age restrictions and/or has introduced a message warning the user about the display of such content. A parent has the possibility to authorise the viewing of certain content by their child, which is then classified as ‘parental guidance’; other types of content (‘mature audience content’) are subject to stricter access and are therefore only accessible after age verification and approval of the account.

The VSP in question also provides the possibility for disclaimer messages that can be added to a specific content as an extra warning message. Other Member States pointed to the terms and conditions or ethical guidelines of their VSPs, which contain or will contain in the future information on the content that can be uploaded on the platform. Some of these codes or

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<sup>26</sup> This Member State indicated that the measures required by Article 28b(3) will be set out in online safety codes, which will be enforced by a newly created authority.

<sup>27</sup> [Mapping of national rules applicable to video-sharing platforms: illegal and harmful content online – 2022 update. Mapping report on the rules applicable to video-sharing platforms: Focus on commercial communications.](#)

charters will aim to ensure that users are made more sensitive towards the presence of images of minors under 16 on their services, as well as towards their data protection and possible reporting on content that could impact their dignity or moral and physical integrity.

Some media regulators considered that the VSPs under their jurisdiction meet accepted standards, such as those concerning age verification systems, and informed the Commission that a continuous exchange is taking place to keep such standards up to date. Another Member State indicated that it has recently dealt with complaints regarding small VSPs established in its territory and considers that this has resulted in an improvement of the age verification systems.

Member States report that **the provisions on audiovisual commercial communications** under Article 28b(2) have been transposed mostly verbatim. There is little information reported by e Member States on the implementation by VSPs. Member States mentioned as reasons for this that the rules are recent, that discussions with VSPs are ongoing or that Member States do not have any VSP established in their territory.

Several Member States noted that codes of conduct are envisaged on this aspect. One Member State indicated that the VSP under its jurisdiction does not allow commercial communications, unless authorised by the same platform, while at the same time this VSP does not have a feature requiring users to indicate whether their videos contain such communications.

Another Member State specified that its laws contain certain prohibitions regarding commercial communications that impact minors (e.g. it prohibits such communications from inciting minors to buy products by exploiting their lack of experience). Moreover, one Member State indicated that its national requirements regarding audiovisual commercial communications on VSPs are not as detailed as the ones applicable to audiovisual media service providers. By contrast, another Member State explained that the implementing provisions are stricter and correspond to the rules applicable to media service providers, resulting in platforms being banned from providing alcohol advertising and advertising aimed at children.

When it comes to possibilities for **out-of-court redress** under Article 28b(7), Member States reported on various such mechanisms that are in place. These typically allow for submission of complaints to media regulators (in most Member States) or other authorities, whether created specifically after the transposition of the AVMSD (e.g. conciliation bodies) or not (ombudsman/ombudswoman, trade inspection authority, national audiovisual institute etc.).

More generally, several Member States referred to mediation or arbitration bodies which are available for solving disputes among users and video-sharing platform providers. Three Member States explicitly indicated that the practical implementation of the out-of-court mechanisms was still ongoing. In two Member States, it is incumbent on the VSPs to make mediation procedures available to users, with the ultimate supervision of these obligations being done by the relevant authorities. Member States did not report any cases where such out- of- court mechanisms had been used during the reporting period.

It is worth mentioning that during the reporting period, the Digital Services Act<sup>28</sup> was adopted and entered into force in November 2022. The Digital Services Act has the objective of ensuring a safe, predictable and trusted online environment, addressing the dissemination of illegal content online and the societal risks that the dissemination of disinformation or other

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<sup>28</sup> See note 24.



harmful content may generate, and within which fundamental rights enshrined in the Charter are effectively protected and innovation is facilitated.

The Digital Services Act establishes a harmonised and horizontal regulatory framework applicable to online intermediary services, including certain video-sharing platforms and hence complements the sector specific rules of the AVMSD. It also imposes additional obligations on service providers who are formally designated as ‘very large online platforms’, which may include services also qualifying as video-sharing platforms under the AVMSD.

Among other obligations, very large online platforms must assess whether the use of their service might create any actual or foreseeable negative effects on the exercise of fundamental rights, such as freedom of expression and information, including the freedom and pluralism of the media, (Article 11 of the Charter of Fundamental Rights of the EU), and must take appropriate measures to mitigate such risks.

#### **2.10. Regulatory authorities and bodies**

The revised AVMSD has strengthened the independence requirements for national regulatory authorities and bodies. In particular, Article 30 requires national regulators to be legally distinct from the government and functionally independent from the government and any other public or private body.

