



5.27. SE – Sweden – National legal summary³¹⁸

The provisions of the revised Audiovisual Media Services Directive (AVMSD) related to video-sharing platforms (VSPs) are transposed into the Radio and Television Act (2010:696) (RTA) (Preparatory material: Government bill 2019/20:168, A Modernised Radio and Television Act).

5.27.1. Applicable regulatory framework

Relevant legislation includes the following:

Primary legislation:

- Radio and Television Act (2010:696) (*Radio- och tv-lag* (2010:696)).³¹⁹
- Swedish Alcohol Act (2010:1622) (*Alkohollag* (2010:1622)).³²⁰

5.27.2. 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 47. 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.

³¹⁸ The factsheet on Sweden incorporates feedback received from Rebecca Parman and Marie Swanström from the Swedish Media Council (MPRT), respectively during the 2021 and 2022 checking rounds with the national media regulatory authorities.

³¹⁹ https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/radio--och-tv-lag-2010696_sfs-2010-696.

³²⁰ https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/alkohollag-20101622_sfs-2010-1622.



“Essential functionality”	No.
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Source: Swedish response to European Audiovisual Observatory standardised survey

5.27.2.1. VSP service

Chapter 3, Article 1 of the RTA provides for the definition of a VSP service by transposing the text of the revised AVMSD almost verbatim, as follows:

A service, where the principal purpose of the service or an essential functionality of the service is devoted to providing television programmes or user-generated videos organised by the video-sharing platform provider, but where the provider does not have editorial responsibility, in order to inform, entertain or educate, by means of electronic communications networks.

5.27.2.2. VSP provider

Chapter 3, Article 1 of the RTA defines the term “video-sharing platform provider”, without reference to a legal or natural person, as follows: “The provider of a video-sharing platform”.

5.27.2.3. User-generated video

The RTA, in Chapter 3, Article 1, provides for the definition of 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 that is created by a user and uploaded to a video-sharing platform by that user or any other user.”

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

The definition is discussed in the preparatory materials but without providing further details. Reference is mainly made to the recitals of the AVMSD.

5.27.2.5. “Essential functionality” of a VSP service

The definition is discussed in the preparatory materials but without providing further details. Reference is mainly made to the recitals of the AVMSD.



5.27.3. 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.

5.27.3.1. General provisions

The Criminal Code provides for the unlawfulness of threats against another person or another person's property, liberty or peace. It also treats any incitement to commit a criminal act, whether transmitted orally or in a written document disseminated or made available for dissemination, or in some other communication to the public, and any other attempts at inducing others to commit a criminal act, etc. as a criminal offence. It also provides for criminal charges for acts, in a statement or other communication that is disseminated, which threatens or expresses contempt for a population group by allusion to various characteristics, such as race, colour, national or ethnic origin, etc. It further provides for the prohibition of child pornographic images.

Also, the Act on Criminal Responsibility for Public Provocation, Recruitment and Training concerning Terrorist Offences and other Particularly Serious Crime, refers to international treaties prohibiting these acts.

Chapter 9a, Article 3 of the RTA states that a provider of a VSP shall take appropriate measures to ensure that user-generated videos, television programmes and audiovisual commercial communications made available on the platform do not include content in breach of the aforementioned provisions in the Swedish Criminal Code and the aforementioned Act.

Relative to the protection of minors, Chapter 9a, Article 1 of the RTA provides for the term: "in-depth depictions of violence of a realistic nature or with pornographic images", as it is currently used for television programmes.

The provisions in Chapter 9a, Articles 1, 9 and 10 stipulate the following obligations in regard to the protection of minors:



A provider of a video-sharing platform shall take appropriate measures to ensure that user-generated videos, television programmes and audiovisual commercial communications with in-depth depictions of violence of a realistic nature or with pornographic images are not provided in such a way that there is a significant risk of children seeing them; unless it is nevertheless justifiable for special reasons.

