



Advertising of “junk food” in European and national law

Focus on self-regulation

Note

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Director of publication – Pauline Durand-Vialle, Executive Director

Editorial supervision – Maja Cappello, Head of Department for Legal Information

Editorial team – Maja Cappello, Sophie Valais

Author

Eric Munch

Proofreading

Anthony Mills

Editorial assistant – Alexandra Ross

Press and public relations – Alison Hindhaugh, alison.hindhaugh@coe.int

Publisher

European Audiovisual Observatory

76, allée de la Robertsau, 67000 Strasbourg, France

Tel.: +33 (0)3 90 21 60 00

iris.obs@coe.int

www.obs.coe.int

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Focus on self-regulation

Eric Munch



Foreword

Advertising, like poetry, is the daughter of embellishment and exaggeration, and the selling tool that has always been has developed into an art form of its own. Actually, wasn't it Marshall McLuhan himself who wrote that "advertising is the greatest art form of the twentieth century?"

Food adverts are particularly "artistic", and they rarely depict reality. This is common, accepted knowledge. Problems arise when unscrupulous food advertisers use their artistic licence to sell us a very unhealthy pipe dream made of sugar without diabetes, salt without hypertension, and fat without atherosclerosis.

The negative impact of "junk food" – both from the societal and health perspective – has long been documented in scientific studies. The risks, combined with the strong potential for attracting children, have led lawmakers throughout the world to take measures to mitigate the degree to which advertising for such products can reach minors.

This note begins by going over the risks posed by junk food, as highlighted by decades of scientific research, setting the scene for an exploration of the Audiovisual Media Services Directive's provisions in that regard. It then compares the Directive's rules for junk food advertising and the rules for other types of products. The report also looks at how national legislations refer to self-regulation and to who national legislators have chosen to task with the creation of codes of conduct, as well as at differences in approaches between jurisdictions. We have also investigated a selection of non-EU countries in order to widen our scope. Examples of countries where national legislation goes further than referring to self-regulation are also touched upon, as well as a selection of three codes of conduct established respectively by a media regulator, a self-regulatory organisation and a video-sharing platform provider.

Enjoy the read!

Strasbourg, February 2026

Maja Cappello

Head of Department for Legal Information

European Audiovisual Observatory

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1. Setting the scene

1.1. Introduction

Advertising shapes consumers' decision-making and, whether physical or digital, is omni-present in today's world. That is why regulating it is important.

Regulation of advertising is complex due to the multitude of actors involved, the specific rules applicable to certain products and services, the applicable legal frameworks and the different channels of distribution.

Since advertising takes different forms, its regulation is not governed by a single piece of legislation. Audiovisual commercial communications (ACCs) are distinct from print out-of-home advertising, like billboards, bus advertising or brochures, for instance.

The regulation of ACCs is among the most important areas covered in the Audiovisual Media Services Directive¹ (AVMSD). Even so, national rules stemming from AVMSD transpositions are not the only ones to apply to ACCs; consumer protection rules also apply, in addition to, potentially, rules from other (non-media-related) pieces of national legislation (e.g. laws related to health, child protection, narcotics, firearms).

In 2025, at the request of the European Commission, the European Audiovisual Observatory (EAO) published a study of national rules applicable to influencers, which touched upon the applicability of national ACC rules to influencers. The study highlighted the importance of ACC regulation in the context of the activities of influencers, based on the emergence of growing case law on the topic, in addition to work from national media regulatory authorities and self-regulatory organisations (SROs).²

In December 2025, the EAO published the third edition of its AVMSDigest publication, dedicated this time to key provisions on ACCs from the AVMSD.³ The publication of this report coincided with the organisation of a workshop on the regulation

¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, as amended by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 ([Audiovisual Media Services Directive](#)).

All references to the "AVMSD" throughout the report should be understood as referring to Directive 2010/13, as amended by Directive 2018/1808, except when explicitly indicated "2010 AVMSD" (see Section 1.5.2.).

² [National rules applicable to influencers](#), European Audiovisual Observatory, Strasbourg, 2024.

³ Hermanns O., Lacourt A., Munch E., Radel-Cormann J., "[Key provisions on audiovisual advertising](#)", European Audiovisual Observatory, AVMSDigest, Strasbourg, November 2025.

of ACCs across audiovisual media services (AVMS), video-sharing platforms (VSPs) and influencers.⁴

The present note complements this string of publications and the event; each explores a facet of the regulation of ACCs with a focus on a subject not directly addressed in the other reports: the regulation of HFSS foods and beverages.

Keeping the AVMSD as our starting point, the note will focus on how the provisions of Articles 9(4) and 28b(2) of the AVMSD with regard to self-regulation have been transposed in national legislations.

1.2. HFSS foods and beverages

The term HFSS, for “high in fat, sugar and/or salt”, is used at the national level in several countries, including the UK,⁵ as an umbrella term to refer to food considered “less healthy”, or what is generally referred to as “junk food”. It is also used by SROs, like the Irish Advertising Standards Authority.⁶

The term is also widely used outside of legislation and codes of conduct, in publications from EU institutions, as is the case in the “Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar”.⁷

In its guidelines on policies to protect children from the harmful impact of food marketing⁸ published on 3 July 2023, the World Health Organization (WHO) defined the term HFSS as corresponding to “foods high in saturated fatty acids, trans-fatty acids, free sugars and/or salt, usually highly processed, whose consumption is associated with negative health effects”.

A common trait between most references to HFSS foods and beverages found in EU legislation, policy documents and studies alike is that they are often linked to concerns or provisions relative to the protection of minors.

HFSS foods and beverages are particularly attractive to minors, who are very vulnerable to ads for such foods and beverages. The success of advertising associating those products with characters from children’s programmes has led to a ban of the practice, or to such a ban being discussed, in several countries. In Ireland, for instance, the Children’s Commercial Communications Code 2024,⁹ established by the national media regulatory authority *Coimisiún na Meán*, provides in its Article 17.7b) that children’s commercial

⁴ EAO Workshop, [How are commercial communications - online advertising - regulated across the different broadcasting channels, video-sharing platforms and influencer accounts?](#), 21 November 2025, European Audiovisual Observatory.

⁵ [“Restricting promotions of products high in fat, sugar or salt by location and by volume price: implementation guidance”](#), GOV.UK; see 2019 policy document: [“Restricting promotions of products high in fat, sugar and salt by location and by price: government response to public consultation”](#), GOV.UK.

⁶ [Food & Non-Alcoholic Beverages - ASA Code](#), Advertising Standards Authority.

⁷ [“Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar”](#), Directorate-General for Health and Food Safety (European Commission), 2021.

⁸ [WHO guidelines: “Policies to protect children from the harmful impact of food marketing”](#), WHO, 3 July 2023.

⁹ [The Children’s Commercial Communications Code 2024](#).

communications for HFSS food products and/or services shall not include “licensed characters”.

In the context of the AVMSD, and in national media legislation transposing provisions of the AVMSD, references to food and beverages fitting that category are linked to rules governing audiovisual commercial communications and specific concerns with regard to the protection of minors.

1.3. ACCs and HFSS: why the rules matter

If rules regarding ACCs related to HFSS products are often linked with provisions for the protection of minors, it is because the latter are particularly vulnerable.

Signatories to the United Nations Convention on the Rights of the Child,¹⁰ which entered into force on 2 September 1990, agreed to take appropriate measures to combat disease and malnutrition through, *inter alia*, the provision of adequate nutritious food and clean drinking water. This also includes (but is not limited to) limiting the consumption of foods and beverages the consumption of which is not recommended in children’s diet.

As noted in UNICEF’s 2021 policy brief, “Marketing of unhealthy foods and non-alcoholic beverages to children”,¹¹ millions of children worldwide consume too many ultra-processed foods and non-alcoholic beverages that are high in saturated fats, trans fatty acids, free sugars, or salt, with devastating consequences for their health and development. The policy brief also reported that unhealthy diets remain a leading cause of death and disability globally, while excess weight and obesity are on the rise globally.

Evidence from around the world indicates that the lion’s share of food and non-alcoholic beverages marketed across all media and settings is classified as unhealthy and is dominated by ultra-processed foods,¹² with both younger children and other minors exposed to large volumes of unhealthy-food marketing, with negative consequences for their diets and health.¹³ Clear evidence shows that unhealthy-food marketing is highly persuasive and powerful in influencing children’s preferences and increasing their consumption of ultra-processed foods. Across the life course this leads to weight gain and an increased risk of excess weight and obesity, as well as a range of noncommunicable diseases¹⁴ (NCDs) such as type 2 diabetes, cardiovascular diseases and some forms of cancer.

¹⁰ [Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989](#), United Nations.

¹¹ [Policy brief: “Marketing of unhealthy foods and non-alcoholic beverages to children”](#), UNICEF, 2021.

¹² [Executive Summary - Report of the Commission on Ending Childhood Obesity: implementation plan](#), WHO, 2017.

¹³ Smith R., Kelly B., Yeatman H., Boyland E., “[Food Marketing Influences Children's Attitudes, Preferences and Consumption: A Systematic Critical Review](#)”, *Nutrients*, 18 April 2019.

¹⁴ Noncommunicable diseases (NCDs) are diseases that are not transmissible directly from one person to another (e.g. cancers, diabetes).

According to the WHO, in 2022 8% of children and adolescents worldwide were living with obesity while that number was 2% in 1990 (approximately 160 million in 2022 compared to 31 million in 1990).¹⁵

In 2019, researchers from the University of Vienna's AdME research group published an article¹⁶ pointing to the correlation between children's media consumption and childhood obesity. The article's authors pointed to the fact that media consumption replaced other potentially "active" leisure activities, leading to a decrease in physical activity during the day. Additionally, they noted that media content tended to present and promote unhealthy foods and beverages, both in commercial and editorial content, in proportionally higher quantities, with the potential to strongly influence children, as previously noted in several publications.¹⁷

While one of the study's conclusions was that the prominent depiction of unhealthy foods and beverages in editorial content means that it is evaluated more positively by younger audiences, this also highlights the vulnerability of such audiences and the importance of rules to protect them. This includes protecting them from commercials showing unhealthy foods and beverages.

