



4.16. IE – Ireland – National legal summary³¹⁸

4.16.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Broadcasting Act 2009³¹⁹
- Online Safety and Media Regulation Bill 2022³²⁰ (OSMR Bill 2022)
- Data Protection Act 2018³²¹
- ePrivacy Regulations, SI 336/2011³²²
- Electoral Reform Act³²³

The OSMR Bill has been signed into law by the President on 10 December 2022, after the completion of this mapping. Relevant updates have been made through additional desk research.

Secondary legislation:

- Statutory Instrument No 258 of June 2010 of the Minister of Communications, Energy and Natural Resources³²⁴ (Statutory Instrument No 258 of 2010), as amended by S.I. 247/2012, EC (Audiovisual Media Services) (Amendments) Regulations 2012
- Broadcasting Authority of Ireland (BAI), General Commercial Communications Code³²⁵
- Broadcasting Authority of Ireland (BAI) rules on Advertising and Teleshopping³²⁶
- Broadcasting Authority of Ireland (BAI), Children's Commercial Communications Code³²⁷
- Data Protection Commission Guidance – Children Front and Centre: Fundamentals for a Child-Oriented Approach to Data Processing (the Fundamentals)³²⁸

³¹⁸ The factsheet on Ireland incorporates the feedback received from Declan McLoughlin, Senior Manager at the Broadcasting Authority of Ireland (Údarás Craolacháin na hÉireann), during the checking round with the national regulatory authorities.

³¹⁹ <https://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/pdf>

³²⁰ <https://www.oireachtas.ie/en/bills/bill/2022/6/>

³²¹ <https://data.oireachtas.ie/ie/oireachtas/act/2018/7/eng/enacted/a0718.pdf>

³²² <https://www.irishstatutebook.ie/eli/2011/si/336/>

³²³ <http://www.legislation.ie/eli/2022/en/act/pub/0030/index.html>

³²⁴ <https://www.irishstatutebook.ie/eli/2010/si/258/made/en/pdf>

³²⁵ <https://www.bai.ie/en/codes-standards/#al-block-2>

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ <https://www.dataprotection.ie/en/news-media/consultations/children-front-and-centre-fundamentals-child-oriented-approach-data-processing>



- Data Protection Commission Rules for Direct Electronic Marketing³²⁹

Self and co-regulatory instruments:

- Code of Standards for Advertising and Marketing Communications in Ireland³³⁰
- On-Demand Audiovisual Services Group (ODAS) Code of Conduct for On-Demand Audiovisual Media Services³³¹

4.16.2. 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.

4.16.2.1. Definitions

Table 42. Definition of the main concepts related to commercial communications

Concept	Existence of a definition
Audiovisual commercial communications	Yes.
Television advertising	Yes.
Advertiser	Covered under television advertising.
Surreptitious commercial communication	Yes.
Misleading commercial communication	Yes.
Virtual advertising	Yes.
Sponsorship	Yes.
Sponsor	Covered under sponsorship.

³²⁹ <https://www.dataprotection.ie/en/organisations/rules-electronic-and-direct-marketing>

³³⁰ https://www.asai.ie/wp-content/uploads/ASAI-CODE_2015_DEC15_Revision.pdf.

³³¹ https://www.asai.ie/wp-content/uploads/On-Demand-Audiovisual-Media-Services-Code-Final-_May-2011_.pdf.



Sponsored content	Covered under sponsorship.
Product placement	Yes.
Other:	Direct marketing, commercial profiling, behaviourally targeted advertising, micro-targeting, online political advertising.

Source: Irish response to European Audiovisual Observatory standardised survey

4.16.2.1.1. Audiovisual commercial communications

Statutory Instrument No. 258 of 2010, in Article 2(1), defines audiovisual commercial communication as images with or without sound which:

- (a) are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity, and*
- (b) accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes.*

Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement, but do not include public service announcements and charity appeals broadcast free of charge.

The same definition is used in the ODAS Code of Conduct for On-Demand Audiovisual Media Services.

Also, the OSMR Act 2022, in Section 3, Paragraph 2 (a), defines audiovisual commercial communication as: “a commercial communication consisting of images with or without sound”.

