

Jurisdiction in an evolving European digital landscape - Principle and derogations in a cross-border environment

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Jurisdiction : principle & derogations

Country of
origin

Targeting

Extra-EU reach

Country of origin (COO) principle today

Rule

Objectives

Scope

Country of origin (COO) principle today

Rule	Objectives	Scope
<p>Providers are regulated by the MS where they are established</p> <p>Under AVMSD, MS keep an up-to-date list of media service providers under their jurisdiction</p> <p>AVMSD criteria:</p> <ul style="list-style-type: none">• Head office + editorial decisions or workforce / first activity - Art. 2 (3)• For 3rd country services: MS where satellite up-link or satellite capacity – Art. 2(4)• Art. 49-55 TFEU	<ul style="list-style-type: none">• Internal Market integrity• Legal certainty to service providers• Free flow of information and AV programs across EU	<ul style="list-style-type: none">• AVMSD• SatCab Directive• E-Commerce Directive• DSA• EMFA• Political Advertising Regulation• P2B Regulation• AI Act...

Country of origin (COO) principle today

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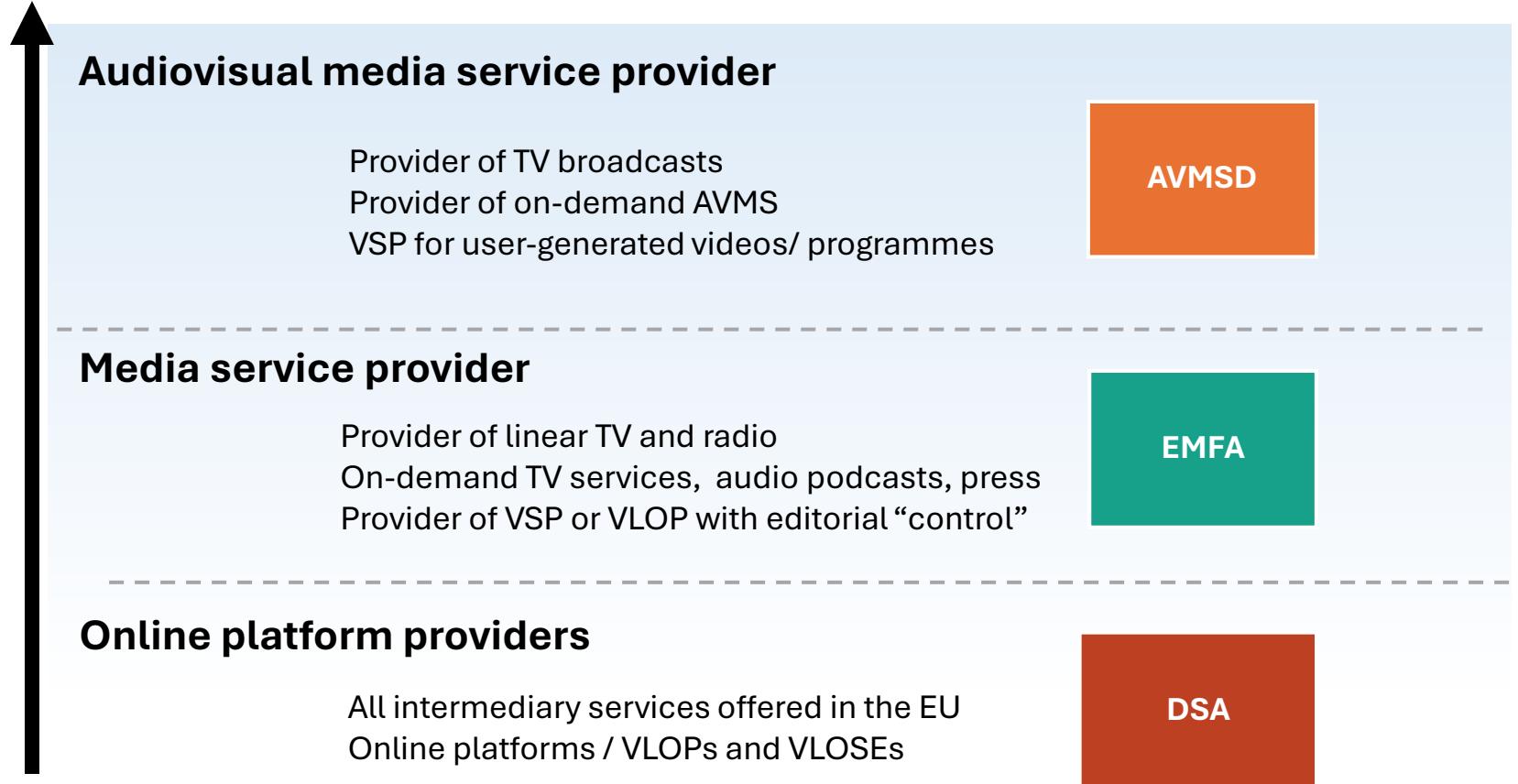
Derogations: destination or “targeting” country