(...)

A provider of a video-sharing platform may not interrupt user-generated videos or television programmes for advertisement if these videos or programmes are primarily aimed at children under the age of twelve.

The provider may also not provide advertisements immediately before or after user-generated videos or television programmes or a segment of such videos or programmes that are primarily aimed at children under the age of twelve.

(...)

A provider of a video-sharing platform may not, before, during, or after user-generated videos or television programmes, provide advertisements aimed at capturing the attention of children under the age of twelve.

In regard to commercial communications, the provisions in Chapter 9a, Articles 4-8 and 11-12 stipulate the following obligations:

Information regarding product placement

A provider of a video-sharing platform that enters into or facilitates agreements on product placement in user-generated videos or television programmes shall make sure to provide information about the existence of product placement in those videos or television programmes. The information shall be provided at the beginning and end of the video or television programme and before it resumes after a commercial break. This information shall solely consist of neutral information about the occurrence of product placement and of the product or service that has been placed in the video or programme.

Prohibition of product placement

A provider of a video-sharing platform shall not enter into or facilitate an agreement of product placement in user-generated videos or television programmes if:

- 1. the product placement relates to the goods and services listed in Chapter 6 Article 2 points 1–7 of the RTA; or*
- 2. the video or programme is primarily aimed at children under 12 years of age.*

Information regarding sponsorship

A provider of a video-sharing platform that enters into or facilitates a sponsorship agreement for user-generated videos or television programmes shall state who is sponsoring the video or programme. This information shall be provided at the beginning or end of the video or television programme.



Prohibition of and restrictions on sponsorship

The provisions on the prohibition of and restrictions on sponsorship in Chapter 7 Articles 2-3a³²¹ of the RTA apply to a provider of a video-sharing platform that enters into or facilitates sponsorship agreements for user-generated videos or television programmes.

Advertising signature

A provider of a video-sharing platform that provides advertising shall ensure that a specific signature that clearly distinguishes the commercial advertising from other content is provided before and after each advertisement break. This signature must consist of sound or images. When providing advertising on a split screen, the signature must be constantly visible. Article 9 of the Swedish Marketing Act contains provisions on the identification of advertising.

Prohibition on advertisements for medical products

A provider of a video-sharing platform is not permitted to provide advertisements, before during or after user-generated videos or television programmes, for medical products that are only available after prescription.

Prohibition on marketing in other legislation

Provisions prohibiting marketing can also be found in the Swedish Alcohol Act, the Swedish Act on the Marketing of Infant Formulae and Follow-on Formulae, the Swedish Medicinal Products Act, the Swedish Gambling Act and the Swedish Act on Tobacco and Similar Products.

In addition, Chapter 9a, Article 13 of the RTA stipulates the following obligation:

Requirements for measures

A provider of a video-sharing platform shall take appropriate measures to ensure that users of their platform act in accordance with the provisions of Chapter 9a of the RTA and Chapter 7 Article 3 second paragraph of the Swedish Alcohol Act.

³²¹ Which include provisions regarding alcoholic beverages, gambling products and prescription drugs.



5.27.3.2. 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 5.28.3.1, the RTA does not include a list of the measures, but preparatory work for the RTA clarifies that the appropriate measures referred to in Chapter 9a shall consist of the measures listed in Article 28 b (3) of the revised AVMSD, as appropriate.

5.27.3.3. 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

Please see under 5.27.3.2.

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

Please see under 5.27.3.2.

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

Please see under 5.27.3.2.

5.27.3.6. 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

Please see under 5.27.3.2.

5.27.3.7. 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

Please see under 5.27.3.2.



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

Please see under 5.27.3.2.

5.27.3.9. 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

Please see under 5.27.3.2.

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

Please see under 5.27.3.2.

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

Please see under 5.27.3.2.

