



Regulating audiovisual commercial communications across AVMS, VSPs and influencers

Summary of the workshop

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European Audiovisual Observatory

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Strasbourg, 21 November 2025

European Youth Centre

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67000 Strasbourg

France

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1. Introduction

Audiovisual commercial communications (ACCs) shape the business models of traditional broadcasters. However, in an evolving media environment, new players are capturing a growing proportion of ACC revenues. A recent report of the European Audiovisual Observatory (EAO) showed that pure over-the-top (OTT) advertising players claimed the top two positions in terms of audiovisual advertising revenues, with the number one company earning more than twice the revenues of the leading broadcaster. Together, YouTube, Meta and TikTok accounted for around half of the audiovisual advertising revenues generated by the top 10 players.¹ Competition for ACC revenue is driven by new players (eg. video-on-demand (VOD), video-sharing platforms (VSPs) and influencers) that are reaching an increasingly wide audience with various types of content.

The Audiovisual Media Services Directive (AVMSD) regulates the use of ACCs in the European Union (EU), imposing general and product-category rules (Articles 9 and 22) on audiovisual media services and specific technical requirements for broadcasters when broadcasting ACCs (Articles 19, 20 and 23: recognisability and distinguishability, time thresholds for programme interruption and quantitative rules). Though the directive's provisions on advertising and teleshopping (Articles 19, 20 and 23) do not cover some of the newer audiovisual stakeholders (such as VSPs or influencers), these actors have now gained significant market share, raising questions about the overall regulatory framework.

Depending on national legislation, some of these new actors (e.g. VSPs, influencers) may operate under varying levels of regulation, which can raise consumer protection concerns. For example, influencer marketing has been associated with risks such as hidden advertising, dropshipping, the promotion of dangerous and high-risk financial products, the promotion of unhealthy food to children and other harmful commercial practices.² Despite the existence of rules applicable to influencers, many of them point to a lack of legal clarity with regard to the provisions that govern their ACC-related activities.

The regulation of ACCs in the EU is at a pivotal moment, as the European Commission is currently evaluating the AVMSD. As shown in the recent EAO study on national rules applicable to influencers,³ the regulation of influencers – who now play a significant role in the advertising ecosystem – is very relevant in the context of the evaluation and possible revision of the AVMSD.

¹ Ene Iancu, L. "[Top players in the European AV industry: Concentration, statute, origin and profile – 2023 figures](#)", European Audiovisual Observatory, p. 31.

² "[From influence to responsibility: Time to regulate influencer marketing](#)", BEUC, 2023.

³ "[National rules applicable to influencers](#)", European Audiovisual Observatory, Strasbourg, 2024.



The revision of the AVMSD will remain an underlying element throughout the discussion of ACC-related topics, including regulatory approaches and questions of potential gaps or imbalances between sector actors.

The 2025 edition of the EAO's annual workshop examined recent transformations in the ACCs market and the challenges these changes present for all actors in the audiovisual industry, particularly in the context of the ongoing evaluation of the AVMSD. The event aims to foster reflection and discussion on the sector's evolving landscape and on the potential impacts of regulatory revision:

Session 1 – “**The advertising market(s)**” opened the discussion with an economic analysis of the advertising-based business models. It explored how the advertising market is becoming increasingly competitive with (pay and free) VOD services and VSPs competing to an extent with broadcasters, and how the distribution of advertising market revenues is developing among the different industry players. The session also explored how targeted advertising, including on connected TVs, has considerably complexified the advertising value chain and led to new players being a central part of the ecosystem.

Session 2 – “**ACCs in the AVMSD: a diverse regulatory framework for the audiovisual players**” focused on differences in regulatory treatment among the distinct players in the audiovisual sector. The session briefly outlined the ACC rules in the AVMSD before examining potential regulatory asymmetries among the various providers concerned: traditional broadcasters, VODs, VSPs and influencers. The discussion focused particularly on the regulation of VSPs and influencers, considering the obligations imposed on platforms such as YouTube under the AVMSD and the status of influencers engaged in commercial communications. This session also addressed consumer protection issues in the context of influencer marketing.

Session 3 – “**Regulating influencer advertising**” explored how the current legal framework at the EU level allows for the regulation of influencers as audiovisual media service providers. The respective roles of the national media regulatory authorities and that of self-regulatory organisations were at the core of the discussions, as well as the synergies between the two. Rules relative to specific types of products (e.g. alcoholic beverages, gambling, financial products, etc.) were also touched upon and used to illustrate what the regulation of influencers entails at the national level.

The workshop concluded with an engaging **World Café brainstorming session** (Session 4) during which participants were encouraged to adopt a forward-looking perspective, particularly in the context of the ongoing review and potential revision of the AVMSD. Participants were divided into teams and will work on case studies designed to foster collaborative problem solving. Each team was tasked with formulating actionable suggestions to promote a level playing field for all audiovisual players in relation to ACCs. These proposals addressed the needs and challenges identified during the preceding sessions.



2. Opening of the workshop

Sophie Valais, Deputy Head of Department for Legal Information of the EAO, welcomed participants to Strasbourg for the 11th edition of the EAO legal workshop, devoted this year to regulating ACCs across audiovisual media services, VSPs and influencers.

Pauline Durand-Vialle, Executive Director of the EAO, described the event as a “workshop of coincidences”: Strasbourg as a natural crossroads for European audiovisual and institutional ecosystems; the timeliness of the discussions ahead of the anticipated AVMSD review in 2026; and the symbolic link with the venue, as the European Youth Centre – designed by Norwegian architects – hosts the workshop in a year associated with a Norwegian presidency for the observatory.

Stefano Dominioni, Executive Director of the European Youth Centre (EYC), presented the centre as a unique residential facility within the Council of Europe dedicated to youth participation, training and dialogue on European standards, welcoming thousands of youth delegates each year and offering spaces designed to foster interaction.

Maja Cappello, Head of the Department for Legal Information of the EAO, introduced the workshop’s objectives and “building block” approach, highlighting advertising as a long-standing regulatory pillar and outlining the day’s sessions: market and value chain dynamics (including targeted advertising), the application of rules across different services and actors, and a World Café discussion structured around harmonisation, regulatory gaps, the level playing field and enforcement.



3. Session 1 – The advertising market(s)

3.1. Introduction to the session

The first session of the workshop was chaired and introduced by Gilles Fontaine (Head of the Department for Market Information, EAO). He opened by noting that advertising markets have become increasingly difficult to analyse because traditional categories have blurred and new actors have entered the ecosystem.

He recalled that the earlier divide between “above the line” mass media and “below the line” direct marketing no longer captures current dynamics. Some consider the Internet to be a medium in its own right; broadcasters increasingly develop data-driven advertising; VSPs and influencer marketing compete for video budgets; and Connected TV (CTV) blends online ad-tech with large-screen viewing.

Against this backdrop, the session aimed to clarify how to structure and interpret advertising markets – especially for video – and to identify the main trends reshaping competition, measurement and policy debates. The session combined a European market overview, a UK case study and an industry perspective, followed by a discussion.

3.2. Advertising in the audiovisual sector – European market data

Christian Grece (TV and VOD Markets Analyst at the EAO) widened the lens from “TV advertising” to the wider financing dynamics of the European audiovisual sector. While advertising remains a key revenue stream, its relative weight has been squeezed in recent years by faster growth in subscription revenues. Within advertising itself, the main structural shift has been the decisive move to online: compared with 2019, by 2024 Internet advertising accounted for close to two-thirds of total advertising expenditure in Europe, while linear TV’s share declined markedly (down to around 17% of total ad spend). Over the same period, online video advertising emerged as the most direct competitive pressure on linear TV, with revenues increasing sharply.

