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Keeping the AVMSD fit for purpose: DIGITALEUROPE's Recommendations for the 2026 AVMSD Review

Executive summary

The European Commission's evaluation of the Audiovisual Media Services Directive (AVMSD) comes at a decisive moment for European audiovisual and digital policy, shaped by market convergence and an increasingly dense digital regulatory framework.¹ Since the last AVMSD revision in 2018,² consumption has evolved to include a mix of linear and on-demand and online services, with audiovisual content accessed through a growing variety of services. In parallel, the EU has adopted a new generation of horizontal legislation such as the Digital Services Act (DSA) and the Digital Markets Act (DMA),³ as well as sector-specific regulation such as the European Media Freedom Act (EMFA) to address cross-cutting challenges through technology-neutral rules rather than expanded sector-specific regulation.⁴

Whilst the AVMSD remains important for cultural objectives and media pluralism, its effectiveness increasingly depends on legal clarity and coherence with the wider EU digital rulebook and changed ecosystem. Divergent national implementation, particularly on the scope of prominence, risks fragmenting the internal market and undermining the country-of-origin principle. Notwithstanding these implementation issues, the AVMSD has largely proven fit for purpose, particularly in light of the significant horizontal frameworks adopted since its last revision.

For this reason, DIGITALEUROPE's priority remains the effective and consistent implementation of the AVMSD with additional clarity through targeted guidance where needed. In the context of any future discussions on the framework, attention should focus on preserving the Directive's fundamental objectives and core logics, ensuring alignment with newer horizontal frameworks, and, where relevant, considering targeted clarifications in line with the existing framework.

Our recommendations are to:

- ▶▶ **Preserve the country-of-origin principle and the current scope and structure of the AVMSD** to ensure legal certainty and avoid unintended scope expansion;
- ▶▶ **Strike a workable balance between national cultural objectives and internal market coherence** in prominence and other cross-border provisions;

¹ European Commission, *Audiovisual media services – evaluation and update of EU rules* (2026), available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15752-Audiovisual-media-services-evaluation-and-update-of-EU-rules/public-consultation_en

² Directive (EU) 2018/1808.

³ Regulation (EU) 2022/2065 and Regulation (EU) 2022/1925 respectively.

⁴ Regulation (EU) 2024/1083.



- ▶▶ **Build on existing EU and industry frameworks** for audiovisual commercial communications and the protection of minors; and
- ▶▶ **Ensure alignment with the wider EU digital rulebook** and horizontal frameworks, to support a coherent and future-proof regulatory environment.



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Introduction and context

Since the last revision of the Directive in 2018, the regulatory context for audiovisual media services has substantially evolved. Audiovisual content is now accessed on linear devices and online and is increasingly embedded within broader digital ecosystems.

In parallel, the EU has shifted towards horizontal, technology-neutral regulation. The adoption of the DSA and the DMA reflect a deliberate move to address broader responsibilities and introduce general safeguards rather than expanding sector-specific initiatives. This has materially changed the environment in which the AVMSD operates.

Whilst the AVMSD continues to play an important role in supporting cultural objectives and media pluralism, its effectiveness increasingly depends on legal clarity and coherence with the wider EU digital rulebook. Divergent national implementation, particularly on scope and prominence, risks fragmenting the internal market and undermining the country-of-origin principle.

The objective of the current evaluation should therefore be to assess how the AVMSD interacts with newer legislative instruments and, where necessary, to address practical uncertainties or areas of misalignment, for example, through targeted clarification or guidelines. Notwithstanding the above, overall, we believe that the AVMSD remains largely fit for purpose and that it is adapted to changing market realities. It now sits within a new regulatory framework established by the DSA and DMA and complemented by the EMFA and should therefore be read in the context of these broader pieces of legislation.


Upholding the country-of-origin principle

The country-of-origin principle, as established in the AVMSD, is a cornerstone of the EU internal market framework for audiovisual services and must be fully respected. It ensures that audiovisual media services are subject only to the AVMSD requirements as transposed by the Member State in which the provider is established. This gives service providers a single, coherent regulatory framework, strengthens legal certainty and avoids regulatory fragmentation and disproportionate compliance burdens for cross-border services.

