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REFORM OF AVMSD: TOWARDS COHERENT RULES FOR EU-WIDE PLATFORMS THAT PROVIDE ACCESS TO MEDIA CONTENT

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Michèle Ledger

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info@cerre.eu – www.cerre.eu

Executive Summary

Since the last revision of the Audiovisual Media Services Directive (AVMSD) in 2018 more viewers are accessing media content through platforms. Traditional media are arguing that they are increasingly finding it difficult to connect directly with their publics, and their advertising revenues are diminishing. Yet, most of the current rules of the AVMSD are imposed on audiovisual media service providers with editorial responsibility. Video-sharing platforms (VSPs) are covered by some rules in the AVMSD (mainly to protect audiences) and since the last revision of the AVMSD, online platforms have become subject to multiple layers of EU and national legislation which, taken as a whole, seems to lack coherence, and in some respects, legal certainty.

This issue paper fleshes out some issues that should be addressed in the upcoming review of the AVMSD **to address specifically the relationship between providers of media services and content, "platforms" and the public**. Since the last revision of the AVMSD, the European Media Freedom Act (EMFA) has been added to the EU's legislative framework which directly enshrines in Article 3 that citizens should have access to a plurality of editorially independent media.

For instance, the AVMSD states that Member States may take measures to ensure prominence of audiovisual media services of general interest, but the vague provision is essentially incomplete and not sufficient to address in a comprehensive way this tripartite relationship.

The revised AVMSD should rethink **which media services and content deserve special protection** in the platform environment: traditional audiovisual media services; all media services (radio, podcast, press included); disaggregated content; content of general interest, …

Since placing obligations on platforms constitutes a restriction to the freedom to conduct business as enshrined in Article 16 of the Charter of Fundamental Rights of the European Union, **only the platforms that are used by a significant number of users to access media content should be within the scope** of enhanced rules. The revised AVMSD should also ensure that it is future-proof and is able to capture a wide range of platforms that act as intermediaries between the public and media content providers, without referring to technical definitions that carry the inherent risk of becoming outdated.

Beyond these issues of scope, the revised directive should consider the following aspects of the relationship:

- It should operationalise more directly the rights of citizens to receive a plurality of editorially independent media content in the platform environment; with clear paths for action if things go wrong. At the very least, the review of the AVMSD should clearly state that it has as an objective the promotion of media independence and pluralism in the platform environment and that independent media regulatory authorities have the duty to uphold these principles, also in the platform environment.

- **On securing access to the platform,** rules could be considered to either ensure that media have access under fair, reasonable and non-discriminatory conditions coupled with enhanced transparency obligations, under regulatory oversight (like the German approach) or perhaps by introducing more binding must-carry obligation, similar to the UK's approach for certain defined services.
- **Once on the platform**, the future AVMSD should consider providing a more comprehensive level of protection of media content. The current Article 7b of the AVMSD was not meant to cover a broad range of issues that have since emerged and could be expanded during the next revision. For instance, it could clearly state that media content should be protected from overlays, third-party advertising, removal of brand attribution, or undue moderation of content. The EMFA already puts in place some mechanisms through which media services can address moderation of their content, and the AVMSD revision could build on this.
- The AVMSD should clarify rules on **findability and prominence** especially whether and how these rules could be carried over to the online platform environment;
- The AVMSD should redress the **level playing field on advertising rules**. The European Commission should also assess whether the media sector receives a **fair share of payments** (including when content is made available in genAI applications), and if combined the rules on **transparency** in advertising and **audience measurement** are beneficial to the sector.

Legislation in this area typically entails imposing obligations on platforms not established in the Member State seeking to regulate them. This presents internal market tensions. Pending final interpretation by the Court of Justice of the European Union (CJEU) - the matter should be resolved in the upcoming revision of the AVMSD:

- While the European Commission should revise the rules governing the relationship between media services and platforms, the national dimension should not be overlooked as viewers have different behaviours, depending on the Member States.
- As recognised by the current version of the AVMSD and by a recent ruling of the Court of Justice of the European Union, Member States should remain free to determine certain aspects of the relationship which are key to the defence of media pluralism at the national level (in particular setting which services/content should be covered by rules on prominence).
- At the same time, not to jeopardise the country-of-origin principle and the internal market, the regulator of the country of origin should remain the regulator in charge of supervising the application of rules imposed on platforms, even if these rules derive from the national legal order of the Member State of destination. Procedures could be designed to ensure the enforcement of the rules.

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1. Introduction

Discussions around the reform of the EU's legislative framework on audiovisual media services (the Audiovisual Media Services Directive[1], AVMSD) are underway, and a proposal for reform will be tabled in the third quarter of 2026[2]. As the next edition of the AVMSD is likely to set the rules for the next ten years, it must be future-proof and be adaptable.

The AVMSD is still largely focused on regulating providers of audiovisual media services with editorial responsibility i.e., traditional television and streaming services such as Netflix. During the last reform of the AVMSD in 2018, some obligations were placed on video-sharing platforms[3] (VSPs, such as YouTube), and obligations were introduced to the benefit of audiovisual media services, but which - although the Article does not mention them - need to be fulfilled by 'platforms' in particular, on prominence of services of general interest[4] and signal integrity[5].