Market definition strongly shapes how competition is understood. Looking only at “TV advertising” can understate the competitive pressure faced by broadcasters and can obscure the scale of OTT expansion. It may be more meaningful to think in terms of a “video advertising market” combining linear TV advertising with OTT video advertising across multiple environments: VSPs (e.g. YouTube, TikTok, Facebook), broadcasters’ broadcast video-on-demand (BVOD)/advertising video-on-demand (AVOD) services, ad-supported tiers of subscription video-on-demand (SVOD) services, and emerging ad-supported streaming offers such as free ad-supported streaming television (FAST) channels.



In this broader framing, OTT video advertising has grown rapidly: from around one-fifth of total video advertising in 2019 to close to half by 2024, with VSPs capturing a large share of that growth (with advertising revenues exceeding EUR 17 billion in 2024). Hybrid models were also very quickly adopted: ad-supported tiers of SVOD services generated around EUR 1.3 billion, while broadcasters' online advertising revenues on BVOD/AVOD rose to approximately EUR 2.3 billion. By contrast, pure AVOD and FAST still represent a relatively small segment in absolute terms (around EUR 400 million), even if they are expanding quickly.

This reallocation of spending also appears in the ranking of major players: by 2024, several VSPs featured among the top advertising players when linear and OTT video revenues are combined. This can be linked to their pan-European reach, strong appeal to younger audiences, and self-service buying tools that lower barriers for small and medium-sized enterprises (SMEs). Broadcasters are responding through a mix of strategies, including investing in BVOD brands for younger viewers and distributing long-form content on platforms to remain visible where audiences increasingly spend their time.

An important element is that data is not neutral: classification choices can materially change the picture of market shares and competition. Persistent measurement limits make robust cross-country comparisons difficult and reinforce the need for clarity and transparency in definitions.

3.3. The UK advertising market and the role of online platforms

3.3.1. Size and structure of the UK advertising market

Eleni Marouli (Head of Market Developments at Ofcom) provided a national case study of the UK advertising market, one of the largest and most developed in the world, with total advertising expenditure reaching approximately GBP 42.6 billion in 2024.

Traditional media (TV, radio, press, out-of-home⁴) tend to follow macroeconomic cycles rather than expanding structurally: revenues decrease in a downturn and recover when the economy improves, but they do not grow strongly beyond these cycles. Online advertising, on the other hand, is the largest and main growth engine, but its analysis is rather complicated due to three conceptual issues.

First, the label "online" aggregates very different formats (BVOD, online audio, online news, digital out-of-home, etc.) and the absence of segmentation makes it difficult to know what exactly is driving growth.

⁴ "Out-of-home" (OOH) advertising refers to any form of advertising media that reaches consumers outside of their homes, including physical and digital placements (e.g. billboards, posters, street furniture, etc.).



Second, it is important to distinguish between two broad groups of advertisers:

- **Large brands**, with substantial marketing budgets, typically investing through media agencies in multi-media campaigns;
- **Small advertisers/SMEs**, historically absent from TV or mass media because of cost, but now able to advertise on social media and online platforms with relatively small budgets.

Meta's roughly 10 million advertisers, each spending about USD 16 000 a year, indicate that advertising on these platforms is dominated by small and medium-sized businesses. Retail media are growing within e-commerce, funded mainly from trade marketing budgets rather than traditional brand advertising, so not all online growth directly replaces TV advertising. Measurement also differs: TV and radio use transparent industry-run audience systems, whereas online markets rely on opaque platform data and modelled estimates that are hard to verify nationally.

3.3.2. The role of advertising in the UK television ecosystem

Advertising continues to be central to the financing of television in the UK, including large pay-TV operators with TV ad revenues following economic cycles: falling in downturns, rebounding after COVID-19, and recently declining again. Beyond cyclical effects, broadcasters are shifting revenues from linear TV to BVOD and streaming, but most advertising income still comes from linear, and paid ad-free tiers remain marginal.

In parallel, social video consumption – on platforms such as YouTube and TikTok – is growing rapidly, raising concerns about the long-term competitive position of traditional television, particularly among younger audiences.

CTV, used in about 70% of UK households, merges online video with the big screen and offers both TV-style impact and online targeting, but depends on platform gatekeepers such as TV operating systems and app stores. SVOD players hit subscription limits after rapid COVID-era growth, making price rises harder, leading advertising to become the only scalable new revenue stream, and leading to widespread adoption of ad-supported tiers. Around half of new Netflix subscriptions and about 28% of UK SVOD subscriptions are now ad-supported, and AVOD services such as Tubi are entering the UK with large free catalogues. SVOD platforms still operate globally while TV advertising remains local, so they must adapt to national ecosystems; in the UK, Netflix has joined the Broadcaster's Audience Research Board (BARB) and Thinkbox for this reason.

3.3.3. VSPs

VSPs are the fastest-growing viewing segment, with UK users watching about 51 minutes daily and 16 to 24-year-olds getting nearly half their viewing from social video, a pattern now common across age groups. The BBC remains the largest single provider of viewing time, but YouTube



ranks second overall and first among younger audiences, with growing large-screen use and significant professional long-form content.

BARB attributes broadcaster shows on YouTube to the originating broadcaster, so VSP figures capture mainly non-broadcaster content, and broadcasters' use of YouTube, though increasing, tends to add incremental audiences, although monetisation there is weaker than on broadcast TV or BVOD.

3.4. Changing dynamics and challenges for broadcasters

3.4.1. Advertising and the “media universe”

The third presentation, by Conor Murray (Director of Regulatory and Public Affairs at EGTA, the international trade body of multiplatform TV and audio businesses), offered the perspective of television and radio sales houses. Conor started by observing that the workshop was taking place on World Television Day, a symbolic coincidence given the topic.

He introduced a visual “media universe” developed by analyst Evan Shapiro, depicting media and technology companies as planets of different sizes. In this universe, global gatekeepers – large digital platforms and technology providers – occupy the largest orbits, while broadcasters appear as relatively smaller bodies competing for attention and resources in a crowded and complex ecosystem.

From an advertising perspective, broadcast TV and VSPs now increasingly compete in the same space, for the same audiences and budgets. YouTube's move towards long-form content and large-screen viewing positions it directly against broadcasters in the living room.

Influencer marketing is increasingly growing within this ecosystem. As an example, Unilever announced plans to increase the share of social media advertising from 30% to 50% of its global ad budget and to multiply influencer collaborations twentyfold. This decision illustrates a broader reallocation of budgets towards social platforms and creator-centric advertising.

3.4.2. CTV, FAST and VPSs vs traditional broadcasters

In the United States, CTV is already a major focus for advertisers and closely intertwined with retail media strategies, suggesting that similar developments may progressively reach Europe. More than 60% of global online video revenue now comes from advertising rather than subscriptions. The main “battle” in the online video space is thus increasingly a battle for advertising revenue. While streaming is still heavily consumed on smartphones, CTV use is growing quickly and may soon overtake mobile viewing for some categories of content, further intensifying competition on the large screen.



FAST channels, initially perceived as a way to monetise lower-value library content, are evolving rapidly. Industry forecasts suggest that FAST revenues could double by the end of the decade, as higher-quality and even premium content enters this space.

Looking at VSPs, YouTube, for example, is deliberately transitioning from being primarily mobile-based to becoming a central component of large-screen family viewing.

