



5.11.FI – Finland – National legal summary¹⁶⁴

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are implemented in the Act on Electronic Communications Services (ECS Act) and in the Act on Audiovisual Programmes (AV Act).

5.11.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Act on Electronic Communications Services (*laki sähköisen viestinnän palveluista*, 917/2014);¹⁶⁵
- Act on Audiovisual Programmes (*kuvaohjelmalaki* 710/2011);¹⁶⁶
- Act on Amendment of the Act on Audiovisual Programmes (*laki kuvaohjelmalain muuttamisesta* 1209/2020);¹⁶⁷
- Consumer Protection Act (*kuluttajansuojalaki* 38/1978);¹⁶⁸
- Tobacco Act (*tupakkalaki* 549/2016);¹⁶⁹
- Alcohol Act (*alkoholilaki* 1102/2017);¹⁷⁰
- Medicines Act (*lääkelaki* 395/1987);¹⁷¹
- Criminal Code (*rikoslaki* 39/1889);¹⁷²
- Data Protection Act (*tietosuojalaki* 1050/2018).¹⁷³

¹⁶⁴ The factsheet on Finland incorporates feedback received from Eliisa Reenpää, Legal Counsel at the Finnish Transport and Communications Agency (Traficom) and Erika Lauri, Inspector General at the National Audiovisual Institute (KAVI) during the 2021 and 2022 checking rounds with the national media regulatory authorities.

¹⁶⁵ <https://www.finlex.fi/fi/laki/ajantasa/2014/20140917>.

¹⁶⁶ <https://www.finlex.fi/fi/laki/alkup/2011/20110710>.

¹⁶⁷ <https://www.finlex.fi/fi/laki/alkup/2011/20110710>.

¹⁶⁸ <https://finlex.fi/fi/laki/ajantasa/1978/19780038>.

¹⁶⁹ <https://www.finlex.fi/fi/laki/alkup/2016/20160549>.

¹⁷⁰ <https://www.finlex.fi/fi/laki/ajantasa/2017/20171102>.

¹⁷¹ <https://www.finlex.fi/fi/laki/ajantasa/1987/19870395>.

¹⁷² <https://www.finlex.fi/fi/laki/ajantasa/1889/18890039001>.

¹⁷³ <https://www.finlex.fi/fi/laki/ajantasa/2018/20181050>.



5.11.2. Definitions and scope

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

Table 31. 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.

Source: Finnish response to European Audiovisual Observatory standardised survey

5.11.2.1. VSP service

The ECS Act, in section 3 (1)(36a), defines the term “video-sharing platform service” by transposing the text of the AVMSD, as follows:

Video-sharing platform service means a service or a dissociable section of a service offered to the general public as part of business operations/activities and where the principal purpose is to provide the general public with programmes or user-generated videos for which the video-sharing platform provider does not have editorial responsibility; and the displaying, tagging, sequencing, and other organising of which are determined by the video-sharing platform provider by automatic means, algorithms or other means.

The AV Act refers to the ECS Act and therefore definitions are similar.

5.11.2.2. VSP provider

The ECS Act, in section 3 (1)(36b), defines the term “video-sharing platform provider” by transposing the wording of the revised AVMSD verbatim, as follows: “Video-sharing platform provider means the natural or legal person who provides a video-sharing platform service.”



5.11.2.3. User-generated video

The ECS Act, in section 3 (1)(7a) defines the term “user-generated video” by using the word “unit” with the text of the revised AVMSD, as follows: “User-generated video means a unit comprised of primarily moving images with sound that is created by the user and uploaded to a video-sharing platform by the user or any other user.”

5.11.2.4. “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, case law, etc.) on how to interpret these concepts. However, the definition from the revised AVMSD has been included in the government proposal for the ECS Act, page 172, as follows:

According to Recital 3 of the Directive, the Directive should remain applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should also be considered to be met if the service has audiovisual content and form which are dissociable from the main activity of the service provider, such as stand-alone parts of online newspapers featuring audiovisual programmes or user-generated videos where those parts can be considered dissociable from their main activity. However, according to Recital 3, a service is not considered to be an audiovisual media service when the media content provided only complements and is closely linked to the main activity, such as video content presented in a separate section of online magazines when it relates to the content in written form. A service complementary to the main activity would be, for example, news material presented in a separate section of online magazines that supports the news material published in written form. The definition of an audiovisual media service corresponds to Article 1 (1)(a) of the Directive.