The Directive contains rules guaranteeing the transparent appointment and dismissal of the authorities’ heads or members of the collegiate bodies fulfilling that function. In particular, the relevant procedures need to be transparent, non-discriminatory and guarantee the requisite degree of independence. Furthermore, the Directive includes specific rules on the impartiality and transparency of the national regulatory authorities, the adequacy of their financial and human resources and the effective appeal mechanisms.

All Member States who had completed the transposition of the AVMSD indicated that its Article 30 had been fully transposed. Overall, Member States did not report any issues regarding the independence, transparency or impartiality of the national regulatory authorities and bodies. Only one Member State reported potentially relevant differences regarding the organisation of regulatory authorities established at regional level.

Regarding the financial and human resources at the disposal of national regulatory authorities or bodies, a relevant number of Member States reported concerns or challenges. Some of them reported that, while resources for the national media regulators have increased, they may still not be sufficient to meet all needs, especially as in many cases the competences and tasks of regulators have increased.

In a few cases, Member States also reported that the level of resources may not be sufficient for the regulator to fulfil all its tasks to the desired extent. Some Member States point out that, following the rather recent transposition of the revised Directive into national legal frameworks, further practical experience is required to be able to assess whether the level of resources for the regulatory authority is adequate.

#### **2.11. Cooperation between national regulators and the European Regulators Group for Audiovisual Media Services (ERGA)**

The revised Directive established ERGA, which currently takes the form of an expert group of the Commission. The group is tasked with providing technical expertise to the Commission, sharing experience and best practice on the application of the regulatory framework, cooperating and providing its members with the information necessary for the application of

the Directive, and adopting opinions, when requested by the Commission, on the technical and factual aspects of certain rules of the AVMSD<sup>29</sup>.

In this regard, in March 2021 ERGA adopted its first opinion pursuant to the AVMSD and its Article 3(2), in the course of the derogation procedure applied by Latvian authorities to restrict the retransmission of a Russian-language television channel from another Member State (see also section 2.2)<sup>30</sup>.

Over the reference period, ERGA adopted several reports and recommendations on a broad variety of issues related to the regulatory framework for audiovisual media. A major focus of ERGA over the reporting period was the exchange of experience and best practice as regards the AVMSD.

While in the early stage of the reporting period the focus was still on the transposition of the revised Directive, this increasingly shifted to the implementation of the regulatory framework and related questions. ERGA discussed in particular the novel rules in the revised Directive, such as the rules on video-sharing platforms, on which it issued reports and recommendations<sup>31</sup>. In addition, ERGA issued reports on the prominence of audiovisual media services of general interest (Article 7a) and the prominence of European works (Article 13(1))<sup>32</sup>. ERGA also provided analysis and recommendations concerning “vloggers”<sup>33</sup> and it issued reports on media literacy<sup>34</sup>.

ERGA continued to provide the valuable expertise of its members to the Commission in the context of the code of practice on disinformation<sup>35</sup>. The group supported the monitoring of the commitments taken by the signatories of the code, issued reports on related topics<sup>36</sup>, and

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<sup>29</sup> Article 2(5c), Article 3(2) and (3), point (c) of Article 4(4) and Article 28a(7).

<sup>30</sup> ERGA Opinion on decision No. 68/1-2 of the Latvian National Electronic Mass Media Council restricting the retransmission of the channel Rossiya RTR in the territory of Latvia for 12 months, 2021, <https://erga-online.eu/wp-content/uploads/2021/04/2021-03-10-ERGA-Opinion-on-decision-No.-68-1-2-of-the-Latvian-National-Electronic-Mass-Media-Council-as-adopted.pdf>.

<sup>31</sup> ERGA Guidance and recommendations concerning implementation of Article 28b, 2021, <https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-28b-1.pdf>; ERGA Report on the implementation(s) of Article 28b AVMSD: National transposition approaches and measures by video-sharing platforms, 2022, <https://erga-online.eu/wp-content/uploads/2022/12/2022-12-ERGA-SG1-Report-Article-28b.pdf>.

<sup>32</sup> E.g. ERGA report on New rules on accessibility (Article 7.1) – A common understanding of ‘proportionate measures’, 2021, <https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-7-accessibility.pdf>; ERGA Report – Transposition and implementation of Article 13(1) of the new AVMSD – Ensuring prominence of European works in the catalogues of on-demand audiovisual media services, 2021, [https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-13\\_1.pdf](https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-13_1.pdf); ERGA Overview document in relation to Article 7a of the Audiovisual Media Services Directive, 2020, [https://erga-online.eu/wp-content/uploads/2021/01/ERGA\\_SG3\\_2020\\_Report\\_Art.7a\\_final.pdf](https://erga-online.eu/wp-content/uploads/2021/01/ERGA_SG3_2020_Report_Art.7a_final.pdf).