In this regard, the AVMSD's provisions regarding ACCs, which aim to effectively reduce the exposure of minors to ACCs for HFSS foods and beverages, align with the objective of the UN Convention on the Rights of the Child.

It should be noted that the AVMSD is not the only piece of legislation at the European level dealing with food advertising. Regulation (EU) No 1169/2011¹⁸ on the provision of food information to consumers also provides the obligation, among others, to provide certain nutrition information for most prepacked processed foods. Regulation (EC) No 1924/2006 on nutrition and health claims made regarding foods¹⁹ provides the legal framework within which food business operators can highlight the particular beneficial effects of their products in relation to health and nutrition on the product's label or in advertising.

¹⁵ WHO website: "[Obesity and overweight](#)", 8 December 2025 (last consulted on 23 February 2026).

¹⁶ J. Matthes, B. Naderer, "[Sugary, fatty, and prominent: food and beverage appearances in children's movies from 1991 to 2015](#)", *Pediatric Obesity*, 14(4), 2019.

¹⁷ See Naderer B., Matthes J., Marquart F., Mayrhofer M., "[Children's attitudinal and behavioral reactions to product placements: investigating the role of placement frequency, placement integration, and parental mediation](#)", *International Journal of Advertising*, 2018; Naderer B., Matthes J., Zeller P., "[Placing snacks in children's movies: Cognitive, evaluative, and conative effects of product placements with character product interaction](#)", *International Journal of Advertising*, 2017; Halford JC, Boyland EJ, Cooper GD, et al., "[Children's food preferences: effects of weight status, food type, branding and television food advertisements \(commercials\)](#)", *Pediatric Obesity*, 2008.

¹⁸ [Regulation \(EU\) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers.](#)

At the time of writing, Regulation (EU) No 1169/2011 was in the process of being revised, as part of the European Commission's [Farm-to-Fork Strategy](#).

¹⁹ [Regulation \(EC\) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods.](#)

1.4. References to HFSS foods and beverages in the AVMSD

The term HFSS does not appear in the AVMSD. The AVMSD, in its Articles 9(4) and 28b(2), refers to self- and co-regulation, in the context of ACCs. Both Articles use the following phrasing: “foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended”.

While there is no mention of it in the text of the AVMSD, the term HFSS is used to describe the same category of foods and beverages. This is highlighted in the European Commission’s “Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar”,²⁰ which suggests referring to the 2010 version of the AVMSD as terms of reference.

For the purpose of conciseness, foods and beverages falling under this category are referred to as HFSS foods and beverages in this report, also in the context of national transpositions of Articles 9(4) and 28b(2) AVMSD.

References to HFSS foods and beverages in the AVMSD appear in the context of articles detailing provisions regarding the protection of minors and self- and co-regulation with the aim of effectively reducing their exposure to ACCs for such products.

The AVMSD acknowledges the need to protect minors in general in Article 6a. Additional provisions for their protection from specific types of audiovisual commercial communications can be found in Article 9(e) in the context of alcohol specifically and 9(g) more generally.

1.5. Articles 9(4) and 28b(2): provisions from the AVMSD

HFSS foods and beverages are referred to in Articles 9(4) and 28b(2) AVMSD, which both refer to Article 4a(1) concerning the use of co-regulation and the fostering of self-regulation through national codes of conduct.

As per Article 4a(1), the codes shall be such that they are broadly accepted by the main stakeholders (a); clearly and unambiguously set out their objectives (b); provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives (c); and provide for effective enforcement, including effective and proportionate sanctions (d).

Article 9(4) provides that member states shall “encourage the use of co-regulation and the fostering of self-regulation through codes of conduct” regarding inappropriate ACCs accompanying or included in children’s programmes, for HFSS foods and beverages. Additionally, as per Article 9(4), the codes of conduct shall aim to provide that such ACCs do not emphasise the positive quality of the nutritional aspects of such foods and beverages.

²⁰ [“Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar”](#), Directorate-General for Health and Food Safety (European Commission), 2021, see page 17.

Article 28b(2) underlines that member states shall also ensure that the obligations set out in Article 9(1) apply to VSP providers under their jurisdiction. More precisely, its first paragraph confirms that the obligations set out in Article 9(1) apply to the ACCs marketed, sold or arranged by the VSP providers themselves.

Its second paragraph provides that VSP providers shall take appropriate measures to comply with the requirements set out in Article 9(1) with regard to ACCs that are not marketed, sold or arranged by those VSP providers. The same paragraph specifically notes that the assessment by member states or the measures put in place by VSP providers under their jurisdiction, when they concern ACCs that are not marketed, sold or arranged by those VSP providers, should however take into consideration the “limited control exercised” by those VSP providers over those ACCs.

The third paragraph directly refers to codes of conduct to be developed by VSP providers, informing users where programmes and user-generated videos can contain ACCs. As with Article 9(4), it also indicates that those codes shall aim to provide that such ACCs do not emphasise the positive quality of the nutritional aspects of such foods and beverages.

1.5.1. HFSS rules compared to other products

Article 9 AVMSD contains a series of rules with regard to ACCs, from fundamental principles to be respected by all ACCs to banned techniques and specific rules for certain categories of products or services.

The degree of regulation imposed by the AVMSD on ACCs for HFSS foods and beverages is somewhat lighter than that on other types of products or services.

For instance, Article 9 AVMSD goes over specific rules for three categories of products and services: tobacco and related products, alcoholic beverages, and medicinal products and treatments.

In the case of tobacco, Article 9(1)(d) AVMSD establishes a general ban which covers cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

Similarly, ACCs for medicinal products and medical treatment available only on prescription in the member states with jurisdiction over the media service provider distributing them are forbidden, as per Article 9(1)(f) AVMSD.

Alcoholic beverages are not subject to an all-out ban but Article 9(1)(e) AVMSD provides that ACCs for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages.

In contrast, and despite their potentially negative effect on health, ACCs for HFSS foods and beverages are not subject to a ban or to stricter rules directly defined in the AVMSD. Foods and beverages fitting the HFSS category are only ever mentioned in the AVMSD in relation with co-regulation and the fostering of self-regulation through codes of conduct.

As such, and while the AVMSD recognises that ACCs for HFSS foods and beverages warrant a higher degree of attention than some other products or services, it does not provide any specific restriction. Instead, it places the responsibility on member states to encourage the use of co-regulation and the fostering of self-regulation.

The case of ACCs for HFSS foods and beverages shares a similarity with that of ACCs for alcoholic beverages, for which Article 9(3) AVMSD provides a similar provision,²¹ also urging member states to encourage co-regulation and the fostering of self-regulation through codes of conduct, with the aim of effectively reducing the exposure of minors to such ACCs. In the case of alcoholic beverages though, the provisions of Article 9(3) work in conjunction with the rules laid down in Article 9(1)(e) but associated with precise rules aiming to guarantee that ACCs for alcoholic beverages are not targeted at minors.

No such rules exist for HFSS foods and beverages, leading to a potentially diverse landscape of national situations.

1.5.2. HFSS in the 2010 and 2018 versions of the AVMSD

The 2018 revision of the AVMSD saw the modification of Article 9 and the provisions with regard to ACCs for HFSS foods and beverages, along with the addition of Article 28b(2)

Article 9(2) of the 2010 AVMSD referred to a joint responsibility on the part of member states and the European Commission to encourage AVMS providers to develop codes of conduct regarding inappropriate ACCs accompanying or included in children's programmes related to foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended.

The reference to codes of conduct, initially, in Article 9(2) of the 2010 AVMSD, only in relation to HFSS foods and beverages, is now extended to all products and services referred to in Article 9 AVMSD (as per Article 9(5)). Member states are urged to encourage co-regulation and the fostering of self-regulation through codes of conduct in the context of what constitutes inappropriate ACCs for both alcoholic beverages (Article 9(3)) and HFSS foods and beverages (Article 9(4)).

Article 28b(2), introduced in the 2018 revision, also refers to member states encouraging the use of co-regulation and the fostering of self-regulation through codes of conduct with regard to HFSS foods and beverages, this time with regard to VSP providers.

The most notable change with regards to HFSS foods and beverages however concerns the addition of the codes' objective to "effectively reduce the exposure of children to audiovisual commercial communications for such foods and beverages" and "to provide

²¹ Article 9(3) AVMSD provides that "Member States shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in Article 4a(1) regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes shall aim to effectively reduce the exposure of minors to audiovisual commercial communications for alcoholic beverages."

that such audiovisual commercial communications do not emphasise the positive quality of the nutritional aspects of such foods and beverages”.

1.5.3. Assessing HFSS foods and beverages in practice

The provisions from Articles 9(4) and 28b(2) AVMSD, which only provide for a general obligation on the part of member states to encourage the use of co-regulation and the fostering of self-regulation regarding HFSS foods and beverages, provide a high degree of flexibility.

It is notable that nowhere in Articles 9(4) or 28b(2), or anywhere else in the AVMSD, are there any indications with regard to precise thresholds making products fit within the category of “foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended”.

This introduces potential challenges for distributors of ACCs in assessing if a certain product falls under the definition of an HFSS product and is, as such, subject to the same rules.

