



## 5.5. CY – Cyprus – National legal summary<sup>126</sup>

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are transposed into the amended Radio and Television Organisations Law (the Law).

### 5.5.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Radio and Television Organisations Law, 7(I)/1998 as amended by Law 197(I)/2021 (Περί Ραδιοφωνικών και Τηλεοπτικών Οργανισμών (Τροποποιητικός Νόμος του 2021)).<sup>127</sup>

### 5.5.2. Definitions and scope

This section aims at identifying the relevant definitions related to VSP stemming from the transposition of the revised AVMSD as well as elements of interpretation of the main concepts present in those definitions.

**Table 25. Definition of the main concepts related to VSPs**

Concept	Existence of a definition
VSP service	Yes.
VSP provider	Yes.
User-generated video	Yes.
“Principal purpose”	No.
“Dissociable section”	No.
“Essential functionality”	No.

<sup>126</sup> The factsheet on Cyprus incorporates the feedback received from Constandia Michaelidou, Radiotelevision Legal Officer at the Cyprus Radiotelevision Authority, during the 2021 and 2022 checking rounds with the national media regulatory authorities.

<sup>127</sup> [http://www.cylaw.org/nomoi/enop/ind/1998\\_1\\_7/section-sce2df6b6b-9ba6-432d-8b4e-0be895091a96.html](http://www.cylaw.org/nomoi/enop/ind/1998_1_7/section-sce2df6b6b-9ba6-432d-8b4e-0be895091a96.html).



Source: Cypriot response to European Audiovisual Observatory standardised survey

#### 5.5.2.1. VSP service

Article 2 of the Law defines the term “video-sharing platform service” by transposing the text of the revised AVMSD verbatim, as follows:

*a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, by means of electronic communications networks, [...] and the organisation of which is determined by the video-sharing platform provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.”*

#### 5.5.2.2. VSP provider

Article 2 of the Law defines the term “video-sharing platform provider” by transposing the text of the revised AVMSD verbatim, as follows:

*the natural or legal person who provides a video-sharing platform service.*

#### 5.5.2.3. User-generated video

Article 2 of the Law defines the term “user-generated video” by transposing the text of the revised AVMSD verbatim, as follows:

*a set of moving images with or without sound constituting an individual item, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user.*

#### 5.5.2.4. “Principal purpose” or “dissociable section” of a VSP service

There are no details in the primary legislation or in other texts (secondary legislation, by-laws, recommendations, caselaw, etc.) on how to interpret these concepts.

#### 5.5.2.5. “Essential functionality” of a VSP service

There are no details in the primary legislation or in other texts (secondary legislation, by-laws, recommendations, caselaw, etc.) on how to interpret these concepts.



### 5.5.3. Obligations and measures imposed on VSP providers

The revised AVMSD provides for the extension of its scope to cover VSPs. It introduces obligations on these players to take appropriate measures to protect minors from harmful content which may impair their physical, mental or moral development; to protect the general public from illegal content and content that incites violence or hatred; and to respect certain obligations around commercial communications (Article 28b (1) and (2) of the revised AVMSD). To fulfil these obligations, member states are required to ensure compliance with the measures listed in Article 28b (3) of the revised AVMSD.

This section aims at identifying the obligations and measures imposed on VSP providers under national legislation in order to ensure their compliance with those obligations.

When available, this section also provides for other additional relevant information about the measures and concepts at stake.

#### 5.5.3.1. General provisions

There is no statutory definition of content inciting to violence or hatred, nor does the Law contain any specific definition; it merely reproduces the text of the Directive. In section 32F(1)(b) incitement to violence or hatred is also based on any of the grounds referred to in the Constitution. Specifically, section 32F of the Draft Bill incorporates Article 28b of the AVMSD in full:

*Without prejudice to sections 15-18 of the law on certain aspects of information society services, in particular electronic commerce and related issues, as amended or replaced at the time:<sup>128</sup> the video-sharing platform providers under the jurisdiction of the Republic of Cyprus shall take appropriate measures for the protection of:*

- a) minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development in accordance with section 29(1)-(4);*
- b) the general public from programmes, user-generated videos and audiovisual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in the Constitution and in Article 21 of the EU Charter;*
- c) the general public from programmes, user-generated videos and audiovisual commercial communications containing content the dissemination of which constitutes an activity which is a criminal offence under EU law, namely public incitement to commit a terrorist offence as set out in section 13 of the Counter-*

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<sup>128</sup> This effectively incorporates Articles 12-15 of Directive 2000/31/EC.