It is a fundamental prerequisite for a functioning and truly integrated European media landscape. Without it, cross-border provision of audiovisual and digital services would be significantly hindered, especially in the context of an increasingly digital and platform-based media ecosystem, where services are inherently cross-border and scale is essential for competitiveness. For this reason, it is also increasingly relevant in view of the Commission's commitment in its 2025 Work Programme to simplify rules and reduce compliance burdens for businesses operating in the EU.

Preserving an appropriately defined scope

Today, audiovisual content is now accessed through a wide variety of devices, operating systems and user interfaces, often within integrated digital environments that combine content, applications and services. Whilst these developments have prompted calls to revisit the scope and definitions of the AVMSD, any further changes should focus on clearly identified gaps rather than broad scope expansion.



The current framework provides a clear basis for connecting appropriate regulatory obligations to services that commission, curate, provide, distribute, or host content, including, in some cases, its selection and organisation.

Preserving this approach is essential to ensure proportionality, legal certainty and enforceability. Art. 1 AVMSD already provides a starting point by differentiating audiovisual media services from video sharing platforms based on editorial responsibility. This distinction is crucial, as it underpins the proportional allocation of obligations across different types of services. In the context of the review, the priority should be to maintain this structure and, where necessary, fine-tune provisions so that AVMSD remains enforceable, proportionate, and legally certain, whilst fitting smoothly alongside the EU's broader online platforms regulatory regime.

Where relevant, any clarification should be confined to situations where genuine legal uncertainty has emerged, due to divergent national interpretation or evolving case law. It should not result in the creation of new regulated categories or in a functional expansion of scope based on technical characteristics.


In particular, the AVMSD review should not be used to extend obligations to parts of the value chain that do not exercise editorial responsibility, such as devices, smart TV platforms, app ecosystems, user interfaces, operating systems, remote controls, hardware components, video sharing platforms and intermediaries that do not select or organise audiovisual content beyond the extent to which they are captured today. These actors are already subject to relevant horizontal obligations under EU law and extending AVMSD rules to these players would represent a fundamental shift in the Directive's logic, raising significant compliance, enforcement and jurisdictional challenges.

Similarly, extending the scope to audio-only services would deviate from the AVMSD's core rationale, built around the specific characteristics of audiovisual content, notably production costs and global reach. Applying this audiovisual framework and obligations, including prominence-related requirements, to strictly audio services or devices would undermine the regulatory coherence and create legal uncertainty by applying audiovisual obligations to services for which they were not designed.

Any evaluation should therefore consider that the scope of the AVMSD is already appropriately defined and fit for purpose. Any consideration of targeted clarifications should prioritise precision over breadth, preserving the stability and predictability of the framework for services operating across borders.

Balancing national cultural objectives and internal market

Prominence obligations sit at the intersection of national cultural policy objectives and the functioning of the internal market. Member States have a legitimate role in promoting media pluralism, cultural diversity and access to content of general interest, reflecting national linguistic, democratic and cultural contexts. At the same time, audiovisual services, connected devices and user interfaces increasingly operate on a cross-border basis, requiring legal certainty and consistency across the single market. For this reason, approaches to prominence should remain anchored in the country-of-origin principle, which respects the goal of cultural promotion through the principally exclusive regulatory oversight of the Member State of establishment holding jurisdiction, whilst providing services with the legal certainty required to operate across the Union.



Experience to date shows that uncoordinated national approaches to prominence of audiovisual services increase fragmentation.⁵ National measures differ significantly in scope, in the process and criteria used for designation of services of general interest and in the technical means used to ensure prominence. In several cases, prominence obligations have moved beyond high-level objectives and translated into detailed requirements affecting interface design, device functionality or technical implementation, with direct implications for cross-border provision and innovation.⁶

Similar considerations also concern other AVMSD areas with cross-border effects such as Article 13. Raising quotas, narrowing the definition of ‘European works,’ or introducing additional prescriptive obligations would risk reducing catalogue diversity and disproportionately affecting smaller markets and cross-border services. Maintaining a broad and inclusive definition of ‘European works’ remains essential to reflect Europe’s wider cultural and creative ecosystem.