It goes on to describe commercial communication as images or sound or both (Section 3, Paragraph 2 (d)):

- (a) designed to promote, directly or indirectly, the goods, services or image of a person pursuing an economic activity, and*
- (b) included in or accompanying a programme or user-generated content in return for payment or for similar consideration or for self-promotional purposes*

Section 46N(1) of the OSMR Act 2022 also makes provision for the Media Commission “makes codes (‘media service codes’) governing the standards and practices of broadcasters and providers of audiovisual on-demand media services.”

4.16.2.1.2. Television advertising

Statutory Instrument No 258 of 2010, Article 2(1) defines television advertising as:

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 trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment

The Broadcasting Authority of Ireland (BAI)³³² rules on advertising and teleshopping define advertising as:

Images with or without sound and radio announcements 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 trade, business, craft or profession in order to promote the supply of products or services, including immovable property, rights and obligations, in return for payment.

Section 42(2)(g) of the existing Broadcasting Act 2009 states:

Advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other such activities which relate to matters likely to be of direct or indirect interest to children, must protect the interests of children having particular regard to the general public health interests of children.

It is the BAI's Children's Commercial Communications Code that outlines the relevant rules.

Section 42(2)(h) of the existing Broadcasting Act 2009 and the OSRM Act 2022 state that "advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within paragraph (g), must protect the interests of the audience". The BAI's General Commercial Communications Code outlines the current rules.

4.16.2.1.3. Advertiser

There is no statutory definition of advertiser – which is covered under the definition of television advertising (see under 4.16.2.1.2.). However, a definition of advertiser is included in the ASAI's self-regulatory code.

Section 1.1 (d) of that code contains the following:

An advertiser includes anyone disseminating marketing communications, including promoters and direct marketers. References to advertisers should be interpreted as including intermediaries and agencies unless the context indicates otherwise.

³³² <https://www.bai.ie/>



4.16.2.1.4. Surreptitious commercial communication

Section 2(1) of Statutory Instrument No 258 of 2010 defines surreptitious audiovisual commercial communication as:

Representation in words or pictures of goods, services, the name, the trademark 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. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

The same definition is used in the BAI's General Commercial Communications Code and a similar definition is used in the ODAS Code of Conduct for On-Demand Audiovisual Media Services.

4.16.2.1.5. Misleading commercial communication

As per the requirements of sections 42(2) (h) and (j) of the Broadcasting Act 2009 (which include a requirement to transpose the relevant provisions of the AVMS Directive), the BAI's General Commercial Communications Code defines misleading commercial communication as:

Commercial communications that contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service promoted or its suitability for the purpose recommended and which, by reason of its misleading nature, is likely to prejudice the interests of individuals or a competitor.

The same definition is also included in the ODAS Code of Conduct for On-Demand Audiovisual Media Services.

4.16.2.1.6. Virtual advertising

As per the requirements of sections 42(2) (h) and (j) of the Broadcasting Act 2009, (and the OSMR Act 2022), the BAI's General Commercial Communications Code defines virtual advertising as:

An advertising technique which allows broadcasters to electronically insert virtual commercial messages into broadcasts by altering the broadcast signal itself, for example, by replacing existing advertising boards on a field or by superimposing new (e.g. three-dimensional) images.



4.16.2.1.7. Sponsorship

As per the requirements of sections 42(2) (h) and (j) of the Broadcasting Act 2009,, the BAI's General Commercial Communications Code defines sponsorship as:

Any contribution made by a public or private undertaking or natural person not engaged in providing radio or television services or in the production of sound broadcasting or audiovisual works, to the financing of television and/or radio services or programmes with a view to promoting its name, its trademark, its image, its activities, its products or its services. Sponsor announcements or references may be shown during a programme but shall not be part of the plot or narrative, that is, they are limited to announcements declaring the sponsorship arrangement (e.g. “sponsored by”, “brought to you by”, etc) and announcements for sponsored competitions. References to a product or service that are built into the action of a programme constitute product placement, where such references meet the definition of paid product placement or prop placement.

According to Statutory Instrument No 258 of 2010, sponsorship means:

Any contribution made by a public or private undertaking or natural person not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to promoting its name, its trademark, its image, its activities or its products.

4.16.2.1.8. Sponsor

There is no definition of sponsor: it is covered under the definition of sponsorship.

4.16.2.1.9. Sponsored content

There is no definition of sponsored content: it is covered under the definition of sponsorship.

