



4.22. NL – Netherlands¹¹⁸

4.22.1. Key findings

In the Netherlands, Article 28b(1) of the Audiovisual Media Services Directive (AVMSD) was transposed with an amendment to the Media Act. VSP providers are required to have a code of conduct prescribing measures as referred to in Article 28b(1) and the second and fourth subparagraphs of Article 28b(2) of the AVMSD and apply that code to their platform. The national media regulatory authority, *Commissariaat voor de Media* (CvdM), is tasked with overseeing the development, content, and application of this code as per Article 7.11 of the same Media Act, which provides the legal framework for the CvdM's exercise of its authority. At the time of writing, there seem to be no VSPs that come under the purview of Dutch jurisdiction.

4.22.2. National transposition of Article 28b (1) AVMSD

Title and type of legislation	Key excerpts of legal measures	Link
Media Act 2008, Article 3a.3 (<i>Mediawet 2008</i>)	Article 3a.3 Media Act 2008: 1. Video-sharing platform providers shall have a code of conduct prescribing measures as referred to in Article 28b(1) and the second and fourth subparagraphs of Article 28b(2) of the EU Directive and shall apply that code and those measures to their platform. 2. Accordingly, the code of conduct referred to in the first paragraph shall include, as appropriate, the measures referred to in Article 28b(3) of the EU Directive. 3. The code of conduct referred to in the first paragraph shall set out clear and unambiguous objectives and shall provide for:	Legislation

¹¹⁸ The summary on the Netherlands incorporates feedback received from Marcel Betzel, Policy Advisor at the *Commissariaat voor de Media*, during the checking round with the national regulatory authorities.



Title and type of legislation	Key excerpts of legal measures	Link
	(a) regular, transparent and independent monitoring and evaluation of the extent to which the objectives are being achieved; and (b) effective enforcement, including effective and proportionate penalties. 4. Video-sharing platform providers shall ensure that the code of conduct has sufficient support among key stakeholders.	

4.22.3. Types of measures put in place by VSPs

All of the larger VSPs featured in this report, and this includes many which are not under the jurisdiction of the Netherlands but which can be accessed within the territory, have imposed a minimum age requirement of 13, with the exception of Vimeo (16 or above the minimum age required by law), BitChute (18) and Onlyfans (18). Age verification systems mostly require users to indicate their date of birth, without additional verifications, but other solutions include age verification by credit card, by the uploading of photo ID, or the use of age estimation technology. Various types of parental control measures responding to the specificities of each VSP can be found (blocking and filtering, recording of activities, limiting time of use, viewing history). X (formerly Twitter) and Vimeo have no such measures, despite being accessible to minors. Neither do BitChute or OnlyFans, as they require users to be over 18. All of the larger VSPs featured in this report make use of flagging and reporting mechanisms as well as other content moderation tools. These are detailed in the tables in sections 3.2 and 3.3.

4.22.4. VSPs under the jurisdiction of the national regulatory media authority

N/A

4.22.5. Measures specific to adult VSPs in general

The most common age verification measure applied by adult VSPs accessible in the country is self-declaration of age.



4.22.6. Additional rules referring especially to influencers

The legal provisions transposing the AVMSD do not explicitly mention influencers, social media influencers or YouTube channels. However, the explanatory note accompanying the legislation does specifically address channels that are active on VSPs:

Video platform services are services that provide programmes and user-generated videos to the general public without any editorial responsibility for them. However, the VSP provider determines the organisation of the platform, for example by means of automatic means or algorithms, in particular by displaying, tagging and ranking. These services have become increasingly important in the viewing behaviour of mainly young people in recent years. The fact that a platform is referred to as a video platform service does not yet provide an opinion about the services that are active on that platform. For example, it is possible that on a video platform service certain channels are active that can be qualified as an on-demand media service. These on-demand media services must comply with the rules applicable to them from the Media Act 2008. They remain editorially responsible for their media offering, even if it is distributed via a video platform service.

Article 4.1 of the Media Act 2008 obliges audiovisual media service providers (both linear and on-demand) to use the classification of content under the Kijkwijzer system.¹¹⁹ The Netherlands Institute for the Classification of Audiovisual Media (NICAM), a self-regulatory body, has developed a new Kijkwijzer system for potentially harmful content on VSPs. A questionnaire¹²⁰ is used that asks about potentially harmful content. Uploaders complete the questionnaire about their video and then automatically receive a ranking result. The starting point is that the questionnaire is short and easy to complete, without compromising the validity and reliability of the classifications.

Article 4.1a (2) of the Media Act states that the media service provider is responsible for making the most harmful content inaccessible for people under the age of 16, such as gratuitous violence and pornography. A media service provider that uses a VSP for distribution needs to meet the requirements of Article 4.1 and 4.1a and, therefore, of NICAM.

Influencers are commercial media institutions which, through a third-party video platform service, provide audiovisual media content for which they (the video uploaders) bear editorial responsibility.

On the basis of the policy rules of the Cvdm,¹²¹ content creators that are active through VSPs are governed by the notification duty referred to in Article 3.29b(1) of the act only when:

¹¹⁹ <https://zoek.officielebekendmakingen.nl/stcrt-2022-12438.html>

¹²⁰ <https://nicam.nl/uploader/#~:text=K%20ijkwijzer%20waarschuwt%20voor%20mogelijk,te%20passen%20op%20hun%20content>

¹²¹ <https://www.cvdm.nl/wp-content/uploads/2020/10/2011-Policy-rules-on-the-classification-of-on-demand-commercial-media-services.pdf>



- 1) there is an account on YouTube, Instagram or TikTok,
- 2) at least one of those accounts has 500 000 followers or more,
- 3) at least 24 videos were posted on that account in the last 12 months,
- 4) an economic advantage is gained with the creation and/or publication of the videos,
- 5) the company is registered at the Chamber of Commerce.

If a (v)logger qualifies as an on-demand commercial media institution, the general rules for on-demand commercial media services apply. However, the CvdM currently only actively supervises rules on commercial communication and provisions for the protection of minors, including rules on harmful content and the classification of content.