Since 2018, many market developments have taken place which have strongly affected viewing habits. Figures by the European Commission[6] and the UK's Ofcom[7] highlight that:

- In the EU, YouTube alone now captures almost as much viewing time as the subscription video on demand sector as a whole. The European Commission flags that the growth of VSPs has disrupted advertising patterns[8];
- In the UK in 2024, among young adults between 16-34 and children between 4-15, YouTube was the most-watched service, accounting for 22% of video viewing for the former and 28% for the latter.

The Reuters Institute Digital News Report 2025 highlights that traditional news media are struggling to connect with most of the public and that the shift towards consumption via social media and video platforms is diminishing the influence of 'institutional journalism'. It also highlights emerging challenges in the form of AI platforms and chatbots which on top of generating synthetic content and misinformation, also reduce the traffic flows to the websites and apps of news publishers.[9] The very recently published Digital News Report 2026 highlights for the first time that, at the global level, social media and video networks has overtaken news organisations' own websites and apps as the most widely used way of accessing online news, averaging across 48 markets.[10]

[1] Audiovisual Media Services Directive, (EU) 2018/1808).
[2] Commission call for evidence on the impact of the AVMSD; Council Conclusions on the assessment of the legal framework for audiovisual media and VSPs.
[3] Article 28b.
[4] Article 7a.
[5] Article 7b.
[6] European Media Industry Outlook, available at https://digital-strategy.ec.europa.eu/en/news/european-media-industry-outlook-shows-shifting-trends-and-quality-content-production.
[7] Ofcom's Media Nations report, 30 July 2025, available at https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/multi-sector/media-nations/2025/media-nations-2025-uk-report.pdf?v=401287.
[8] Media Outlook report, p. 6.
[9] Reuters Institute Digital News Report 2025, available at: https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2025-06/Digital_News-Report_2025.pdf.
[10] https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2026-06/DNR%202026%20FINAL_2.pdf

The EU's legislative landscape has also changed since 2018. The European Media Freedom Act (EMFA)[11] came into application in August 2025 and has placed further obligations on 'providers of user interfaces', such as to allow the customisation by citizens of media offers. The Digital Services Act (DSA) [12] and the Digital Markets Act (DMA) [13] also contain rules that govern the relationship between very large platforms (and search engines, VLOPs and VLOSEs) and designated gatekeepers with media service providers.

At the national level, some Member States have placed obligations on 'platforms' or devices (such as connected TVs, streaming sticks and games consoles) either in the context of implementing rules on prominence of services of general interest or in the context of 'standalone' initiatives such as in Germany (which also imposes rules on media intermediaries such as Spotify and YouTube). When rules are introduced at Member State level, they may run counter to internal market aims to the extent that they are imposed on platforms (i.e., information society services) that are established in other Member States.

This issue paper fleshes out some key issues that could be addressed in the upcoming review of the AVMSD in the spirit of making sure that sufficient safeguards are built into EU legislation to protect media freedoms and to make sure that citizens continue to have access to a plurality of editorially independent media as enshrined in Article 3 EMFA, also in the platform environment.

The issue paper is therefore focused on making recommendations to introduce more coherent and harmonised rules in the AVMSD to govern the relationship between the media, platforms and the public. It does not cover the duties and obligations of platforms that are aimed at protecting users from illegal or harmful content.

Warning: Some of the ideas put forward may not be able to be introduced into the next revision of the AVMSD because the questions go beyond what the directive currently covers and are technically more related to other pieces of EU legislation.

[11] Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act).
[12] 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).
[13] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance).

2. Defining the Scope

The EU's legal framework refers to media and platforms in different ways, depending on the legislative instrument. The revised AVMSD should seek to introduce some level of coherence.[14]

2.1 Which media?

The EU's regulatory framework defines media in different ways across several pieces of legislation:

- Audiovisual media services (i.e., linear and non-linear services over which providers have editorial responsibility) as defined in the AVMSD[15].
- A media service that is defined in the more recently adopted EMFA as a "service (i.e., provided against remuneration) or a dissociable section of a service whose principal purpose is to provide programmes (defined by reference to audio and audiovisual content) or press publications to the general public by any means to inform, entertain or educate under the editorial responsibility of a media service provider"[16]. This definition is wider than that of an audiovisual service under the AVMSD, which covers traditional linear television and VoD.
- Referring to the notion of "programme" which is the individual item within a schedule or catalogue established by a media service provider. This captures specific pieces of content, such as documentaries and news bulletins, instead of the whole schedule of a broadcaster. Standalone podcasts that are not within the catalogue of the media service provider may however not be covered.
- Article 18 EMFA (see below) introduces the category of a 'qualified' media services that meet specific criteria, namely transparency of ownership; editorial independence; being subject to (self) regulatory requirements on a Member State; and not providing AI-generated content without human review or editorial control.[17]
- Article 7a AVMSD on prominence sets up a category of (audiovisual) media services of "general interest", which then is detailed in national rules defining which media services should be covered, in conjunction with EU standards.