This shift offers clear benefits for YouTube and advertisers:

- greater reach, as several people share the same screen,
- longer viewing sessions, particularly with longer-form content, and
- the possibility to apply advanced ad-tech and targeting in a large-screen environment traditionally dominated by broadcasters.

Given YouTube's already substantial share of online video advertising revenues, this strategy further strengthens its competitive position vis-à-vis broadcasters.

With regard to broadcasters, in some markets they partner with YouTube and other VSPs to make their content more discoverable and to reach younger viewers who no longer watch linear TV. In others, they adopt a more cautious approach and restrict the distribution of their content on these platforms to preserve control over monetisation.

In parallel, broadcasters and sales houses are working to simplify the process of buying TV advertising, in order to compete with the ease of self-service tools offered by major platforms. "Universal Ads" (a project led by Comcast) is an example that aggregates inventory from multiple TV companies and enables easier cross-broadcaster campaign planning.

However, building such solutions is complex and requires technical, financial and political cooperation among competitors. Industry consolidation, mergers and acquisitions, as well as the increasing use of artificial intelligence (AI) for creative optimisation, inventory management and measurement, further reshape the environment.

In all of this audience measurement plays a central role. The pertinent provisions of the European Media Freedom Act (EMFA) aiming to promote more transparent, fair and accountable measurement across platforms and media are welcome in this regard, but they will only be effective if they are robustly enforced by national regulators.

3.4.3. Programmatic advertising, CTV and ad fraud

An increasing share of CTV advertising is bought programmatically, using similar mechanisms to those used in online display markets. While this offers automation and data-driven optimisation, it also exposes advertisers to significant fraud risks, such as non-viewable impressions, fake or misrepresented inventory, bot traffic, and hidden ads.

Estimates suggest that ad fraud represents a multi-billion-dollar global problem, with a substantial proportion of programmatic spending potentially wasted or captured by fraudulent actors.



This challenge goes beyond traditional media regulation and should be treated as a financial crime issue, requiring tools such as “follow-the-money” approaches and “Know-Your-Customer” (KYC)-like obligations. Conor Murray suggested that ad fraud could be addressed in the context of revisions of EU anti-money-laundering legislation and called for closer cooperation between regulators, law enforcement and industry bodies.

3.5. Discussion

Following the three presentations, the participants were invited to share their views on the topics that had been addressed. The discussion focused on market definition, measurement and regulatory feasibility in a rapidly evolving advertising ecosystem, where legacy categories increasingly overlap and where the evidence base remains uneven across countries and segments.

3.5.1. Market definition and measurement in a moving ecosystem

A recurring theme was that outcomes depend heavily on where market boundaries are drawn (TV advertising, online advertising, video advertising, or advertising as a whole). Several participants noted that focusing narrowly on “TV advertising” can miss the reality that advertisers increasingly buy campaigns across linear television, BVOD/AVOD services, VSPs and other OTT environments. In this broader view, market dynamics are shaped not only by substitution between “TV” and “online”, but by the rise of video advertising as a cross-environment category.

Christian Grece (EAO) reiterated that definitions are not neutral: depending on whether VSPs are treated as part of the relevant competitive landscape or as a separate category, the resulting picture of market shares, concentration and competitive pressure can change significantly. Participants agreed that this definitional question is not merely academic, as it influences the policy narrative and, ultimately, the design of workable obligations.

At the same time, several interventions stressed that broader definitions immediately raise methodological problems. Datasets are rarely harmonised, spending categories do not align well across countries, and actors have very different reporting practices. As a result, participants returned to a practical constraint: without more reliable and comparable data, it remains difficult to assess market scale, identify concentration trends, or evaluate the likely impact of regulatory interventions in a consistent way.



3.5.2. Platform measurement, attribution and access to data (including YouTube)

Several participants emphasised that measurement choices can affect attribution and can influence the perceived weight of players in the market. A representative of a national regulatory authority stressed that, in platform environments, the key question is often not only how much viewing occurs, but how it is categorised and credited when content circulates across multiple distribution routes.

In this context, she explained that, in BARB's system, broadcaster programmes distributed on YouTube are identified through audio-matching and attributed to the broadcaster, meaning that viewing figures presented for VSPs exclude broadcaster content. Participants noted that this example illustrates a broader point: depending on the methodology, platform viewing can look larger or smaller, and comparisons across segments can become misleading if attribution rules are not handled consistently. The discussion suggested that this matters not only for market analysis, but also for regulatory debates, since perceived market weight can affect both priorities and proportionality assessments.

A representative of a FAST service underlined the importance of consistent methodologies and independent verification, particularly where attribution choices can shift the perceived balance between platforms and broadcaster services. More broadly, participants reiterated that access to platform data remains a key prerequisite for evidence-based policy. Where regulators and researchers depend on partial, non-comparable or non-verifiable sources, obligations risk being designed around an incomplete picture of the ecosystem.

3.5.3. Influencer marketing: oversight, sensitive sectors and market size

Influencer marketing was discussed as a segment where advertising is embedded in content and distributed across global platforms, complicating oversight and enforcement. A representative of a media regulatory authority asked how regulators can ensure effective monitoring when commercial communications are integrated within content, notably in sensitive sectors such as gambling. Participants observed that the advertising signal can be difficult to identify in practice, and that responsibility is often diffused across brands, creators, intermediaries and platforms.

From an industry perspective, an industry representative observed that influencer collaborations are increasingly integrated into broader video advertising strategies and can be difficult to monitor with traditional tools. Participants stressed that meaningful oversight would require clearer responsibilities across the chain (brands, creators and platforms), and practical mechanisms to support consistent enforcement when content is distributed cross-border and disclosure practices vary widely.

Questions were also raised about the size of the influencer marketing market and the difficulty of measuring it in a harmonised way. Christian Grece (EAO) explained that the



Observatory currently has no precise, comparable data on total spending in this area, partly because influencer income is fragmented across multiple revenue streams, including platform revenue-sharing, direct advertiser contracts, sponsorships, affiliate links and merchandise sales. An industry representative referred to widely cited global estimates and rapid growth trends, while cautioning that such figures remain uncertain and not always compatible with European classifications.

The discussion also touched on whether influencer growth implies a reallocation away from TV advertising. Several participants suggested that substitution effects likely exist in some cases, particularly where advertisers perceive differences in constraint levels between TV advertising and influencer marketing. However, Gilles Fontaine (EAO) cautioned that the phenomenon is difficult to quantify precisely and that influencer marketing budgets may also come from other marketing lines beyond TV advertising. Overall, participants treated influencer marketing as a clear example of a segment that is economically significant, but still only partially visible through robust and comparable data.

3.5.4. FAST channels and proportionality of obligations

FAST channels were discussed as a segment where national approaches are evolving and where revenue levels vary widely across services, raising a broader proportionality question. A representative of a media regulatory authority explained that Italy decided to bring FAST channels within its regulatory framework following consultation, and that authorisations have begun for FAST channels established in Italy. However, he also noted that many FAST channels targeting Italian audiences are established in other EU countries and benefit from the country-of-origin principle, which creates familiar challenges for national regulators.

A representative of a FAST service emphasised that the economics of FAST can vary dramatically across channels, with some generating very low advertising revenues while potentially facing obligations comparable to those of traditional TV channels. Participants discussed the implication that requirements designed for legacy services may become economically distortive or impractical for low-revenue channels, while also warning against creating loopholes or incentives for regulatory arbitrage. The discussion therefore framed proportionality not as an abstract principle, but as a practical design constraint: obligations must be meaningful, yet workable, and sufficiently calibrated to reflect the diversity of FAST business models and revenue profiles.