5.11.2.5. “Essential functionality” of a VSP service

There are no details in the primary legislation or in other texts (secondary legislation, by-laws, recommendations, case law, etc.) on how to interpret these concepts. The definition from the revised AVMSD has been included in the government proposal for the ECS Act, page 172, as follows:

The definition of a video-sharing platform service would cover, according to Recital 5 of the Directive, also social media services if the provision of programmes and user-generated videos constitutes an essential functionality of those services. The provision of programmes and user-generated videos could be considered to constitute an essential functionality of the social media service if the audiovisual content is not merely ancillary to, or does not constitute a minor part of, the activities of that social media service. The Commission will provide further guidance on the practical application of the criterion of the essential functionality of a video-sharing platform service. Where a dissociable section of a service



constitutes a video-sharing platform, only that section should be covered by provisions on video-service platforms, and only as regards programmes and user-generated videos.

5.11.3. 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.

5.11.3.1. General provisions

Regarding general provisions on obligations and measures imposed on VSP providers, the ECS Act, section 226a states the following:

This [26a] Chapter, Section 214 Subsection 1 [of the Act on Electronic Communications Services], Chapter 2 Section 2 of the Consumer Protection Act, Chapter 9 of the Tobacco Act, Chapter 7 of the Alcohol Act and Sections 91, 91a to 91c, 92a and 93a of the Medicines Act shall apply to the video-sharing platform service that is provided by a video-sharing platform provider established in Finland.

Chapter 26a of the ECS Act contains the provisions applicable to video-sharing platform services, while section 214 provides the general principles regarding marketing. According to its subsection 1, marketing shall be readily recognisable.

The AV Act, section 7a, provides for the protection of minors as follows:

Protecting children from harmful video programmes in video-sharing platform services.

The video-sharing platform provider shall take appropriate measures to protect children from audiovisual programmes that may be detrimental to the child's development. The measures shall be proportionate to the nature of the audiovisual programmes in question and the potential harm they may cause, taking into account the size of the video-sharing platform service and the nature of the service provided. The measures shall not lead to any ex-ante control measures or upload-filtering of content.



Also, the Consumer Protection Act, Chapter 2, section 2, provides provisions on good marketing practices. According to subsection 1, marketing is considered to be against good practice if it is clearly contrary to values that are generally accepted in society and in particular if:

- 1) *it violates human dignity or religion or political beliefs;*
- 2) *there is discrimination based on gender, age, ethnic or national origin, nationality, language, state of health, disability, sexual orientation or any other factor related to a person; or*
- 3) *it approves of activities which endanger health, public safety or the environment without any objective justification for presenting such activities in relation to the goods that are marketed.*

Subsection 2 stipulates that marketing that is targeted at minors or which generally reaches minors is considered to be against good practice, in particular, if it exploits a minor's inexperience or credulity, if it is likely to affect adversely the minor's development or if it seeks to ignore parent's possibility to play a full role in raising their children. When assessing whether marketing is against good practice, the age and level of development of the child and other circumstances are taken into account.

Also, the marketing provisions of the Tobacco Act, Alcohol Act and Medicines Act apply to VSP services.

