

AIG Response to the evaluation and update of AVMSD Rules

EXECUTIVE SUMMARY

1. The Advertising Information Group (AIG) welcomes the opportunity to respond to the European Commission's Call for Evidence on the Evaluation and Update of the AVMSD Rules.
2. The European audiovisual media environment has undergone significant change since the 2018 revision, including the rise of non-linear services, video-sharing platforms (VSPs), and influencer marketing. Despite these developments, we believe that the AVMSD continues to provide a fit-for-purpose, legally coherent, and technologically neutral framework that addresses these developments effectively.
3. Although the AVMSD does not explicitly define the term "influencer", many influencer activities are caught by the definition of audiovisual media services (AVMS) in Article 1(1)(a), as recognised in Council Conclusions and explicitly defined in some Member States such as Spain and France. Most Member States have transposed this article verbatim or substantially, meaning influencers may qualify as AVMS providers across the EU if they meet core AVMS criteria.
4. Introducing new AVMSD obligations for influencers would risk duplication and legal uncertainty. Complementary rules for influencers already exist under the Unfair Commercial Practices Directive (UCPD), Digital Services Act (DSA), European Media Freedom Act (EMFA), and Transparency and Targeting of Political Advertising Regulation (TTPA) which address risks relating to specific activities.
5. Instead, AIG encourages the Commission to prioritise consistent enforcement of the current framework, avoid regulatory overlap, and support self-regulation as an essential complement to statutory rules.
6. We therefore support Option 1 in the Call for Evidence, maintaining the status quo, as the most proportionate, coherent, clear, and future-proof path forward.

CONTEXT

7. The Advertising Information Group (AIG) (transparency number 11220347045-31) is an informal European grouping of national advertising tripartites – representing advertisers, advertising agencies and the media – and several Brussels-based trade bodies. AIG advocates for a genuine Single Market in commercial communications and supports responsible advertising self-regulation in the EU. AIG is also an industry member of the European Advertising Standards Alliance (EASA).
8. Advertising is a cornerstone of the European economy, contributing 4.6% of EU GDP, supporting SMEs, and driving growth in creative sectors. A Deloitte study found that

every €1 spent on advertising generates €7 for the wider European economy.¹

Advertising also fosters brand competition, supports product innovation, and enables a diverse and pluralistic media ecosystem, contributing to both cultural and democratic objectives.

9. Self-regulation is central to maintaining the effectiveness, credibility, and efficiency of this system. It provides a market-driven, flexible, and cost-effective mechanism for ensuring compliance with advertising standards across borders, complementing EU legislation while preserving innovation-friendly conditions for advertisers, creators, and platforms.
10. The AVMSD remains a strong and relevant regulatory framework across the EU. Its provisions continue to effectively address core sector challenges, including content standards, the protection of minors, and transparency in commercial communications.

ADEQUACY, ENFORCEMENT & LEGAL COHERENCE OF THE AVMSD

Fit for Purpose

11. We acknowledge that the European media landscape has evolved significantly since the last revision of the AVMSD in 2018. Influencers and Video-Sharing Platforms (VSPs) have gained prominence as EU citizens consume more non-linear content. Nevertheless, we believe that the 2018 update established a robust framework to cover these relative new market players without requiring additional obligations or a reopening of the Directive. The existing rules are clear, effective, and, together with advertising self-regulation, enhance consumer protection.

AVMSD scope for Influencers as “new market players”

12. While no legal definition of “influencer” appears in the AVMSD, the definition of “audiovisual media service” (AVMS) in Article 1(1)(a) encompasses activities commonly and naturally associated with influencers. This interpretation was further reflected in the Council Conclusions on support for influencers as online content creators. The Conclusions² recognised that the AVMSD can apply to the activities of influencers insofar as they qualify as AVMS. Some Member States, such as Spain³ and France⁴, have explicitly defined the term “influencer” in law.
13. In most cases, Article 1(1)(a) has been transposed into national law either verbatim or with substantially literal wording.⁵ Consequently, influencers may qualify as AVMS providers across all EU Member States, provided they satisfy the core AVMSD criteria first, as well as any additional national thresholds (such as follower numbers, audience reach and advertising presence in their content).