Gilles Fontaine (EAO) added that FAST and BVOD can be treated as “special cases”, structurally closer to television than influencer activity or some platform formats, while noting that – by volume – they still represent a smaller segment compared to the dominant advertising weight of major VSPs and broader OTT video advertising.



3.5.5. AI, ad fraud and regulatory feasibility

AI was discussed mainly in relation to changing advertising practices and the implications for measurement and regulation. A representative of a national regulatory authority noted that robust quantitative evidence remains limited at this stage, suggesting that developments should be monitored to better assess impacts on market structure and potential regulatory needs. Participants nonetheless identified three areas where AI is already perceived as influential: creative production (lowering costs and accelerating the adaptation of TV-quality assets), early-stage media planning and optimisation tools (supporting initial outputs while keeping human validation essential), and the adaptation of brand presence to evolving search and navigation environments shaped by generative and agentic systems.

The discussion also returned to a major risk factor in digital advertising: ad fraud. An industry representative reiterated that ad fraud constitutes a massive global issue and that many schemes display features of organised crime. Participants emphasised that tackling fraud requires stronger cooperation between regulators, industry and law enforcement authorities, and noted the difficulty governments face in prioritising enforcement given competing demands. Some argued that integrating ad fraud more explicitly into financial crime frameworks could help raise its profile and support a more coordinated response.

Across these issues, participants repeatedly linked market evolution to a shared concern about regulatory feasibility. While there was broad agreement on principles such as transparency, fairness and proportionality, several stressed that obligations must be implementable, measurable and enforceable in practice. In conclusion, Gilles Fontaine (EAO) underlined that the ecosystem no longer fits stable legacy categories, and that the road ahead depends on improved measurement and access to data, alongside proportionate and workable obligations across a highly diverse landscape.



4. Session 2 – ACCs in the AVMSD: a diverse regulatory framework for audiovisual players

4.1. Introduction to the session

The workshop's second session was chaired and introduced by Amélie Lacourt, Legal Analyst at the EAO. Building on the first session, she pointed out how advertising has evolved into a central pillar of today's media ecosystem. However, its presence has intensified drastically with digitisation and the expansion of online platforms.

This evolution makes the regulatory dimension more crucial than ever. The way rules are framed, and to whom they apply, directly affects consumer protection, market fairness and the overall functioning of the media landscape. Although the rules governing commercial communications are well established for traditional broadcasters, applying them to new actors is far less straightforward. This is particularly true for platforms, VSPs and influencers.

The purpose of this session was to explain this complex legal landscape and clarify how ACC rules apply to different actors. The aim was also to shed light on existing regulatory asymmetries and explore ways of addressing them.

4.2. Adjusting the level playing field between media actors and digital platforms

Michèle Ledger (Head of the Media Regulatory Intelligence Service at Cullen International) gave an overview of the current rules for media actors and digital platforms. She explained that AVMSD⁵ sector-specific rules now exist alongside a growing set of broader regulations adopted since the directive was last updated.

This contrast was illustrated with the metaphor of a “spiciness scale”. Rules coming from the AVMSD, especially for traditional TV broadcasting, were shown as the strictest ones. Newer digital laws were shown as adding increasing levels of “heat” for online platforms.

⁵ [Directive \(EU\) 2018/1808](#) of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.



Linear television continues to carry the most extensive and specific set of rules. These include core advertising principles such as non-discrimination, the protection of minors, compliance with technical requirements, and strict prohibitions on certain product categories, including tobacco and prescription medicine. In addition to these general standards, a series of obligations apply solely because the service qualifies as a linear broadcaster.

For example, ads must be clearly separated from editorial content. There are rules that control where ads can be placed during or between programmes. Some categories, such as alcohol advertising, face additional restrictions. And overall, strict time limits apply to the total amount of advertising allowed. These cumulative and precise obligations explain why linear broadcasting appears at the “spiciest” end of the regulatory spectrum.

By contrast, on-demand non-linear audiovisual media services are subject to the same core qualitative principles but face significantly lighter obligations. They are not subject to quantitative advertising limits and are only bound by a narrower set of additional restrictions.

VSPs occupy an intermediate regulatory position. When the platform itself arranges advertising, it must follow the main principles that apply to television advertising. However, no quantitative limits apply. Advertising uploaded directly by users is not subject to these rules. Still, the platform must take appropriate measures to ensure that third parties respect the basic principles.

Since 2018, the regulatory environment has been significantly reshaped by the introduction of horizontal digital legislation. The Digital Services Act (DSA)⁶ applies broadly to online platforms, including VSPs (Article 26). As a result, it overlaps with the AVMSD in several areas. The DSA requires platforms to clearly show when content is advertising, who sponsors it, and how it is targeted. It also provides users with a functionality to declare commercial content. Two DSA rules create notable asymmetries. The rules banning targeted ads using sensitive data and targeting minors apply to online platforms, but not to traditional TV or on-demand audiovisual services. These differences reinforce the lack of equality between traditional media and digital platforms. Very large online platforms and search engines have additional DSA obligations (Articles 34, 35 and 39). They must carry out risk assessments and take measures to reduce risks, including those related to advertising. They are also required to publish advertising repositories so the public can access key information.

The Digital Markets Act (DMA)⁷ also plays a role, even though this domain has traditionally received less attention from media regulators. The DMA requires gatekeepers to be transparent. They must give advertisers and publishers access to performance tools and clear pricing information. Article 6(12) DMA establishes fair, reasonable, and non-discriminatory access for business users to certain gatekeeper services. In principle, these provisions could help rebalance revenue-sharing arrangements. However, this tool remains unavailable for VSPs, since they do not fall within the relevant gatekeeper categories. As a result, some of the most influential

⁶ [Regulation \(EU\) 2022/2065](#) of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

⁷ [Regulation \(EU\) 2022/1925](#) of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).



platforms in the advertising ecosystem, such as YouTube, escape this potential corrective mechanism.

The upcoming Digital Fairness Act (DFA)⁸ could introduce some horizontal rules covering advertising. The DFA is also set to tackle dark patterns, personalised pricing, influencer marketing and addictive designs. The European Commission is currently in the process of drafting a proposal following a public consultation. It could build on some of the rules on advertising of the DSA. Michèle Ledger raised the question of how these rules will affect audiovisual media service providers and VSPs, including on enforcement.

The regulatory environment is a dense and uneven patchwork. Linear audiovisual services face strict qualitative and quantitative rules, non-linear services lighter qualitative ones, VSPs hybrid duties, and very large online platforms extensive transparency and risk obligations. Enforcement varies, and tools to address structural imbalances are limited. The DMA does not apply to VSPs, so in this case competition law is the main way to address unfair revenue practices. This patchwork highlights the need for careful reflection in the AVMSD evaluation, given persistent disparities across audiovisual and digital actors.

4.3. Evaluating the AVMSD: main questions regarding ACCs

Raffaele di Giovanni Bezzi (European Commission) explained that work is progressing on the evaluation and review of the AVMSD. This process assesses how the current AVMSD has worked so far and whether it has effectively achieved its objectives. It also looks at whether the existing rules need to be updated or revised.

The Commission is under a legislative obligation, set out in Article 33 AVMSD, to conduct an evaluation of the AVMSD, with a deadline of 19 December 2026. By then, an *ex post* evaluation of the directive's impact and added value must be submitted to the European Parliament and the Council, accompanied where appropriate by proposals for revision.

