



## 4.14. HR – Croatia – National legal summary<sup>287</sup>

### 4.14.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- *Zakon o elektroničkim medijima NN 111/21*<sup>288</sup> (Electronic Media Act, Official Gazette 111/21 – EMA).
- *Zakon o nedopuštenom oglašavanju 43/09*<sup>289</sup> (Act on illegal advertising, Official Gazette 43/09).
- *Zakon o elektroničkoj trgovini*<sup>290</sup> (Electronic Commerce Act, Official Gazette 173/03, 67/08, 36/09, 130/11, 30/14, 32/19 – ECA).
- *Zakon o igrama na sreću*<sup>291</sup> (Act on Games of Chance, Official Gazette no. 87/09, 35/13, 158/13, 41/14, 143/14).

Secondary legislation

- *Pravilnik o načinu oglašavanja o lijekovima*<sup>292</sup> (Regulations on advertising of medicinal products).
- *Pravilnik o tehničkim i drugim mjerama kojima se gledatelji obavještavaju o plasmanu proizvoda u programima*<sup>293</sup> (Ordinance on technical and other measures by which viewers are informed about product placement in programs – Ordinance).

Self- and co-regulatory instruments:

- *Hrvatska udruga društava za tržišno komuniciranje HURA Kodeks oglašavanja i tržišnog komuniciranja*<sup>294</sup> (Code for advertising and market communication of the Croatian Association of Communications Agencies).

---

<sup>287</sup> The factsheet on Croatia incorporates feedback received from Sanja Pančić, Advisor to the Director for International Cooperation and Public Relations, at the Agency for Electronic Media (AEM) during the checking round with the national regulatory authorities.

<sup>288</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2021\\_10\\_111\\_1942.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2021_10_111_1942.html).

<sup>289</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_04\\_43\\_984.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_04_43_984.html).

<sup>290</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2003\\_10\\_173\\_2504.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2003_10_173_2504.html).

<sup>291</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_07\\_87\\_2128.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_07_87_2128.html).

<sup>292</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_04\\_43\\_884.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_04_43_884.html).

<sup>293</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_09\\_106\\_1563.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_09_106_1563.html).

<sup>294</sup> [https://hura.hr/wp-content/uploads/2016/11/hura\\_kodeks-oglasavanja-i-trzisnog-komuniciranja.pdf](https://hura.hr/wp-content/uploads/2016/11/hura_kodeks-oglasavanja-i-trzisnog-komuniciranja.pdf).



## 4.14.2. Definitions and restrictions regarding commercial communications

This section aims at identifying the relevant definitions related to commercial communications stemming from related laws, rules and current practices, as well as ongoing reforms under the transposition and implementation of the revised AVMS Directive. Please note that this review includes definitions which are part of the revised AVMSD, inclusive of audiovisual commercial communications, advertising, surreptitious commercial communications, sponsorship and product placement, but also the definitions of supplementary and/or related concepts, such as the advertiser, sponsor and sponsored content, as well as misleading commercial communication, for the purpose of providing a comprehensive overview.

### 4.14.2.1. Definitions

**Table 40. Definition of the main concepts related to commercial communications**

Concept	Existence of a definition
Audiovisual commercial communications	Yes.
Television advertising	Yes.
Advertiser	No.
Surreptitious commercial communication	Yes.
Misleading commercial communication	Yes.
Virtual advertising	No.
Sponsorship	Yes.
Sponsor	No.
Sponsored content	No.
Product placement	Yes.
Other:	No.

Source: Croatian response to European Audiovisual Observatory standardised survey

#### 4.14.2.1.1. Audiovisual commercial communications

Article 3 paragraph 1, subparagraph 1, of the EMA defines audiovisual commercial communications by transposing the text of the revised AVMSD verbatim, as follows:

*Audiovisual commercial communication means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity; such images accompany, or are included in, a*



*programme or user-generated video in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television and radio advertising and teletext, sponsorship, teleshopping and product placement*

#### 4.14.2.1.2. Television advertising

Article 3 paragraph 1, subparagraph 19, of the EMA defines television advertising by transposing the text of the revised AVMSD almost verbatim as follows:

*advertising means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations.*

#### 4.14.2.1.3. Advertiser

There is no definition of advertiser.

#### 4.14.2.1.4. Surreptitious commercial communication

Article 3 paragraph 1, subparagraph 24, of the EMA defines surreptitious commercial communications as follows:

surreptitious audiovisual commercial communication means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. In accordance with Article 21 paragraph 2 of the EMA, which is applicable to VSPs, surreptitious commercial communications are prohibited on VSPs.