Deciding which (audiovisual) media content/services should be covered is ultimately a political decision. The current regulatory framework contains multiple definitions and reforms could clarify which media content deserves special protection in the platform environment.

[14] See also Michèle Ledger and Sally Broughton Micova, CERRE report Overlaps-Services and harms in scope: a comparison between recent initiatives targeting digital services, November 2022.
[15] Article 1(1) AVMSD.
[16] Article 2(1) EMFA.
[17] Article 18 EMFA, read in conjunction with Commission Guidelines of 6 February 2026.

2.2 Which Platforms?

EU law addresses 'platforms' in many different pieces of legislation, even when focusing narrowly on those instances where relationships with media are addressed. This is another key but equally difficult topic for the revision of the AVMSD. The EMFA, the DSA, the DMA and the AVMSD and the DSM Directive refer to different types of platforms. The next revision of the AVMSD should seek to introduce more coherence and make sure that where definitions are used, they are future proof.

Platforms are referred to and defined in the following legislative instruments:

- Article 22 EMFA which refers to 'online platforms that provide access to media content' in the context of the media plurality test for media market concentrations. An online platform means an online platform as defined in Article 3, point (i), of the DSA (which implies the hosting of content and the dissemination to the public).
- Referring to Article 20 EMFA which refers to "user interfaces", defined[18] as a service which controls or manages access to and the use of media services providing programmes, and which enables users to select media services or content.
- Referring to Article 18 EMFA on the media privilege which refers to online platforms that have been designated as VLOPs pursuant to Article 33 (4) of the DSA.
- Referring to a VSPs as defined in Article 1(1), point (aa) of AVMSD (which implies the sharing of audiovisual content on a user-generated basis).
- Referring to an 'online content-sharing service provider' as defined in the DSM Directive as 'a provider of an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which it organises and promotes for profit-making purposes'[19].
- Referring to a core platform service (CPS such as a VSP or a social media service) of gatekeepers under the DMA (which implies that they have a significant impact on the internal market and that they enjoy an entrenched and durable position in its operations now or in the near future). So far, YouTube has been designated as a CPS in the video-sharing platform category, TikTok, Facebook, Instagram in the social network category, Google in the search category and the Apple App Store in the online intermediation services category. Some media groups are arguing that other services should be designated as gatekeepers under the DMA.[20]

[18] Article 2 (14) EMFA.
[19] Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC
[20] https://finance.yahoo.com/sectors/technology/articles/exclusive-eu-digital-rules-apply-090132778.html?guccounter=1.

- Referring to the notion used in Article 114 of the EECC[21] on must carry which refers to undertakings (…) providing electronic communications networks and services used for the distribution of radio or television broadcast channels to the public, **where a significant number of end-users** of such networks and services use them as their **principal** means to receive radio and television broadcast channels.

When reviewing national legislation, we see that France and the UK have introduced thresholds in their legislation when they have chosen to impose obligations on 'platforms' in relation to access/distribution of media content. In France for instance, prominence obligations are imposed on user interfaces that are sold or leased to more than 150,000 users/year or that have been accessed by more than 3 million users/month.[22] The UK's approach remains generally based on the AVMSD, but clarification on prominence rules has been introduced since it left the EU. In the UK, pursuant to the 2024 Media Act, prominence obligations are set to be imposed on certain television selection services that are used by a significant number of members of the public (i.e., at least 700,000 active users and Ofcom has proposed that 15 services should be designated).[23] In relation to radio, the Media Act 2024 also foresees that certain radio selection services (such as voice-activated platforms and connected devices) should allow users to access online streams of UK broadcast radio systems.[24] Ofcom published[25] final recommendations to the government on which services should be in scope because of their level of use (which should be "significant").

From this overview, it appears that two options are available for the purpose of defining the relationship between media services/content, 'platforms' and the public: either all 'platforms' are in scope or only those that have a significant impact on the way in which media content is consumed.

Since placing obligations on platforms to define their relationship with media content constitutes a restriction to their freedom to conduct business as enshrined in Article 16 of the Charter of Fundamental Rights of the European Union, only the 'platforms' used by a significant number of users to access media content should be in scope of the revised AVMSD. Page Error! Bookmark not defined. addresses how these platforms could be selected, i.e., at the national or at the EU level.

Another important aspect is that it has become obvious over the last few years that it is difficult to fit AI chatbots into the current regulatory frameworks, whereas they are already having an impact on the media sector and on the way the public accesses media content. This classification difficulty comes from the fact that they do not easily fit within the definition of an online platform, which in the DSA, requires a 'hosting' element.

The European Commission should therefore rethink current definitions to ensure that legislation is able to apply to a wide range of platforms that act as intermediaries between the public and media content providers, without referring to technical definitions that carry the inherent risk of becoming outdated.

[21] Directive (Eu) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.
[22] Decret n° 2022-1541 du 7 décembre 2022 pris pour l'application de l'article 20-7 de la loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication et fixant le seuil de déclenchement et le délai d'application des obligations de visibilité appropriée des services d'intérêt général. Available at: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000046711767.
[23] Statement: Designation of Television Selection Services
[24] Part 6 of the Media Act 2024.
[25] Statement - Designation of Radio Selection Services

Accordingly, in the recommendations of the issue paper, the term ‘platform’ is used in a broad sense, encompassing services through which a significant number of citizens access media content and services.