¹ The Economic Contribution of Advertising in Europe, < <https://valueofadvertising.org/value-of-advertising/value-of-advertising-report/>>

² Council conclusions on support for influencers as online content creators <<https://eur-lex.europa.eu/eli/C/2024/3807/oj>>

³ Article 94 of Law No. 13/2022 of 7 July 2022, the LGCA

⁴ Loi n° 2023-451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux <

<https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000047665805?init=true&page=1&query=2023-451&searchField=ALL&tab_selection=all>

⁵ National rules applicable to influencers, European Audiovisual Observatory, page 24 <<https://rm.coe.int/national-rules-applicable-to-influencers/1680b5540c>>

14. Importantly, the AVMSD does not operate in isolation but forms part of a wider regulatory framework that includes the Unfair Commercial Practices Directive (UCPD), the Digital Services Act (DSA), the European Media Freedom Act (EMFA), and the Transparency and Targeting of Political Advertising Regulation (TTPA). Together, these instruments ensure a comprehensive and proportionate approach to consumer protection and advertising transparency. This creates a coherent and robust framework that addresses a wide range of risks in the digital media environment.
15. In practice, this means that, in addition to the possibility of being considered as AVMS providers under the Directive, influencers are also subject to obligations under the UCPD to disclose any commercial content or advertising. VSPs, on which many influencers publish their content, are required under the DSA to provide functionality that enables such disclosure, promoting transparency for audiences.⁶ For influencers who qualify as AVMS providers, the EMFA may also impose additional obligations. Where influencers engage in political advertising, the TTPA introduces further labelling and disclosure requirements. Taken together, this demonstrates that the current legal framework comprehensively captures influencer activity and targets specific risks such as misleading practices, harmful content, or political advertising. This ensures that legal obligations remain risk-based, targeted and balanced.
16. National authorities and enforcement bodies have significantly strengthened their oversight of influencer activities, demonstrating that the existing framework is working when properly applied. Several Member States have issued practical guidance materials and taken targeted enforcement action. Germany exemplifies this approach: the Wettbewerbszentrale⁷ provides accessible guidance on commercial disclosure requirements, while the State Media Authorities (Landesmedienanstalten)⁸ maintain a detailed labelling framework covering various content formats, refined continuously over nearly a decade with concrete examples for daily use. These case-based, user-friendly tools enhance practical compliance and transparency. The priority should be fostering similar initiatives and coordinated implementation across Member States, rather than introducing additional legislative obligations that risk duplication and fragmentation.

Enforcement, and Legal Certainty

17. We believe that effective enforcement of the existing AVMSD framework should be prioritised, instead of pursuing a revision of the Directive. Accordingly, we consider Option 1 in the Call for Evidence, maintaining the status quo, to be the most appropriate course of action.
18. In our view, the AVMSD has the capability to address emerging market players, safeguard viewers, and support media pluralism. The Directive remains fit for purpose provided it is applied consistently and properly enforced. While enforcement approaches

⁶ Art 26(2) Digital Services Act (DSA)

⁷ <https://www.wettbewerbszentrale.de/wp-content/uploads/2024/08/270824-Leitfaden-der-Wettbewerbszentrale-Werbekennzeichnung-WBZ.pdf>

⁸ <https://www.die-medienanstalten.de/service/merkblaetter-und-leitfaeden/leitfaden-werbekennzeichnung-bei-online-medien/>

have varied across Member States, perceived shortcomings in the framework stem not from regulatory gaps, but from the natural evolution of enforcing existing rules to emerging contexts. National authorities and enforcement bodies have progressively developed their approaches, as evidenced by Germany's comprehensive guidance framework. This demonstrates that the framework is working. For example, authorities and enforcement bodies have successfully interpreted and applied AVMSD provisions to influencer activities. In our view, the priority now is to accelerate the sharing of these enforcement best practices across the EU, rather than disrupting them with new legislative obligations that would require another cycle of transposition and interpretation.