4.16.2.1.10. Product placement

As per the requirements of sections 42(2) (h) and (j) of the Broadcasting Act 2009, the BAI's General Commercial Communications Code defines product placement as:

Any form of commercial communication on television consisting of the inclusion of or reference to a product, a service or the trademark thereof so that it is featured within a programme. The decisive criterion distinguishing product placement from sponsorship is the fact that in product placement the reference to a product or service is built into the action of a programme. In contrast, sponsor announcements or references may be shown during a programme but are not part of the plot or narrative of the programme. The display of logos



or branding in programme content (and outside of sponsorship announcements or references) is considered product placement if it meets the definition of product placement.

There is a distinction between two types of product placement as follows: paid product placement and prop placement.

According to Statutory Instrument No 258 of 2010, product placement means:

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, in return for payment or for similar consideration.

This definition is also used in the Code of Conduct for On-Demand Audiovisual Media Services.

4.16.2.1.11. Other definitions

In relation to definitions and/or considerations of the techniques of online commercial communications, it should be noted that several such techniques are defined and regulated under Irish legislation, including:

- Direct Marketing: Under the Rules for Direct Electronic Marketing, the Data Protection Commission (DPC)³³³ describes direct marketing as involving: “a person being targeted as an individual, and the marketer attempting to promote a product or service, or attempting to get the person to request additional information about a product or service”. It adds: “In addition to attempt to promote a product or service, direct marketing also extends to other promotional content such as, for example, event promotion, the promotion of the ethos or culture of an organisation, group or body, the promotion of a ‘Yes’ or ‘No’ vote in a referendum, and the canvassing of support for candidates standing for elective office.”
- The general rule for electronic direct marketing is that it requires the affirmative consent of the recipient under Regulation 13 of the ePrivacy Regulations, SI 336/2011. Even where a direct marketer has the consent of a data subject, that consent may be withdrawn by the data subject, and in all cases of direct marketing, the data subject has the right to object at any time to the use of their personal data for such marketing, which includes profiling related to such direct marketing. This right to object must be explicitly brought to the attention of the data subject and presented clearly and separately from any other information. It is an offence, under the Data Protection Act 2018, section 30 (2) (h), for any company or corporate body to process the personal data of a child as defined by section 29 for the purposes of direct marketing, profiling or micro-targeting.
- Commercial profiling: The Fundamentals (DPC guidance), set out the standards that all organisations should follow when collecting and processing children’s data. A precautionary approach to profiling children is recommended in the guidance which

³³³ <https://www.dataprotection.ie/en/organisations/rules-electronic-and-direct-marketing>.



states that: “Online service providers should not profile children and/or carry out automated decision making in relation to children, or otherwise use their personal data, for marketing/advertising purposes due to their particular vulnerability and susceptibility to behavioural advertising, unless they can clearly demonstrate how and why it is in the best interests of the child to do so.”

- Behaviourally targeted advertising: The Advertising Standards Authority for Ireland (ASAI)³³⁴ has produced a Code of Standards for Advertising and Marketing Communications in Ireland. Section 18 of the Code deals with online behavioural advertising (OBA). Section 18.1 (a) defines online behavioural advertising as: “the collection, over a period of time, by a third party of web viewing behaviour data from a particular computer or device which takes place across multiple web domains not under common control, and which is used by the third party to deliver advertising to that particular computer or device based on the preferences or interests inferred from the data by the third party’s technology”.³³⁵

The rules require an OBA third party to provide notice to web users in or around an online display advertisement if they are undertaking OBA. The notice should link to a relevant mechanism whereby a web user can opt out of the collection and use of web viewing behaviour data for OBA purposes by that third party, or that third party and other parties.

- Online political advertisement: The 2022 Electoral Reform Bill (Article 119), which only covers political advertising during an electoral period, defines online political advertising as: “any form of communication in a digital format for political purposes purchased for placement, display, promotion or dissemination on an online platform during an electoral period and for which a payment or payment in kind is made to the online platform concerned”.
- Micro-targeting: The 2022 Electoral Reform Bill (Article 119), which only covers political advertising during an electoral period, defines micro-targeting as: “a targeting method involving the use of data analysis techniques, tools or other methods to address, transmit or communicate a tailored online political advertisement either to a specific person or group of persons or to increase the circulation, reach or visibility of an online political advertisement”.

4.16.2.2. Restrictions regarding commercial communications

The revised AVMSD introduces obligations for video-sharing platforms 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.

³³⁴ <https://www.asai.ie/>

³³⁵ These preferences or interests are often categorised into “interest segments” which are then used to target multiple web users with a specific preference or interest.