5.11.3.2. Adapting terms and conditions of the VSP service to include those 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 226 of the ECS Act, in section 226c, subsection 1, paragraph 1 provides for this, in the following manner:

The video-sharing platform service shall have terms and conditions. The video-sharing platform provider shall include in the terms and conditions provisions:

- 1) *prohibiting the uploading to the video-sharing platform of programmes, user-generated videos and audiovisual commercial communications which contain the following sections of the Criminal Code:*
 - (a) *a public provocation to commit a criminal offence made with a terrorist intent, as provided for in Chapter 34a, Section 1 (1)(2);*
 - (b) *distribution of a sexually offensive picture as provided for in Chapter 17, Section 18 (1)(1);*
 - (c) *aggravated distribution of a sexually offensive picture depicting a child as provided for in Chapter 17, Section 18a;*
 - (d) *distribution of a description of violence as provided for in Chapter 17, Section 17;*
 - (e) *ethnic agitation as provided for in Chapter 11, Section 10;*
 - (f) *aggravated ethnic agitation as provided for in Chapter 11, Section 10a.*



5.11.3.3. 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 VSP providers, section 226c (1)(2) of the ECS Act prescribes the obligations for VSPs in the following manner:

The video-sharing platform service shall have terms and conditions. The video-sharing platform provider shall include in the terms and conditions provisions:

2) according to which the requirements of Chapter 2, Section 2 of the Consumer Protection Act, Chapter 9 of the Tobacco Act, Chapter 7 of the Alcohol Act and Sections 91, 91a to 91c, 92a and 93a of the Medicines Act must be complied with in audiovisual commercial communications included in programmes and user-generated videos.

5.11.3.4. 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, sections 226c (2)(3) and 226c (2)(4) of the ECS Act prescribe the obligations for VSPs in the following manner:

The video-sharing platform provider shall take the necessary measures to ensure that:

3) the video-sharing platform has a functionality that allows users to declare whether the videos contain audiovisual commercial communications; and

4) users of a video-sharing platform service are clearly informed when programmes or user-generated videos contain audiovisual commercial communications, provided that such communications are declared under paragraph 3 or that the video-sharing platform provider has knowledge of that fact.

5.11.3.5. 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 the content to the VSP provider, the ECS Act, in section 226c (2)(1), provides that the VSP provider shall take the necessary



measures to ensure that the VSP service has mechanisms in place for users to report or flag the content.

5.11.3.6. 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, the ECS Act, in section 226c (2)(2), provides the obligation for VSP providers to take the necessary measures to ensure that they have a system in place to explain to users what effect has been given to the reporting and flagging.

5.11.3.7. 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, the AV Act refers to the obligations related to establishing a watershed.

According to section 6, subsection 3:

An audiovisual programme provider must ensure that an audiovisual programme with an age limit of 7, 12 or 16 is not available for viewing by children younger than the age limit. Measures for ensuring this include:

- 1) broadcasting the programme on television at a time of day when children normally do not watch television, provided that programme reception does not require the use of a descrambling device;*
- 2) making the programme available in such a way that a service that can be used to prevent the programme from being viewed is offered in connection with the programme;*
- 3) checking the viewer's age in another way when providing the programme.*

5.11.3.8. 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, there are no relevant provisions in either of the acts.



5.11.3.9. 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, there are no relevant provisions in either of the acts.

5.11.3.10. 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, there are no relevant provisions in either of the acts.

5.11.3.11. 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, the ECS Act, in section 226c (2)(4), provides for the obligation of VSPs to take the necessary measures to ensure that users of VSP services are clearly informed when programmes or user-generated videos contain audiovisual commercial communications (as stipulated under 5.11.3.4.). A reference to self-regulatory codes of conduct is included in section 8 of the AV Act in the following manner:

Providers of audiovisual programmes and video-sharing platforms can develop codes of conduct to protect children from harmful content and promote media literacy. The National Audiovisual Institute may check that the code of conduct complies with this law.

The national media education authority, the National Audiovisual Institute, coordinates and promotes media literacy, children's media skills and the development of a safe media environment for children in cooperation with other authorities and corporations in the sector. Media literacy is already implemented in the curricula of schools and upper secondary education, in the state administration, and through activities of various organisations and the public broadcasting company YLE.



5.11.3.12. 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, the Data Protection Act, in section 5, provides protection mechanisms related to the processing of the personal data of the child, which is considered lawful where the child is at least 13 years old, but is based on the provision of consent.