19. Consistent enforcement, combined with collaborative working with advertising self-regulatory organisations (SROs), enhances legal clarity and ensures a high level of consumer protection is maintained throughout the Union.

Coherence with the forthcoming Digital Fairness Act

20. The relationship between the forthcoming DFA and the current regulatory framework (UCPD, DSA, EMFA and the AVMSD) remains uncertain. The DFA is expected to tackle many of the concerns identified in the AVMSD Call for Evidence through targeted cross-sector rules aimed at combating dark patterns, enhancing transparency, and strengthening consumer protection in digital environments. There is a real risk that introducing new, parallel obligations for influencers under the AVMSD at this stage would not only prejudice the outcome of the DFA but could also result in overlapping or even inconsistent requirements for the same actors and activities. Moreover, such an outcome would undermine regulatory coherence and weaken the predictability that is essential for compliance, innovation and investment in the European digital economy.
21. A more proportionate and future-proof approach would allow the DFA to fulfil its intended role, supplemented, if necessary, by updated guidance; coordinated enforcement across frameworks; and strengthened support for self-regulatory initiatives and best practices in influencer marketing. This ensures policy objectives are met while preserving legal certainty, regulatory coherence, competitiveness, and an innovation-friendly environment for digital creators and advertisers alike.

ADVERTISING SELF-REGULATION: AN ESSENTIAL COMPLEMENT

Role and Impact

22. A key strength of the AVMSD lies in its support for self-regulation and co-regulation as tools to ensure effective compliance. Article 4(a)(1) explicitly encourages Member States to foster and support voluntary self-regulatory initiatives to achieve the Directive's objectives. There is already a well-established network of national advertising SROs across Europe, coordinated by the European Advertising Standards Alliance (EASA). While national SRO codes are generally built on the International Chamber of Commerce's (ICC) Advertising and Marketing Code, most go beyond its requirements, but all are aligned with the UCPD and incorporate elements from the AVMSD.
23. Advertising self-regulation provides clarity, operational efficiency, and pan-European coverage, complementing statutory requirements while reducing burdens on both

regulators and industry. Many SROs are also developing rapid, tech-enabled monitoring and preventive guidance. Additionally, training, copy-advice, and other preventive tools contribute to the safety of commercial communications. Evidence of this effectiveness includes:

- a. 97% of all adverts viewed by the EU population are covered by EASA's network.
- b. In 2024, EASA's SRO members processed over 55,000 complaints, resolving 50% within one week and 96% of all complaints within one month.⁹

24. This system ensures high standards of responsibility, fast and pragmatic complaint handling, and practical solutions that go beyond what statutory rules alone could achieve. Across Europe, advertising self-regulation has demonstrated that it can offer both robust protection for consumers and the flexibility needed for innovation and creative expression in a rapidly evolving digital environment.

Protection of Minors

25. Advertising self-regulation plays a key role in ensuring that children receive special protection under Article 9 of the AVMSD. National self-regulatory advertising codes, modelled on the ICC Advertising and Marketing Communications Code,¹⁰ contain detailed rules that restrict advertising practices which could be inappropriate or harmful to minors, as well as more general rules promoting responsible advertising practices. These rules cover areas including:

- a. **alcoholic beverages** – Article 20 of the ICC Code specifically mentions that *“marketers should respect standards and laws prohibiting the marketing of products that are subject to age restrictions such as alcoholic beverages....to minors”*. Furthermore, Article 18 of the ICC Framework for Responsible Alcohol Marketing Communications¹¹ outlines further obligations and guidance to ensure alcohol advertisements do not appeal to children.
- b. **HFSS foods** – Article 18 of the ICC Framework for Responsible Food and Beverage Marketing¹² stipulates that *“while fantasy, including animation, is appropriate in communication with younger as well as older children, care should be taken not to exploit a child’s imagination in a way that could mislead him/her about the nutritional benefits of the product involved”*.