The 2026 Commission work programme⁹ has also been published, linking the audiovisual media rules to the European Commission's simplification agenda. Under the section "Simpler rules, stronger delivery", it states that simpler regulation can unlock innovation, investment, and job creation. In Annex I of the work programme, the target delivery date for the evaluation and review is set for Q3 2026.

A study supporting the evaluation has already been launched. The contract, signed in July, runs for 12 months and may be extended by four additional months if needed. The study's main objective is to help evaluate all provisions of the directive using the better regulation¹⁰ criteria, as mentioned in the following sections.

⁸ European Parliament, [Legislative train schedule for the Digital Fairness Act](#), December 2025.

⁹ European Commission, [Commission work programme 2026](#), October 2025.

¹⁰ European Commission, [Better regulation: guidelines and toolbox](#), July 2023 and November 2021.



4.3.1. Effectiveness

The assessment of effectiveness criterion examines whether the AVMSD has achieved its key objectives in the field of media, including concerning commercial communications. These objectives include:

- fostering the internal market for audiovisual services,
- strengthening the competitiveness of the EU audiovisual sector, and
- protecting viewers from harmful content or excessive advertising.

Core questions include whether the objectives have been achieved to a satisfactory degree and whether emerging threats are properly addressed. Another issue concerns the coverage of relevant actors, such as influencers and content creators. While they are not specifically defined in the AVMSD, influencers and content creators are covered by the Directive insofar as they constitute audiovisual media services. Some may fall, in particular, under the definition of on-demand media service providers, but the thresholds remain unclear, and diverging national approaches show that this area needs particular attention.

A further dimension concerns the type of services covered by the various specific provisions on audiovisual commercial communications. Given the asymmetric regulatory model applying different rules to linear, on-demand, and VSPs, the evaluation must assess whether all services are adequately addressed.

4.3.2. Efficiency

Under the efficiency criterion, the evaluation must determine whether the benefits of rules on ACCs remain proportionate to the costs incurred. A cost-benefit analysis will rely on the findings of the ongoing study.

The level playing field is a major element of this analysis. Already central in the 2016 review, it has become even more relevant today. The question is whether the additional regulatory burdens placed on linear broadcasters remain justified in the current environment. For example, online advertising revenues between 2023 and 2029 are projected to double, while linear advertising revenues are expected to fall in the same period. These trends raise important questions about proportionality and regulatory balance.

4.3.3. Relevance

The relevance criterion concerns whether existing rules are still justified and up to date. Certain provisions form a regulatory “maze”, with unclear or unusually formulated requirements. Examples include:



- advertising needing to remain “quite distinct” from other parts of the programme (Article 19(1) AVMSD);
- isolated advertising spots being required to remain the exception;
- provisions on the protection of programme integrity referring to “natural breaks”, without a clear definition;
- the imposition of a minimum duration of 15 minutes for teleshopping windows (Article 24 AVMSD).

The task of the review will be to assess whether these provisions are still relevant and justified to date or they need to be reconsidered, including in view of the objective of simplification.

4.3.4. Coherence

The coherence criterion covers both internal and external consistency.

- Internal coherence: the directive applies different rules to linear services, on-demand media services, and VSPs. Given the significant migration of viewership from linear broadcasters to online services, it is necessary to assess whether this multi-layered, asymmetric model remains appropriate.
- External coherence: the evaluation must also verify alignment with more recent EU legislation, such as the DSA, the DMA, and the DFA. The review will have to see that consistency with these inter-connected legal instruments is ensured.

4.3.5. EU added value

The EU added value criterion examines whether action at EU level remains justified compared to national measures. The key argument in favour of EU intervention has been the need for harmonisation. However, minimum harmonisation in the area of advertising has sometimes led to additional national rules, as illustrated by case law such as the *Fussl* judgment.¹¹ The evaluation must therefore assess whether harmonisation has truly been achieved and whether further EU-level action is still needed.

A call for evidence will be published shortly, followed by a public consultation in the first quarter of 2026. Work will then move to the impact assessment and, if appropriate, a proposal for legislative revision.

¹¹ Court of Justice of the European Union, *Fussl Modestraße Mayr GmbH v. SevenOne Media GmbH and Others*, Case C-555/19, Judgment of 3 February 2021.



4.4. Discussion

Following both presentations, the participants were invited to share their views on the topics that had been addressed. The discussion raised various key points.

4.4.1. Regulatory approaches to gambling advertising

A representative of a media regulator presented Italy's legislation (Dignity Decree)¹² banning all gambling advertising for content creators, broadcasters, and platforms. In the past years, fines have been imposed on VSPs and social media platforms but certain cases¹³ are now under appeal before the Court of Justice of the European Union. It should also be noted that age verification tools protecting minors complement the ban. The representative of the authority noted the financial impact of revenue-sharing platforms and raised the possibility of EU-wide binding gambling rules.

Moreover, according to an industry association representative, Italy's general horizontal ban on gambling advertising is considered to be one of the better approaches. In their view, it provides regulatory symmetry. By contrast, Bulgaria's TV-only gambling ban may create asymmetries and caused market disruption.

A representative of the European Commission responded that the assessment will check whether areas like gambling are sufficiently covered by existing rules at EU or national level or on the existing AVMSD provisions on minors, health and human dignity. Any new restrictions would need strong justification. Total bans exist only for tobacco and prescription medicines, while alcohol has safeguards.

4.4.2. Symmetry and asymmetry

The issue of asymmetry in the regulation of audiovisual media services is currently sparking debates on the simplification of rules and equal treatment of services and providers.

From the point of view of an industry representative, asymmetric regulation is no longer justified. The focus should be on real simplification, especially for overly complex rules like product placement. According to him, a better approach would be to ensure that only rules

¹² [*Disposizioni urgenti per la dignità dei lavoratori e delle imprese. Decreto-Legge 12 luglio 2018, No. 87, convertito con modificazioni dalla Legge 9 agosto 2018, n. 96*](#) [Urgent provisions for the dignity of workers and businesses, Decree-Law of July 12, 2018, No. 87, converted with amendments by the Law of August 9, 2018,]

¹³ Court of Justice of the European Union, Case C-421/24, [Summary of the request for a preliminary ruling pursuant to Article 98\(1\) of the Rules of Procedure of the Court of Justice](#), lodged on 14 June 2024, referred by the *Consiglio di Stato* (Italy), *AGCOM v. Google Ireland Limited*, request for interpretation of Articles 1(5) and 14 of Directive 2000/31/EC (Directive on electronic commerce).



enforceable fairly across all actors are retained, as many broadcaster-only obligations no longer make sense today.

Another industry representative stressed that the issue is whether services have editorial responsibility or not. Linear and non-linear services are largely aligned. The real concern for a level playing field is this distinction in editorial responsibility.

A media regulator explained that in Germany a study by the State Media Authority of North Rhine-Westphalia on the asymmetry between linear and non-linear services was commissioned and published in 2025.¹⁴

4.4.3. Limits of the AVMSD

From the viewpoint of one of the researchers, the key issue is not only whether symmetric rules are desirable, but whether the AVMSD is even the right place for them. This remains an open question. If advertising-related obligations are to become fully horizontal, the DFA may appear more appropriate. This would however raise major enforcement challenges and blur the role of media regulators.

The European Commission noted that level playing field and fairness in advertising markets could be linked to the AVMSD goal of preserving media plurality. Ensuring fair access, visibility, and a sustainable share of advertising revenue is essential to protect media sustainability.