<sup>33</sup> See note 31; Report – How to identify and localise vloggers and regulate their commercial communication, 2022, <https://erga-online.eu/wp-content/uploads/2022/12/2022-12-ERGA-SG1-Report-Vloggers-1.pdf>.

<sup>34</sup> E.g. ERGA Media Literacy Report, 2021, <https://erga-online.eu/wp-content/uploads/2021/12/ERGA-AG3-2021-Report-on-Media-Literacy.pdf>

<sup>35</sup> <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>

<sup>36</sup> E.g. ERGA report on notions of disinformation and related concepts, 2020, <https://erga-online.eu/wp-content/uploads/2021/03/ERGA-SG2-Report-2020-Notions-of-disinformation-and-related-concepts-final.pdf>; ERGA report on strengthening factchecking across the European Union, 2020, <https://erga-online.eu/wp-content/uploads/2021/01/ERGA-SG2-Report-2020-Strengthening-factchecking-across-the-European-Union.pdf>.

helped the Commission assess implementation of the code<sup>37</sup>, thereby helping to strengthen it in 2022.

In addition, ERGA gathered the views of its members on several policy initiatives impacting the policy field contributing the expertise of media regulators to the preparation of these initiatives, such as the European Democracy Action Plan<sup>38</sup>, the Digital Services Act<sup>39</sup> and the European Media Freedom Act<sup>40</sup>.

To respond to the need for increased cooperation in the field of audiovisual media services, in 2020 ERGA members agreed to a voluntary Memorandum of Understanding<sup>41</sup>, which sets out non-binding mechanisms for cross-border cooperation. In the action plan to support the recovery and transformation of the media and audiovisual sectors<sup>42</sup>, the Commission announced that it would follow the application of the Memorandum of Understanding closely to assess whether cooperation within ERGA would need to be further reinforced.

The EMFA proposal recognises the essential role of ERGA in promoting the consistent implementation of the AVMSD and sets out the provisions to transform ERGA into the independent European Board for Media Services and give the Board a central role in the regulatory framework for media services in the internal market. In particular, the EMFA would further strengthen the cooperation among media regulatory authorities and give the Board a broader scope of action and additional tasks.

### 3. CONCLUSIONS

The AVMSD remains an essential instrument to harmonise audiovisual rules throughout the EU and govern the Union-wide coordination of national legislation for all audiovisual media. Its revision in 2018 brought some significant innovations and has proved useful for addressing developments in the audiovisual market, such as the growing importance of digital services.

The delay in the transposition and implementation of the Directive by Member States did not allow for an exhaustive analysis of the effect of the new legal framework. Nevertheless, some conclusions can be drawn on the application of the rules in the period examined.

As regards the **definitions** and the **material scope** of application of the measures, most Member States did not encounter significant issues. For Member States that did report problems, the main difficulties concerned the application of certain rules to on-demand service providers and the classification of certain players as video-sharing platform providers. Some challenges were also experienced with respect to the regulation of vloggers.

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<sup>37</sup> E.g. ERGA report on disinformation: Assessment of the implementation of the Code of Practice, 2020, <https://erga-online.eu/wp-content/uploads/2020/05/ERGA-2019-report-published-2020-LQ.pdf>.

<sup>38</sup> ERGA position on the European Democracy Action Plan, 2020, [https://erga-online.eu/wp-content/uploads/2020/10/ERGA\\_Position\\_EDAP-Consultation\\_Summary.pdf](https://erga-online.eu/wp-content/uploads/2020/10/ERGA_Position_EDAP-Consultation_Summary.pdf).

<sup>39</sup> ERGA position paper on the Digital Services Act, 2020, [https://erga-online.eu/wp-content/uploads/2020/06/ERGA\\_SG1\\_DSA\\_Position-Paper\\_adopted.pdf](https://erga-online.eu/wp-content/uploads/2020/06/ERGA_SG1_DSA_Position-Paper_adopted.pdf).

<sup>40</sup> ERGA position on the Proposal of the Commission for a European Media Freedom Act (EMFA), 2022, <https://erga-online.eu/wp-content/uploads/2022/11/EMFA-ERGA-draft-position-adopted-2022.11.25.pdf>.