3. Rules to govern the relationship between media content/services, platforms and citizens

This section fleshes out the types of rules that could be enacted in the AVMSD to govern the relationship between media, platforms and the public. The guiding objective of these rules would be to safeguard media freedom and media pluralism in the platforms environment and to ensure the financial sustainability of the media sector, which is a prerequisite for both. Rules should be principle-based and should not allow regulators to intervene beyond the strictly necessary objectives of securing access by media and the public to the largest platforms that are used by citizens to access media content.

3.1 Access

Making sure that media content is available on platforms seems to be the first prerequisite towards making sure that citizens have access to a plurality of editorially independent media content as enshrined in Article 3 EMFA.

At the EU level, the only provisions that come close to making sure that media content is present on platforms are contained in the DMA. Specifically:

- Article 6 (12) obliges the designated gatekeeper to apply fair, reasonable and non-discriminatory (FRAND) access conditions for other business users to access their app stores, search engines and social networks;
- The designated gatekeepers need to publish general conditions of access, including an alternative dispute resolution mechanism. The European Commission needs to assess if the general conditions of access comply with FRAND access conditions.

The relevant core platform services (CPS) that have been designated under the DMA to date are TikTok[26]; Facebook, Instagram and LinkedIn (social networks); Google Play, and the App Store (app stores) and Google Search (search engines). YouTube, the most used platform to access media in Europe has been designated as a video-sharing platform, which means that – strangely - it is not in scope of the FRAND rules of the DMA.

No obligations on access exist in the AVMSD (although Article 7a allows Member States to enact rules on prominence of services of general interest - but with no mention of rules on access).

[26] ByteDance lodged an appeal before the CJEU against the ruling of the EU General Court that upheld the designation decision of TikTok as a social network under the DSA (Case C-627/24)

Article 114 EECC sets that reasonable must carry obligations can be imposed at national level for the transmission of specified radio and television broadcast channels, when they are necessary to meet general interest objectives that are clearly defined by each Member State. Must carry obligations need to be proportionate and transparent and be subject to regular reviews (at least every five years). The proposed Digital Networks Act only amends these rules very marginally and does not seek to extend them beyond electronic communication networks and services.

Articles 34 and 35 of the DSA are also indirectly relevant. VLOPs and VLOSEs need to address in the risk assessments and risk mitigation obligations any actual or foreseeable negative effects for the exercise of fundamental rights, in particular the fundamental rights to freedom of expression and information, including the freedom and pluralism of the media, enshrined in Article 11 of the EU Charter on Fundamental Rights. This article is powerful, but risk to media freedom and pluralism has not yet been investigated by the European Commission under the DSA. Article 14 DSA also provides that intermediary services need to act in a diligent, objective and proportionate manner when they enforce content decisions by taking into account the rights and legitimate interests of all parties involved, including the fundamental rights of the recipients of the service, such as pluralism of the media.

Some examples of national level rules to ensure access also exist.

Germany's Medienstaatsvertrag (MStV - State Media Treaty) regulates (on top of VSPs and of cable-TV-type-platforms, called 'media platforms') the category of media intermediaries, i.e., a service that also aggregates journalistic services (news media) and editorial services of third parties[27]. These cover search engines, social media platforms, news aggregators, podcast platforms. Unlike for media platforms per se (which are services that combine broadcasting and journalistically and editorially designed websites into a single offering -and their corresponding user interfaces[28]) 'must carry obligations' do not exist per se. However, there are some rules on access which are aimed at ensuring diversity of opinion on these platforms:

- They are obliged to make transparent the criteria that serve as a basis to decide whether content is accessible (and the central criteria of an aggregation, selection, and presentation of content and the weighting)[29] ;
- They are not allowed to discriminate between the journalistic-editorial offers;

The UK's Media Act 2024 contains two types of rules on access:

- The first is contained in Part 2, which aims to make sure that designated internet programme services" (DIPS) are made available and are prominently displayed on « regulated television selection services » (RTSS). Once in force, DIPS will be obliged to offer ("must offer") their services to RTSS providers who would be required to carry ("must carry") them and to give them an "appropriate" degree of prominence.

[27] Defined at Sec. 2(2) no. 16 of the MStV.
[28] Defined at Sec. 2(2) no. 14 and 15 of the MsTV.
[29] Article 93 of the MStV.

- The second is contained in Part 6, which aims to guarantee that UK radio stations (streams) are available on the designated voice assistant services that are available through connected devices (such as smart speakers and connected car systems). These services cannot charge radio stations. The rules are aimed at ensuring that platforms do not act as gatekeepers and that radio is accessible in the digital environment.

The EU's rules on securing access to media content on platforms seem embryonic. Securing rules at the EU level could be envisaged as we are moving to an increasing amount of media content being accessed through platforms. This could also be seen to be a necessary prerequisite, in light of EMFA's Article 3.