AVMSD	E-Commerce	DSA	EMFA
<p>Art. 4 AVMSD Anti-circumvention procedure</p> <p>Art. 3(4)–(5) ECD Prior request to country of origin + EC notification</p> <p>Art. 3(2)–(3): suspension of media service providers in severe cases of:</p> <ul style="list-style-type: none">• Incitement to violence or hatred, minors' protection, public health• Terrorist offence, public security <p>Art. 13(2): financial contribution to the production of European works in targeted country</p>	<p>Art. 3(4): measures against information society services, under strict conditions:</p> <ul style="list-style-type: none">• Public policy: criminal offences, minors, hate speech, human dignity• Public health; public security; protection of consumers <p>Art. 3(5): urgent procedure without prior request</p>	<p>Art 56:</p> <ul style="list-style-type: none">• Mirroring and updating Art. 3(4)–(6) ECD: strictly framed derogations based on similar public policy grounds• Towards providers of certain intermediary services based on “substantial connection” or “targeting activities”	<p>Art. 15</p> <p>Procedure to ensure the enforcement of the obligations by VSP providers under the AVMSD</p> <p>“substantial connection” and targeting criteria</p>

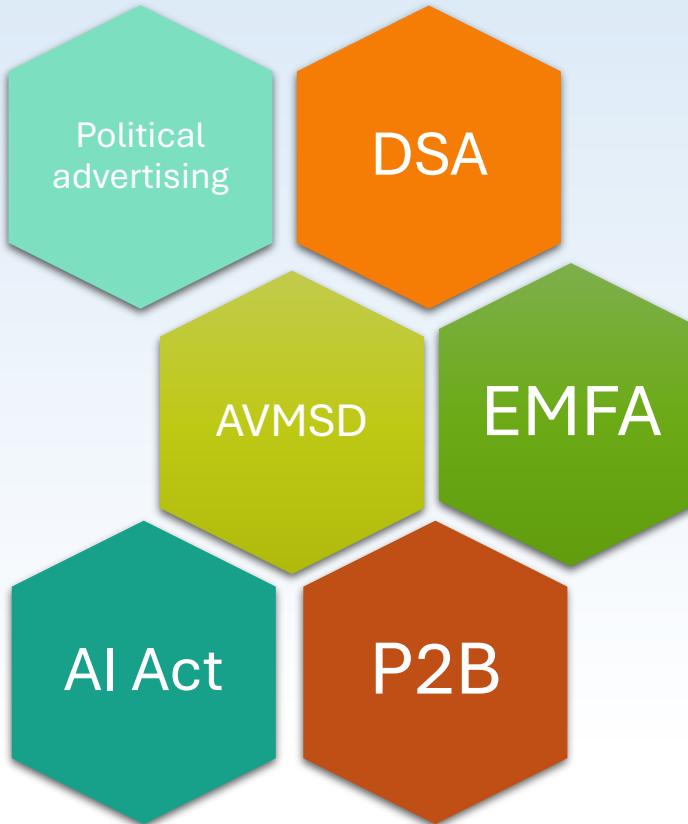
Extra-EU reach

AVMSD	EMFA	DSA	Other
<p>Art. 2(4)</p> <ul style="list-style-type: none">• Media service providers from third countries• Using satellite up-link situated in a Member State or using a satellite capacity from that Member State	<p>Art. 17(1)</p> <ul style="list-style-type: none">• Media service providers from third countries• Providing media services that, irrespective of their means of distribution or access, target or reach audiences in the Union	<p>Art. 3(e)</p> <ul style="list-style-type: none">• Providers of intermediary services• Having a “substantial connection to the Union” resulting from factual criteria, e.g. significant number of recipients of the service or the targeting of activities at EU member state	<p>Art. 2(1) Political Advertising Regulation</p> <ul style="list-style-type: none">• Providers or sponsors of political ad services• Political ad disseminated in the EU, brought into public domain in one or several MS or directed at EU's citizens <p>Art. 2(1) AI Act</p> <ul style="list-style-type: none">• Providers• Placing on the market/ putting into service/ output used in the EU <p>Art 1(2) P2B Regulation</p> <p>Offer goods/services in EU</p>

Scope of key concepts



Jurisdiction: a legal mosaic?



Thank you !

Approaching jurisdictional issues in European audiovisual law: trends and tensions



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