*Terrorism and Victim Protection Law as amended or replaced at the time,<sup>129</sup> offences related to child pornography as set out in section 8(3) of the law on preventing and combatting the sexual abuse and sexual exploitation of children and child pornography, as amended or replaced at the time; and offences related to racism and xenophobia as set out in section 3 of the law on combatting certain forms of racism and xenophobia by means of criminal law.*

Furthermore, there is no statutory definition of content which may impair the physical, mental or moral development of minors, nor does the Law contain any specific definition. Certain provisions in section 29 of the Law provide that television broadcasters are required to ensure that they do not broadcast any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence. Such obligation shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measures, that minors in the area of transmission will not normally hear or see such broadcasts.

The revised section 29 of the Law provides that audiovisual media service providers under the jurisdiction of the Republic of Cyprus have an obligation to take appropriate safeguarding measures so that audiovisual media services which may impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme. The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures. Audiovisual media service providers have an obligation to provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, audiovisual media service providers shall use a system describing the potentially harmful nature of the content of an audiovisual media service. The Radio Television Authority and the Commission may foster self-regulation, for the purposes of this section, through EU codes of conduct as referred to in paragraph 2 of section 31B. As regards programmes which are broadcast in unencoded forms, audiovisual media service providers are required to ensure that they are preceded by an acoustic warning or that they are identified by the presence of a visual symbol throughout their duration. In order to fulfil the obligations referred to in sub-section (1) of Article 29, on-demand audiovisual media service providers must have, apart from ratings and additional technical measures, a user-friendly system of content screening and access codes, which shall be provided to parents or guardians of minors when they are registered as subscribers to a provider. Such measures should be designed to ensure that minors will not access services which might impair their physical, mental or moral development and the on-demand audiovisual media service providers should inform the Radio Television Authority accordingly. The Radio Television Authority, being in contact with the Radio Television Advisory Committee, shall periodically

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<sup>129</sup> This effectively incorporates Article 5 of Directive (EU) 2017/541.



investigate the possible advantages and disadvantages of any further measures in order to facilitate the control exercised by parents and guardians over the programmes that minors watch. This investigation shall include the feasibility of:

- a) the requirement for new television sets to be equipped with a technical device enabling parents and guardians to prevent children from watching specific programmes;
- b) creating appropriate programme rating systems;
- c) encouraging family viewing policies and other educational and awareness measures;
- d) considering the experience gained in the Republic, the other member states and in third countries as well as the views of interested parties such as broadcasters, producers, education and mass media experts and relevant organisations.

#### 5.5.3.2. Adapting terms and conditions of the VSP service to include these obligations – Article 28b (3) (a) AVMSD

Regarding the measure consisting in including and applying in the terms and conditions of the VSP services the requirements referred to in section 5.5.3.1, section 32F (8)(a) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.3. Adapting terms and conditions to include obligations regarding commercial communications that are not marketed, sold or arranged by the VSP provider – Article 28b (3) (b) AVMSD

Regarding the measure consisting in including and applying in the terms and conditions of the VSP services the requirements set out for audiovisual commercial communications that are not marketed, sold or arranged by the video-sharing platform providers, section 32F (8)(b) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.4. Having a functionality for users who upload user-generated videos to declare whether such videos contain audiovisual commercial communications – Article 28b (3) (c) AVMSD

Regarding the measure consisting in having a functionality for users who upload user-generated videos to declare whether such videos contain audiovisual commercial communications as far as they know or can be reasonably expected to know, section 32F (8)(c) of the Law uses the text of the AVMSD and stipulates these obligations, without further specifications.