5.11.3.13. Other relevant provisions related to the protection of minors

Sections 7a and 15 of the AV Act contain provisions relative to the protection of minors and content which may impair the physical, mental or moral development of minors. It does not offer any new definitions or provisions, but provides a new subsection, in which it is stipulated that the related obligations are also applicable to VSPs. However, the legislation provides the VSPs room for discretion with regard to the application of adequate measures. Depending on the situation, the means available could include, in accordance with the revised AVMSD, provisions to be included in the terms and conditions of service, existing content filtering systems and age verification systems.

Section 7a reads as follows:

Protecting children from harmful video programmes in video-sharing platform services.

The video-sharing platform provider shall take appropriate measures to protect children from audiovisual programmes that may be detrimental to the child's development. The measures shall be proportionate to the nature of the audiovisual programmes in question and the potential harm they may cause, taking into account the size of the video-sharing platform service and the nature of the service provided. The measures shall not lead to any ex-ante control measures or upload-filtering of content.

The ECS Act, in section 216 (2), includes provisions relative to the permitted interruption of children's programmes (once for each scheduled 30-minute period, if the scheduled duration of the programme is more than 30 minutes. Children's programme shall not be interrupted by teleshopping.)

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

N/A.



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

As the general regulation applies also to VSPs, no definitions or regulations have been introduced, apart from the existing obligations under the Alcohol Act. Further, in 2004 (revised 2015), the Consumer Ombudsman, the National Institute for Health and Welfare and the Finnish Food Safety Authority (now the Finnish Food Authority) issued a recommendation to advertisers on the marketing of food to children.¹⁷⁴ Also, the practice of the Market Court (*Markkinaoikeus*) and Consumer Ombudsman is referred to there. There is also self-regulation by the food industry.

5.11.3.16. Other relevant information

Content inciting violence or hatred is criminalised in the Criminal Code as ethnic agitation, with provisions relating to aggravated ethnic agitation, as well as genocide or the preparation of genocide, a crime against humanity, an aggravated crime against humanity, a war crime, or serious violence that clearly endangers public order and safety, etc. Also punishable by criminal legislation is public incitement to commit an offence, distribution of depictions of violence, distribution of a sexually offensive picture, aggravated distribution of a sexually offensive picture depicting a child, offences committed with terrorist intent, etc.

While the Criminal Code provides for a number of provisions related to incitement to hatred as well as the protection of minors, etc., the general obligation to monitor user-generated content on websites is not stated. Whether a website administrator commits a crime depends on the description of a crime. Because crimes are mainly punishable only when they are committed with intent, this requires the website administrator to have had actual knowledge of the illegal content and of the fact that keeping it available is criminalised, unless otherwise provided in the Criminal Code. This is the case with ethnic agitation and distribution of a sexually offensive picture.

5.11.4. 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

¹⁷⁴ <https://www.kkv.fi/ratkaisut-ja-julkaisut/julkaisut/kuluttaja-asiamiehen-linjaukset/toimialakohtaiset/lapset-ja-elintarvikkeiden-markkinointi/>



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.

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

The ECS Act, section 226c (4), refers to the measures in the following manner:

The measures referred to in Subsection 2 shall be proportionate to the nature of the content in question and the harm that may result therefrom, taking into account the size and nature of the video-sharing platform service, the harm it may cause and the rights of video-sharing platform providers and the users having created or uploaded the content. The measures referred to in this Section shall not lead to any ex-ante control measures or upload-filtering of content.

5.11.5. 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 regard 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) 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).

5.11.5.1. Regulatory body

The Finnish Transport and Communications Agency (Traficom)¹⁷⁵ is responsible for the supervision of compliance with the Act on Electronic Communications Services, and of the provisions and decisions issued on the basis thereof. The Ministry of Transport and Communications is responsible for the overall guidance and development of the activities that fall within the scope of the ECS Act.¹⁷⁶ The Data Protection Ombudsman¹⁷⁷ supervises personal data protection. Also, the Consumer Ombudsman supervises compliance with regard to marketing targeted at children, the legality of contractual terms as well as marketing and procedures followed in customer relationships from the point of view of consumer protection. Finally, according to the AV Act, the National Audiovisual Institute¹⁷⁸ supervises compliance with the act, with no definitions or regulations introduced, due to

¹⁷⁵ <https://www.traficom.fi/en/>.