The next revision of the AVMSD should therefore, in the context of rules on prominence at the very least specify that the content that should benefit from rules on prominence should be present on the platform to start with (see below).

Such rules could either take the form of FRAND access conditions coupled with transparency obligations, under regulatory oversight (like the German approach) or of a more binding must carry obligation like the UK's approach for certain defined services.

3.2 Protecting Media Services and Content on the Platform

This section examines the mechanisms to ensure that media services and content are not interfered with by platforms, once on the platform.
At the EU level, some rules already exist:

- Article 7b AVMSD according to which 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.
- Article 18 EMFA which introduces under strict conditions a 24-hour stay-up privilege for media services if VLOPs want to suspend or restrict the visibility of their content.[30]
- Article 20 EMFA which only enters into force in 2027, contains a requirement for user interfaces and devices to ensure the visual identity of media service providers is clearly visible to users. This article is more generally about the customisation of media offers (see below) and does not allow the Member States to enact more detailed rules.

[30] Matteo Monti, Why online public discourse needs a media privilege: in defence of Article 18 of the EMFA, EUI Centre for Media Pluralism and Media Freedom Blog, 1 November 2024, available at https://cmpf.eui.eu/in-defence-of-article-18-of-the-emfa/.

There has been some criticism of the current effectiveness and limited uptake of Article 18 EMFA, perhaps because the European Commission guidelines on Article 18 have only just been published.[31] However, Article 18 EMFA does not contain clear rules on enforcement, leaving uncertainty as to whether responsibility lies with the European Commission as the enforcer of rules on VLOPs, or with national regulatory authorities—either where the media service or public is affected, or where the platform is established.

The AVMSD's current provisions on signal integrity in Article 7b state that Member States should "take measures" to ensure that audiovisual media services are not overlaid but do not specify from what kind of services or dissemination means protection from overlaying or breaches of their signal integrity is needed. This provision was not meant to apply to the platform environment as we know it today; it was intended to apply to cable operators and other multi-channel providers.

An example of how to address 'modern' signal integrity more clearly can be found in Part 6 of the UK's Media Act. Once in force, it will prevent the voice assistant services in scope from placing their own advertising and content before or during that of the UK radio services. These rules are aimed at safeguarding the listener's experience and at countering ex ante the possibility that platforms could push listeners to their own audio services or that they insert advertising spots in UK radio streams.

At the EU level, some broadcasters are also arguing that some platforms prevent 'outlinking' i.e., from redirecting users to the websites of the media service providers, thereby keeping users within a closed environment. This poses a risk to media publishers, who depend on website traffic for both advertising income and direct audience engagement.

The future AVMSD should consider providing a more comprehensive level of protection of media content, once on the platform. The current Article 7b was not initially meant to cover a broad range of issues that have since emerged and could be expanded on during the next revision. The European Commission could also clarify (at the very least in Commission guidance) how the enforcement of Article 18 EMFA could be carried out.

3.3 Findability and Prominence

Findability and prominence will be a key topic in the next review of the AVMSD, in view of the implementation difficulties of **Article 7a AVMSD**. To recap, the article specifies 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. Only a handful of Member States have ventured into trying to impose rules on prominence.

[31] Commission guidelines to protect media on online platforms, adopted on 6 February 2026, available at https://digital-strategy.ec.europa.eu/en/news/commission-issues-guidelines-protect-media-content-online-platforms.

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Member States and regulators have faced many difficulties to establish which services should benefit from the rules, which platforms (and devices) should be covered and how prominence should be ensured in practice.[32] Italy is the latest Member State to have completed the process of introducing rules on prominence at the national level[33].

One of the biggest difficulties has been to ensure that the rules are in line with the country-of-origin principle of the e-Commerce Directive, a matter which is not yet fully addressed (see below). In its consultation on the review of the AVMSD, the European Commission is seeking feedback on a number of options for future reform, namely:

- Are audiovisuals of general interest sufficiently visible and accessible on user interfaces that are commonly used to access such services; for example, smart TVs or video-sharing platforms?
- Are prominence rules also needed for non-audiovisual media services such as audio (radio and podcast) and press publications?
- Should prominence be ensured in the context of recommender systems or news feeds on platforms and user interfaces?

To date, rules on prominence have not been applied to VSPs, online platforms or VLOPs under the DSA. In the UK, Ofcom has recommended[34] that the government should consider whether to give prominence for PSB content on YouTube through legislation. It also notes that PSBs and YouTube should work together to ensure that PSB content is prominent on its services, on fair commercial terms. Ofcom also says that the government could also explore if prominence should be explored on social media and other platforms, even though 'implementation would be complex'. Some issues to be considered in this context are whether a must offer/must carry rule should be enacted, if prominence should be limited to certain types of content such as news or children's programming and the potential pitfalls in intervening in content feeds. Ofcom also proposes that the government could consider new powers to ask online platforms to be more transparent about how they design their recommender systems, especially in relation to news.[35]

Another tricky question that would also need to be addressed in this context is how rules on findability could affect the current rules on the liability of intermediaries under Articles 6 and 9 of the DSA, and the fact that under the AVMSD, VSPs do not have editorial responsibility.