In the UK, the Department of Health & Social Care has issued guidance²² to assist those affected by the advertising restrictions for certain HFSS foods and beverages on TV, on-demand services and online,²³ and to help businesses and enforcement authorities understand and apply these restrictions, which came into force in the UK on 5 January 2026.²⁴

The guidance includes definitions, a summary of applicable regulations, the types of products falling within its scope and perhaps more importantly guidance for applying the nutrient profiling model, categories of products and exemptions.²⁵ While very detailed, the guidance highlights the complexity of the matter.

²² [UK Department of Health & Social Care – Guidance: Restricting advertising of less healthy food or drink on TV and online: products in scope.](#)

²³ The restrictions are set out in [Section 321A](#), [Section 368FA](#) and [Part 4C](#) of the Communications Act 2003 (as amended by the Health and Care Act 2022). [The Advertising \(Less Healthy Food Definitions and Exemptions\) Regulations 2024](#) and [The Advertising \(Less Healthy Food and Drink\) \(Brand Advertising Exemption\) 2025](#) contain further details relevant to the application of the restrictions.

²⁴ The new obligations’ entry into force, initially set for 1 October 2025, was delayed by the [Communications Act 2003 \(Restrictions on the Advertising of Less Healthy Food\) \(Effective Date\) \(Amendment\) Regulations 2025](#).

²⁵ More detailed guidance on applying the nutrient profiling model is also available: [Nutrient Profiling Technical Guidance](#), Department of Health, 2011. Exempted products are the following: infant formula, follow-on formula, processed cereal-based food and baby food; total diet replacement products (this is food specially formulated for use in energy restricted diets for weight reduction which, when used as instructed by the food business operator, replaces the whole daily diet); meal replacement products which use an approved ‘health claim’ provided in the annex to assimilated Regulation (EU) No.432/2012; food for special medical purposes; food supplements as defined in [The Food Supplements \(England\) Regulations 2003](#) (and equivalent legislation in Scotland, Wales and Northern Ireland).

2. HFSS rules in national media legislation across Europe

2.1. Article 9(4) and 28b(2) AVMSD: complete coverage of all distributors of ACCs

Articles 9(4) and 28b(2) AVMSD provide a complementary approach in that Article 9(4) applies to AVMS providers and Article 28b(2) applies to VSP providers, in both cases under the jurisdiction of the member states.

At the time of the entry into force of Directive 2018/1808 amending the AVMSD, Article 28b extended some of the rules applicable to AVMS providers to VSP providers, including the obligation imposed on member states to encourage the use of co-regulation and the fostering of self-regulation through codes of conduct regarding HFSS products.

One key type of actor of the current ACCs ecosystem is not mentioned by name in the AVMSD: influencers. However, as highlighted in the European Audiovisual Observatory's report on national rules applicable to influencers,²⁶ the definition of what constitutes an AVMS as laid down by Article 1(1)(a) AVMSD can correspond to the services provided by content creators and influencers.

That report found that national transpositions of the AVMSD allow influencers meeting the criteria laid down in the legislation transposing Article 1(1)(a) AVMSD at the national level to be considered as AVMS providers and regulated as such. By extension, this implies that the provisions of Article 9(4) AVMSD, applicable to all AVMS providers, also apply to influencers meeting the criteria of AVMS.

2.2. General overview of national transpositions of the AVMSD²⁷

As already highlighted in Section 1.5.1., the AVMSD does not impose the same degree of obligations on all types of products and services, with ACCs for HFSS foods and beverages warranting specific oversight through self- and co-regulation, yet no outright ban nor stricter rules such as those for other products or services.

In the AVMSD, several types of products and services are identified by name as warranting the application of specific rules.²⁸ Those products and services are listed in Article 9(1)(d), (e) and (f).

²⁶ "[National rules applicable to influencers](#)", European Audiovisual Observatory, Strasbourg, 2024.

²⁷ The information on national transpositions of the AVMSD is taken from the EAO's [AVMSDatabase](#) of national transpositions of the AVMSD.

²⁸ It should be noted that products and services not explicitly referred to in the AVMSD are still covered by the AVMSD's general rules on ACCs.

All forms of ACCs for cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers, are prohibited, as per Article 9(1)(d). This is the only outright prohibition based on type of product.²⁹

Similarly, ACCs for medicinal products and medical treatment available only on prescription in the member state within the jurisdiction of which the media service provider falls shall be prohibited, as per Article 9(1)(f). Unlike the provisions of Article 9(1)(d), the types of products and treatments for which ACCs are prohibited may vary from one country to another, as their availability on prescription does not depend on the AVMSD.

Alcoholic beverages are another type of product for which Article 9(1)(e) provides that ACCs shall not be aimed specifically at minors and shall not encourage immoderate consumption.

Differently from the abovementioned products, the AVMSD's provisions with regard to HFSS foods and beverages do not come in the form of a ban or of specific obligations, but rather as an obligation on member states to “encourage the use of co-regulation and the fostering of self-regulation through codes of conduct as regarding ACCs for HFSS foods and beverages.”

National transpositions of Articles 9(4) and 28b(2) AVMSD generally reuse the AVMSD's terminology of “foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended” or terminology conveying the same meaning in the national language.

While the categories of foods and beverages in question are the same, minor differences in terminology exist, as is the case in Article 20a 3. of Portugal's Advertising Code/Decree-Law No 330/90 (*Código da Publicidade/Decreto-Lei n.º 330/90*)³⁰ which refers to “foods and beverages which are highly calorific or contain high levels of salt, sugar, saturated fats and/or processed fats”,³¹ thereby adding the notion of calorific intake.

In the case of Portugal, Article 6(4)b of the amended Law 27/2007, of 30 July, the Television and Audiovisual On-Demand Services Law (*Lei n.º 27/2007, de 30 de Julho - Lei da Televisão e dos Serviços Audiovisuais a Pedido*)³², also refers to such foods and beverages, this time using the wording of the AVMSD.

It should be noted however that the form of national transpositions of the rules may vary from one jurisdiction to another, with national transpositions in primary legislation sometimes closely resembling the wording of the AVMSD, while in other cases primary

²⁹ Unrelated to the types of products or services advertised, specific practices (i.e. surreptitious ACCs (Art. 9(1)(a), ACCs using subliminal techniques (Art. 9(1)(b))) and messages (i.e. prejudice against respect for human dignity (Art. 9(1)(c)(i)); inclusion or promotion of any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation (Art. 9(1)(c)(ii)); encouragement of behaviour prejudicial to health or safety (Art. 9(1)(c)(iii)); and encouragement of behaviour grossly prejudicial to the protection of the environment (Art. 9(1)(c)(iv)) are also prohibited.

³⁰ [Advertising Code/Decree-Law No 330/90 \(Código da Publicidade/Decreto-Lei n.º 330/90\)](#) (in Portuguese).

³¹ In Portuguese: “*géneros alimentícios e bebidas de elevado valor energético, teor de sal, açúcar, ácidos gordos saturados e ácidos gordos transformados*”.

³² [Law 27/2007, of 30th July - Television and Audiovisual On-Demand Services Law \(Lei n.º 27/2007, de 30 de Julho - Lei da Televisão e dos Serviços Audiovisuais a Pedido - Consolidado 19 de Novembro de 2020\)](#) (in Portuguese).

legislation may only contain broad indications, with secondary legislation providing more information, such as watersheds.

Codes of conduct and guidelines often exist and generally include precise indications as to what is permitted and what is banned.

Similarly, notwithstanding the provisions of applicable legislation, there are cases in which codes of conduct or guidelines had already been produced by a stakeholder from the advertising sector, even though they may not be those foreseen by the law.

2.2.1. Selected examples of national transpositions with regard to AVMS providers

The provisions with regard to the effective reduction of the exposure of children to ACCs for HFSS foods and beverages (Article 9(4) AVMSD) were transposed differently among the EU-27 member states.

National transpositions of Article 9(4) AVMSD refer to the creation of codes of conduct or guidelines detailing specific rules with regard to ACCs for HFSS foods and beverages.

2.2.1.1. Obligation to draw up codes

There is variety regarding whom the national legislation tasks with being in charge of drawing up the aforementioned guidance documents. In many cases, this task falls upon the media service providers themselves, as identified in 13 countries (AT, BG, CY, DE, GR, HR, LT, LU, LV, PL, PT, RO and SI) where AVMS providers must draw up codes of conduct or guidelines regarding ACCs for HFSS products in relation to children's programmes.

2.2.1.1.1. Austria

Obligations for the public service media specifically may also be included in the associated pieces of national legislation, as is the case in Austria with the Federal Act on the Austrian Broadcasting Corporation (*Bundesgesetz über den Österreichischen Rundfunk, ORF-Gesetz*).³³ Article §13.8a of the *ORF-Gesetz* establishes that the ORF (*Österreichischer Rundfunk*) shall draw up and comply with guidelines for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended.

The guidelines shall specify which forms and contents of commercial communication related to such beverages and foods are inappropriate before, after and

³³ [Federal Act on the Austrian Broadcasting Corporation \(*Bundesgesetz über den Österreichischen Rundfunk, ORF-Gesetz*\)](#) (in German).

during children's programmes. They shall also stipulate that the positive characteristics of the foods and beverages concerned shall not be emphasised.

2.2.1.1.2. Cyprus

In Cyprus, the Law on Radio and Television Organisations (*Ο περί Ραδιοφωνικών και Τηλεοπτικών Οργανισμών Νόμος*)³⁴ presents the specificity of placing a joint responsibility for developing codes of conduct – including with regard to HFSS foods and beverages – on the public service media (the Cyprus Broadcasting Corporation, *Ραδιοφωνικό Ίδρυμα Κύπρου*) and the other media service providers, as per Article 30F(1). The national media regulatory authority (NRA) is mentioned in Article 30E(4) as having the role of encouraging the use of co-regulation and the fostering of self-regulation through codes of conduct.