#### 5.5.3.5. Establishing and operating transparent and user-friendly mechanisms for users to report or flag content – Article 28b (3) (d) AVMSD

Regarding the measure consisting in establishing and operating transparent and user-friendly mechanisms for users of a VSP to report or flag to the VSP provider the content referred to in the general provisions, section 32F (8)(d) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.6. Establishing and operating systems through which VSP providers explain to users what effect has been given to reporting and flagging – Article 28 (b) (3) (e) AVMSD

Regarding the measure consisting in establishing and operating systems through which VSP providers explain to users of VSPs what effect has been given to their reporting and flagging initiatives, section 32F (8)(e) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.7. Establishing and operating age verification systems for users with respect to content which may impair the physical, mental or moral development of minors – Article 28b (3) (f) AVMSD

Regarding the measure consisting in establishing and operating age verification systems for users of VSPs with respect to content which may impair the physical, mental or moral development of minors, section 32F (8)(f) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.8. Establishing and operating easy-to-use systems allowing users to rate the content – Article 28b (3) (g) AVMSD

Regarding the measure consisting in establishing and operating easy-to-use systems allowing users of VSPs to rate the content, section 32F (8)(g) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.9. Providing for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental or moral development of minors – Article 28b (3) (h) AVMSD

Regarding the measure consisting in providing for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental



or moral development of minors, Draft Bill, section 32F (8)(h) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.10. Establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints – Article 28b (3) (i) AVMSD

Regarding the measure consisting in establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints to the VSP provider in relation to the implementation of the measures, section 32F (8)(i) stipulates these obligations, without further specifications.

#### 5.5.3.11. Providing for effective media literacy measures and tools and raising users' awareness of those measures and tools – Article 28b (3) (j) AVMSD

Regarding the measure consisting in providing for effective media literacy measures and tools and raising users' awareness of those measures and tools, section 32F (8)(j) of the Law stipulates these obligations, without further specifications.

#### 5.5.3.12. Forbidding the processing of personal data of minors for commercial purposes – Article 28b (3) AVMSD

Regarding the processing of personal data of minors collected or otherwise generated by VSP providers for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising, section 32F (9) of the Law provides for these prohibitions, without further specifications.

#### 5.5.3.13. Other relevant provisions related to the protection of minors

Current legislation provides for a number of additional rules. These reflect a particular concern for the programmes which are transmitted at times when minors may be watching, in order to ensure that programmes within the family viewing schedule are appropriate for a general audience, including children under fifteen. According to Radio and Television Stations Regulation 10/2000 the 'family viewing schedule' (pre-watershed) refers to the period during which programmes in a non-coded form that are suitable for viewers under the age of fifteen are broadcast. The schedule starts at 5.30 a.m. and ends at 9 p.m. on evenings followed by working days and at 10 p.m. on evenings followed by Saturday and Sunday, national holidays and school vacations.



Also, there is a responsibility to ensure that the audience is always aware of the contents of any programme that they may hear or watch and in this respect all programmes shall be ranked according to five categories, each being indicated by a particular symbol and colour referring to minors, depending on their age. The broadcast of scenes of violence against minors is absolutely prohibited. It is also prohibited to broadcast programmes with scenes of family violence during the family viewing schedule. There is a further prohibition of violence in cartoons, or in other children's programmes.

#### 5.5.3.14. Other relevant provisions related to commercial communications which may impair the physical, mental or moral development of minors

The new section 30E (1) (h) of the Law provides that audiovisual commercial communications provided by media service providers under the jurisdiction of the Republic of Cyprus shall comply, *inter alia*, with the following requirements:

*Audiovisual commercial communications shall not:*

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

#### 5.5.3.15. Other relevant provisions related to minors' exposure to advertising for alcohol products and HFSS foods (high fat, sugar and salt foods) in commercial communications

The new section 30E (1) (f) of the Law provides that audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages. The Radio Television Authority shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in children's programmes, for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, the excessive consumption of which is not recommended in the overall diet. These codes shall aim to effectively reduce the exposure of children to audiovisual commercial communications for such foods and beverages. They shall aim to provide that such audiovisual commercial communications do not emphasise the positive quality of the nutritional aspects of such foods and beverages.





#### 5.5.3.16. Other relevant information

N/A.