5.27.3.12. 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, Chapter 9a, Article 2 of the RTA states:

Personal data collected or otherwise generated by providers of video-sharing platforms to meet the requirement for measures under Chapter 9a, Article 1 of the RTA may not be processed for commercial purposes.

5.27.3.13. Other relevant provisions related to the protection of minors

N/A.



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

N/A.

5.27.3.15. 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 Swedish Alcohol Act stipulates measures relative to marketing of alcohol in Chapter 7, Article 1:

When marketing alcoholic beverages or alcoholic beverage-like preparations to consumers, particular moderation must be observed. Advertising or other marketing measures may not be intrusive, solicitous, or encourage the use of alcohol.

Marketing may not be explicitly aimed at or portray children or young people under the age of 25.

Chapter 7, Article 3 in the same law states:

When marketing alcoholic beverages or alcoholic beverage-like preparations to consumers, commercial advertisements may not be used in television broadcasts, pay-TV, or audio radio broadcasts.

A provider of a video-sharing platform may not provide such commercial advertisements as referred to in the first paragraph before, during, or after user-generated videos or television programmes on the platform.

There are no specific rules on the marketing of HFSS foods. However, the general rules on deceptive marketing are also applicable to HFSS foods.

5.27.3.16. Other relevant information

N/A.

5.27.4. 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.

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

No specific provision of the RTA deals with this issue, but it is described in further detail in the preparatory works, where the size of the VSP, the nature of the service and the content are mentioned as the relevant factors when deciding what is an “appropriate measure”.

5.27.5. 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 to 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 video-sharing platform 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).

5.27.5.1. Regulatory body

The competent regulatory body is primarily the Swedish Press and Broadcasting Authority (MPRT/SPBA³²²) but the Swedish Broadcasting Commission (an independent body within the SPBA), the Swedish Consumer Ombudsman and the Swedish Authority for Privacy Protection also have supervisory responsibilities (Chapter 16, Articles 2-4 a of the RTA).

5.27.5.2. Existence of a registration/notification system

A new obligation for providers of VSPs to register with the SPBA is included in Chapter 2, Article 2 of the RTA. The Authority already keeps a public database of registered media service providers. This register will also include providers of VSPs once the first provider has been registered.

³²² <https://www.mppt.se/en/>.



5.27.5.3. Compliance, enforcement and sanctioning powers

The SPBA may decide on orders necessary to ensure that a VSP provider complies with the provisions on appropriate measures in Chapter 9a, Articles 1, 3 and 13 of the RTA. The orders may be subject to a conditional fine. At the request of the SPBA, a VSP provider must provide the information needed for supervision.

The Swedish Broadcasting Commission shall, in the same way as for television programmes, exercise supervision over the provisions on product placement, sponsorship and advertising. Failure to comply with the provisions and conditions set out in these provisions may result in the imposition of a special fee.

The Consumer Ombudsman shall, in the same way as for television, exercise supervision with regard to the provisions on advertising and children, as well as the prohibition on advertisements for medical treatments, which are available only after prescription. An infringement shall be regarded as improper marketing in accordance with the Marketing Act.

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

The MPRT has a general obligation to cooperate with other relevant authorities (e.g., The Swedish Media Council on media literacy and The Swedish Consumer Agency on market law obligations).

The MPRT is further tasked in the RTA with participating in co-regulation concerning requirements for “appropriate measures”. The government states in its bill that it is likely that very few platform providers will be covered by the Radio and Television Act. Therefore, there are currently limited opportunities for co-regulation in Sweden. The work at European level should be taken into account when co-regulating in Sweden.

5.27.5.5. Out-of-court redress mechanisms for users

The SPBA is tasked with the mission to start developing this mechanism.

5.27.5.6. Rights before a court for users

No specific provision of the RTA deals with this issue, but nothing prevents users from asserting their rights before a court.

5.27.6. Studies, reports and research

N/A.



5.27.7. Data compilation

This factsheet is based on data compiled by Daniel Westman, independent legal advisor and researcher.