2.2.1.1.3. Lithuania

In the case of Lithuania, the Law on the provision of information to the public of the Republic of Lithuania (*Lietuvos Respublikos visuomenės informavimo įstatymas*)³⁵ establishes, in its Article 39(9), that AVMS providers or associations of such providers shall adopt codes of conduct (also referred to as codes of ethics), with the possibility for the NRA to impose binding requirements on the AVMS providers or associations of such providers if the codes adopted are considered to be not sufficiently effective.

In a decision of the Lithuanian national media regulatory authority,³⁶ it was further clarified that the codes of conduct developed by AVMS and VSP providers, or their associations, could take the form of stand-alone codes or form part of an existing code of conduct.

2.2.1.1.4. Slovenia

In Slovenia, Article 23 (2) of the Audiovisual Media Services Act (*Zakon o avdiovizualnih medijskih storitvah – ZAvMS*)³⁷ provides that the codes of conduct that AVMS providers must develop in relation to ACCs for HFSS foods and beverages must be designed in such a way that children are enabled to develop healthy eating habits, in accordance with the nutritional guidelines published by the minister responsible for health.

The Slovenian Ministry of Health prepared nutritional guidelines to serve as a basis for the creation of codes of conduct to protect children from inappropriate commercial

³⁴ [Law on Radio and Television Organisations \(*Ο περί Ραδιοφωνικών και Τηλεοπτικών Οργανισμών Νόμος*\)](#) (in Greek).

³⁵ [Law on the provision of information to the public of the Republic of Lithuania \(*Lietuvos Respublikos visuomenės informavimo įstatymas*\)](#) (in Lithuanian).

³⁶ [Decision on the adoption of the Code of Conduct \(Code of Ethics\) for Audiovisual Media Service Providers and Video Material Sharing Platform Service Providers, or parts thereof, to determine their effectiveness \(*Sprendimas Dėl Audiovizualinės Žiniasklaidos Paslaugų Teikėjų Ir Dalijimosi Vaizdo Medžiaga Platformos Paslaugų Teikėjų Taikomo Elgesio \(Etikos\) Kodeksų Ar Jų Dalių Veiksmingumo Nustatymo Tvarkos Aprašo Patvirtinimo*\)](#) (in Lithuanian).

³⁷ [Audiovisual Media Services Act \(*Zakon o avdiovizualnih medijskih storitvah – ZAvMS*\)](#) (in Slovenian).

communications,³⁸ which were adopted in July 2016. AVMS providers were required to adopt codes of conduct no later than six months after the publication of the nutritional guidelines, on the basis of their content. A fine of up to EUR 5 000 was foreseen for AVMS providers in case of non-compliance.

2.2.1.2. Specific role of self-regulatory organisations (SROs)

National legislation refers to the role of SROs in six countries (CZ, DE, HU, NL, RO and SK).

2.2.1.2.1. Germany

In Germany, Article 6 of the Interstate Treaty on the Protection of Minors in Broadcasting and Telemedia (*Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien – JMStV*)³⁹ refers to providers' obligation to take appropriate measures to effectively reduce children's exposure to advertising for HFSS foods and beverages in the context of children's programmes, without further indications.

Article 19 JMStV further provides that voluntary self-regulatory bodies may be established for broadcasting and telemedia services, along with a series of criteria for such bodies to be certified as such under the meaning of the Treaty. Article 19 also goes over the role of KJM (*Kommission für Jugendmedienschutz*), in relation to the relevant federal-state media authorities with which the voluntary self-regulatory body is registered, in assessing if the voluntary self-regulatory bodies meet the criteria of the Treaty.

It should however be noted that neither Article 19 nor Article 19a, which further develops the role of the voluntary self-regulatory bodies, mention ACCs for HFSS foods and beverages specifically.

2.2.1.2.2. The Netherlands

In the Netherlands, the Media Act 2008 (*Mediawet 2008*)⁴⁰ does not explicitly task the SRO with drafting such codes of conduct, but its Article 2.92 provides that the organisation controlling the national public service media (*Stichting Ether Reclame – the Ster*) and local and regional public service media providers with advertising or teleshopping in their media offerings be members of the Dutch Advertising Code Foundation (*Stichting Reclame Code – SRC*, the Advertising Code Foundation) or a comparable regulatory body created and supervised by the Advertising Code Foundation. Article 3.6 provides the same obligation for commercial media service providers.

³⁸ [Nutritional Guidelines for the Creation of Codes of Conduct to Protect Children from Inappropriate Commercial Messages \(*Prehranske smernice za oblikovanje pravil ravnanja za zaščito otrok pred neprimernimi komercialnimi sporočili*\)](#) (in Slovenian).

³⁹ [Interstate Treaty on the Protection of Minors in Broadcasting and Telemedia \(*Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien - JMStV*\)](#) (in German).

⁴⁰ [Media Act 2008 \(*Mediawet 2008*\)](#) (in Dutch).

SRC, the Dutch SRO, has such codes of conduct,⁴¹ even though they are not directly referred to in the Media Act.

2.2.1.2.3. Codes with wider scope

While Article 9(4) AVMSD explicitly refers to HFSS foods and beverages, many national transpositions refer to the creation of codes of conduct or guidelines with regard to food and non-alcoholic beverages in general, with a specific focus on HFSS foods and beverages, which broadens the scope of the obligation contained in the AVMSD.

2.2.1.3. Involvement of different subjects in drawing up the codes

In some cases, codes of conduct or guidelines are mentioned with no indication as to who should produce them. When the information is provided in law, it mostly falls within the role of the AVMS providers themselves (AT, BE, EE, HR, IT, LT, LU, LV, PL, RO and SI). In some countries, the law specifies that self-regulatory organisations should develop such codes of conduct or guidelines (AT, HU, LT, NL,⁴² and SK).

In Austria, in addition to the *ORF-Gesetz*, two separate laws refer to guidelines and codes of conduct, but each refers to different actors. As mentioned above, Austria's Federal Act on Audiovisual Media Services (*Bundesrecht konsolidiert: Gesamte Rechtsvorschrift für Audiovisuelle Mediendienste-Gesetz – AMD-G*)⁴³ indicates in its Article § 36.3 that all media service providers whose service also includes children's programmes shall draw up and comply with guidelines regarding ACCs for HFSS foods and beverages. [The Federal Act on the establishment of an Austrian Communication Authority \(*Gesamte Rechtsvorschrift für KommAustria-Gesetz – KOG*\)](#)⁴⁴ also provides, in its Article § 33 (3a), that self-regulatory bodies shall have a code of conduct containing provisions on inappropriate ACCs for HFSS foods and beverages for children, in order to be granted the full amount of available funding.

⁴¹ The [Dutch Advertising Code \(*Stichting Reclame Code*\)](#) has a [General Code \(*Algemeen Deel*\)](#) setting out the rules that all advertising must follow and additional Special Advertising Codes (*Bijzondere Reclamecodes*) relative to specific types of products and/or services. The latter include an [Advertising Code for Food Products \(*Reclamecode Voor Voedingsmiddelen*\)](#) and an [Advertising Code for Non-Alcoholic Variant of Alcoholic Beverages \(*Reclamecode voor Alcoholvrije Varianten van Alcohol houdende dranken*\)](#).

⁴² In the case of the Netherlands, the [Media Act 2008 \(*Mediawet 2008*\)](#) does not refer to codes of conduct, but it provides that media service providers with advertising or teleshopping in their media offer shall be members of the Dutch Advertising Code or a comparable regulation created and supervised by the Advertising Code Foundation. As the Advertising Code includes specific codes related to food and certain types of non-alcoholic beverages.

⁴³ [Federal Act on Audiovisual Media Services \(*Bundesrecht konsolidiert: Gesamte Rechtsvorschrift für Audiovisuelle Mediendienste-Gesetz – AMD-G*\)](#) (in German).

⁴⁴ [Federal Act on the establishment of an Austrian Communication Authority \(*Gesamte Rechtsvorschrift für KommAustria-Gesetz – KOG*\)](#) (in German).

2.2.1.4. Limits to nutritional claims

The obligation laid out in Article 9(4) AVMSD for codes of conduct to provide that ACCs for HFSS foods and beverages shall not emphasise the positive quality or the nutritional aspects of such foods and beverages often appears in primary legislation transposing Article 9(4) (AT, BG, HR, CY, CZ, FR, IT, LT, PT and RO).

In some cases, the national legislation does not indicate that they should not emphasise the positive quality or nutritional aspects of such foods and beverages but only refer to the wider objective of reducing the exposure of children.

In Ireland, the Broadcasting Act 2009 (consolidated 25 October 2024)⁴⁵ does not refer to this obligation, but its Section 46N, which provides for the creation by the national media regulatory authority (*Coimisiún na Meán* – the Media Commission) of media service codes governing the standards and practices of broadcasters and providers of audiovisual on-demand media services, includes HFSS foods and beverages (Article 46N (7)).⁴⁶

2.2.1.5. Relevant non-media specific legislation

The provisions found in national media legislation apply in addition to provisions from other pieces of non-media legislation.

2.2.1.5.1. France

In France Article L2133-1 of the Code of Public Health (*Code de la santé publique*)⁴⁷ complements Article 14 para. 4 of Law No. 86-1067 of September 1986 on the freedom of communication (*Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication – Loi Léotard*).⁴⁸

While Article 14 para. 4 of *Loi Léotard* refers to the creation of codes of conduct with the aim of effectively reducing the exposure of children to ACCs for HFSS foods and beverages and preventing them from emphasising the positive quality of the nutritional aspects of the foods and beverages in question, Article L2133-1 of the Code of Public Health adds that such ACCs should be accompanied by health information..