#### 4.14.2.1.5. Misleading commercial communication

Article 3 paragraph 1, subparagraph 41, of the EMA defines misleading commercial communications as:

*Misleading advertising: any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor.*

The same definition of misleading advertising can be found in Article 3 paragraph 2 of the Act on illegal advertising.



In the EMA there are no specific rules for misleading commercial communications that are applicable to VSPs, but since the Act on illegal advertising is *lex specialis* in this case, according to Article 4 paragraph 1 of that Act, misleading advertising is prohibited.

#### 4.14.2.1.6. Virtual advertising

There is no definition of virtual advertising and there are no applicable rules pertaining to VSPs.

#### 4.14.2.1.7. Sponsorship

Article 3 paragraph 1, sub paragraph 23, of the EMA defines sponsorship by transposing the text of the revised AVMSD verbatim as follows:

*sponsorship means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trade mark, image, activities or products;*

In the EMA, there are no specific applicable rules for sponsorship pertaining to video VSPs.

#### 4.14.2.1.8. Sponsor

There is no definition of sponsor.

#### 4.14.2.1.9. Sponsored content

There is no definition of sponsored content. However, Article 22 of the Electronic Media Act pertains to the attributes of sponsored content by setting the general requirements that must be observed by sponsored programmes or services, in the sense of Article 11 of the AVMSD.

In the EMA, there are no specific applicable rules for sponsored content pertaining to VSPs.

#### 4.14.2.1.10. Product placement

Article 3 paragraph 1, subparagraph 22, of the Electronic Media Act defines product placement by transposing the text of the revised AVMSD verbatim as follows:

*product placement means any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trade mark thereof so that it is*



*featured within a programme or a user-generated video in return for payment or for similar consideration*

In the EMA, there are no specific applicable rules for product placement pertaining to VSPs.

In September 2022, the Croatian media authority, the Electronic Media Council (EMC),<sup>295</sup> adopted the Ordinance on technical and other measures by which viewers are informed about product placement in programs. This Ordinance includes applicable provisions for product placement, and specifically regulates technical and other measures by which viewers are informed about product placement in audiovisual programmes, radio programmes, on-demand audiovisual media services and user-generated content.

In Article 2 paragraph 1 of the Ordinance, the definition of product placement is almost verbatim to that of the EMA:

*“Product placement”: any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trademark thereof so that it is featured within a programme or a user-generated video in return for payment or for similar consideration or for commercial purposes*

Other provisions applicable to product placement with regard to user-generated content that are included in the Ordinance are found under 4.14.3.2.

#### 4.14.2.1.11. Other definitions

N/A.

#### 4.14.2.2. Restrictions regarding commercial communications

The revised AVMSD introduces obligations for VSPs to, *inter alia*, respect certain requirements regarding commercial communications and this section aims at updating the information relative to these obligations and measures imposed under national legislation on media service providers, including VSP providers related to commercial communications.

Article 96 paragraph 2 of the EMA provides that while publishing audiovisual commercial communications, VSP providers must comply with the requirements set out in Article 21, paragraphs 1-8 of the Act (which are presented below). In addition, Article 96 paragraph 3 stipulates that they should also take appropriate measures with respect to user-generated content that contains audiovisual commercial communications, to comply with the requirements set out in Article 21 paragraphs 1 to 8. of the Act. A breach of the provisions set out in Article 21 paragraphs 1 to 8 by a legal person will result in a fine from HRK 100 000.00 to HRK 1 000 000.00 as per Article 98 paragraphs 4 to 17.

Article 96 paragraph 1, subparagraphs 2 and 3, of the EMA sets out the general requirements for video-sharing platforms and audiovisual commercial communications

---

<sup>295</sup> Vijeće za elektroničke medije, <https://aem.hr>.



provided by VSPs, to protect the public against incitement to violence or hatred directed against a group of persons or a member of a group, thus transposing in substance the provisions of section 28b of the AVMS.

Specifically, Article 96 paragraph 1, subparagraph 2, imposes the obligation to protect the public against user-generated content and audiovisual commercial communications on VSPs that contain incitement to violence or hatred directed against a group of persons or a member of a group as prescribed in Article 14 of the EMA which stipulates that it is prohibited to promote, favour the promotion of or spread hatred or discrimination based on race or ethnic affiliation or colour, gender, language, religion, political or other beliefs, national or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, native identity, expression or sexual orientation, as well as antisemitism and xenophobia, and ideas of fascist, nationalist, communist and other totalitarian regimes.