Designation of services of general interest

Decisions on which audiovisual media services should be considered of general interest are inherently linked to national cultural, linguistic and democratic choices. Member States that have introduced prominence regimes have typically designated services with their domestic audience in mind, an approach that is compatible with the current AVMSD framework and does not require legislative change.

Member States should retain the ability to designate services of general interest, based on transparent, objective and proportionate criteria. Such designation would reflect national relevance and audience expectations, whilst remaining consistent with the Directive’s overall framework.

To remain effective, designation must be focused and limited in scope, in line with proportionality and flexibility principles in its implementation. The original rationale of prominence was to ensure visibility for a small number of services with clear relevance to the national public. Excessively broad lists risk diluting prominence, reducing its usefulness for users and undermining the policy objective it seeks to achieve.


Prominence in practice and internal market considerations

Whilst Member States may determine which services qualify as audiovisual services of general interest, the way prominence is implemented raises internal market considerations. Technical, design or interface-related requirements have direct implications for scalability and innovation across the EU.

DIGITALEUROPE therefore supports a clear separation between the designation of services (the *what*) and the implementation of prominence (the *how*). Whilst designation may reflect to some extent national

⁵ See DIGITALEUROPE, *Why we need guidelines on audiovisual prominence rules*, available at <https://www.digitaleurope.org/resources/why-we-need-guidelines-on-audiovisual-prominence-rules/>.

⁶ For example, the German Prominence Regulation states that access to broadcasting must be provided on the first page of the user interface (Art.84 para 3 Media State Treaty) whereas the French Prominence Regulation imposes indiscriminate access to SGIs whatever the pages, including on recommendation results. Similarly, in Poland, accessibility obligations under the Broadcasting Act (Art. 18a) apply to linear TV and VOD, but not to equivalent HbbTV/hybrid streaming services, even where they replicate linear broadcasts, showing how national rules diverge not only in prominence requirements, but also in the scope of services covered.



approaches, the actual implementation of prominence must be aligned at EU level and remain governed by internal market principles, primarily the country-of-origin logic and must not result in destination-based technical obligations imposed on cross-border services or devices.

Prescriptive requirements relating to hardware components, interface layouts or specific technical solutions risk locking in certain technologies, constraining innovation, increasing compliance costs and limiting the ability for providers to design intuitive and user-centric interfaces. A European principles-based, outcome-oriented approach is essential to preserve technological neutrality, user choice and future-proof design, whilst allowing different actors to meet prominence objectives in a scalable and flexible manner. The need for greater legal and planning certainty, whilst still allowing for flexibility in the design of user interfaces, can be met by using regulatory examples that can demonstrate possible implementation options, without prescribing a specific approach.

The AVMSD review offers an opportunity to clarify the relationship between national cultural objectives and internal market harmonisation of existing rules. Clarifying the distinction between designation and implementation would allow media pluralism objectives to be pursued more effectively at national level, whilst safeguarding the internal market and supporting the cross-border provision of audiovisual media services and equipment alike across the Union.

Leveraging existing frameworks for audiovisual commercial communications

Audiovisual commercial communications are a key source of financing for audiovisual and journalistic content and contribute to media pluralism and economic sustainability. The AVMSD framework in this area operates alongside an extensive set of horizontal EU rules, including consumer protection legislation like the Unfair Commercial Practices Directive and the DSA and related guidance.⁷

Taken together, these instruments provide a comprehensive regulatory framework governing consumer protection, in particular with respect to transparency and the identification of commercial content. Additionally, industry has complemented this framework through self-regulatory initiatives and practical compliance tools (like the European Advertising Standards Alliance's AdEthics programme and the DiscloseMe tool), supported by Commission guidance such as the Influencer Legal Hub.⁸

In this context, a challenge is the divergent interpretation and uneven enforcement across Member States. The existing AVMSD provisions on audiovisual commercial communications should help to tackle divergent national approaches, particularly in relation to influencer marketing, new advertising formats and sector-specific rules. It must be clarified that, in the case of purely transaction-related services (such as live-commerce), consumer protection law, including the DSA, takes precedence over media law.