<sup>41</sup> ERGA Memorandum of Understanding, 2020, [https://erga-online.eu/wp-content/uploads/2020/12/ERGA\\_Memorandum\\_of\\_Understanding\\_adopted\\_03-12-2020\\_1.pdf](https://erga-online.eu/wp-content/uploads/2020/12/ERGA_Memorandum_of_Understanding_adopted_03-12-2020_1.pdf).

<sup>42</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Europe's Media in the Digital Decade: An Action Plan to Support Recovery and Transformation, COM(2020) 784 final.

The **‘country-of-origin’ principle** for audiovisual media services established in the EU, together with the possible derogations from it, remains a viable and relevant concept. Where the enforcement of derogations is more complex due to the use of satellite up-links and satellite capacities in another Member State, cooperation between regulatory authorities is crucial and can be further improved. To this end, the EMFA proposal foresees a binding cooperation mechanism.

The **protection of minors** has been strengthened for on-demand services. In most Member States, content rating, age verification and parental control are the main tools used to prevent children from accessing harmful content on-demand. Regarding the new requirement on content information, most Member States have established new systems to describe the potentially harmful nature of the content of audiovisual media services, mainly based on visual symbols and acoustic warnings indicating the types of violent content concerned. As regards monitoring, most Member States did not put in place new monitoring or enforcement initiatives in the reference period.

Obligations to provide a certain proportion of programmes with **accessibility** features such as subtitles, spoken subtitles, sign language or audio description have been introduced in several Member States, with a higher proportion of programmes with accessibility means for public broadcasters. Several Member States apply more stringent accessibility requirements to audiovisual media services of general interest, political and economic debates and news programmes.

Overall, the accessibility of on-demand content has improved, with approximately half the Member States having set specific requirements for on-demand audiovisual media services. As regards monitoring, in media service providers have reported to the national competent authority on the implementation of the accessibility measures in fourteen Member States. Also, accessibility action plans have been developed in several Member States. Where issues with accessibility measures were highlighted, these were mostly attributed to financial and technical difficulties on the service providers’ part.

As regards regulation of **prominence of audiovisual media services of general interest**, Member States have adopted a range of different approaches. It is worth noting that to ensure consistent regulatory practice, the EMFA proposal<sup>43</sup> envisages guidelines by the Commission related to Article 7a of the AVMSD with the assistance of the new European Board for Media Services.

As regards **signal integrity** measures, no issues or infringement were reported by Member States. A small number of Member States reported that compliance with signal integrity measures is monitored primarily based on complaints and one Member State had introduced specific measures to compensate media service providers whose right to signal integrity has been infringed.

The majority of Member States gave examples of infringements or complaints linked to **audiovisual commercial communications**. Similarly to the previous report, most of the reported cases pertained to recognisability and prohibition of surreptitious audiovisual commercial communications, in addition to product placement rules. Some Member States made references to their national legislation on audiovisual commercial communications going beyond the requirements and scope of the revised AVMSD.

New **co-/self regulatory** initiatives have been reported as regards the fight against disinformation, promoting the inclusion of persons with disabilities in the media, and

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<sup>43</sup> See note **Error! Bookmark not defined.**

protecting minors from advertising for alcoholic drinks and unhealthy food and drinks. Several Member States also reported measures aimed at increasing the effectiveness of self-regulatory initiatives.

As regards **video-sharing platforms**, the rules in the revised AVMSD have been transposed verbatim into national legislation by the almost all of Member States. In particular, on the measures to be put in place to protect minors from harmful content, Member States indicated the ones listed under Article 28(3) of the AVMSD. Only a few Member States had introduced more detailed or stricter measures. Relatively few Member States were able to report on the application of the measures on protection of minors, for the reasons indicated above. Similarly, Member States provided little information on the rules for commercial communications on VSPs, noting that the rules are too recent. Codes of conduct on these aspects are envisaged in some Member States.

On the requirements for **national regulatory authorities and bodies**, the replies indicate that Member States do not see major issues regarding the independence, transparency or impartiality of their national regulatory authorities or bodies. However, a relevant number of Member States perceive concern or challenges regarding the level of financial and human resources at the disposal of these authorities, which could have an impact on compliance with Article 30(4).

Finally, **cooperation among national regulators** has benefitted from the establishment of ERGA under the AVMSD, which has provided valuable technical expertise to the Commission and promoted the consistent implementation of the AVMSD. Further strengthening of cooperation and an enlarged scope of action are foreseen in the EMFA proposal.