In light of evolving viewing habits and the shift toward open platforms, there appears to be limited value in discussing prominence rules if such rules cannot in the future be effectively applied within a broad platform environment.

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[32] See Michèle Ledger, CERRE Issue Paper Towards coherent rules on the prominence of media content on online platforms and digital devices, December 2025.

[33] DELIBERA N. 250/25/CONS "Review of Guidelines on the Prominence of Audiovisual and Radio Media Services of General Interest" https://www.agcom.it/provvedimenti/delibera-250-25-cons and DELIBERA 259/24/CONS "Definition of the icon to access DTT channels" Delibera 259/24/CONS | Agcom.

[34] Ofcom report Transmission Critical, the Future of Public Service Media, 21 July 2025, available at https://www.ofcom.org.uk/tv-radio-and-on-demand/public-service-broadcasting/public-service-content-should-be-findable-on-youtube.

[35] See also CM/Rec(2022)4 - Recommendation of the Committee of Ministers to Member States on promoting a favourable environment for quality journalism in the digital age (Adopted by the Committee of Ministers on 17 March 2022 at the 1429th meeting of the Ministers' Deputies**).**

The AVMSD should therefore clearly address the question and that of the compatibility of the rules with other legal instruments (namely the country-of-origin principle of the e-Commerce Directive, the 'full harmonisation' approach of the DSA and rules on liability of the DSA). In the meantime, the approach suggested by Ofcom which is that platforms such as YouTube and PSBs should work together to ensure prominence on the platform under fair commercial terms (see next section) seems sensible.

3.4 Advertising and Balance of Payments

This part is linked to the need to ensure the viability of the media sector in the platform environment. It is widely recognised that the sector is in dire need of financial return.

According to data published by the European Audiovisual Observatory, while advertising remains a key revenue stream for the European audiovisual sector, compared with 2019, by 2024 Internet advertising accounted for close to two-thirds of the total advertising expenditure in Europe. Spending on linear TV advertising declined to around 17% of total ad spending; while over the same period, online video advertising emerged as the most direct competitive pressure on linear TV. [36]

Rules on advertising exist in the AVMSD but there is an unlevel playing field relating to rules on insertion and quantitative time limits, which only apply to linear-AVMS and not to VSPs or other online platforms and streaming services. The latter services are therefore currently free to decide when to insert advertising and for how long. The media sector argues that this situation is detrimental to them and is creating financial difficulties. Three options are possible:

- Levelling-up rules so that they all apply to all AVMS regardless of their method of delivery, in this scenario, the VSPs and the other online platforms would be covered;
- Levelling-down the rules so that they no longer apply;
- A mix of both, whereby for instance rules on insertion could be loosened (e.g., by allowing spot advertising in other programmes than sport) whereas rules on quantitative time limits could be extended to all services.

The qualitative rules on advertising contained in Article 9 (1) need to be complied with by AVMS providers and by VSPs for their own advertisements (while they also need to make sure that commercial communications uploaded by others comply with these rules). Influencers will most probably be specifically covered in the next revision because not all of them abide by the qualitative rules of Article 9 (1). This will work to level the playing field as for some, their audience and advertising revenues are in direct competition with those of media providers. Also, some Member States are developing their own set of rules for influencers, which shows that more EU-level rules are probably needed.

On advertising revenues, some rules exist at the EU level, but they do not go so far as to address the balance of payments between media and online platforms in a comprehensive manner.

[36] Regulating audiovisual commercial communications across AVMS, VSPs and influencers, Summary of the EAO workshop, Strasbourg, 21 November 2025 European Audiovisual Observatory, Strasbourg, 2025, p. 4.

Reform of AVMSD: Towards Coherent Rules For EU-Wide Platforms That Provide Access to Media Content

As explained above, rules on signal integrity contained in Article 7b of the AVMSD (see above) could be more clearly articulated to decide how they apply in the platform environment (for instance by preventing overlays with third-party advertising, as some are advocating).

Other rules at the EU level also exist which are aimed at enhancing transparency in the advertising market. These are spread across different pieces of legislation: in the Article 5(9) and (10) DMA (designated gatekeepers to provide advertisers and publishers with information about the price paid and the remuneration received by them and the method of calculation), Article 6(8) DMA (obligations by the designated gatekeepers to provide advertisers and publishers with access to the gatekeepers' performance measuring tools); Articles 26 and 39 DSA (transparency of ads on online platforms and on advertising repositories for VLOPs and VLOSEs) and Articles 24 and 25 EMFA (audience measurement, and transparency about fair allocation of state advertising).

The European Commission should examine the combined effects of these rules on the transparency of the advertising sector, and which actors have benefitted from this added transparency: users, advertisers, publishers, online platforms and/or enforcers?

The issue of the balance of payments goes beyond advertising. Other provisions exist at the EU level:

- Article 15 of the DSM Directive which grants to publishers of press publications established in the EU an exclusive right to authorise the reproduction and making available to the public (i.e., copying and online dissemination) of their press publications by information society services, except for uses of "individual words or very short extracts";
- Article 4 of the DSM Directive, which contains a mandatory exception for text and data mining (TDM), whereby reproduction and extraction of protected works is allowed under conditions, except if rightsholders have opted out in an appropriate manner. If rightsholders opt out, they can also possibly negotiate agreements with genAI services and thereby receive compensation.