2.2.1.5.2. Finland

The Finnish HE 98/2020 Government proposal to the Parliament to amend the Act on Electronic Communications Services and some related laws (*HE 98/2020 Hallituksen esitys eduskunnalle laiksi sähköisen viestinnän palveluista annetun lain muuttamisesta ja eräiksi*

⁴⁵ [Broadcasting Act 2009](#).

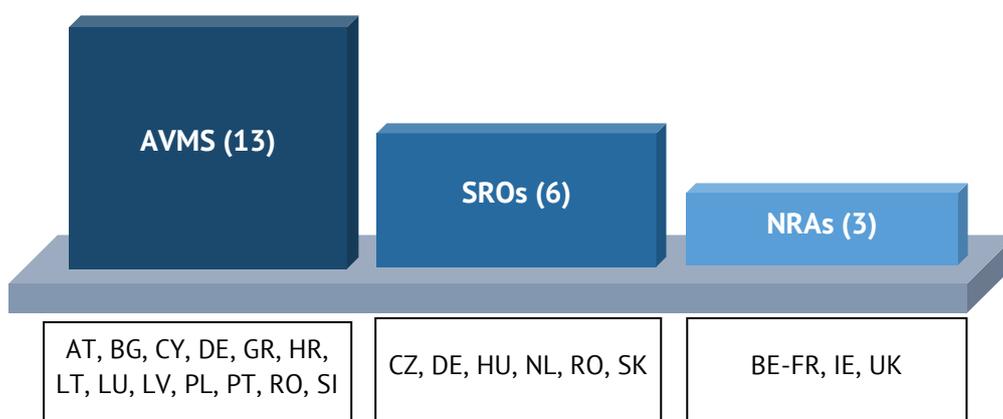
⁴⁶ Refer to Section 3.2.2. of this report for more on the Media Commission's [General Commercial Communications Code \(Radio and Television Broadcasters\)](#) and its rules with regard to ACCs for HFSS foods and beverages.

⁴⁷ [Code of Public Health \(Code de la santé publique\)](#) (in French).

⁴⁸ [Law No. 86-1067 of September 1986 on the freedom of communication \(Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication – Loi Léotard\)](#) (in French).

siihen liittyviksi laeiksi),⁴⁹ and its Article p.89, is interesting as it hints at a different approach than that of many other national transpositions. While it is not specific to HFSS foods and beverages but rather adopts a more general approach to self- and co-regulation, the Government proposal refers to the final sentence of Recital 14 of Directive 2018/1808,⁵⁰ which clarifies the intention behind the AVMSD's reference to encouraging the use of self- and co-regulation. Specifically, it notes that, in accordance with Recital 14, no modifications are required in Finnish legislation in that regard, since the measures in place are already effective.

Figure 1. Identification in primary legislation of the roles of the AVMS, SROs or NRAs with regard to the development of codes of conduct for ACCs for HFSS foods and beverages



2.2.2. Selected examples of national transpositions with regard to video-sharing platforms

As indicated above, Article 28b(2) differs from Article 9(4) with regard to whom it applies to, with Article 9(4) applying to AVMS providers and Article 28b(2) applying to VSP providers.

National transpositions of Article 28b(2) make direct reference to HFSS foods and beverages in most jurisdictions (AT, BE-VL, BG, HR, CY, CZ, DE, EE, FR, GR, HU, IE, IT, LV, LT, LU, MT, PL, PT, RO, SK, ES) but in some cases the national media legislations refer to the wider obligation on the part of VSP providers to take appropriate measures to protect the public and minors, including by developing codes of conduct – without specific reference to HFSS foods and beverages.

⁴⁹ [HE 98/2020 Government proposal to Parliament to amend the Act on Electronic Communications Services and some related laws \(HE 98/2020 Hallituksen esitys eduskunnalle laiksi sähköisen viestinnän palveluista annetun lain muuttamisesta ja eräiksi siihen liittyviksi laeiksi\)](#) (in Finnish).

⁵⁰ Recital 14 AVMSD, final sentence: “*This should neither oblige Member States to set up self- or co-regulation regimes, or both, nor disrupt or jeopardise current co-regulation initiatives which are already in place in Member States and which are functioning effectively.*”

It should however be noted that, as was the case with national transpositions of Article 9(4) AVMSD, the fact that national transpositions of Article 28b(2) do not refer precisely to HFSS foods and beverages does not mean that VSP providers under those jurisdictions do not have to develop codes of conduct in that regard. Such obligations may exist in non-media-related national legislation. In some cases, existing codes of conduct with regard to ACCs for HFSS foods and beverages and applicable to VSP providers may have already existed, leading the legislator to not include them in national legislation.⁵¹

2.2.2.1. Denmark

Denmark's Radio and Television Broadcasting Act (*Lov om radio- og fjernsynsudsendelse*), in paragraph 2 of Article § 51b, refers only to the Ministry of Culture's obligation to lay down rules requiring VSP providers to take appropriate measures to protect minors from harmful content, without specifically mentioning codes of conduct, guidelines or ACCs for HFSS foods and beverages.

2.2.2.2. The Netherlands

In the Netherlands, the main piece of media legislation, the Media Act 2008 (*Mediawet 2008*),⁵² makes no mention of HFSS foods and beverages but its Article 3a.3 makes a direct reference to VSP providers having and applying a code of conduct prescribing measures as referred to in Article 28b(1) AVMSD and the second and fourth paragraphs of Article 28b(2) AVMSD – the latter referring to HFSS foods and beverages.

One should however note that the Dutch self-regulatory organisation SRC released an advertising code of conduct with regard to food, applicable to all subjects engaged in advertising (including AVMS and VSP providers).⁵³

2.2.2.3. Slovenia

In Slovenia, Article 38č (1) of the Audiovisual Media Services Act (*Zakon o avdiovizualnih medijskih storitvah – ZAvMS*)⁵⁴ provides that the provisions of Articles 19 to 22 of the same act concerning ACCs distributed by AVMS providers also apply to VSP providers in the context of ACCs marketed, sold or edited by the VSP providers themselves. However, it does not provide that the provisions of Article 23 ZAvMS, which refers to AVMS providers drawing up codes of conduct on ACCs for HFSS foods and beverages, apply to VSP providers as well.

⁵¹ See for instance the arguments developed in Article p. 89 of the Finnish [HE 98/2020 Government proposal to Parliament to amend the Act on Electronic Communications Services and some related laws \(HE 98/2020 Hallituksen esitys eduskunnalle laiksi sähköisen viestinnän palveluista annetun lain muuttamisesta ja eräiksi siihen liittyviksi laeiksi\)](#).

⁵² [Media Act 2008 \(Mediawet 2008\)](#) (in Dutch).

⁵³ Refer to Section 3.2.1. of this report for more on the SRC's advertising code of conduct with regard to food.

⁵⁴ [Audiovisual Media Services Act \(Zakon o avdiovizualnih medijskih storitvah\)](#) (in Slovenian).

2.2.2.4. Sweden

In Sweden, the provisions of Article 28b(2) AVMSD are transposed in national legislation through several pieces of legislation. The Radio and Television Act (2010:696) (*Radio- och tv-lag (2010:696)*),⁵⁵ in its Chapter 9a, provides a series of obligations for VSP providers in relation to ACCs, though it does not mention HFSS foods and beverages. However, Chapter 9a, Section 9, prohibits the interruption of (or the inclusion in) user-generated videos or televisions programmes primarily aimed at children under the age of 12. ACCs are also forbidden immediately before or after such videos or programmes, as per Section 10.

While not explicitly referenced in the law, ACCs for HFSS foods and beverages are included in this general ban on ACCs before, during and after videos or programmes primarily aimed at children.

2.3. Outside of the EU

In the context of EU accession procedures, certain non-EU countries have aligned or are in the process of aligning their national legislation with the rules and principles contained in the AVMSD.

2.3.1. Albania

In Albania,⁵⁶ Article 42 (8) of Law No. 97/2013 on Audiovisual Media in the Republic of Albania (*Ligj Nr. 97/2013 për mediat audiovizive në Republikën e Shqipërisë*) as amended in 2023⁵⁷ provides that the national media regulatory authority, the Audiovisual Media Authority (*Autoriteti i Mediave Audiovizive - AMA*) shall urge AVMS providers to draft codes of conduct that define standards and practices concerning inappropriate ACCs for alcoholic beverages and in relation to inappropriate commercial communications that accompany or are included in children's programmes, for HFSS foods and beverages.

Additionally, in 2023, AMA approved its Media Broadcasting Code.⁵⁸ Under paragraphs 4.43 to 4.58, the code establishes detailed rules concerning children and commercial communications. It prohibits advertisements that may harm children's physical, mental, or moral development, including advertising of alcoholic beverages, energy drinks, sugary carbonated drinks, and certain food products in or around children's programmes. It also bans product placement in children's programmes.

⁵⁵ [Radio and Television Act \(2010:696\) \(*Radio- och tv-lag \(2010:696\)*\)](#) (in Swedish).

⁵⁶ The information regarding Albania was provided by Dr. Monika Canco, independent consultant and lecturer at the Faculty of Law, University of Tirana and Prof. Assoc. Dr. Mirela Bogdani, lecturer at the Faculty of Law, University of Tirana and Council of Europe consultant on freedom of expression.

⁵⁷ [Law No. 97/2013 on Audiovisual Media in the Republic of Albania \(*Ligj Nr. 97/2013 për mediat audiovizive në Republikën e Shqipërisë*\)](#) (in Albanian).

⁵⁸ [Media Broadcasting Code](#) (in English).

2.3.2. Armenia

The Armenian⁵⁹ legislative framework does not yet address the issue of reducing the exposure of children to ACCs for HFSS food and beverages, although it does include provisions on general advertising standards and restrictions for certain products (e.g. alcohol, tobacco).