### 5.5.4. Practicability of the measures imposed on VSP providers

Article 28b (3) of the revised AVMS Directive does not only provide for the list of measures which are detailed under the previous section. Paying attention to the principle of proportionality, it also states that the measures imposed on VSP providers should be practicable and proportionate and take into account criteria such as the size of the VSP service and the nature of the service, as well as the nature of the content. Section 32F (7) of the Law stipulates these principles.

This section aims at identifying how this is implemented in the national legislation.

No specific provision of the Law deals with this issue.

### 5.5.5. Regulation and enforcement

This section aims at identifying which body is in charge of regulatory and enforcement powers with regard to VSPs, as well as the scope of its activities with regards to such platforms. These relate to registration/notification systems of VSPs with the relevant national regulatory bodies, as well as with the development of self- or co-regulatory codes and schemes (as encouraged by Article 4a of the AVMS Directive), provisions related to out-of-court redress mechanisms for the settlement of disputes between users and VSP providers (as envisaged by Article 28(b)7 of the AVMS Directive), the corresponding section in the Law being section 32F (14), and provisions related to how users can assert their rights before a court in relation to VSP providers (as required by Article 28(b)8 of the AVMS Directive), the corresponding section in the Law being section 32F (15).

#### 5.5.5.1. Regulatory body

The competent regulatory body is the Cyprus Radio Television Authority (CRTA).<sup>130</sup>

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<sup>130</sup> <http://www.crtatv.org.cy/default.asp?id=24>.



#### 5.5.5.2. Existence of a registration/notification system

According to section 32E(7), VSP providers intending to establish on the territory of the Republic of Cyprus are obliged to inform the Authority accordingly. The CRTA is responsible for keeping and updating a list of VSP providers who are established or deemed to be established in the Republic of Cyprus and communicates such information to the European Commission, pursuant to section 32(E)(8) of the Law. Further, the CRTA may assess the measures implemented by VSPs, pursuant to section 32F (11), while, pursuant to section 32G of the Law, the CRTA shall have the power to impose administrative sanctions on VSPs for any violation of the provisions of the Law. Such sanctions shall be prescribed by sub-legislative regulations. The CRTA may also monitor the application of the Law.

#### 5.5.5.3. Compliance, enforcement and sanctioning powers

CRTA may assess the measures implemented by video-sharing platforms, pursuant to Section 32F (11) of the Law, while, pursuant to section 32G, it shall have the power to impose administrative sanctions to video-sharing platforms for any violations of relevant provisions. Such sanctions shall be prescribed by Regulations. It may also monitor the application of the Law.

#### 5.5.5.4. Development of self- or co-regulatory codes or schemes

The CRTA shall encourage the development of self- or co-regulatory codes for VSPs pursuant to section 32F (5) of the Draft Bill. No such codes have so far been enacted for VSPs. The CRTA cooperates with the Commissioner of Electronic Communications and Postal Regulation and takes advice from a Consultation Committee of Radio and Television. This committee is composed of representatives from bodies and agents of the Ministry of the Interior, the Ministry of Communications and Works, the Ministry of Education and Culture, the Law Office of the Republic of Cyprus, private TV stations, private radio stations, the Union of Cyprus Journalists, local administration, trade unions, the Cyprus Chamber of Commerce and Industry, the Cyprus Employers & Industrialists Federation, the Technical Chamber of Cyprus, the University of Cyprus, the Cyprus Consumers Association, the Cyprus Sociological and Psychological Association (the representative of this association is elected by the Cyprus Confederation of Parents Associations), the Cyprus Advertisers Association, etc.

#### 5.5.5.5. Out-of-court redress mechanisms for users

Section 32F (14) of the Law provides that the Republic of Cyprus shall introduce an out-of-court redress mechanism for the settlement of disputes between users and VSP providers. No such mechanism has so far been put in place.



#### 5.5.5.6. Rights before a court for users

Section 32F (15) of the Law provides that users can assert their rights before a court against a VSP provider in relation to sub-sections (1), (6), (7), (8) and (9). This can be implemented without any specific conditions.

### 5.5.6. Studies, reports and research

N/A.

### 5.5.7. Data compilation

This factsheet is based on data compiled by Achilles C. Emilianides, Dean of the School of Law of the University of Nicosia and Sofia Iordanidou, Associate Professor of Journalism and Communication at the Open University of Cyprus.