In its July 2025 report, Ofcom also makes the case that the media sector needs to earn "a fair return for their work on third-party platforms, including when used to train genAI services"[37]. Ofcom highlights that there is an imbalance of bargaining power between platforms and content creators and concerns about the competitiveness of digital advertising markets. It also points to copyright and the (in)ability of the media sector to keep control and to be remunerated for the use of their content on AI services. The Council of Europe has also called for online platforms (other relevant internet intermediaries and advertisers) that engage in large-scale dissemination of third-party content to recognise their responsibility to make meaningful contributions to media publishers financially.[38]

In the context of the reform of the AVMSD, the European Commission should therefore thoroughly examine if there is a case to enact legislation to ensure that the media sector is able to derive a fair share of revenues because of the presence of its content on platforms.

[37] Ofcom report Transmission Critical, p.6.
[38] See Rec(2022)4, point 1.4.5.

3.5 Citizen's Rights

One of the main aims of EMFA is to ensure media pluralism and independence in the EU. It does this through **Article 3 EMFA** which introduces a new obligation for Member States to respect the right for users of media services in the Union to receive a plurality of editorially independent media content. Member States must also ensure that "framework conditions" are in place to safeguard that right. Recitals clarify that:

- Access to quality media services produced by **journalists** in an independent manner is particularly relevant for **news and current affairs content**, which has the potential to play a major role in shaping public opinion and has a direct impact on democratic participation and societal well-being;

- in addition to its negative duty of non-interference, the public powers have a positive obligation (under Article 3) to put in place an appropriate legislative and administrative framework to guarantee effective media pluralism.

Although it is not obvious if this provision is sufficiently clear and unconditional to have direct effect and to grant citizens and media services a direct positive and actionable right, it has the merit of recognising that Member States need to make sure that the public receives a plurality of editorially independent media content. It does not specify through which medium this should be made available, but presumably, if public viewing is being displaced (at least in part) from traditional TV to online platforms, these platforms should not be able to put up barriers to prevent the public from accessing such content. It is also interesting to note that the recitals[39] recognise the specific importance for quality news media services to be produced by independent journalists.

The second positive right that is recognised in the EMFA is enshrined in **Article 20,** which allows users to customise (according to their preferences) the configuration, including default settings, of devices and users' interfaces (as defined in Article 2, see scope) that control or manage access and use of media services providing programmes (e.g., connected televisions or car audio systems). **It would be useful to clarify if this article could allow users to customise the recommender systems used by platforms to select the media services, they have access to**.

The DSA also contains rules on the transparency of the main parameters used in recommender systems (Article 27) and that allow users to ask VLOPs and VLOSEs not to profile them (Article 38).

Turning now to national law, to ensure diversity of opinion, under German law[40], media intermediaries need to always make available easy-to-understand information about how they select, aggregate and present information to the public. They also need to be transparent about how their algorithms work (main parameters). Any changes should also be made immediately visible. Thematic offers (such as news portals, or platforms that specialise in sports or finance) should be obviously displayed to the public.

[39] Recital 14.
[40] Article 93 of the MStV.

Next to these transparency rules, German law[41] also provides that intermediaries should not discriminate between news media content offerings. Discrimination is presumed if they do not follow the criteria they publish on how they select, curate and present content on their platforms. The media outlet is allowed to file a complaint with the regulator. Alternatively, the regulator can also act on its own account when violations are obvious.

The next revision of the AVMSD could operationalise more directly the rights of citizens to receive a plurality of editorially independent media content in the platform environment; with clear paths for action if things go wrong. At the very least, the review of the AVMSD should clearly state that it has as an objective the promotion of media independence and pluralism in the platform environment and that independent media regulatory authorities have the duty to uphold these principles, also in the platform environment. Clear paths for redress should be open to citizens through the media regulatory authority.

[41] Article 94 of the MStV.

4. Country of Origin v. Country of Destination

The cornerstone of the AVMSD (like the Electronic Commerce Directive) is the country-of-origin principle, whereby service providers only need to comply with the legislation of their country of establishment to be able to offer their services throughout the EU. Like with each revision of the AVMSD, the country-of-origin principle (and its exceptions) is likely to be discussed and put into question by some.

To recap, the country-of-origin principle of the AVMSD benefits AVMSD providers (i.e., linear and non-linear services) while the country-of-origin principle of the Electronic Commerce Directive benefits information society services (i.e., VSPs and other online platforms). Both directives have different procedures for derogations, which allow Member States of destination to suspend incoming services or to apply national requirements to the incoming services under conditions.

As discussed above, efforts to rebalance the position of media services vis-à-vis platforms typically entail imposing obligations on platforms not established in the Member State seeking to regulate them. One of the biggest unaddressed conundrums of media regulation is the extent to which national rules that aim to "promote cultural and linguistic diversity and to ensure the defence of pluralism" can be applied to non-national 'information society services'[42], i.e., online platforms such as YouTube or Spotify.