Furthermore, Article 96 paragraph 1, subparagraph 3, imposes the obligation to protect the public against user-generated content and audiovisual commercial communications on VSPs with content the dissemination of which constitutes activity that is a criminal offence, including public incitement to commit the criminal offense of terrorism under Article 99 of the Croatian Penal Code (Official Gazette, no 125/11., 144/12., 56/15., 61/15., 101/17., 118/18., 126/19. i 84/21.), criminal offences related to child pornography referred to in Article 163. of the Penal Code and criminal offenses relating to racism and xenophobia under Article 125 of the Penal Code.

#### 4.14.2.2.1. Audiovisual commercial communications related to alcoholic beverages and tobacco and tobacco-related products, including electronic cigarettes and refill containers

VSPs must comply with the requirement set out in Article 21 paragraph 5 which states that:

*All forms of audiovisual commercial communications related to cigarettes and other tobacco products including electronic cigarettes and refill containers shall be prohibited*

and the requirements in Article 21 paragraph 6 which prescribe that:

*Audiovisual commercial communications promoting alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages or depict children and youth who consume such beverages.*

According to Article 6. of the aforementioned Ordinance:

*Product placement of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers, special drugs, treatments and medicinal products available only with a doctor's prescription is not allowed.*



#### 4.14.2.2.2. Audiovisual commercial communications for medicinal products and medical treatment available only on prescription in the member state

Article 21 paragraph 7 of the EMA prohibits audiovisual commercial communications for medicinal products and medical treatment available only on prescription. Other restrictions can be found in section 4 of the Regulations on advertising of medicinal products dealing with advertising of medicinal products on the Internet.

According to Article 6. of the aforementioned Ordinance:

*Product placement of cigarettes and other tobacco products, as well as electronic cigarettes and refillable containers, special drugs, treatments and medical products available only with a doctor's prescription is not allowed.*

#### 4.14.2.2.3. Surreptitious audiovisual commercial communications

Surreptitious advertising is prohibited according to Article 21 paragraph 2 of the EMA.

#### 4.14.2.2.4. Subliminal techniques in commercial communications

The use of subliminal techniques in commercial communications is prohibited under Article 21 paragraph 3 of the EMA.

#### 4.14.2.2.5. Prejudice with regard to human dignity

According to Article 21 paragraph 4, first point of the EMA, commercial communications must not prejudice respect for human dignity:

*Audiovisual commercial communications shall not:  
- prejudice respect for human dignity"*

#### 4.14.2.2.6. Inclusion or promotion of any discrimination (on the grounds of e.g., sex, racial or ethnic origin, nationality, religion, etc.)

Article 21 paragraph 4, second point of the EMA prohibits commercial communications from including any discrimination based on the following grounds:

*on race or ethnicity or colour, sex, language, religion, political or other belief, nationality or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity, expression or sexual orientation;*



#### 4.14.2.2.7. Encouragement of behaviour prejudicial to health or safety

Encouraging behaviour prejudicial to health or safety is prohibited in commercial communications under Article 21 paragraph 4, third point, of the EMA.

#### 4.14.2.2.8. Encouragement of behaviour grossly prejudicial to the protection of the environment

Encouraging behaviour grossly prejudicial to the protection of the environment is prohibited in commercial communications under Article 21 paragraph 4, fourth point of the EMA.

#### 4.14.2.2.9. Causing physical, mental or moral detriment to minors

Requirements pertaining to the protection of minors in relation to commercial communication are laid down in Article 21 paragraph 8 of the EMA which states:

*Audiovisual commercial communications shall not:*

- *cause physical, mental or moral detriment to minors;*
- *directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity;*
- *directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;*
- *exploit the special trust minors place in parents, teachers or other persons;*
- *unreasonably show minors in dangerous situations*

In relation to the protection of the personal data of minors, Article 96 paragraph 8 of the EMA stipulates that personal data of minors that are collected by VSPs through established age-verification systems required by Article 96 paragraph 7, subparagraph 6, of the EMA and parental control systems required by Article 96 paragraph 7, subparagraph 8, of the EMA cannot be used for commercial purposes, such as direct marketing, profiling and targeted behavioural advertising.

#### 4.14.2.2.10. Other

N/A.





### 4.14.3. Sponsorship and product placement

Certain obligations stem from the revised AVMSD vis-à-vis sponsorship and product placement and this part aims at identifying the rules and practices pertaining to these two specific categories of commercial communications.

#### 4.14.3.1. Sponsorship

There are no specific rules pertaining to sponsorship for VSPs in Croatia.

#### 4.14.3.2. Product placement

At present, there are no specific rules pertaining to product placement for VSPs in Croatia.