It should be noted that there are currently no legal restrictions imposed on VSPs in Ireland with regards to the categories of commercial communications, which are covered in this section below, unless covered by general consumer law.

However, Section 139K (2), as amended by the OSMR Act 2022 makes a provision for the creation of online safety codes by the Media Commission to ensure:

- (a) that service providers take appropriate measures to minimise the availability of harmful online content and risks arising from the availability of and exposure to such content,*
- (b) that service providers take any other measures that are appropriate to protect users of their services from harmful online content,*
- (c) that service providers take any other measures that are appropriate to provide the protections set out in Article 28b(1)(a), (b) and (c) of the Directive, and*
- (d) that service providers take any measures in relation to commercial communications on their services that are appropriate to protect the interests of users of their services, and in particular the interests of children.*

Section 139K (3), as amended by the OSMR Act 2022 reads:

- In the case of video-sharing platform services, the Commission shall exercise its powers under this section with a view to ensuring (without prejudice to any other exercise of those powers in relation to video-sharing platform services) that service providers—*
- (a) take appropriate measures to provide the protections referred to in subsection (2)(c), including appropriate measures referred to in Article 28b(3) of the Directive,*
 - (b) comply with the requirements set out in Article 9(1) of the Directive with respect to audiovisual commercial communications that are marketed, sold or arranged by them, and*
 - (c) take appropriate measures to comply with the requirements set out in Article 9(1) of the Directive with respect to audiovisual commercial communications that are not marketed, sold or arranged by them, taking into account the limited control they exercise over those communications.*

Restrictions and prohibitions on the related provisions regarding VSPs, as presented below, will hence be the focus during adoption of the rules in the forthcoming period.

- 4.16.2.2.1. Audiovisual commercial communications for alcoholic beverages and tobacco and tobacco-related products, including electronic cigarettes and refill containers

To be adopted in the forthcoming period.

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

To be adopted in the forthcoming period.



4.16.2.2.3. Surreptitious audiovisual commercial communications

To be adopted in the forthcoming period.

4.16.2.2.4. Subliminal techniques in commercial communications

To be adopted in the forthcoming period.

4.16.2.2.5. Prejudice with regard to human dignity

To be adopted in the forthcoming period.

4.16.2.2.6. Inclusion or promotion of any discrimination (e.g., sex, racial or ethnic origin, nationality, religion, etc.)

To be adopted in the forthcoming period.

4.16.2.2.7. Encouragement of behaviour prejudicial to health or safety

To be adopted in the forthcoming period.

4.16.2.2.8. Encouragement of behaviour grossly prejudicial to the protection of the environment

To be adopted in the forthcoming period.

4.16.2.2.9. Causing physical, mental or moral detriment to minors

To be adopted in the forthcoming period.

4.16.2.2.10. Other

N/A.

4.16.3. 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.



4.16.3.1. Sponsorship

There are currently no rules pertaining to sponsorship for VSPs in Ireland. However, the OSMR Act 2022 makes a provision for the creation of such rules by the Media Commission (see under 4.16.2.2.2.).

4.16.3.2. Product placement

There are currently no rules pertaining to product placement for VSPs in Ireland. However, the OSMR Act 2022 makes a provision for the creation of such rules by the Media Commission (see under 4.16.2.2.).

4.16.4. Obligations regarding (v)blogs and (v)blogging

(V)logs are not currently considered audiovisual media services and the definition included in the Online Safety and Media Regulation Act 2022 does not explicitly include them in its scope [section 2(b)].

4.16.5. Other relevant information

N/A.

4.16.6. 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.

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

There are currently no rules applicable to VSPs. In the case of broadcasters, it is worth noting Section 46 M (2)(b), as amended by the OSMR Act 2022, states that:

A broadcaster shall not broadcast, and a relevant media service provider shall not make available in a catalogue of the relevant service, an advertisement which—



*(a) is directed towards a political end or has any relation to an industrial dispute, or
(b) addresses the issue of the merits or otherwise of adhering to any religious faith or belief,
or of becoming a member of any religion or religious organisation.*

The 2022 Electoral Reform Bill provides for the establishment of an Electoral Reform Commission which would, among other duties, be required: to provide a framework for the regulation of online political advertising during election periods; to provide for the labelling of online political advertisements; to provide for transparency notices for online political advertisements; to confer on the Commission the power to monitor compliance, carry out investigations and take enforcement action under this Act in so far as it relates to online political advertising; to facilitate elections during a pandemic or Covid-19; and to provide for related matters.