Greater emphasis on EU-level guidance and the exchange of best practices, as well as continued dialogue with stakeholders, could help promote consistent interpretation and application across Member States, whilst future action should prioritise awareness-raising as well as coordinated and consistent enforcement.

⁷ Directive 2005/29/EC and Regulation (EU) 2022/2065 respectively.

⁸ European Commission, *Influencer Legal Hub*, https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/influencer-legal-hub_en.

Protecting minors online

The protection of minors online is a shared priority across EU digital policy. Since the last AVMSD revision in 2018, the DSA has significantly strengthened the horizontal framework for addressing systemic risks affecting minors across digital services,⁹ and the Art. 28 guidelines already offer implementable safeguards, which are enforceable, risk-based and adaptable,¹⁰ in addition to those rules enshrined in Art. 28b AVMSD.

Given this new dynamic between the DSA and AVMSD, Art. 28b AVMSD should now always be read in the context of the new regulatory landscape. The role of the AVMSD should be to complement, not duplicate, the safeguards introduced by the DSA for online platforms and upcoming legislations. In the current regulatory landscape, the AVMSD video sharing platform rules on the protection of minors have proven to be flexible to adapt to new services and harms. Measures addressed in the AVMSD should therefore continue to apply within its existing scope, while complementing the safeguards introduced by the DSA and avoiding duplication or conflicting obligations. They should also remain risk-based, proportionate and technology neutral, ensuring consistency across Member States.

Recent national initiatives, including proposals on age thresholds or access restrictions, risk fragmenting the internal market and creating legal uncertainty. Such approaches may also raise concerns in relation to privacy, data minimisation and fundamental rights.

Ensuring alignment with the EU digital rulebook

The adoption of legislative instruments such as the DSA, the DMA, the AI Act,¹¹ the EMFA and the ongoing simplification and rationalisation efforts under the digital and regulatory omnibus initiatives reflect a clear shift towards technology-neutral and horizontal regulation. Within this evolving framework, the AVMSD should remain a complementary instrument for audiovisual media services, avoiding duplication or conflict with existing rules. The review should focus on clarification and attention to single market coherence, including, where appropriate, through targeted guidance that helps to ensure alignment with other legislation as well as preventing overlapping and conflicting obligations.

DIGITALEUROPE looks forward to engaging constructively with the Commission to reinforce an AVMSD framework that continues to support media pluralism, innovation and the cross-border provision of services, in full alignment with the EU's wider digital regulatory framework.

⁹ The DSA has broadened this framework by taking some of the provisions originally applicable only to video sharing platforms and applying them to the broader platform ecosystem. In particular, Arts 34 and 35 require very large online platforms to assess and mitigate risks posed to the protection of minors on their service, with such efforts being continuously assessed by the Commission and Digital Services Coordinators and reports made publicly available.

¹⁰ See DIGITALEUROPE, *Protecting children online: response to the draft guidance*, available at <https://www.digitaleurope.org/resources/protecting-children-online-response-to-the-draft-guidance/>

¹¹ Regulation (EU) 2024/1689.

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About DIGITALEUROPE

DIGITALEUROPE is the leading trade association representing digitally transforming industries in Europe. We stand for a regulatory environment that enables European businesses and citizens to prosper from digital technologies. We wish Europe to grow, attract and sustain the world's best digital talents and technology companies. Together with our members, we shape the industry policy positions on all relevant legislative matters and contribute to the development and implementation of relevant EU policies. Our membership represents over 56,000 businesses who operate and invest in Europe. It includes corporations which are global leaders in their field of activity, as well as national trade associations from across Europe.