It should be noted that the aforementioned Ordinance is applicable to user-generated content, in addition to business media service providers.

Article 3 paragraph 1 of the Ordinance pertains to the obligation of providers to inform viewers about product placement. They must identify product placement and provide information about the duration of the placement (via a graphic mark, text and audio signal). They are prohibited from providing surreptitious audiovisual commercial communication.

According to Article 4 paragraph 1 of the Ordinance, all programmes (according to Article 4 paragraph 2, this also apply *mutatis mutandis* to user-generated content) containing product placement must meet all of the following conditions:

- *their content and organisation within the schedule, in the case of television broadcasting or within the catalogue, in the case of on-demand audiovisual media services, in no case is affected in a way that affects the responsibility and editorial independence of the media service provider;*
- *they must not directly encourage the purchase or rental of goods or services, especially by special promotional reference to those goods or services;*
- *they must not inappropriately highlight the product in question;*
- *viewers must be clearly informed about the existence of product placement during the announcement and/or exit credits and when the audiovisual program continues after the advertising break, so as not to confuse viewers.*

### 4.14.4. Obligations regarding (v)blogs and (v)blogging

Blogs and vlogs are not considered audiovisual media services in Croatia, as they are not included in the scope of Article 3 paragraph 2 of the Electronic Media Act, which defines audiovisual media services. Instead, they are considered as information society services under the Electronic Commerce Act.



Article 2 paragraph 2 of this Act provides for the definition of “information society service”: it is any service normally provided in return for remuneration, at a distance, by electronic means and at the individual request of a recipient of services, in particular Internet sales of goods and services, the provision of information on the Internet, advertising on the Internet, search engines, and intermediaries for network access or storage of user data. With regard to advertising, Article 2 paragraph 7 of the ECA defines commercial communication as any form of communication designed to promote, directly or indirectly, the goods, services or image of a company, organisation or person exercising a regulated profession except for:

- information allowing direct access to the activity of the company, organisation or person, in particular a domain name or an electronic-mail address,
- communications relating to the goods, services or image of the company, organisation or person compiled in an independent manner, particularly when this is without financial consideration.

In terms of requirements, in the section "Content of commercial communication", Article 7 of this Act requires service providers to ensure that all information in commercial communications which are part of, or constitute, an information society service, clearly and unambiguously comply with the following terms:

- the commercial communication shall be clearly identifiable as such;
- the person on whose behalf the commercial communication is made shall be clearly identifiable;
- all promotional offers in commercial communications shall be clearly identifiable as such;
- conditions that must be met for accepting offers from commercial communications shall be easily accessible and be presented clearly and unambiguously.

#### 4.14.5. Other relevant information

N/A.

#### 4.14.6. Content-related rules regarding commercial communications for VSP providers

While certain restrictions regarding the content of commercial communications stem from the revised AVMSD and relate to issues connected to the protection of minors and restrictions on the advertising of certain products and services, this part deals with less explored notions, such as rules pertaining to gambling, environmental claims vis-à-vis products and services, etc.



#### 4.14.6.1. Advertising of, or on behalf of, associations that are wholly or mainly concerned with religion, faith and other belief systems

No specific provisions deal with this issue.

#### 4.14.6.2. Gambling, betting, betting tipsters, etc.

A general ban is established under Article 68 paragraph 1, subparagraph 4, of the Act on Games of Chance on advertising or any other form of marketing of games of chance from foreign countries on the territory of the Republic of Croatia.

Besides, Article 96 paragraph 1, first point, of the Electronic Media Act requires VSPs to take appropriate measures with regard to the protection of minors according to Article 24 of the Act. Article 24 paragraph 3 outlines some of the requirements which media services must meet regarding the protection of minors, including that VSPs indicate to minors that they are using games of chance.

Finally, Article 6 of the Ordinance, to be enacted by the EMC, prohibits the product placement of gambling or betting products.

#### 4.14.6.3. Environmental or “green” product claims

There are no legislative rules for VSPs regarding environmental or “green” claims related to products or services. However, for the members of the Croatian Association of Communication Agencies (HURA)<sup>296</sup> there are self-regulatory provisions with regard to “green” claims in marketing, in particular in section D of the “Code for advertising and market communication”.

#### 4.14.6.4. Other

N/A.

### 4.14.7. Self- and co-regulation and enforcement

This section aims at identifying the legal framework and practice for self- or co-regulatory schemes and measures regarding commercial communications on VSPs, including the identification of the body or bodies in charge of self- and co-regulation and enforcement powers with regard to commercial communications and VSPs, as well as the scope of their activities with regard to commercial communications and VSPs.