Section 119(1) of the same Bill defines online platform as:

Any provider of a website, web application, digital application or other seller of an online political advertisement accessible to the general public or a section of the public that – (a) has not less than 100,000 unique monthly users in the State for a period of not less than 7 months during the 12 months immediately preceding the date of the making of a polling day order, and (b) receives payment or payment in kind for the placement, display, promotion or dissemination of an online political advertisement on the provider’s website, web application or digital application.

4.16.6.2. Gambling, betting, betting tipsters, etc.

There are currently no rules applicable to VSPs. In the case of broadcasters, it is worth noting that section 46J. (1), as amended by the OSMR Act 2022 states that:

A broadcaster shall not broadcast, and a provider of an audiovisual on-demand media service shall not make available in a catalogue of the service – (a) anything which may reasonably be regarded as causing harm or undue offence.

Section 46N. (1) as amended by the OSMR 2022 Act gives the Media Commission the power to make media service codes governing the standards and practices of broadcasters and providers of audiovisual on-demand media services to provide for standards and practices.

Also, section 10 of the ASAI’s self-regulatory Code of Standards for Advertising and Marketing Communications, which covers online advertisements in a paid-for space, deals with gambling, and paragraph 10 states that:

All marketing communications for gambling services or products shall contain a message to encourage responsible gambling and shall direct people to a source of information about gambling and gambling responsibly.



4.16.6.3. Environmental or “green” claims for products

There are currently no rules applicable to VSPs, but section 46J. (1) as amended by the OSMR Act 2022 could apply as explained above. Besides, codes governing the standards and practices of broadcasters and providers of audiovisual on-demand media services could set rules dealing with environmental or “green” claims too (section 46N. (1) as amended by the OSMR Act 2022).

Section 15 of the ASAI’s Code of Standards for Advertising and Marketing Communications deals with environmental claims and paragraph 8 states that:

Marketing communications should not mislead consumers about the environmental benefit that a product offers; for example, by highlighting the absence of an environmentally damaging ingredient if that ingredient is not usually found in competing products or by highlighting an environmental benefit that results from a legal obligation if competing products are subject to that legal obligation.

4.16.6.4. Other

N/A.

4.16.7. 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 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.

4.16.7.1. Self- and co-regulatory bodies

4.16.7.1.1. Context of establishment and legal background

Statutory Instrument No 258 of 2010 provides for a system of co-regulation by media-services providers of on-demand audiovisual media services, including the creation of codes of conduct for on-demand audiovisual media service providers.

Subsequent to this, the On-demand Audiovisual Media Services Group (ODAS) was established under the auspices of the IBEC and a code of conduct for on-demand audiovisual media service providers was created.

The following sections are relevant only when the VSPs provide an on-demand service. Other than that, the subsections do not apply to VSPs.



4.16.7.1.2. Stakeholders involved

The self-regulatory Code for On-demand Services was developed by the On-Demand Audiovisual Services Group (ODAS) under the auspices of the Irish Business and Employers Confederation (IBEC).³³⁶ It comprises the Advertisers Association of Ireland AAI,³³⁷ the Institute of Advertising Practitioners in Ireland (IAPI),³³⁸ ASAI, and a representative group of broadcasters, telecommunication companies and other service providers.

The self-regulatory code does not apply to VSPs other than where they provide an on-demand service.

4.16.7.1.3. Scope and objectives

The Code for On-demand Services covers all on-demand audiovisual services made available under the jurisdiction of the Republic of Ireland. It does not apply to VSPs other than where they provide an on-demand service. The basis of the Code is that all commercial communications should be legal, decent, honest and truthful. They should not mislead and should be prepared with a sense of responsibility to consumers and society and should respect the principles of fair competition generally accepted in business. The Code covers sponsorship, product placement, community standards, protection of minors, accessibility, rights, and European works.

The ASAI's Code of Standards for Advertising and Marketing Communications in Ireland asserts that marketing communications in the media and sales promotions should be legal, decent, honest and truthful and should not mislead the consumer. Its "Children" sub-section deals with measures relative to HFSS foods and beverages. It also deals with inappropriate ACCs for alcoholic beverages and its rules on environmental claims also cover ACCs which encourage behaviours grossly prejudicial to the protection of the environment.