In the context of the regulatory transparency procedure, the European Commission has sent reasoned opinions to France, Italy and Belgium (Flanders) when they were trying to impose prominence obligations on platforms that were not established in their jurisdictions. The European Commission argued that national prominence rules could not be imposed on non-national platforms on the grounds that this is in breach of Article 3 of the Electronic Commerce Directive, while also being contrary to the full harmonisation approach of the Digital Services Act.

Germany is also facing a legal challenge in relation to its rules on media intermediaries that are contained in the MStV mentioned above. The case concerns a legal challenge brought by Spotify against the transparency obligations (mainly Article 93, explained above) arguing that the rule is contrary to the country-of-origin principle of the Electronic Commerce Directive and the full harmonisation of the transparency obligation of the DSA. The Berlin Administrative Court[43] decided in July 2025 to refer several questions to the CJEU for preliminary ruling on the interpretation of the DSA and the Electronic Commerce Directive, including if the MStV can apply to platforms that are established in other Member States.

[42] defined in the Regulatory Transparency Directive 98/48/EC, i.e., to "any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services".
[43] 32nd Chamber of 10 July 2025 (VG 32 K 222/24).

The crux of the issue comes from Directive 2000/31[44] (i.e., the Electronic Commerce Directive) which specifies that information society service providers are subject to the law of the Member State in which they are established. While they comply with this law, they are free to pursue their activities throughout the Community[45]. A procedure exists to restrict specific incoming services under certain conditions. None of these conditions refer to the defence of media pluralism.

However, Article 1.6 of the directive specifies that 'this directive does not affect measures taken at Community or national level, in the respect of Community law, in order to promote cultural and linguistic diversity and to ensure the defence of pluralism'.

The CJEU decided[46] in December 2025 that this identical derogation - contained in the Services Directive - could justify that France imposes an extra 3 euros on postal tariffs on online orders of books coming from e-commerce websites not established in France. This case law has since been referred to by Flanders in its defence to the detailed opinion it received on its draft legislation on prominence by arguing that Article 1 (6) could justify imposing prominence obligations on non-national EU-established platforms[47].

Therefore – pending final interpretation of the CJEU - the matter should be resolved by acknowledging both the remits of Member States and the functioning of the internal market.

- The European Commission should propose in the revised AVMSD more rules at the EU level to govern the relationship between media services and platforms. The report has highlighted possible areas of intervention. These rules need to be carefully designed by recognising that not all platforms have the same business models and that no one-size-fits-all approach is possible.
- It would probably be wise for the European Commission to seek more harmonisation in the AVMSD on the types of platforms (see **Error! Reference source not found.** above) that could be in scope of rules to make sure that citizens can access a wide range of editorially independent media on platforms. Even if some rules could be set at the EU level, the national dimension should not be overlooked, viewers have different behaviours, depending on the Member States.
- The AVMSD should clearly allow Member States to determine certain aspects of the relationship which are key to the defence of media pluralism at the national level (setting which services/content should be covered by rules on prominence).

[44] Directive - 2000/31 - EN - e-commerce directive - EUR-Lex
[45] Olivier Hermanns, Approaching jurisdictional issues in European audiovisual law: trends and tensions, IRIS (Strasbourg: European Audiovisual Observatory, 2025), https://rm.coe.int/iris-approaching-jurisdictional-issues-in-european-audiovisual-law-en/1680b68b32.
[46] Case C-366/24, Judgment of the Court, Amazon v. France, 18 Dec. 2025, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62024CJ0366.
[47] Available at https://technical-regulation-information-system.ec.europa.eu/en/notification/27066.

- At the same time, to avoid jeopardising the country-of-origin principle of the Electronic Commerce Directive and the internal market, the regulator of the country of origin should remain the regulator in charge of supervising the application of rules imposed on platforms, even if these rules derive from the national legal order of the Member State of destination. Taking the example of prominence, this would mean that if the platform fails to prominently display the media services/content set in the Member State of destination, that Member State should ask the regulator of the country of establishment to take measures to enforce the application of the rules on the platform established in its country. If that regulator fails to take the appropriate measures, a procedure with strict deadlines should kick in, whereby rules could be enforced. Some procedures exist at the EU level in other areas which could be used as a starting point to draft a workable framework[48]. Article 15 EMFA has introduced a procedure for enforcement of obligations in a cross-border context in relation to VSPs but it falls short of setting a procedure with full binding effects.

[48] Article 4 Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online, available at https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A32021R0784.

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About the Author

Michèle Ledger is a researcher at the Research Centre in Information, Law and Society (CRIDS) of the University of Namur where she also lectures on the regulatory aspects of online platforms at the postmaster degree course. She has been working for more than twenty years at Cullen International and leads the company's Media regulatory intelligence service.

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Avenue Louise 475 (box 10)
1050 Brussels, Belgium
+32 2 230 83 60
info@cerre.eu
www.cerre.eu

Centre on Regulation in Europe (CERRE)
CERRE Think Tank
CERRE Think Tank