---

<sup>296</sup> Hrvatska udruga društava za tržišno komuniciranje, <https://hura.hr/>.



#### 4.14.7.1. Self- and co-regulatory bodies

##### 4.14.7.1.1. Context of establishment and legal background

The Electronic Media Council is encouraged under Article 96 paragraph 5 of the Electronic Media Act to use co-regulation and promote self-regulation through codes of conduct, as provided for in Article 12, to effectively prevent excessive consumption by minors of food and beverages that are not recommended for them.

With regard to advertising and market communications, self-regulatory mechanisms have been established in Croatia. In May 2020, HURA adopted a self-regulatory code of conduct, the "Code for advertising and market communication", which was revised according to the ICC Advertising and Marketing Communications Code (2018).<sup>297</sup> It focuses on direct marketing and digital market communications. This Code includes clear separations of commercial, editorial, and user-generated content, and the applicability of the Code to all marketing actors (influencers, bloggers, vloggers, adtech companies...), and all media and communication platforms, including social networks.

##### 4.14.7.1.2. Stakeholders involved

At the time of preparation of this factsheet, there were 55 members in HURA.<sup>298</sup>

##### 4.14.7.1.3. Scope and objectives

Article 12 of the Electronic Media Act provides that "(1) pursuant to this Act, particular issues may be regulated by self-regulatory and/or co-regulatory regimes through codes of conduct for the purpose of standardising their application in practice", and specifies the criteria that must be respected by these codes as follows:

*(2) The codes referred to in paragraph 1 of this article shall:*

- 1. be accepted by the main stakeholders;*
- 2. set out clear and unambiguous objectives;*
- 3. provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives pursued; and*
- 4. provide for effective enforcement, including effective and proportionate sanctions.*

*(5) Established codes of conduct by the European Union that are published shall not affect implementation of national codes of conduct.*

---

<sup>297</sup> The ICC's Advertising and Marketing Communications Code – or the ICC Marketing Code – is a globally-applicable self-regulatory framework, developed by experts from all industry sectors worldwide, <https://iccwbo.org/publication/icc-advertising-and-marketing-communications-code/>.

<sup>298</sup> <https://hura.hr/hura-clanovi/>.



Moreover, as mentioned in the previous section, the Croatian Association of Communications Agencies adopted a revised self-regulatory code-of-conduct "Code for advertising and market communication" in May 2020.

The scope of self-regulatory instruments include:

- Prevention of excessive consumption by minors of HFSS foods and drinks
- Inappropriate ACCs for alcoholic beverages
- ACCs which encourage behaviours grossly prejudicial to the protection of the environment

#### 4.14.7.1.4. Code(s) of conduct

The Code for advertising and market communication represents the minimum standards of ethics and professional practice that stakeholders must observe in advertising and other forms of communication. It also includes rules governing sales enhancement, sponsorship, direct marketing and digital marketing communications, as well as environmental protection claims in marketing communications.

#### 4.14.7.1.5. Role of (self-)regulatory bodies

HURA represents its members in lobbying, negotiations on legislation, advocacy, research and other matters. It has also established the Court of Honour of HURA, which is authorised to conduct proceedings and decide on complaints regarding violations of the code. HURA's Court of Honour can initiate court proceedings against offenders against the Code of Honour or can submit a proposal for expulsion of the offender from HURA to the assembly of HURA.

The HURA Court of Honour has issued guidelines on interpretation of the Code and proposes sanctions that are defined by the Code.

#### 4.14.7.1.6. Period of activity (if limited)

Not limited.

#### 4.14.7.1.7. Role of the regulatory authority in a co-regulatory system:

The Electronic Media Council is encouraged under Article 96 paragraph 5 of the Electronic Media Act to use co-regulation and promote self-regulation through codes of conduct. At present, there is no additional information on this process.

##### 4.14.7.1.7.1. Regulatory body

N/A.



*4.14.7.1.7.2. Co-regulatory scheme*

N/A.

*4.14.7.1.7.3. Relationship and roles of stakeholders*

N/A.

4.14.7.2. Monitoring/evaluation, compliance and sanctioning powers

N/A.

4.14.8. Cross-sector and cross-border collaboration

N/A.

4.14.9. Update on plans and practices related to new obligations of VSPs

There are no plans to update plans and practices regarding the tools and mechanisms in place in relation to the new VSP obligations.

4.14.10. Studies, reports and research

N/A.

4.14.11. Data compilation

This factsheet is based on data compiled by Hrvoje Lisičar, Associate Professor of Law at the Faculty of Law, University of Zagreb.