¹⁷⁶ <https://www.lvm.fi/en/home>.

¹⁷⁷ <https://tietosuoja.fi/en/home>.

¹⁷⁸ <https://kavi.fi/en/national-audiovisual-institute/>.



the fact that the general regulation applies also to VSPs, as VSPs have not been defined or regulated in a particular way, as the provisions of the act apply to VSPs in addition to other providers of audiovisual media services.

5.11.5.2. Existence of a registration/notification system

Section 4 of the ECS Act contains provisions on notifications that shall be submitted to Traficom. According to section 4 (1)(5), before commencing operations, a service provider established in Finland shall submit an electronic notification to Traficom for the provision of a VSP service (video-sharing platform service notification).

An audiovisual programme provider must submit a notification to the National Audiovisual Institute when beginning to provide audiovisual programmes. The notification must be submitted if programmes are provided for economic purposes and on a regular basis (Act on Audiovisual Programmes, section 4).

5.11.5.3. Compliance, enforcement and sanctioning powers

No new definitions or regulations have been introduced, due to the fact that the general regulation applies also to VSPs. Traficom's competence in disputes between a user and a VSP would extend to assessing whether the VSP provider has taken the necessary legal measures to protect the public from illegal content and complied with audiovisual commercial communications requirements. Traficom's competence, on the other hand, would not include an assessment of the content presented on the platform (for further details, please refer to 5.11.5.5.).

5.11.5.4. Development of self- or co-regulatory codes or schemes

While there is no self- or co-regulation specifically in the field of VSPs, the ECS Act mentions, in section 303, subsection 6, the duty of Traficom to foster co-regulation or self-regulation, where due to the nature of a matter, co-regulation or self-regulation can safeguard the achievement of objectives laid down in the law. It also provides, in section 308, for cooperation among authorities. According to it, the Ministry of Transport and Communications, Traficom, the Data Protection Ombudsman, competition authorities, consumer authorities, market surveillance authorities and product safety authorities must cooperate in fulfilling their duties under this act. The AV Act mentions, in section 8 that providers of audiovisual programmes and VSPs can develop codes of conduct to protect children from harmful content and promote media literacy. The National Audiovisual Institute may check that the code of conduct complies with the law.



5.11.5.5. Out-of-court redress mechanisms for users

There are no dispute mechanisms yet. However, the government proposal for the ECS Act (page 257) states that Traficom would, within the framework of its general supervisory role, also act as an out-of-court cooperative body in disputes concerning the assessment of the legality of the measures taken by the VSP provider, between users and a VSP provider.

5.11.5.6. Rights before a court for users

Regular court proceedings apply.

5.11.6. Studies, reports and research

- Ministry of Transport and Communications: “Video-sharing platform services in Finland”, 2019.¹⁷⁹
- University of Eastern Finland, Faculty of Law: “A report on the consumer rights provided for in the Electronic Communications Services Act and the need for relevant provisions”, 2019.¹⁸⁰
- Finnish Government: “Project to reform the law on Electronic Communications Services”.¹⁸¹

5.11.7. Data compilation

This factsheet is based on the 2021 data compiled by Päivi Korpisaari, Professor in Communication Law at the Faculty of Law, University of Helsinki. The 2022 update data was compiled by Riku Neuvonen, Senior Lecturer in Public Law at the University of Helsinki.

¹⁷⁹ https://api.hankeikkuna.fi/asiakirjat/f4a8e63a-5c4f-4c82-a778-dbed38de6595/0efd2377-b58b-495c-ad7a-b8f850500939/RAPORTTI_20190408113856.pdf.

¹⁸⁰ https://api.hankeikkuna.fi/asiakirjat/f4a8e63a-5c4f-4c82-a778-dbed38de6595/910018a6-25d2-4509-9cbb-64612dcb67aa/RAPORTTI_20191028072931.pdf.

¹⁸¹ <https://valtioneuvosto.fi/hanke?tunnus=LVM004:00/2019>.