4.16.7.1.4. Code(s) of conduct

The ASAI's Code of Standards for Advertising and Marketing Communications in Ireland asserts that marketing communications in the media and sales promotions should be legal, decent, honest and truthful and should not mislead the consumer.

Also, the ODAS's self-regulatory Code for On-demand Services covers all on-demand audiovisual services made available under the jurisdiction of the Republic of Ireland.

Finally, section 34. (1) as amended by the OSMR Act 2022 states that the Media Commission:

³³⁶ <https://www.ibec.ie/about-us>.

³³⁷ <http://www.aai.ie/>.

³³⁸ <https://iapi.ie/index.html>.



May co-operate with, or give assistance to, a person or group of persons, whether established in the State or elsewhere—

(a) in the preparation by that person or group of standards, or

(b) in the establishment and administration by that person or group of a self-regulatory system,

relating to the regulation of programme material, user-generated video or other content.

4.16.7.1.5. Role of the (self-)regulatory bodies

ASAI is the independent self-regulatory body set up and financed by the advertising industry, adopting and implementing the Code of Standards for Advertising and Marketing Communications, with the members of ASAI being required to abide by the Code and not to publish an advertisement or conduct a promotion which contravenes Code rules. ASAI processes complaints about the content of an advertisement or promotion that appeared in the media (including online and digital media), how a promotion was run or in relation to the receipt of online behavioural advertising without consent, publishing the decisions on its website.

The ODAS Code for On-demand Services sets out the minimum standards required of service providers and provides for a complaint mechanism for the public and is provided under the auspices of IBEC, Ireland's largest lobby and business representative group, with the involvement of ASAI, whose role has been elaborated above, AAI, which is a forum for exchange of practices in commercial communications, IAPP as a representative body for commercial creativity and communications in Ireland, etc.

4.16.7.1.6. Period of activity (if limited)

N/A.

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

4.16.7.1.7.1. Regulatory body

The Code for On-Demand Services is prepared in cooperation with the BAI and is subject to BAI's approval.

In the future, it is anticipated that the proposed Media Commission (which will replace the BAI as per Section 6 of the OSMR Act 2022) will be empowered to assist this self-regulatory scheme and engage in co-regulatory agreements relative to the regulatory matters pertaining to VSPs.

Similarly, the Electoral Reform Commission (as proposed in the Electoral Reform Bill) will be empowered through its competencies vis-à-vis online political advertisement to co-operate and collaborate with other statutory authorities whether in the State or elsewhere in connection with online political advertising and related matters [Section 125(3)].



4.16.7.1.7.2. Co-regulatory scheme

Section 32 (1), as amended by the OSMR Act 2022, provides for the Media Commission to seek co-operation with other bodies and enter into co-operation agreements.

4.16.7.1.7.3. Relationship and roles of stakeholders

N/A.

4.16.7.2. Monitoring/evaluation, compliance and sanctioning powers

In the future, it is anticipated that the proposed Media Commission (which will replace the BAI as per the OSMR Act 2022) will be empowered to monitor activity, draw up codes, oversee compliance and where necessary sanction bodies in breach of codes.

4.16.8. Cross-sector and cross-border collaboration

While the arrangements vis-à-vis the collaborative aspects of the regulation of VSPs will be visible in the future with the establishment of the proposed Media Commission (which will replace the BAI as per the OSMR Act 2022), examples of collaboration can be seen in, for example, the ERGA Memorandum of Understanding.³³⁹

4.16.9. Update on plans and practices relative to new obligations of VSPs

N/A.

4.16.10. Studies, reports and research

The following reports have been prepared in relation to audiovisual commercial communications:

³³⁹ https://erga-online.eu/wp-content/uploads/2020/12/ERGA_Memorandum_of_Understanding_adopted_03-12-2020_L.pdf



- Joint Committee on Tourism, Culture, Arts, Sport and Media, Report of the Joint Committee on the Pre-Legislative Scrutiny of the General Scheme of the Online Safety and Media Regulation Bill 2021³⁴⁰

4.16.11. Data compilation

This factsheet is based on data compiled by Martina Chapman, independent consultant, Mercury Insights.

³⁴⁰https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_tourism_culture_arts_sport_and_media/reports/2021/2021-11-02_report-of-the-joint-committee-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-online-safety-and-media-regulation-bill_en.pdf