Another academic emphasised that the real challenge is finding the right place to address market asymmetries, especially in advertising. In their view, the AVMSD appears to have limitations in addressing this issue, whereas the DMA may offer a more effective framework, but only if it applies for these questions to platforms like YouTube, which is not the case today. This leaves a regulatory gap, as fair-trading obligations or revenue-sharing rules cannot currently be imposed where they are seemingly most needed.

4.4.4. Qualitative and quantitative rules

The review of the AVMSD also questions the effectiveness of advertising rules in ensuring pluralism and fairness.

According to an industry association representative, the AVMSD revision should focus on advertising, combining qualitative, separation, and quantitative rules. Qualitative restrictions work well when applied generally, while outdated separation rules create asymmetries

¹⁴ Müller-Terpitz, R., [Gutachten: \(Un-\)Level Playing Field im Medienbereich \(Expert opinion: \(Un\)level playing field in the media sector\)](#), State Media Authority of North Rhine-Westphalia, June 2025.



benefiting influencers and VSPs. Quantitative restrictions are more complex, requiring careful consideration to balance liberalisation with market realities.

Quantitative advertising rules are very subjective. Their importance depends on who you ask and when. The main focus should be on media pluralism and fair competition.

4.4.5. Practical challenges

The implementation of advertising rules involves multiple practical challenges, from regulatory complexities to uncertainties for advertisers and the need to maintain fair and sustainable practices that support media pluralism. Thus, a media regulator explained that applying Articles 28a and 28b AVMSD is much harder in practice than in theory, especially because VSPs require time-based measures rather than simple financial sanctions. The regulator adds that coordinating these procedures across countries is complex, making enforcement more difficult than for traditional broadcasters.

From a TV channel point of view, it is important to recall the hidden side of things: complex rules confuse advertisers who are not experts. When they don't understand what's allowed, they move their ads to other markets. This uncertainty reduces investment, as seen in the UK.

Finally, a representative of a media regulator explained that in Ireland broadcasting is subject to the strictest rules compared with VOD and VSPs. This is due to decades of regulation, which have produced a comprehensive commercial communications code and sector-specific measures addressing public protection concerns.



5. Session 3 – Regulating influencer advertising

The workshop's third session was chaired and introduced by Eric Munch, Legal Analyst at the EAO. The session began with a presentation of the EAO's work and thanks to all participating national regulatory authorities present for their work verifying the national summaries of the EAO's study of national rules applicable to influencers¹⁵ published in 2025. The study found that influencers can be considered as audiovisual media service providers in all EU member states if they meet the relevant criteria, even though they are not explicitly named, due to national transpositions closely aligning with the phrasing of Article 1(1)(a) AVMSD.

The session focused on regulating influencer advertising, highlighting the growing role of influencers as actors in the audiovisual media ecosystem.

The discussion emphasised the importance of applying consumer protection rules, protecting minors, and ensuring that influencers adhere to advertising standards, particularly given their significant influence over young audiences.

5.1. Regulation of ACCs by influencers: the Spanish case

Siana Kalinova, Head of Unit in the Audiovisual Subdirectorate at the CNMC (*Comisión Nacional de los Mercados y la Competencia*), presented the measures implemented by the Spanish regulator in the field of commercial communications by influencers. She described the challenges of supervising a fast-growing digital advertising market.

In 2022 Spain introduced a legal definition for major influencers under the category of “users of special relevance”. This classification was further refined by a royal decree establishing cumulative thresholds that influencers must meet to fall under the CNMC's direct oversight. According to these criteria, a major influencer must earn more than EUR 300 000 annually, have one million followers on a single platform or two million followers in total, and publish more than 24 videos per year. These thresholds are both strict and essential. They make sure that only truly active and influential content creators are included in the rules.

Siana Kalinova stressed that jurisdiction is determined not only by the influencer's physical location but also by the existence of a stable and effective link with the Spanish economic environment. This allows the CNMC to apply its authority even if influencers operate from outside Spain. The case of Vegetta, a gaming YouTuber living in Andorra, is a good example. The CNMC closed the case because there was no advertising but it also confirmed that he was still covered by Spain's rules.

¹⁵ [“National rules applicable to influencers”](#), European Audiovisual Observatory, Strasbourg, 2024.



To better assess the risks linked to influencer advertising, the CNMC carried out two large monitoring exercises. It reviewed more than 700 videos and over 1 000 hours of audiovisual content. The findings revealed persistent issues. Commercial content was frequently not identified as such, and age ratings were almost entirely absent.

In response, the CNMC established clear criteria for the identification of commercial communication. Influencers must visibly display the term “*publicidad*” (advertising) within their videos. This label must be clear, unambiguous, not mixed with other messages, and remain on screen for the full duration of the promotional segment. This requirement aims to protect consumers, especially minors, by ensuring full transparency whenever content is sponsored or financially motivated. The CNMC also emphasised that “remuneration” is not limited to monetary payment but can also take the form of gifts, invitations, etc.

Beyond enforcement, the CNMC has strengthened cooperation with Autocontrol, Spain’s independent advertising self-regulatory organisation (SRO). While the CNMC directly oversees users of special relevance, those who do not meet the legal thresholds are regulated by Autocontrol’s self-regulatory system. The new Influencer Code of Conduct¹⁶ came into effect in October and marks an important change.

Autocontrol is also responsible for the InfluCert certification system. Its purpose was to raise standards in influencer marketing. More than 500 influencers have already obtained certification valid for two years. This signals a growing adherence to responsible advertising standards.

In conclusion, the influencer marketing ecosystem in Spain is expanding rapidly and becoming complex. Some regulatory measures are very recent, and others are still pending. According to Siana Kalinova, a common definition of what constitutes an influencer may be helpful in ensuring consistent rules across member states.

5.2. Responsible advertising – a brief introduction to Dutch advertising self-regulation and influencer marketing

Fiona Vening, Compliance Officer at the Dutch advertising self-regulatory organisation SRC (*Stichting Reclame Code*) first introduced the organisation and its work. The SRC’s role is to promote responsible advertising and enhance consumer trust. It has therefore incorporated rules in the Dutch Advertising Code. On the basis of this code the SRC handles complaints, and reviews cases through an independent jury. The SRC also offers proactive services as advice and training to prevent complaints. This SRO collaborates with advertisers, media organisations, agencies, and consumer representatives. Its goal is to ensure a high level of consumer protection by clear advertising rules and the swift resolution of complaints while adapting rapidly to technological and market developments by regularly updating the advertising code and thus creating a level playing field for businesses.

¹⁶ [Código de conducta de publicidad a través de influencers](#). [Code of conduct for advertising by influencers], anunciantes, Autorcontrol, iab.spain, 2025.



The Dutch SRO has had a special code for influencers since 2014.¹⁷ It has already been updated several times and is expected to undergo another revision in 2026. From the start, the SRC had noticed that influencers use many different practices. These include paid partnerships, free products, and event invitations. Because of this, it wanted to make sure the code applies to all situations and ensures full transparency.

In addition to the 2014 code there is a special code for food advertising that explicitly also applies to influencer marketing, and a dedicated code sets rules for alcohol ads including specific provisions for partnerships with influencers. Industry guidance is also included in the certification training mentioned below. For alcohol, partnerships are banned with under-25s, those who clearly look under 25, audiences with over 25% minors and top athletes. Posts must have warnings about the legal drinking age, age filters, and avoid showing excessive consumption.