2.3.3. Bosnia and Herzegovina

In Bosnia and Herzegovina,⁶⁰ Article 7(6) of the Code of commercial communications 2023 (*Kodeks o komercijalnim komunikacijama*)⁶¹ limits the broadcast of ACCs for HFSS foods and beverages around children's programmes. VSP providers, on the other hand, are required to develop codes of conduct, which aim to reduce the exposure of children to ACCs for HFSS foods and beverages, as per Article 8(6) of the Rule on provision of video-sharing platform services 2023 (*Pravilo o uslugama platformi za razmjenu videozapisa*).⁶²

2.3.4. Georgia

In Georgia,⁶³ Paragraph 37, Article 76 of the Law on Broadcasting (*მაუწყებლობის შესახებ საქართველოს კანონი*) establishes that the NRA, the Georgian National Communications Commission (ComCom), is obliged to adopt codes of conduct for on-demand AVMS providers and VSP providers.

On June 27, 2024, ComCom adopted Resolution No. 6 (*დადგენილება N°6*),⁶⁴ which approved the Code of conduct for video-Sharing platform service providers. This code officially entered into force on 1 January 2025. Article 8 of the code establishes that VSP providers are authorised to develop a code of conduct, which is to be adopted by the main stakeholders operating in Georgia, and which clearly and unequivocally sets goals and ensures their effective enforcement. It also provides that conditions shall be included that are aimed at protecting children from ACCs for HFSS foods and beverages and that ACCs do not emphasise the positive qualities of such food and beverages.

⁵⁹ The information regarding Armenia was provided by Shushan Doydoyan, Founder and President of the Freedom of Information Center of Armenia (FOIC).

⁶⁰ The information regarding Bosnia and Herzegovina was provided by Asja Rokša-Zubčević, Partner at Wagner-Hatfield.

⁶¹ [Code of commercial communications 2023](#) (*Kodeks o komercijalnim komunikacijama*) (in Bosnian).

⁶² [Rule on provision of video-sharing platform services 2023](#) (*Pravilo o uslugama platformi za razmjenu videozapisa*) (in Bosnian).

⁶³ The information regarding Georgia was provided by Mariam Gogosashvili, media lawyer.

⁶⁴ [Resolution No. 6](#) (*დადგენილება N°6*) (in Georgian).

2.3.5. Kosovo*

In Kosovo*,⁶⁵ the 2023 Draft Law on the Independent Media Commission included the provision that the NRA, the Independent Media Commission (*Komisioni i Pavarur i Mediave* - IMC), shall encourage the use and fostering of self-regulation through codes of conduct with regard to ACCs for HFSS foods and beverages. However, Kosovo's Constitutional Court annulled the law because several provisions undermined the independence of the IMC. There is currently no rule in the national legislative framework with regard to ACCs for HFSS foods and beverages.

2.3.6. Moldova

In Moldova,⁶⁶ the 2025 amendments to the Audiovisual Media Services Code⁶⁷ expressly encourage self- and co-regulatory mechanisms, as per Articles 61¹(5) and 15(7¹)-(7²), closely mirroring the dispositions of the AVMSD. The provisions of Article 61¹(5) encourage the use of co-regulation and self-regulation mechanisms, including codes of conduct, to effectively reduce minors' exposure to ACCs for HFSS foods and beverages on VSPs. Article 15(7¹) of the Audiovisual Media services Code requires AVMS providers to comply with rules aimed at reducing minors' exposure to ACCs for HFSS foods and beverages, as further detailed in secondary legislation (Regulation on Audiovisual Content).⁶⁸ Article 15(7²) further prohibits the sponsorship of programmes intended for children under the age of 12 by brands of HFSS foods and beverages.

2.3.7. North Macedonia

In North Macedonia,⁶⁹ Article 53 (21) of the Law on Audio and Audiovisual Media Services (*Закон за аудио и аудиовизуелни медиумски услуги* – LAAMS) as amended in July 2023, provides that AVMS and video-sharing platform providers can establish a code of conduct to reduce the exposure of minors to HFSS foods. Where this does not achieve the aim, the NRA will establish a regulation. Article 144-e of the same law requires VSP providers to develop codes of conduct related to HFSS foods and beverages, and alcohol.

⁶⁵ *All references to Kosovo, whether the territory, institutions or population, in this text shall be understood to be in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

The information on Kosovo was provided by Flutura Kusari, a media lawyer based in Kosovo.

⁶⁶ The information regarding Moldova was provided by Tatiana Puiu, attorney at law and member of the European Committee of Social Rights.

⁶⁷ "[Audiovisual media services code \(Codul serviciilor media audiovizuale al Republicii Moldova\)](#)" (in Romanian).

⁶⁸ "[Regulation on Audiovisual Content \(Regulament privind conținuturile audiovizuale\)](#)" (in Romanian).

⁶⁹ The information regarding North Macedonia was provided by Snezana Trpevska, research expert at the Research Institute on Social Development (RESIS) North Macedonia.

2.3.8. Norway

Norway is a special case⁷⁰ among the non-EU countries covered in this section due to the recent entry into force of the Regulations prohibiting the marketing of certain foods particularly aimed at children (*Forskrift om forbud mot markedsføring av visse næringsmidler særlig rettet mot barn*).⁷¹ It signals a switch from self-regulation to regulation at the legislative level with the involvement of the Norwegian Directorate of Health (*Helsedirektoratet*).⁷²

2.3.9. Serbia

In Serbia, AVMS providers may, with the consent of the regulatory body for electronic media, independently or jointly determine special rules regarding inappropriate advertising of HFSS foods or beverages, broadcast before, during or immediately after programme content intended for children, as per Article 5a of the Law on Advertising (*Закон о оглашавању*).⁷³

2.3.10. Ukraine

Lastly, in Ukraine,⁷⁴ as per Article 3-1 of the Law on Advertising (*Закон України "Про рекламу"*),⁷⁵ AVMS providers and VSPs are required to reduce the exposure of children to such foods via self-regulation. Article 3-1 on co-regulation and self-regulation in the field of advertising provides that the state shall, in accordance with Section VII of the Law of Ukraine "On Media", encourage co-regulation and promote the development of self-regulation including with regard to ACCs for HFSS foods and beverages. It also adds that the regulation shall be implemented to prevent the creation of a misleading impression about the positive qualities of the nutritional value of such food products and beverages. Article 3-1 further clarifies that this applies to AVMS and VSP providers alike.

⁷⁰ It should be noted that other countries are considering a similar approach, as is the case for instance with Denmark, where the government announced in [May 2025](#) its intention to amend the Marketing Practices Act and introduce a ban on ACCs for HFSS foods and beverages aimed at children under 15.

⁷¹ [Regulations prohibiting the marketing of certain foods particularly aimed at children \(*Forskrift om forbud mot markedsføring av visse næringsmidler særlig rettet mot barn*\)](#) (in Norwegian).

⁷² [Norwegian Directorate of Health \(*Helsedirektoratet*\) website](#).

⁷³ [Law on Advertising \(*Закон о оглашавању*\)](#) (in Serbian).

⁷⁴ The information regarding Ukraine was provided by Tetiana Avdieieva, Senior Legal Counsel at Digital Security Lab Ukraine.

⁷⁵ [Law on Advertising \(*Закон України "Про рекламу"*\)](#) (in Ukrainian).

3. Beyond the AVMSD at the national level

3.1. Selected examples of more detailed rules in primary law

The AVMSD is a minimum harmonisation tool that allows member states to provide more details in their national transpositions of the rules, and to apply stricter rules, when appropriate.

The rules regarding ACCs are no exception, and several countries have chosen to go beyond the content of the AVMSD in that regard. This includes for instance defining directly in national legislation the duration of periods, prior to and after children's programmes, during which no ACCs for HFSS foods and products can be shown.

3.1.1. France

In France, Law No. 2016-1771 of 20 December 2016 relating to the elimination of commercial advertising in children's programming on public television (*LOI n° 2016-1771 du 20 décembre 2016 relative à la suppression de la publicité commerciale dans les programmes jeunesse de la télévision publique (1)*)⁷⁶ modified Law No. 86-1067 of 30 September 1986 on the freedom of communication (*Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication – Loi Léotard*)⁷⁷ with a drastic change. It introduced a prohibition of any advertising messages other than generic messages for goods or services relating to children's health and development, or for campaign of general interest, during programmes of the national television services (*France Télévisions*) that are primarily intended for children under 12 years of age (Article 53 VI bis, *Loi Léotard*). This obligation does not concern private broadcasters but is also applicable to the programmes of the national television services distributed online.

3.1.2. Portugal

In Portugal, Article 20a 3 of the Advertising Code/Decree-Law No 330/90 (*Código da Publicidade/Decreto-Lei n.º 330/90*)⁷⁸ prohibits ACCs for HFSS foods and beverages in

⁷⁶ [Law No. 2016-1771 of 20 December 2016 relating to the elimination of commercial advertising in children's programming on public television \(LOI n° 2016-1771 du 20 décembre 2016 relative à la suppression de la publicité commerciale dans les programmes jeunesse de la télévision publique \(1\)\)](#) (in French).

⁷⁷ [Law No. 86-1067 of 30 September 1986 on the freedom of communication \(Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication – Loi Léotard\)](#) (in French).

⁷⁸ [Advertising Code/Decree-Law No 330/90 \(Código da Publicidade/Decreto-Lei n.º 330/90\)](#) (in Portuguese).

television programmes, on-demand AVMSs and on the radio during the 30 minutes prior to, during the advertising breaks of, and following children's programmes and television programmes at least 25% of the audience of which is less than 16 years old (Article 20a 3(a)). They are also forbidden in ACCs distributed in cinemas, with respect to films classified as being suitable for children under the age of 16 (Article 20a 3(b)), and on the internet via web pages, social networks or mobile applications for devices intended for use on the internet, where the content targets children under the age of 16.