26. These measures help minimise children’s exposure to unsuitable or harmful content while ensuring that obligations remain proportionate, targeted and aligned with the AVMSD’s objective of safeguarding minors. The combination of statutory requirements under Article 9(4) and robust self-regulatory practice therefore provides an effective,

⁹ EASA Annual Report 2024, <<https://www.easa-alliance.org/wp-content/uploads/2025/04/EASA-Annual-Report-2024-Digital.pdf>>

¹⁰ ICC Advertising and Marketing Communications Code <<https://iccwbo.org/business-solutions/the-icc-advertising-and-marketing-communications-code/>>

¹¹ ICC Framework for Responsible Alcohol Marketing Communications <<https://iccwbo.org/wp-content/uploads/sites/3/2019/08/icc-framework-for-responsible-alcohol-marketing-communications-2019.pdf>>

¹² ICC Framework for Responsible Food and Beverage Marketing <<https://iccwbo.org/wp-content/uploads/sites/3/2019/08/icc-framework-for-responsible-food-and-beverage-marketing-communications-2019.pdf>>

adaptable and future-proof system for protecting children in the audiovisual and digital advertising environment.

27. Compliance with these codes demonstrates the industry's commitment to ensure minors are protected from advertising that is unethical, harmful, unlawful or exploits their vulnerabilities online. It is also worth noting that for the last 29 years, the World Federation of Advertisers (WFA) has been running their Responsible Advertising and Children Programme (RAC) which champions good practices in marketing communications to children. It also supports advertising standards by providing an additional layer of consumer protection.
28. Additionally, it is important to highlight the importance of fostering media literacy among young people in ensuring their protection online. For example, in Germany and the UK, industry initiatives such as Media Smart exist to teach young people about influencers and how to critically interpret the commercial messages they encounter.

Influencer Marketing

29. The self-regulatory system contains specific disclosure rules for influencers engaged in product placement, sponsorship or other forms of commercial promotion. These rules are based on and underpinned by the UCPD. To strengthen influencer compliance, several SROs have introduced dedicated training programmes that teach influencers responsible practices and clarify their legal duties and obligations. For example, the German SRO (Deutscher Werberat) launched a 90-minute influencer online course with the ultimate goal of increasing awareness of legal duties as well as transparency regarding influencer marketing.¹³ The French (Autorité de Régulation Professionnelle de la Publicité) and Dutch (Stichting Reclame Code) SRO have added a certification element to their training to further incentivise compliance.¹⁴ Similarly, the Austrian Association “#ethicalAd - Akademie für Werbeethik” has also launched an influencer training programme.¹⁵
30. Moreover, advertising self-regulatory organisations provide training, awareness materials, and certification for influencers through the adEthics programme,¹⁶ which has trained over 5,000 influencers across 11 countries and is preparing for wider European expansion. Launched first in France, the programme has helped raise full compliance with disclosure obligations from 32% in 2020 to 81% in 2024. Certified creators commit three times fewer breaches than those without certification. The initiative enjoys broad support from influencers' representatives, industry, platforms, and has been endorsed by Michael McGrath, the EU Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection.

¹³ www.influencertraining.de

¹⁴ More information on the training can be found on <https://adethics.org/>

¹⁵ More information on the training can be found on <https://www.ethicalad.at/>

¹⁶ <https://adethics.org/>

CONCLUSION

31. The AVMSD continues to provide a clear, balanced, and future-proof regulatory framework capable of addressing today's audiovisual media landscape, including new market players such as influencers. Strengthening coordinated enforcement and supporting effective, well-established self-regulatory structures will deliver better outcomes than revising the Directive.
32. Introducing additional obligations, particularly for influencers, would risk regulatory duplication, fragmentation, and reduced legal certainty at a time when the DFA is set to address many of the issues identified in the Call for Evidence.
33. AIG therefore encourages the Commission to maintain the current AVMSD framework, prioritise effective enforcement, and reinforce the role of advertising self-regulation. This approach best safeguards consumers, supports media pluralism, protects minors, and ensures a competitive and innovative environment for advertisers, creators, and platforms across the EU.

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Advertising Information Group