To avoid debate over who counts as an influencer, the SRO deliberately uses the term “distributor”. This term refers to anyone who shares advertising for an advertiser, whether or not they have a formal contract and no matter how big their audience is.

Some distributors fall under a stricter legal framework when they meet the criteria of a media service on demand. These media law rules are similar to those for VOD services and include extra requirements from the media regulator. This includes registration with the Chamber of Commerce, a minimum of 100 000 followers, and the publication of at least 24 videos per year.

According to the SRC, few complaints are made about influencer marketing. Young audiences are generally unfamiliar with (formal) complaint procedures. This limits the volume of reports. This lack of complaints convinced the SRC of the need to make rules more visible to distributors themselves.

To address this, the SRC launched an influencer certificate, inspired by the French model. The initiative was carried out jointly with industry associations (including advertisers' associations) and major brands. These companies committed to working only with certified influencers, which significantly accelerated adoption. Influencers learn the rules in the training, which is designed with input from creators and agencies. The chapter on media law was created in collaboration with the media regulator. The certificate has to be renewed every year, and certified influencers are added to an official register.

To verify compliance, the SRC uses a special AI-powered monitoring tool capable of scanning thousands of posts on YouTube, Instagram, and TikTok. It analyses descriptions, hashtags, spoken narration, and text appearing in images. Results are reviewed by a lawyer, who assesses whether a violation has occurred. When non-compliance is detected, the SRC's compliance team contacts the influencer and provides guidance. As further non-compliance can lead to the loss of the certification, most distributors quickly correct their posts.

This system benefits certified influencers by offering feedback and improving the quality of the training modules. It also strengthens the credibility of both the certificate and the official

¹⁷ [SRC Website: *Bijzondere Reclamecodes* \[Special Advertising Codes\], and in particular: *Reclamecode Social Media & Influencer Marketing* \(RSM\)](#) [Advertising Code for Social Media & Influencer Marketing (RSM)].



register. The impact has been measurable. Before certification, the compliance rate among the monitored group was only 25%; after certification, it rose to 60%.

The influencer certificate is part of the European AdEthics programme of EASA. It provides a framework for self-regulatory organisations across Europe. The programme focuses on training and certifying influencers to promote transparency and compliance with advertising rules.

Finally, the SRO reported that complaints went up slightly this year, probably because of a big awareness campaign on social media, TV, and outdoors.

5.3. Discussion

5.3.1. Self-regulation and industry-led approaches

A representative of the advertising self-regulatory systems introduced the EASA (European Advertising Standards Alliance) and explained more about its AdEthics programme. To date, about 6 000 influencers have been trained.

Another aspect that was raised is how much non-commercial activity of influencers is being considered. Some influencers do not start by selling products but still have significant impact. Future definitions and regulations should account for this non-commercial impact and consider the professional journey of influencers.

An industry representative highlighted the fact that self-regulation works and the Influencer's Guide to Effective Disclosure has been the most popular guide for years. In the UK, the ASA (Advertising Standards Authority) processed 28 million digital ads last year, with 40 million expected this year.

5.3.2. Economic weight

An industry representative highlighted current trends in the sector, providing both European and U.S. context. The YouTube creative ecosystem contributed EUR 6.4 billion to Europe in 2023, supporting 185 000 full-time jobs, and has grown fivefold globally in five years. In the U.S., the influencer landscape is highly uneven. Over 50% of influencers earn under USD 10 000 per year, and more than a third earn under USD 2 000, with nano-influencers averaging around USD 17 000 annually.



5.3.3. National regulatory approaches to influencers

A representative of a media regulator indicated that another approach was taken in France: a law was passed in 2023. Instead of defining influencers, it defines commercial influence. This means that the law regulates the commercial activity of influence, not the individual influencer.

Another media regulator representative explained that the Italian regulator applies rules similar to those in France, Spain, and the Netherlands. He also highlighted emerging regulatory trends for influencers within the framework of the “Television Without Frontiers” principles. Italy has moved toward co-regulation. This has led to new guidelines and a code of conduct that define influencers.

Sanctions go beyond fines and can include blocking content or pages. Italy is also creating rules for baby influencers.

An academic mentioned the case of Luxembourg, where a proposal for a new law was introduced. Under the proposed new law, influencers that are required to register as economic actors according to certain thresholds will have increased obligations and will be included in the supervision framework. Under current legislation, influencers have not necessarily registered themselves as businesses. This raises challenges for enforcement. It also prompts questions about whether obligations should apply in future only to registered influencers or to all who meet the set criteria.

A media regulator representative compared the previously discussed situations with Germany. Germany does not use thresholds for influencers. Instead, influencers are regulated as audiovisual media services and can even be considered as broadcasters if they fulfil certain conditions (including following a proper programme schedule) and, as such, be required to hold a broadcasting licence. Using thresholds can be challenging because different platforms have very different indicators, such as followers, views and engagement.

The positive role of influencers beyond commercial purposes has been highlighted. Some act like professional news media. Exploring ways to include them in regulatory or prominence measures could be an idea. This would help ensure that young audiences access high-quality news content.

5.3.4. EU-level framework and regulatory gaps

A representative of a media regulator discussed influencing practices and how these are perceived in France and at the EU level. Influencers in France have become major actors in the media ecosystem but pose significant risks to consumers, minors, and information integrity. The French regulator faces strong limits as the number of influencers, the volatility of their activity, and the difficulty of qualifying their content make effective control a challenge. The Arcom representative estimates that the AVMSD and the DSA are still incomplete and inconsistent tools, especially because rules are applied unevenly across member states and influencers are not obliged to use commercial disclosure tools.



An industry representative commented that France's choice of a horizontal consumer protection approach was different to that of other member states, which chose to go via the implementation of the AVMSD. The AVMSD already has common criteria, which should be applied to ensure all follow the same AVMSD rules.

5.3.5. Open regulatory questions and policy options at EU level

A researcher raised the question of the further regulation of influencers under the AVMSD and of how non-advertising rules (accessibility requirements or quotas) can apply to them. Influencers would either need to comply with the full set of AVMSD obligations, or a carve-out or separate category would be created.

A representative of the European Commission explained that several key questions are currently being examined in the context of the revision of the AVMSD. The Commission is considering whether influencers should benefit from carve-outs or be given a specific definition. It is also assessing whether they should fall under all existing AVMSD rules or be subject to a separate set of provisions. No final decisions have been taken yet but these issues are firmly on the agenda.



6. Session 4 – World Café

Diego de la Vega, Senior Legal Analyst (EAO), as Chair of this panel, invited the participants to engage in group discussions inspired by a “World Café” approach. It should be noted that the content expressed does not represent an agreed consensus of all participants, but rather a variety of possible viewpoints.

Under the umbrella of this edition’s concept, brainstormers were invited to make their own contributions on harmonisation, regulatory gaps, a level playing field and enforcement in the field of ACC regulation. The discussions were organised as in the following tables, all from a triple perspective, including that of the current situation, the obstacles that can be found and the possible solutions for better regulation:

Harmonisation	Table host: Henrike Gudat
Regulatory gaps	Table host: Alexandros Antoniou
Level playing field	Table host: Francesco Di Giorgi
Enforcement	Table host: Emmanuelle Mchet

The teams consisted of individuals *acting as* members of these groups for the purpose of the exercise, rather than as official representatives.

At the end of the brainstorming session, the table host for each group summarised the main points of discussion.