The case of Portugal is, however, not an exception, in that the more detailed rules stem from consumer law, rather than purely media-related legislation. Law 27/2007, of 30 July - Television and Audiovisual On-Demand Services Law (*Lei n.º 27/2007, de 30 de Julho - Lei da Televisão e dos Serviços Audiovisuais a Pedido*),⁷⁹ which also refers to ACCs for HFSS foods and beverages, mirrors the AVMSD language more closely and provides fewer details as to how the general objective of reducing the exposure of children to ACCs for such products should be achieved.

These examples highlight the fact that the regulation of ACCs, including but not limited to ACCs for HFSS foods and beverages, often finds itself at a crossroads between different legal frameworks (consumer law, media law but also other frameworks relating to the nature of the products or services advertised) and often works in synergy between primary legislation, secondary legislation and self-regulation, where the law and self-regulatory measures should complement each other.

3.2. Selected examples of more detailed rules in codes of conduct

As per Articles 9(4) and 28b(2) AVMSD, self-regulation shall play a role in the reduction of the exposure of children to ACCs for HFSS foods and beverages.

National transpositions have taken many different forms, with many countries mirroring the phrasing of the AVMSD and some referring to codes of conduct or guidelines in general without enshrining in law what types of products or services the guidelines should touch upon.

In most cases though, either as a result of transposition of the AVMSD rules on ACCs or as a result of a pre-existing effort by one or several subjects of the advertising sector, codes of conduct or guidelines regarding ACCs for HFSS foods and beverages exist.

In the case of ACCs for HFSS foods and beverages, this responsibility often falls on the AVMS and VSP providers. But national media legislation often directly refers to the SRO (as is the case in AT, HU, LT, NL⁸⁰ and SK, for instance), which has often developed (or been

⁷⁹ [Advertising Code/Decree-Law No 330/90 \(Código da Publicidade/Decreto-Lei n.º 330/90\)](#) (in Portuguese).

⁸⁰ The Media Act 2008 (*Mediawet 2008*)⁸⁰ does not explicitly task the SRO with the drafting of such codes of conduct, but its Article 2.92 provides that the organisation controlling the national public service media (*Stichting Ether Reclame* – STER) and local and regional public service media providers with advertising or teleshopping in their media offering be members of the Dutch Advertising Code Foundation (*Stichting Reclame Code* – SRC, the Advertising Code Foundation) or a comparable regulatory body created and supervised by the Advertising Code Foundation. Article 3.6 provides the same obligation for commercial media service providers. SRC, the Dutch SRO, has such codes of conduct, even though they are not directly referred to in the Media Act.

involved in the development of) such codes of conduct even when this is not directly required by the law. Sometimes, this responsibility also falls on the NRA (BE-FR, IE, UK).

3.2.1. Example of a code of conduct from an SRO: the Netherlands

As highlighted previously, SROs can directly be identified in national legislation as being in charge of developing codes of conduct with regard to ACCs, sometimes with no further indications, but often referring specifically to ACCs relating to alcoholic beverages and in a few cases referring specifically to ACCs for HFSS foods and beverages. Such is the case in the Netherlands.⁸¹

For instance, the SRC's Advertising Code for Food Products 2019 (*Reclamecode Voor Voedingsmiddelen – RVV*)⁸² provides detailed rules with regard to the type of advertising (including ACCs)⁸³ for food products that is permitted and to the practices that are forbidden. In particular, its Article 8, paragraph 1, provides that such ACCs cannot target children of 12 years or younger. Exceptions exist for ACCs for food products created in cooperation with, or supported by, the government and/or an approved authority in the field of nutrition, health and/or physical exercise, and ACCs aimed at children from seven to 12 years old for foods that meet nutritional criteria.

The RVV provides further indications in Article 8, paragraph 2, with regard to the use of 'children's idols'.⁸⁴ These can be used in advertising for food products aimed at children between seven and 12 years of age only if the products meet nutritional criteria.

According to Article 8, paragraph 3, ACCs for a food product associated with a specific television programmes intended for children, may not be shown in commercial breaks during or immediately following the broadcast of that programme. ACCs should also not give the impression that the consumption of the advertised food will give children greater popularity among peers than the consumption of another food product.

Article 8, paragraph 4, clarifies when ACCs for food products are in any case to be considered as being aimed at children. This is the case when the ACC is distributed in media that, according to generally accepted market research, focuses specifically on children up to and including 12 years of age. This is also the case if the advertising is expressed in media that do not specifically target children up to and including 12 years of age, but at

⁸¹ Refer to Sections 2.2.1 and 2.2.2. of this report for more details on the Dutch transpositions of Articles 9(4) and 28b(2) AVMSD in the Media Act 2008.

⁸² "[Advertising code for food products 2019 \(Reclamecode Voor Voedingsmiddelen\)](#)" (in Dutch).

⁸³ The rules from the RVV are referred to as applying to ACCs as they are the focus of this report. All of those rules apply to ACCs as well as all other forms of advertising which are not relevant in the context of this report.

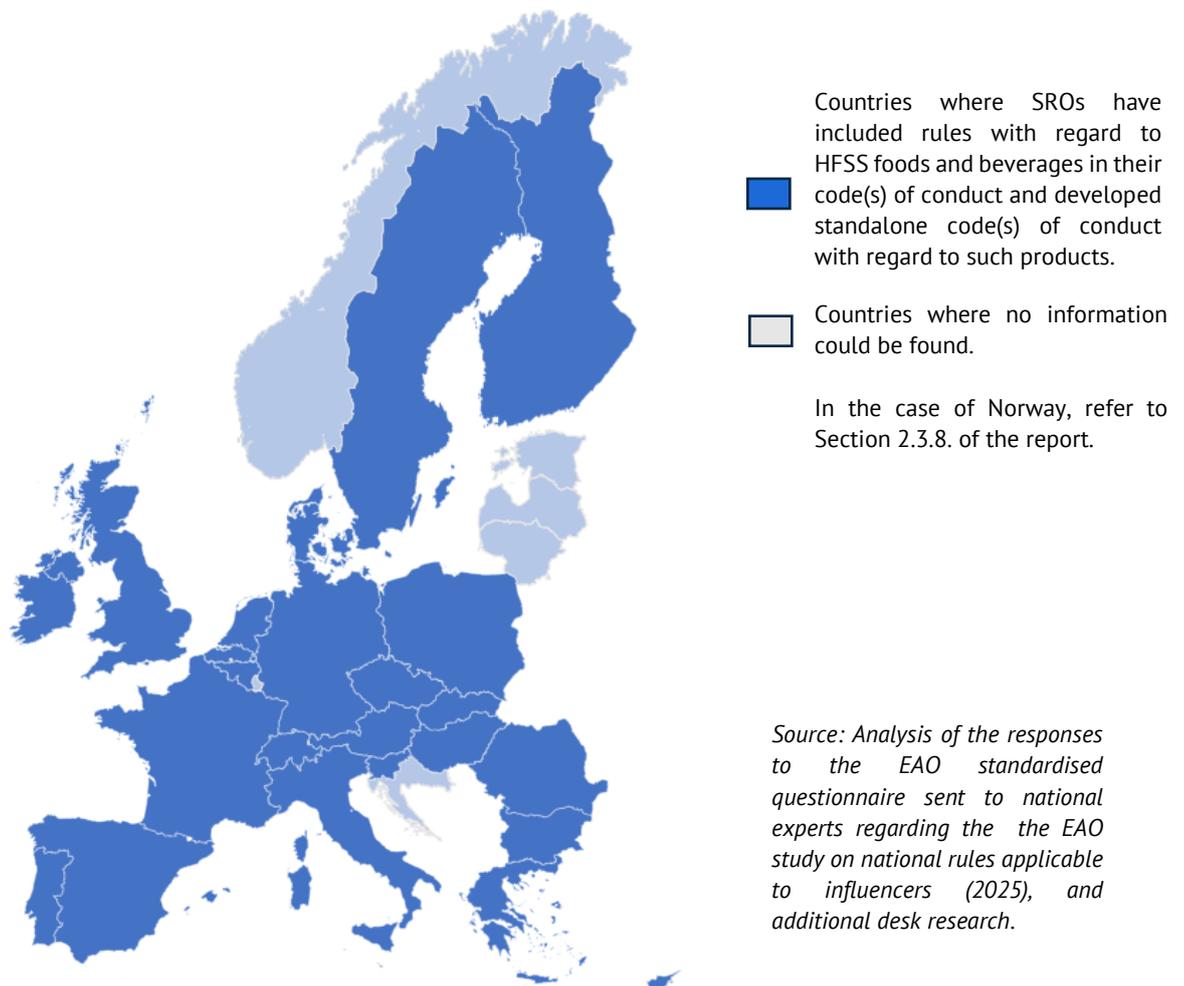
⁸⁴ 'Children's idols' are defined in the RVV as: "Persons, as well as cartoon and/or animated characters who are known for their participation in media specifically aimed at children and/or developed specifically for children, such as television programmes, films, online videos, blogs, comic strips/books and/or games. Cartoon and/or animated characters developed by or on behalf of the advertiser itself do not fall under the definition of children's idol."

least 25% of the audience for which the advertisement is intended is made up of children up to and including 12 years of age, according to generally accepted market research.

It should be noted that the codes of conduct of SROs, unlike the AVMSD and many pieces of national media legislation, tend not to approach the question of advertising based on the nature of its distributor, making no distinction between rules applicable to broadcasters, on-demand service providers, VSP providers and even influencers.⁸⁵

⁸⁵ The SRC does have a specific “[Code for social media & influencer marketing \(Reclamecode Social Media & Influencer Marketing\)](#)”, but it aims at providing clarity and informing influencers that they are bound by the same rules as other actors, rather than imposing a distinct set of rules upon them.

Figure 2. Identified mentions of HFSS foods and beverages in codes of conduct from SROs



3.2.2. Example of a code of conduct from an NRA: Ireland

In Ireland, as per the provisions laid down in the Broadcasting Act 2009,⁸⁶ as amended by the Online Safety and Media Regulation Act 2022, the national media regulatory authority, the Media Commission (*Coimisiún na Meán*), was tasked with producing online safety codes. The creation of such codes is referenced in Section 46N of the amended Broadcasting Act.

In November 2024, the Media Commission published the General Commercial Communications Code,⁸⁷ applicable to radio and television broadcasters. The code includes a section on health and nutrition claims (Section 21). It provides that broadcasters shall

⁸⁶ [Broadcasting Act 2009](#).

⁸⁷ [General Commercial Communications Code \(Radio and Television Broadcasters\)](#).

ensure that “food information⁸⁸ in commercial communications is accurate, clear and easy to understand and shall not mislead as to the characteristics of the food or its effects or properties” and “shall not attribute to any food the property of preventing, treating or curing a human disease, nor refer to such properties” (Section 21.1), as well as other rules with regard to food products.

The code further provides specific provisions with regard to HFSS foods and beverages. Section 21.12 provides that that a maximum of 25% of sold advertising time and only one in four advertisements for HFSS food and beverage products and/or services are permissible across the broadcast day.

Section 21.13 indicates that broadcasters should aim to effectively reduce the exposure of children to commercial communications for HFSS food and beverage products and/or services. In this respect, commercial communications for such foods and beverages shall not be broadcast or made available in or around children’s programmes.

It should be noted that rules with regard to ACCs for HFSS foods and beverages are also mentioned in another code drawn up by the Media Commission, the “Children’s Commercial Communications Code”.⁸⁹ According to the code’s Section 17.7, broadcasters shall ensure that children’s commercial communications for HFSS food products and/or services shall not:

- a) be permitted in children’s programmes.
- b) include licensed characters.
- c) include health and nutrition claims.
- d) include promotional offers.

3.2.3. Example of a code of conduct from a VSP provider: YouTube

While they do not always bear the name “code of conduct”, major VSP providers generally provide publicly accessible guidelines with regard to ACCs distributed on their services, including by their users.

This is the case with YouTube, for which Google provides detailed policy guidelines,⁹⁰ applicable within all EU member states and the UK, with regard to their approach towards ACCs for HFSS foods and beverages, including what they consider to

⁸⁸ The General Commercial Communications Code refers to the definition of Regulation (EU) No 1169/2011. ‘Food information’ means information concerning a food and made available to the final consumer by means of a label, other accompanying material, or any other means, including modern technology tools or verbal communication.

⁸⁹ [“Children’s commercial communications code” \(Radio and Television Broadcasters\)](#).

⁹⁰ [Google – advertising policies help – other restricted businesses: high-fat sugar, salt, food and beverage ads](#). See also: [Google merchant center help – high-fat sugar, salt, food and beverage](#).

constitute promotion of the sale of HFSS products (“when one or more HFSS food item, beverage, or meal is promoted on the ad creative (text, imagery, audio and/or video”).

The policy guidelines also indicate that advertisers are required to self-declare via an online form that they are using an account to run HFSS food and beverage campaigns. This allows those accounts to receive an HFSS label and make their advertising visible only to users with a declared age of 18 and above.

They also provide a non-exhaustive list of products likely to fit within the HFSS category (e.g. sweetened beverages, energy drinks, doughnuts, cakes, sweet biscuits, chocolate nut spreads, trail mix or nut bars with chocolate or candy, milkshakes, pork and beef sausage, bacon, pizza, hamburger meals with fries, candy, chocolate, sweets, butter, salt, caloric sweeteners, coconut oil). They further indicate that if nutritional information is indicated and within the allowed threshold and serving size/calories, the examples above may be considered out of scope.

Ads for non-HFSS foods and beverages (e.g. 100% juice, plain fresh or frozen fruits and vegetables, low or non-fat plain milk, dry beans and lentils, plain nuts and seeds, and any other food or beverage with no added fat, sugar, salt, or sweeteners) are not concerned by the policy guidelines.⁹¹

Other types of ads falling outside the scope of what is considered an ad for HFSS food and beverages include:

- Ads for restaurant delivery services or restaurant location/review websites that do not include text, imagery, audio, and/or video of HFSS F&B;
- Ads that feature HFSS F&B products but promote a product or service not related to F&B, such as ads for a baking show, tourism, or kitchen cleaning supplies;
- Ads that feature HFSS F&B products but promote a PSA messaging on healthy diets and eating.

The policy guidelines also include Google’s HFSS F&B Nutritional Profile for evaluation of the food-and-beverage nutritional profiles.

3.2.4. Raising concerns: HFSS and influencers

As highlighted in the EAO study on national rules applicable to influencers,⁹² NRAs, SROs and indeed all stakeholders of advertising regulation have started to adapt their codes of conduct and practices to account for this change in the market.

This translates, in some cases, into elaboration of specific codes of conduct for them or training programmes organised to ensure they are made aware of the rules governing their activities. The case of HFSS foods and products is deemed particularly important in this context.

⁹¹ Non-exhaustive list of examples provided in the policy guidelines.

⁹² “[National rules applicable to influencers](#)”, European Audiovisual Observatory, Strasbourg, 2024.

The German Advertising Standards Council (*Deutscher Werberat*), the self-regulation organisation for advertising, started an Influencer Training Programme⁹³ (*Training für Influencer Werbung*) under the umbrella of the European Advertising Standards Alliance, in September 2024. The training programme covers a wide range of topics, but special guidelines on alcohol and food advertising from the *Werberat* are also covered.

The Dutch RVV, though not addressing influencers in detail, notes in its first Section, as a clarification, that its dispositions apply to them as well.

In Portugal, in response to growing concerns about the impact of food advertising on the health of children and young people, a working group has recommended improving the legal framework to regulate the marketing strategies of influencers and other digital content creators and proposed expanding restrictions on food marketing, currently aimed at minors under 16, to include all individuals up to the age of 18. This working group was formed to assess the impact of Law No. 30/2019 of 23 April (*Lei n.º 30/2019, de 23 de abril*)⁹⁴ which restricted food advertising aimed at children and young people and delivered a report⁹⁵ which was made available on 5 July 2024.

In the UK, advertising restrictions for certain HFSS products,⁹⁶ which came into force on 5 January 2026,⁹⁷ impact influencers as well as broadcasters and on-demand service providers. Influencers are covered by the ban on paid online advertising for identifiable “less healthy” food and drinks (LHF). The Advertising Standards Authority (ASA), the SRO in charge of enforcing the new rules (under co-regulatory arrangements with the NRA, Ofcom), published its guidance on LHF advertising⁹⁸ on 4 December 2025. The guidance includes explanation of the circumstances under which marketing communications in the online space fall under scope of the new rules, and influencer marketing is included.⁹⁹

⁹³ *Deutscher Werberat website: [Training für Influencer Werbung](#).*

⁹⁴ *Law No. 30/2019 of 23 April (Lei n.º 30/2019, de 23 de abril).*

⁹⁵ *A regulação da publicidade alimentar dirigida a crianças, Programa Nacional para a Promoção da Alimentação Saudável da Direção-Geral da Saúde website.*

⁹⁶ The restrictions are set out in [Section 321A](#), [Section 368FA](#) and [Part 4C](#) of the Communications Act 2003 (as amended by the Health and Care Act 2022). [The Advertising \(Less Healthy Food Definitions and Exemptions\) Regulations 2024](#) and [The Advertising \(Less Healthy Food and Drink\) \(Brand Advertising Exemption\) 2025](#) contain further details relevant to the application of the restrictions.

⁹⁷ Entry into force of the new obligations, initially set for 1 October 2025, was delayed by the [Communications Act 2003 \(Restrictions on the Advertising of Less Healthy Food\) \(Effective Date\) \(Amendment\) Regulations 2025](#).

⁹⁸ [Less healthy food and drink: advertising guidance](#), ASA, 4 December 2025.

⁹⁹ In practice, the term “identifiable” includes cumulative cues. The guidance includes an “identifiability test” to determine if an advertisement is covered by the restrictions set out in law. The most straightforward indicator is the clear and prominent inclusion of a specific less-healthy product as the focus of the advertisement’s promotional message. As noted in the guidance, [The Advertising \(Less Healthy Food and Drink\) \(Brand Advertising Exemption\) 2025](#) creates an exemption for brand advertising subject to certain conditions being met.

4. Conclusion

Discussion of national transpositions of Articles 9(4) and 28b(2) AVMSD, in the context of rules relating to ACCs for HFSS foods and beverages, may give rise to a truncated conceptualisation of the realities of the rules. ACCs are situated at the intersection of two legal frameworks, media law and consumer law, and their regulation often relies on the complementary application of rules stemming from both.

In that sense, there are cases in which rules similar to, more detailed than or stricter than those of the AVMSD already exist in national legislation, be this in media or consumer law.

While the purpose of this Note was to explore AVMSD rules with regard to ACCs for HFSS products, it is difficult to find where to draw the line during such an exercise, when so many different applicable legislations and actors are so intertwined.

Elements identified across different situations at national level hint at differences in the transpositions of Articles 9(4) and 28b(2). With regard to ACCs for HFSS foods and beverages, it appears that VSP providers are experiencing a relatively lighter set of rules, highlighted by the lower proportion of member states that have imposed clear rules on them in that regard – at least when focusing on transpositions of Article 28b(2) AVMSD.

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