The following table provides an idea of the main topics identified during the discussion and a record of what each stakeholder who participated in the brainstorming exercise deems important in terms of the current situation, the obstacles and the possible solutions.

	Harmonisation	Regulatory Gaps	Level Playing Field	Enforcement
What is the current situation?	<ul style="list-style-type: none"> • National divergence of classification of influencers leads to legal insecurity and different treatment across borders. • Beyond the harmonised area of product categories, some member states have introduced restrictions on multiple product categories which address only single market players and not all audiovisual players (e. g. restrictions for specific product advertising only for TV). • Gold-plating reduces ability to ensure financial sustainability. 	<ul style="list-style-type: none"> • Core principles travel across formats. VSPs at least carry baseline duties. • However, coverage remains uneven in several areas. • FAST channels show uneven coverage and sit in a grey regulatory zone. • Programmatic advertising, and its different forms, raises issues of data leakage: programmatic chains often make it difficult for users and regulators to know who is behind an ACC. • Influencer and social-commerce formats also suffer from a lack of clear definitions, notably regarding who qualifies. 	<ul style="list-style-type: none"> • Influencers have their own rules. • Differences between member states. • Difference between rules online vs traditional media. • Differences between old and new media. 	<ul style="list-style-type: none"> • Differences in the understanding of existing AVMSD rules among regulators. • Threshold – in the NL, the NRA got rid of thresholds fearing circumvention by influencers. • Current definition approaches too complex and volatile for influencers. • Current activities of influencers do not always fit with the existing categories under the AVMSD. • Challenges of introducing new AVMSD provisions in response to the challenges raised by influencers, while ensuring

	Harmonisation	Regulatory Gaps	Level Playing Field	Enforcement
				they do not become obsolete too quickly.
What are the obstacles?	<ul style="list-style-type: none"> • National specifications may be rooted in cultural differences and need to be reconciled with harmonisation intentions. • Greater harmonisation may result in less flexibility for new developments (at both EU and national levels). • Different legislative traditions may block harmonisation efforts. 	<p>Legal:</p> <ul style="list-style-type: none"> • Narrow service concepts and patchy classification: new actors sitting outside established classifications. • Fragmented rules. <p>Practical and enforcement obstacles:</p> <ul style="list-style-type: none"> • Limited visibility into algorithmic systems. • Regulator resource gaps, cooperation between regulators and private sector. <p>“Too much to regulate”, structurally difficult to complex regulatory instruments.</p>	<p>Lack of rules for:</p> <ul style="list-style-type: none"> • FAST channels. • AI influencers. • Different definitions in the audiovisual field between member states. • Lack of audience measurement. • Overlap of definitions. • Unclear horizontal legislation in view of the review of AVMSD. 	<p>If it becomes standard practice to label influencer content as advertising all the time, will this still be effective as viewers may no longer notice it?</p>



	Harmonisation	Regulatory Gaps	Level Playing Field	Enforcement
<p>What are the possible solutions?</p>	<ul style="list-style-type: none"> • Clarity in the AVMSD, that it addresses influencers as audiovisual media service providers (without new definitions). • Self-regulation and co-regulation as additional layers to ensure harmonisation or rather consistent application. • Before harmonising more, consistent application of the existing harmonising framework should be guaranteed, e. g. through guidance for regulators to address content creators/influencers as on-demand audiovisual media services. • If rules are to be harmonised, they should be future-proof. 	<ul style="list-style-type: none"> • Draw clear lines around who is in scope and who is responsible for each task. • Clear the floor and re-adjust/modernise concepts/definitions. • Principle-based interventions, rather than <i>ex post</i>. • Put influencer and social-commerce ads on firmer legal/regulatory ground. • Make data-driven ads open to inspection. • Raise the base standard via closer regulator cooperation/coordination. 	<p>EU-level coordination and guidelines:</p> <ul style="list-style-type: none"> • Need for better harmonisation. • Introduction of horizontal legislation with quality rules for ACCs. • Asymmetric regulation where needed. • Advertising revenue for VSPs. • Self-regulation and co-regulation. • Create AI solutions to monitor enforcement. • Audience measurement. 	<ul style="list-style-type: none"> • A debate emerged on whether enforcing transparency for influencers would require simplifying the rules to focus on disclosure of commercial links or affiliations; however, this could encourage further liberalisation among traditional market players. • If standards differ between countries, this might trigger problems with cross-border implementation as was the case with alcohol advertising in Nordic countries. • Need to develop specific solutions on cross-border implementation of rules, possibly with a role to play for the Media Board. An alternative is to go for maximum harmonisation.



Harmonisation	Regulatory Gaps	Level Playing Field	Enforcement
			<ul style="list-style-type: none">• Importance of good cooperation between NRAs and SROs to ensure enforcement.

7. Closing of the workshop

Maja Cappello, Head of the Department for Legal Information at the EAO, closed the workshop highlighting that it had brought together a wide range of perspectives on ACCs at a moment when both market developments and the forthcoming review of the AVMSD call for renewed analytical clarity. Across sessions, discussions highlighted several overarching themes that are likely to be central in the policy debates ahead.

A first recurring theme concerned the increasing interdependence between market realities and regulatory frameworks. The evolution of advertising practices over the past decades – marked by the emergence of new audiovisual services, new advertising formats and the growth of platforms – requires that any legislative review be firmly grounded in an understanding of current economic conditions. The contributions in the first session underscored not only the importance of data, but also the need for regular, transparent and methodologically robust data collection as a basis for evidence-based regulation.

Participants also stressed the importance of assessing where advertising investment is actually taking place. Significant shifts in advertising spend from one medium to another may generate risks of “forum shopping”, raising questions about regulatory consistency and the adequacy of existing instruments. In addition, the role of artificial intelligence in the advertising value chain emerged as an important area to monitor, both in terms of potential impact on creative professions and in relation to the possible proliferation and effectiveness of AI-generated advertising formats.

The second session examined the question of asymmetries within the current regulatory framework. Originally conceived as a minimum harmonisation instrument applicable to television services, the AVMSD has progressively evolved into a multi-layered framework encompassing broadcasting, on-demand services and VSPs, with influencer regulation increasingly appearing on the horizon. Discussions highlighted the tension between simplification objectives and the potential need for new or adjusted rules. The choice of regulatory instrument, as well as the broader question of whether harmonisation should proceed via a “levelling up” or a “levelling down” of obligations, will require careful assessment. Certain issues raised during the workshop – such as fair, reasonable and non-discriminatory conditions in revenue-sharing arrangements – may also be addressed through instruments outside the AVMSD.

The third session offered an in-depth examination of influencer regulation. Participants noted the diversity of existing national approaches, ranging from threshold-based systems to activity-based criteria, as well as differences in legislative bases (AVMSD transposition, consumer protection frameworks, DSA obligations, etc.). While a harmonised definition could facilitate monitoring and enforcement across borders, the rapid evolution



of technological and commercial practices complicates the design of stable regulatory categories. The potential creation of a new category within the AVMSD – extending beyond commercial communications to issues such as the protection of minors or quota obligations – was also identified as an open question for future deliberation.

The World Café exercise confirmed the relevance of the selected thematic areas – harmonisation, regulatory gaps, level playing field and enforcement – as central elements for the forthcoming review process. The discussions reflected a broad awareness that regulatory coherence will depend on the ability to address these issues in a coordinated and proportionate manner.

Maja Cappello stressed that the insights gathered throughout the day will contribute to the Observatory's ongoing mission to document developments in the audiovisual sector and to support transparency through its reports, databases and events.

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